

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1215/202503/06

Bahra Creative Infrastructure Private Limited

Vs

HPSEBL and Ors

BRIEF FACTS OF THE CASE –

- (1) Complaint has been filed under regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;
- (2) The Complainant M/s Bahra Creative Infrastructure Private Limited, Mashobra, Purani Koti, Tehsil and District Shimla 171007 (HP), bearing consumer ID 100012001540, is a Commercial Supply (CS) category consumer of the Respondent HPSEBL, with Permanent or sanctioned Contract Demand of 480.4 kVA;
- (3) The Respondent HPSEBL is a distribution licensee;
- (4) In the matter, the Complainant is aggrieved by the act of the Respondent to raise upon it monetary demand as sundry of Rs 16,94,204.0 in bill dated 07.01.2025 (**Annexure C3**) at the behest of code 3.10 of the HP Electricity Supply Code, 2009 and 2nd Amendment dated 31.07.20218 notified by the HP Electricity Regulatory Commission. Thereafter, this was raised as arrears in Complainant's later bills by the Respondent.
- (5) On the other hand it is the case of the Respondent that the said monetary demand being pursuant to amended regulation 3.10 of the HP Supply Code, 2009 and that it being a distribution licensee is entitled to recover past dues, of statutory nature, as arrears in accordance with the Regulations / Code and law as also laid down by the Hon'ble Apex Court which the Complainant is bound to pay.

COMPLAINANT –

- (6) That Respondent released electricity meter in its favor on 01.05.2019 with sanctioned contract demand of 480.4 kVA;
- (7) That in the month of September, 2019 it applied for Temporary reduction of Contract Demand from 480.4 kVA to 220 kVA and the

Respondent reduced the demand to 241 kVA and the position remained the same till 05/2024;

- (8) That. it only used load less than 241 kVA till receipt of bill dated 07.01.2025 which is admitted by the Respondent and which is also proved by way of bill dated 09.12.2024 (**Annexure C2**);
- (9) That Respondent has issued bill dated 07.01.2025 (**Annexure C3**) in which sundry amount of Rs 16,94,204/- has been shown without any default by it. The sundry charges have been incorporated at the instance of internal Audit letter dated 03.03.2025 (**Annexure C7**). This bill is illegal, wrong, erroneous and without its fault and without factual use of load by it;
- (10) That thereafter it received disconnection Notice dated 30.01.2025 to deposit Rs 17,19,617/- (**Annexure C4**);
- (11) That it again received bill dated 04.02.2025 in which Rs 17,19,617/- (**Annexure C5**) has been shown as arrears;
- (12) That it requested the Respondent to rectify the bill on grounds that it did not use the load above 241kVA but Respondent did not pay heed and did not redress its grievance so it wrote letter dated 25.02.2025 (**Annexure C6**);
- (13) That thereafter it again received disconnection Notice dated 03.03.2025 (**Annexure C7**);
- (14) That it has neither used nor enjoyed demand of 480.4 kVA and the Respondent had not reversed the load to 480.4 kVA and therefore the Respondent cannot foist their own fault on it. The impugned acts of the Respondent to impose sundry in bill and impugned letter dated 03.03.2025 are unjust, illegal, and arbitrary and violate / are contrary to principles of natural justice and therefore deserve to be quashed and set aside;
- (15) That after the issue of the impugned bills, the Respondent is insisting for permanent reduction of load which is harassment;

- (16) Complainant has prayed that impugned Notice dated 30.01.2025 (**Annexure C4**) and Audit letter dated 03.03.2025 (**Annexure C7**) and bills dated 07.01.2025 (**Annexure C3**) and dated 04.02.2025 (**Annexure C5**) be quashed and set aside to the extent of sundry charges and arrears.

