

**CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA**

**Complaint No 1515/202408/25**

**M/s Varav Biogenesis Pvt. Ltd.**

**Vs**

**Himachal Pradesh State Electricity Board Ltd and Ors**

**BRIEF FACTS OF CASE–**

- (1) Complaint is filed under Regulations 17 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s Varav Biogenesis Pvt. Ltd, Plot No 3A, Industrial Area, Village Johron, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmaur, H.P. - 173030;
- (2) Complainant bearing Consumer ID 100012002318 is a Large Industrial Power Supply (LIPS) consumer of Respondent HPSEBL;
- (3) In the matter the Complainant had also approached the Hon'ble High Court of Himachal Pradesh by way of CWP No 7466 of 2024 which was disposed by the Hon'ble Court vide Order dated 30.07.2024 (**Annexure C10**). In this Order the Hon'ble Court was pleased to order as follows-  
*“ ....it is ordered that the impugned Demand Notice dated 16.03.2024 (Annexure P-2), Monthly Energy bill dated 07.06.2024 (Annexure P-5) for demand of Rs 12,64,038/- shall remain stayed for a period of four weeks in order to enable the petitioner to effectively avail the alternative remedy in accordance with law....” ;*
- (4) Thereafter, in the month of August 2024 complaint was filed in the Forum and Interim Order passed on 31.08.2024, continuing therein the ibid stay granted by the Hon'ble Court;
- (5) The Complainant is aggrieved by the impugned Demand Notice raised to it by the Respondent dated 16.03.2024 (**Annexure C1 / Annexure C2**) for Rs 11,96,030.56 due to 'Y' phase missing for the period from 01.10.2023 to 08.03.2024, by impugned Demand Notice dated 27.05.2024 (**Annexure C3**) for Rs 67,894/- on account of short assessment of peak charges and by bill dated 07.06.2024 (**Annexure C4**) containing sundry amount of Rs 12,64,038/- and bill dated 08.08.2024 (**Annexure C11**) containing arrears of Rs 12,79,826.78. The past period arrears have arisen due to defective metering during

the said past period, as a result of which there was less recorded consumption and less billing to the Complainant in the past.

**COMPLAINANT –**

- (6) That on 08.03.2024, meter with Sr No 304807 was replaced with meter No 304898 by the Respondent;
- (7) That on 16.03.2024, Respondent issued Demand Notice (**Annexure C1**) for Rs 11,96,030.56 due to 'Y' phase missing which was pointed by the flying squad, accompanied with monthly detail for the period from 01.10.2023 to 08.03.2024 (**Annexure C2**);
- (8) That on 27.05.2024, Respondent issued Demand Notice (**Annexure C3**) for Rs 67,894/- on account of short assessment of peak charges;
- (9) That Respondent issued electricity bill dated 07.06.2024 (**Annexure C4**) containing sundry amount of Rs 12,64,038/- and current charges of Rs 16,12,419/-. The company has deposited the current charges;
- (10) That vide its letters dated 14.06.2024 (**Annexure C5**) and 19.06.2024 (**Annexure C6**), the Complainant company disputed the ibid sundry amount of Rs 12,64,038/- and vide its letters dated 24.07.2024 (**Annexure C7**) and 12.08.2024 (**Annexure C12**) it requested for MRI data for the period 01.10.2023 to 08.03.2024;
- (11) The MRI data supplied by the Respondent demonstrates that Y phase missing occurred only on 09.12.2023, 01.01.2024, 07.02.2024 and on 07.03.2024 at certain times (**Annexure C8 colly**) and the Respondents at best are justified to levy for 'Y' phase missing for the time, duration and period when the same occurred and not for the entire period from 01.10.2023 to 08.03.2024;
- (12) That the ibid alleged demands are unjustified, illegal, arbitrary, unreasonable and unsustainable in law and procedure and deserves to be quashed and set aside;
- (13) That Respondent has now raised bill dated 08.08.2024 (**Annexure C11**) and demanded therein arrears of Rs 12,79,826.78 which includes Rs 12,64,038/- as well as surcharge thereon. This is

arbitrary, unjust, illegal and unsustainable in law and procedure and deserves to be quashed and set aside;

- (14) Complainant has prayed relief for passing order declaring ibid demands / Demand Notices dated 16.03.2024 and dated 27.05.2024, sundry in bill dated 07.06.2024 and arrears in bill dated 08.08.2024 as unjustified, illegal, arbitrary, unreasonable and unsustainable and not payable by the Complainant company.

**RESPONDENT –**

- (15) That impugned demand notice for Rs 11,96,030.83 is legal and valid. MRI data for relevant period is placed on record at **Annexure R1** which leaves no doubt qua its legality;
- (16) That short assessment amount of Rs 67,894/- towards peak hour charges is legal as per details (**Annexure R2**);
- (17) That because the amounts reflected in Notices was not paid, the same was debited as sundry in bill dated 7-06-2024;
- (18) Respondent has prayed that complaint being devoid of merit may be dismissed and Complainant be directed to pay the demand raised by the Respondent along with LPS.

**ORDER**

- (19) Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, HP Electricity Supply Code, 2009 notified by the HPERC and record as facts along with pleadings of the parties. Forum has heard the parties at length. The considered opinion of the Forum has been gathered after considering the fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;
- (20) At the outset Forum observes that the Complainant has no-where challenged defective metering nor denied consumption during period of defective metering nor proved less consumption during this period;

- (21) The Complainant has simply contended that the monetary demand raised by the Respondent is not commensurate with the MRI data of meter for the period of defective metering where there is 'Y' phase current missing. It is the argument of Complainant that the MRI data provided by the Respondent is only for the dates 09.12.2023, 01.01.2024, 07.02.2024 and 07.03.2024 that too on particular times (**Annexure C8 colly**), accordingly the condition of 'Y' phase missing has occurred only at specific times on these dates and therefore the Respondents is at best justified to levy for 'Y' phase missing for these said dates and time only and not for the entire period from 01.10.2023 to 08.03.2024;
- (22) Forum further observes that the Complainant has also not laid challenge to **Annexure R2** submitted by the Respondent in its Reply with regard to short assessment of peak hour charges raised vide demand notice dated (**Annexure C3**) for Rs 67,894/-;
- (23) Accordingly, only the validity of Demand Notice dated 16.03.2024 (**Annexure C1**) for Rs 11,96,030.56 due to 'Y' phase missing, remains before the Forum for determination. This amount further raised as sundry in bill dated 07.06.2024 and arrears in bill dated 08.08.2024, is observed by the Forum to be merely consequential;
- (24) In the instant complaint, on pointing out by the flying squad, it was discovered by the Respondent that there existed condition of 'missing current in 'Y' phase' during certain period in past. It is a known technical fact that 'Y' phase missing recorded in a meter is due to the missing input of 'current' parameter to the meter from metering equipment namely current transformer (CT) which results in defective metering. However, because the meter records such events, thus to determine short assessment during past period billing, the Meter Reading Instrument (or MRI) events and data which is available can be conveniently adopted. Here instantaneous and time-wise MRI data is sufficient evidence to establish defective metering and/or for precisely estimating or assessing the quantum of un-metered electricity consumption. There may be other methods of assessment or estimation, such as that based on past period consumption before

the metering error occurred or based on future consumption after correction of the metering error, however, that is the condition when MRI data may not be available to rely upon. When MRI data is available then to adopt other methods, in the opinion of the Forum, shall be arbitrary;