RESPONDENT –

- (17) Complainant was released electricity connection in May 2019;
- (18) That on 23.09.2019, Complainant applied for and deposited fees for Temporary reduction of contract demand from 480.4 kVA. This Temporary reduction to 220 kVA was sanctioned by it on 18.10.2019 and later on 09.12.2019 corrigendum issued for such to be read as 241 kVA;
- (19) That short assessment amount pointed out by internal Audit was added as sundry in consumer bill dated 07.01.2025;
- (20) That objection raised by Complainant on 25.02.2025 was replied by it on 03.03.2025;
- (21) That the said Temporary reduction of Contract Demand aligns with clause 3.10 of the HP Electricity Supply Code, 2009 and 2nd Amendment, 2018 to it. As per this 2nd Amendment Temporary reduction of Contract Demand of 241 kVA remains effective only until the end of financial year i.e up to 31.03.2020 and post this the original contract demand of 480.4 kVA automatically reinstates with effect from 01.04.2020;
- (22) That however, due to bona-fide mistake, the original contract demand of 480.4 kVA was not restored and the reduced contract demand of 241 kVA continued up to May 2024 which was identified by the Audit leading to issuance of demand notice of Rs 16,94,204/-;
- (23) That its action to raise the ibid demand is reinforced by the principles laid down by Hon'ble Supreme Court in matters titled Assistant Engineer, Rajasthan State Electricity Board Vs Hari Shankar (AIR 1999 SC 1234) and Swastik Industries Vs Maharashtra State Electricity Board (1997 SCC (2) 498) which

affirm Electricity Board's entitlement to recover dues arising from errors or omissions in billing and the right of utilities to rectify undercharges detected during Audits;

- (24) That in accordance with Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020 and Judgment dated 05.10.2021 in Civil Appeal No 7235 of 2009, the electricity dues are statutory in nature and it is the Respondent's right to recover past dues and the Complainant cannot evade its payment therefore plea raised by Complainant is not tenable;
- (25) That the demand raised by it is perfectly valid and thus complaint being devoid of merits be dismissed.

ORDER

- (26) 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 and the HP Electricity Supply Code, 2009 (or the Supply Code, 2009 or the Supply Code) including amendments thereto, record and facts along-with pleadings of the parties. We have heard the parties at length. The considered opinion of the Forum has been gathered after examining and analyzing fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;
- (27) Forum observes that the Complainant has simply stated that it has not used / enjoyed the original or permanent contract demand of 480.4 kVA and that it is the fault of the Respondent to not reverse the load from temporary to permanent contract demand and therefore the Respondent cannot foist their own fault on it. The acts of omission and commission by Respondent and impugned demands are unjust, illegal, arbitrary and contrary to principles of natural justice;

- (28) Forum also observes that the Respondent on the other hand has stated that the impugned monetary demand for past dues, is in terms of code 3.10 of the Supply Code, 2009 and the 2nd Amendment, 2018 thereto and this being of statutory nature, is recoverable by it as permitted under the law. However, the Respondent in its Reply has produced and relied upon some unverifiable provisions stating these to be of ibid code 3.10 which the Forum could not find in the Supply Code notified by the HPERC. Even during the final hearing stage the Counsel for the Respondent could not show to the Forum the source of the same. Forum accordingly rejects these produced provisions. In the ensuing paras, Forum goes on to place its reliance on the actual provisions of the Supply Code and its amendments which are reproduced therein;
- (29) Forum further observes that the Respondent has cited Code 3.10 of the HP Supply Code, 2009 as the statutory basis for raising the impugned demand. While the Respondent has raised contention that it is within its legal right to recover statutory dues of past period arrears, however, it is not the case of the Complainant that past dues of arrears cannot be recovered by the Respondent. The matter can therefore be decided squarely on the basis of ibid Code 3.10 of the HP Electricity Supply Code, 2009 along with the law laid down by the Hon'ble Apex Court and thus at the outset the Forum proceeds to discuss in detail the HP Supply Code, 2009 including Code 3.10 therein -
- (30) The Supply Code, 2009 was notified by the HPERC on 26th May, 2009. Later Amendments were carried out from time to time. We mainly refer to amendments pertinent in the instant matter with regard to 'Temporary' revision of Contract Demand. The said amendments were first introduced by the HP Electricity Regulatory Commission (or the HPERC) vide Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11th June, 2014. In this amendment Code 3.10 was first inserted. Thereafter, amendment to this Code 3.10 was carried out by the

HPERC vide the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 notified on 31.07.2018. For the sake of clarity, relevant extracts of these amendments are reproduced here-in-under:-