- (25) Also, when it is established from available MRI data that there is missing current in one phase for certain months resulting in less recording and billing of consumption in past and when this fact is confirmed from consumption data of corresponding months of previous years, then it is possible to depict the month from when such metering defect may have set in and from when such has continuously existed. Then even without the time-wise MRI data for some months, the month of start of defective metering can be safely determined though it may not be possible to determine the exact date. It is a known fact that when the MRI data is available which depicts a phase current missing but where there do exist two normal phases, then the overall estimated consumption is 1½ times the recorded and billed consumption and accordingly the differential shortfall in consumption remaining to be additionally recovered clearly amounts to 50% of that already billed. This results in reasonable and precise estimation of unbilled consumption in past;
- (26) During the course of hearing in the matter, on prayer by the Complainant and directions by the Forum, the Respondent submitted time-wise MRI data from 07.01.2024 to 07.03.2024 (**Annexure R-X Colly**) i.e MRI data for each time of the day. These have accordingly been taken on record. When enquired, the Respondent admitted to not having the time-wise MRI data for the remainder prior disputed period;
- (27) Also, during the course of hearing in the matter and on prayer by the Complainant and on directions by the Forum, the Respondent submitted the details of metered consumption and billing for the corresponding months of the past year i.e from October 2022 to February 2023 (accompanied with bills) along with that for the period from October 2023 to February 2024 (**Annexure R-Y Colly**). Forum

finds that this includes the period for which the MRI data was not available with the Respondent. These have accordingly been taken on record;

- (28) Thus, after the submission of MRI data from 07.01.2024 to 07.03.2024 (**Annexure R-X Colly**) by the Respondent, the Forum is inclined to reject the contention of the Complainant that the 'Y' phase missing be considered only for the specific dates 09.12.2023, 01.01.2024, 07.02.2024 and 07.03.2024. Here Forum finds the current in 'Y' phase to be continuously missing;
- (29) Forum observes that the MRI data in complaint for the dates 09.12.2023, 01.01.2024, 07.02.2024 and 07.03.2024, is specifically of instantaneous nature and is not time-wise but is clearly indicative of the condition of 'Y' phase missing' also having existed in the month of December 2023 which is not covered by the time-wise MRI data (**Annexure R-X Colly**) implying thereby that the defective metering was indeed existing in the months before January 2024 as well;
- (30) On perusal of **Annexure R-Y Colly** vis-à-vis the MRI data submitted vide **Annexure C8 Colly, Annexure R1 Colly and Annexure R-X Colly**, Forum finds that the consumption months from November 2023 to February 2024 indeed reveal abnormally higher consumption vis-à-vis consumption occurring in corresponding months of previous year i.e November 2022 to February 2023. Thus, Forum is convinced that the metering defect due to 'Y phase current missing' was also existing in the month of November 2023. Accordingly, Forum concludes that the condition of current missing in one 'Y' phase has at the least been existing from the consumption month of November 2023 to 07.03.2024 and the Respondent is within its legal right to recover the unbilled consumption and charges for these months;
- (31) Therefore, in the instant complaint when it is established by way of evidence and record at **Annexure C8 Colly, Annexure R1 Colly, Annexure R-X Colly and Annexure R-Y Colly** and for the simple reason that electricity / energy has actually been consumed in the past, which is in excess of that recorded in the meter which could not

be billed earlier owing to such remaining unnoticed, it can safely be held that consumer Complainant has in the past from November 2023 to 07.03.2024 been erroneously billed for less consumption which it is now liable to make good for any monetary loss that may have resulted to the Respondent distribution licensee in the past. Therefore, in the instant case, the Respondent is now liable to recover and consumer Complainant is liable to pay for the unbilled or unrecorded part of consumption estimated on precise and reasonable considerations as discussed in para supra;

- (32) Further, it is also relevant to mention that the Respondent HPSEBL being a distribution licensee, is bound to recover and consumer is bound to pay the cost / price of electricity consumed by it strictly, as per tariffs /charges that are determined and specified by the HPERC vide its Tariff Orders. These Tariff Orders passed by the Ld HPERC lay out statutory charges. Any lapse, mistake or bona-fide error by the distribution licensee with regard to under recovery of actual cost / price / tariff of electricity, from the respective consumer, who has availed the goods, may result either in permanent loss to the distribution licensee or with the burdening of this utility's loss upon other consumers. Both of these eventualities are bad and against mandated provisions of Tariff Regulations;
- (33) Thus, in the instant matter, Forum holds that the Respondent HPSEBL did make bona-fide mistake / error in the past by missing to raise amounts in the original electricity bills arising out of less recording of meter reading due to defective metering /error, which went unnoticed for some time. The Respondent is certainly within its legal rights to raise past arrears or dues if not discovered earlier due to any mistake by the Respondent and the Complainant is liable to pay the same;
- (34) In view of foregoing discussion, Forum does not observe any illegality in the impugned monetary demand dated 16.03.2024 (**Annexure C1**) raised by the Respondent for Rs 11,96,030.56 nor in the impugned Demand Notice dated 27.05.2024 (**Annexure C3**) for Rs 67,894/-;