(A) Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 dated 11.06.2014 -

Quote

10. Insertion of para 3.10.- In the said Code, the following para 3.10 shall be inserted; namely:-

“3.10 Temporary revision of contract demand.–

The consumers to whom two part tariff is applicable shall be entitled to revise their contract demand within the total sanctioned contract demand without surrendering their lien of the total sanctioned contract demand, subject to the following condition- 10

(a) that the consumer shall not reduce the contract demand to lesser than 50% of the total sanctioned contract demand subject to a further condition that the contract demand shall not be reduced below the lowest limit of contract demand as per the tariff category (or any sub-category thereof) applicable to him;

(b) that the consumer shall not be entitled to revise the contract demand more than twice a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months;

(c) that the consumer shall give a notice of at least one month to the licensee before revising the contract demand under this mechanism. Even though the consumer shall not be required to obtain any sanction from the licensee for change in contract demand under this mechanism, he, so as to avoid the disputes, shall ensure that the notice(s) for such revision are duly served by him upon the licensee through registered post or through courier service or is delivered by hand against signed receipt therefor;

(d) that in cases where the contract demand is reduced under this mechanism, such reduced contract demand shall be applicable for billing purposes; and

(e) that in cases where the consumer gets his contract demand reduced permanently, the limit under clause (a) shall be considered with respect to such reduced contract demand, but such reduction shall not be considered to have been made under this mechanism and the time gap of 3 months as per clause (b) shall be reckoned from the date from which the demand was last revised under this mechanism.

Illustration.- If a consumer who is having sanctioned contract demand of 10 MVA temporarily revises the contract demand to 6 MVA w.e.f. 01.08.2014 under this mechanism but gets his sanctioned contract demand permanently reduced to 8 MVA w.e.f. 01.09.2014, he shall have to pay charges based on 6 MVA contract demand till 31.10.2014 (i.e. till the expiry of 3 months period from the date at which the contract demand was last revised i.e. from 01.08.2014). However, if the contract demand is to be reduced permanently to lesser than 6 MVA (say 4 MVA

as on 01.09.2014), the demand charges would have been based on a contract demand of 4 MVA during the period upto 31.10.2014.”

Un-Quote

(B) Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018-

Quote

3. Amendment of para 3.10:- For the sign “;” occurring after clause (a) of para 3.10 of the said Code, the sign “:” shall be substituted and thereafter the following provisos shall be inserted, namely:-

“Provided that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year: Provided further that in cases involving part period of a year e.g. if a consumer takes the connection, or the consumer gets his permanent sanctioned contract demand revised, during the middle of a year, the adjustments shall be made on pro-rata basis.

***Note:** The Distribution Licensee shall, immediately after the publication of the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018, in the Rajpatra, Himachal Pradesh, issue suitable detailed procedural instructions within the framework of the above provisions to its field units for the smooth implementation of aforesaid provisions w.e.f 01.04.2019.”*

Un-Quote

- (31) On perusal of the ibid HP Supply Code, 2009, the Forum finds that the concept of Temporary Contract Demand was first introduced by way of first (1st) amendment to Supply Code vide HP Electricity Supply Code (First Amendment) Regulations, 2014, notified by the HP Electricity Regulatory Commission on 11.06.2014. Thus, it becomes evident that before the notification of this amendment, the Contract Demand and its revisions were of Permanent nature;
- (32) Before proceeding to determine the grievance raised by the Complainant, this Forum considers it necessary to briefly delve into the working of the Contract Demand (in KVA/ or MVA). Forum finds that Code 1.2.15 of the Supply Code defines Contract Demand as –
- 1.2.15 “contract demand” expressed in kVA units means the maximum demand contracted by the consumer in the agreement with the licensee and in absence of such contract, the contract demand shall be determined in accordance with the Tariff Order;
- (33) From the perusal of ibid definition of contract demand provided in the Supply Code, it becomes apparent that the Contract Demand,