- (35) Accordingly, the impugned demand dated 16.03.2024 (**Annexure C1**) due to 'Y' phase current missing and consequential demands raised as sundry in bill dated 07.06.2024 (**Annexure C4**) and further raised as arrears in bill dated 08.08.2024 (**Annexure C11**) along with impugned demand dated 27.05.2024 (**Annexure C3**) on account of short assessment of peak charges, are upheld. The Complainant is directed to pay these within 10 days from this Order;
- (36) In the event of non-payment by the Complainant, the Respondent shall be at liberty to take action as per extant law / Regulations governing the matter;
- (37) Further, based on foregoing discussion, the Respondent is directed to re-assess the differential un-metered / un-billed consumption due to 'Y' phase current missing only from the consumption month of November 2023 and up to 07.03.2024. As a result, any excess recovered be refunded or any shortfall be recovered from Complainant in the next electricity bill;

On aforesaid terms, the complaint is **Partly Allowed** and is accordingly disposed.

Parties are left to bear their own costs.

Order is announced before the parties present today on 28.03.2025 at Shimla in open Forum.

Certified copies of this Order be supplied to the parties.

The complaint along with this Order be consigned to record room for safe custody.

**Date: 28.03.2025**

**Shimla**

**--Sd--**

**Vikas Gupta  
(Member)**

**--Sd--**

**Tushar Gupta  
(Chairperson)**



**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI,  
SHIMLA-9.**

**Complaint No.: - 1515/202408/25**  
**Date of Admission: - 28.08.2024**  
**Quorum: - Er. Tushar Gupta, Chairman**  
**Er. Vikas Gupta, Member**

**In ref:-**

M/s Varav Biogenesis Pvt. Ltd.  
Plot No. 3A Industrial Area  
Village Johron Trilokpur Road  
Kala Amb Tehsil Nahan Distt Sirmour (HP). **Complainant**

**V/s.**

HPSEBL & Others. **Respondents**

1. The Executive Director (Pers.),  
HPSEBL, Vidyut Bhawan,  
Shimla-171004.

2. The Assistant Engineer,  
Electrical Sub-Division  
HPSEBL, Kala Amb,  
District Sirmour (H.P.)

**Respondents**

**Final hearing:- 06.02.2025.**

**Counsels:-**

Complainant 1. Sh. O.C Sharma Advocate

Respondent 1. Sh. Kamlesh Saklani, Under Secretary Law.  
2. Sh. Rajesh Kashyap, Advocate  
3. Er. Rahul Rana XEN E.D. Nahan

**Date of Decision:- 28.03.2025**

**Notice**

**Registered**

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI**  
**SHIMLA-171009.**

**No. CGRF/Complaint No. 1515/202408/25**

**Dated:-**

M/s Varav Biogenesis Pvt. Ltd.  
Plot No. 3A Industrial Area  
Village Johron Trilokpur Road  
Kala Amb Tehsil Nahan Distt Sirmour (HP). **Complainant**  
**V/s.**

HPSEBL & Others.

**Respondents**

**Complaint No. 1515/202408/25**

1. The Executive Director (Pers.),  
HPSEBL, Vidyut Bhawan,  
Shimla-171004.
2. The Assistant Engineer,  
Electrical Sub-Division  
HPSEBL, Kala Amb,  
District Sirmour (H.P.)

**Respondents**

The Certified copy of final order dated 28.03.2025 passed by the Hon'ble Forum in the aforesaid complaint is enclosed find herewith for further necessary action at your end please. The compliance be reported/ intimated within one month after the receipt of order in the office.

**DA:-As above.**

Secretary,  
Consumers Grievances Redressal Forum,  
HPSEBL, Kasumpti Shimla-9.