Permanent or Temporary, is a provision of the Electricity Supply Code and the Tariff Orders. It is a Demand (in KVA/ or MVA) contracted at the discretion of the consumer at the time of its original application for connection, which is also subjected to permissible revisions during the life of the connection, typically in accordance with the provisions of the Supply Code, 2009. This Contract Demand is an option exercised and applied for by the consumer and sanctioned by the licensee, inter-alia with the underlying purposes of billing of the consumer, for determining the Standard Supply Voltages at the time of connection etc. The original Contract Demand is of 'Permanent' nature and the subsequent revisions at the option of the consumer may be of 'Permanent' or of 'Temporary' nature which are also regulated in accordance with the provisions of the Supply Code. This Contract Demand (in KVA or MVA) serves as a reference vis-à-vis the actual maximum Demand (in KVA or MVA) recorded on the meter during the times of electricity consumption. When the Supply Code regulates the revision of Contract Demand (in kVA or MVA), which is an option exercised by the consumer under the provisions of the Supply Code, then the concerned consumer is expected to keep a vigil at all times for the purpose of applying for or revising or managing its Contract Demand (in kVA or MVA), while simultaneously also keeping a vigil on its electricity consumption patterns by managing the peaks of its maximum Demands (in KVA or MVA), so as to keep both the contracted as well as the actual contract demand in synchronization and consequently the optimization of its electricity bills. Thus, it becomes clear to the Forum that the Contract Demand (in kVA) is a lever given in the hands of the consumers to manage their bills and Maximum Demand (in kVA) and consequently optimize their consumption patterns and electricity bills;

- (34) On further perusal of the ibid Supply Code, Forum finds that the Supply Code First (1st) Amendment dated 11.06.2014, stipulates various conditions for Temporary revision of Contract Demand (in

KVA or MVA) and these were first introduced therein by insertion of Code - '3.10 Temporary revision of contract demand'. This Code was later amended vide Supply Code amendment dated 31.07.2018, when certain Provisos were added to it;

- (35) The First (1st) amendment, 2014 provided for permissible number of revisions in a year as two (2) with gap between successive revisions as three (3) months. The subsequent amendment of Supply Code (ie Supply Code 2nd Amendment) notified on 31.07.2018 introduced therein certain 'Provisos' to the said Code 3.10. The Provisos specifically provided for total period of Temporary contract demand (in KVA or MVA) as six (6) months in a 'Financial Year'. This 2nd amendment came into force from 01.04.2019 and is thus of relevance in the present matter;
- (36) Forum finds that in the said provisos of the Supply Code 2nd amendment, the word or expression 'financial year' is the key in context of the instant complaint. When the financial year starts from 01st of April and ends on 31st of March, which is undisputed, it becomes clear from the said 2nd amendment that on 31st March of each financial year, the 'Temporary Contract Demand', as existing previously shall expire. The distinction between the Temporary and the Permanent (or sanctioned) Contract Demand is created here. From the 1st of April of the subsequent financial year, i.e when the financial year starts, the Contract Demand would get reset to the Permanent Contract Demand (in KVA or MVA) unless a fresh Temporary Contract Demand is re-applied by the consumer. It thus becomes the right of the Complainant to decide and exercise the option or discretion on the period of six (6) months in a financial year when the Complainant would desire a revision in its Contract Demand (in kVA or MVA) on temporary basis i.e Temporary Contract Demand (in kVA or MVA);
- (37) Therefore, we are in agreement with the Respondent which also is our considered view that a consumer would be required to apply afresh for the Temporary Contract Demand (in KVA or MVA) in

any new financial year, else the previously existing Temporary Contract Demand (sanctioned or deemed sanctioned) shall automatically get dissolved and cease to remain effective. Consequently, the last sanctioned Permanent Contract Demand (in KVA or MVA) shall automatically stand and become effective;

- (38) From the foregoing implications of express provisions of Code – ‘3.10 Temporary revision of contract demand’ (or Temporary Contract Demand) (in KVA or MVA) as prescribed in the Supply Code 2nd Amendment, 2018, this Forum holds and safely sums up and concludes that from 01.04.2019, i.e when the financial year starts or whenever any financial year starts, then any monetary demand (in Rs) raised by the Respondent HPSEBL on a consumer based on a Temporary Contract Demand (in KVA or MVA) existing prior to 01.04.2019, can only be with regard to electricity consumption done prior to 01.04.2019. For electricity consumption occurring after 01.04.2019, such monetary demand (in Rs) shall necessarily have to be based on Temporary Contract Demand (in KVA or MVA), and that is if such is applied or re-applied after 01.04.2019 by the consumer. In absence of such application or re-application for Temporary Contract Demand, this monetary demand shall automatically get based upon Permanent sanctioned Contract Demand which was last applied by the consumer. This process shall follow for each / new financial year. This is the essence of ibid Code 3.10 of the Supply Code 2nd Amendment;

- (39) Coming to the instant complaint, it is without dispute that financial year is from 01st April to 31st March and the Permanent sanctioned Contract Demand of the Complainant is 480.4 kVA and that the Complainant after 31.03.2020 had not re-applied for Temporary reduction of its Contract Demand in each of the subsequent financial years even up till the time of impugned demands. In fact, Forum observes that the Complainant has referred to the act of Respondent to insist for permanent reduction of its contract demand as harassment;

- (40) Forum does not find any harassment in the said 'act of Respondent to prevail upon the Complainant for permanent reduction of its contract demand' which the Forum finds to be merely of guiding nature. Other-wise also, from the ibid reproduced definition of Contract Demand, it is evident that Contract Demand is the prerogative of a consumer. In the instant matter, it is the Complainant's free will to choose and decide its Contract Demand;
- (41) In accordance with the Supply Code 2nd Amendment, the end of the financial year is signified by the date 31st March of the year. On this end date the 'Temporary Contract Demand' of the Complainant as existing, expired and ceased to exist. Thus, from the start of the next financial year i.e 01st April 2020, the Complainant was expected to apply afresh for the Temporary Contract Demand (in KVA or MVA), if it so intended. It was the choice of the Complainant to choose its Temporary Contract Demand as well as the six (6) months of Temporary Contract Demand, either continuous or in the case of continual, then its period and duration, in the respective financial year. In the instant complaint, the Complainant had failed to get its Permanent Contract Demand revised and also failed to apply afresh for the 'Temporary Contract Demand' from 01.04.2020 onwards, ie the start of financial year 2020-21 and was thus liable to be billed for the impugned period from 01.04.2020 onwards on the basis of sanctioned Permanent Contract Demand;
- (42) From foregoing discussion, it can safely be concluded by the Forum, that it is Complainant's own fault of not re-applying for a fresh 'Temporary Contract Demand beyond 01.04.2020 ie after the start of the financial year and it is the Complainant's failure to not have pursued its Application for reduction of Permanent Contract Demand in the subsequent years or even applied afresh for this. Because the Complainant failed to re-apply afresh for Temporary Contract Demand beyond 01.04.2020 and failed to revise its Permanent Contract Demand even after the start of the new financial year, which was an option to be exercised by the Complainant, then

the Complainant is bound to be charged on the basis of its original sanctioned Permanent Contract Demand which is 480.4 kVA. Thus the submissions and arguments on record made by the Complainant are found to be grossly lacking;

- (43) In its complaint, the Complainant has nowhere stated or suggested that the ibid provisions of the Supply Code notified by the HPERC after due process, are not applicable to it. The Permanent or sanctioned Contract Demand of 480.4 kVA at the time of its electricity connection in the start i.e in May 2019, is the Complainant's own choosing. During the hearing stage, Complainant admitted to having paid the statutory fees for Temporary reduction of Contract Demand as stated by the Respondent in its Reply to have been done on 23.09.2019. Thus, Forum safely assumes that the provisions of Supply Code on Temporary reduction of Contract Demand were already known to the Complainant from the year 2019 and therefore it is Complainant's own fault in not re-applying for the temporary revision in each financial year, if it so desired. Thus, Forum concludes that the provisions of code 3.10 of the Supply Code are applicable to the Complainant equally as these are applicable to other consumers and the Complainant chose not to revise its Contract Demand;
- (44) During the course of hearing, to support its case, the Complainant cited Judgment passed by Hon'ble High Court of Kerala on 09.04.2021 in Writ Petition (Civil) No 9308 of 2010 in matter of K.A. Azeez Vs Kerala State Electricity Board and Ors. Forum after examining this Judgment concludes that the cited matter is with regard to section 126 / section 127 of the Electricity Act, 2003 i.e assessment for un-authorized use of electricity, whereas the instant matter is not in terms of assessment for un-authorized use of electricity. Thus the cited Judgment passed by the Hon'ble High Court of Kerala is not applicable to the facts and circumstances of the instant matter;

- (45) After examining the record, facts and settled position of law in the matter coupled with provisions of the Electricity Act, 2003 and Regulations and Code notified by the Ld HPERC and Tariff Orders passed by the Ld HPERC, Forum observes that the Hon'ble Apex Court Judgments dated 18.02.2020 and 05.10.2021 cited by the Respondent are relevant in the instant matter and these squarely cover the implicit contentions of the Complainant -
- (46) In the settled position of law laid by the Hon'ble Apex Court in the ibid matters titled as Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah Khan alias Rahamjula in Civil Appeal No 1672/2020 decided on 18.02.2020 and M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No7235 of 2009 decided on October 5, 2021, which is also referred to by the Respondent, the issue of recovery of past dues of arrears by the DISCOM is no more res-integra;
- (47) In the ibid Judgment passed by the Hon'ble Supreme Court dated 18.02.2020, which refers to other Judgments as well, electricity has been held to be 'goods' by a constitution bench of the Hon'ble Apex Court in a case titled State of Andhra Pradesh Vs National Thermal Power Corporation Ltd. Further, as also referred to in the Judgment ibid, under the Sale of Goods Act, 1930, a purchaser of goods is liable to pay for it at the time of purchase or consumption and that the quantum and time of payment may be ascertained post facto either by way of an agreement or the relevant statute;
- (48) It is therefore clear from settled law that while the consumer uses electricity being a good, the distribution licensee charges for this electricity / good at the specified tariffs/ charges of electricity, which in the State of Himachal Pradesh are determined by the Ld HP Electricity Regulatory Commission (HPERC) vide its Tariff Orders passed in pursuance to Regulations framed under the Electricity Act, 2003. Thereafter, these tariffs / charges are applied to the electricity consumption by a consumer or goods purchased and thereafter a Bill or monetary demand is raised to the consumer;

- (49) Further, this Forum is of the considered opinion that the Respondent HPSEBL being a distribution licensee cannot recover any tariff / charges in excess of that specified by the Ld HPERC. These Tariff Orders lay out statutory charges. At the same time, it is also relevant in the context of the instant matter, that the Respondent HPSEBL being a distribution licensee, is bound to recover the cost / price of electricity consumed by a consumer strictly, as per tariffs /charges that are determined and specified by the Ld HPERC vide its Tariff Orders. Accordingly, the consumer is bound to pay for the electricity consumption at the determined tariffs / charges being of statutory nature. Any lapse, mistake or bona-fide error by the distribution licensee with regard to under recovery of actual tariff / cost / price of electricity, if not recovered from the respective consumer, who has availed the goods, may result either in permanent financial loss to the distribution licensee being a regulated public utility or with the burdening of this utility's loss upon other consumers. Both of these situations or eventualities are bad and against mandated provisions of Tariff Regulations on the matter;
- (50) In the matter, Forum concludes that the Respondent HPSEBL did make a bona-fide mistake / error in the past by missing to raise statutory amounts in the original electricity bill arising from erroneously not considering the permanent Contract Demand of the Complainant and to continue charging the Complainant on the basis of Temporary Contract Demand of the financial year 2019 -20. This went unnoticed for some time, till the same was pointed by the Audit. However, Forum cannot remotely assume the non-recovery of the statutory charges by the Respondent based upon the provisions of Regulations notified by the HP Electricity Regulatory Commission even if the same had not been recovered in the past due to a bona-fide error on the part of the Respondent. as has been held in Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal 1672/2020 while interpreting section 56(2) of the Electricity Act, 2003. However, onus would still lie on the Complainant to show that

such arrears have been calculated wrongly which is conspicuously missing on the part of the Complainant;

- (51) In view of foregoing discussion, the Forum does not find anything that may substantiate or support the grievance of the Complainant to be based on any valid legal or factual ground. In wake of the express provisions of ibid Code 3.10, the Complainant's plea that as proved in bills it had only used load less than 241 kVA and not 480.4 kVA, simply does not hold ground and is not sustainable. Forum clearly finds the submissions on record made by the Complainant as baseless and not tenable;
- (52) No fault is seen by the Forum in the action of the Respondent to raise monetary demand of arrears in accordance with the Regulations / Code notified by the HPERC and law as laid down by the Hon'ble Apex Court cited by the Respondent. These demands are of statutory nature for which right is vested with the Respondent to recover at belated stages in accordance with law. Forum accordingly is of the opinion that demanding statutory dues of arrears cannot remotely imply foisting of fault of Respondent upon the Complainant nor cannot it imply violation of the principles of natural justice;
- (53) The Forum holds that the Respondent is correct in its interpretation and application of the provisions of ibid Code 3.10 of the Supply Code 2nd Amendment. Monetary demands based upon Statutes, Regulations/ Codes notified by the HPERC and on Tariff Orders passed by the Ld HPERC, cannot be held to be illegal;
- (54) Forum does not find any arbitrariness or illegality in the impugned monetary demand of sundry raised in bill dated 07.01.2025 (**Annexure C3**) and of arrears raised in bill dated 04.02.2025 (**Annexure C5**) by the Respondent HPSEBL nor can it find any illegality in impugned Notice dated 30.01.2025 (**Annexure C4**) and Audit letter dated 03.03.2025 (**Annexure C7**), which this Forum observes as having been issued in terms of the amended provisions of the Supply Code, 2009 i.e Code 3.10 notified on 11.06.2014 and

01.07.2018. Thus, on this score alone the complaint deserves to be dismissed as being without any legal basis;

- (55) On aforesaid terms, the impugned monetary demand raised as sundry in bill dated 07.01.2025 (**Annexure C3**) and arrears in bill dated 04.02.2025 (**Annexure C5**) and impugned Notice dated 30.01.2025 (**Annexure C4**) and Audit letter dated 03.03.2025 (**Annexure C7**), are accordingly upheld. Forum holds that the Respondent is well within its legal rights to recover statutory levies of past period arrears and the Complainant is liable to pay the same along with the statutory late payment surcharge;
- (56) The Complainant is accordingly directed to pay the ibid impugned monetary demand in full within a period of 10 days from this Order.
- (57) On non-payment of the said ibid amount, the Respondent shall be at liberty to take action as per extant Regulations / Rules / law.

The complaint is accordingly decided on merits against the Complainant and is disposed as **Dismissed**.

Parties are left to bear their own costs.

Order is announced before the parties present today on 04.06.2025 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: 04.06.2025

Place: Shimla:

**--Sd--
Vikas Gupta
(Member)**

**--Sd--
Tushar Gupta
(Chairperson)**

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.

Complaint No.: - 1215/202503/06

Date of Admission: - 18.03.2025

**Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member**

In ref:-

M/s Bahara Creative Infrastructure Pvt. Ltd.
Mashobra, Purani Koti,
Tehsil and District Shimla (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer Electrical Division,
No.1 SDA Complex, Shimla-171009 (HP).
3. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Mashobra Distt. Shimla, (HP)

Respondents

Final hearing:- 27.05.2025.

Counsels:-

- | | |
|-------------|----------------------------------|
| Complainant | 1. Sh. H. R. Jhigta, Advocate |
| Respondent | 1. Sh. Rajesh Kashyap, Advocate |
| | 2. Sh. Kamlesh Saklani, U.S. Law |

Date of Decision: - 04.06.2025

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No. CGRF/Complaint No. 1215/202503/06

Dated:-

Registered

M/s Bahara Creative Infrastructure Pvt. Ltd.
Mashobra, Purani Koti,
Tehsil and District Shimla (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1215/202503/06

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer Electrical Division,
No.1 SDA Complex, Shimla-171009 (HP).
3. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Mashobra Distt. Shimla, (HP)

Respondents

The Certified copy of final order dated 04.06.2025 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.