

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9
No. CGRF/Complaint No. 3111/4/20/043 **Dated:-**

Complaint No.:- 3111/4/20/043
Date of Admission:- 23.11.2020
Quorum:- Dr. M.G. Sharma, Chairman.
Er. Vikas Gupta, Member.
Sh. K.S Dhaulta, Member.

Himachal Pradesh Tourism
Development Corporation Ltd.
Ritz Annexe, The Mall Shimla-171001.

Complainant

V/s.

1. Himachal Pradesh Tourism
Development Corporation Ltd.
Ritz Annexe, Shimla-171001.
2. The Area Manager, Dhauladhar Hotel
Kotwali Bazar , Dharamshala
Distt. Kangra Himachal Pradesh
3. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
4. The Sr. Executive Engineer,
Electrical Division, HPSEBL,
Dharmshala, Distt. Kangra (HP).
5. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Dharmshala, Distt. Kangra (HP).

Complainant

Respondents

Final hearing:-

22.09.2021

Present for:-

Complainant

1. Sh. Kartik Kumar, Advocate

Respondent

1. Sh. Anil Kumar God, Advocate
2. Er. Raman A.E. ESD, No.1 Dharamshala

Date of Decision:-

22.09.2021

ORDER

1. The Complainant is a commercial Supply consumer of HPSEBL having connected Load 124.16 KW and Contract Demand 90 KVA namely manager, Dhauladhar Hotel, HPTDC, Dharamshala. The complainant has filed the complaint under Regulation no 16,17,18 of CGRF and Ombudsman Regulation, 2013 issued by HPERC.
2. Sr. Executive Engineer, FSU inspected the hotel premises of the complainant on 21.02.2018.
3. The Respondent Board has raised demand amounting to Rs. 2,70,823/- only on a/c of one phase missing to the complainant vide their letter dated 1.05.18 and subsequent reminders which are placed on the case file. This recovery have been repeatedly refuted by the complainant vide his memos dated 02.06.2018 and subsequent reply dated 30.10.2018 and 02.04.2019. Which has resulted in filing of this complaint.
4. The Complainant has raised serious objection that , The Hotel Dhauladhar, Dharamshala vide letter dated 02.06.2018, submitting that according to the instruction No. 26 of the Sales manual instructions, it is clearly quoted that on the date of test in case the meter has been tested at site to the satisfaction of consumer and such inspection has to be conducted in presence of consumer. But in present case, neither consumer was present during this inspection nor any chance of providing any evidence was given to them.
5. Respondent Board has specifically denied that the there was any violation of the instructions laid down in the Sales Manual and had submitted that the Staff of HPTDC was also present on the site at the time of checking of apparatuses connected within the premises of the Complainant, however, they refused to sign on the inspection register and accordingly necessary entry/note qua that was also endorsed/ record by the FSU team on the register, (Copy whereof is annexed as Annexure RA-1) Accordingly, demand notice was served to the complainant along with the copy of letter received from Sr. Executive Engineer (FSU-II) o/o Chief engineer (Comm.) HPSEBL Shimla, wherein observation with regard to the apparatuses installed within the premises of the Complainant has been made, (Copy of demand notice is annexed as Annexure-RA-2) of respondent reply. Hence it is specifically denied that the arrear of bill amount has not been clarified to the Complainant /Consumer.

6. The calculation of less assessment due to one phase missing is also placed on the record of case file at p-8 of the Respondent reply.
7. The bill dated 12.11.2020 amounting to Rs. 4,23,446/- is also placed on record of the case file at p-16 of the Respondent reply. It has been gathered that the consumer have been issued Demand notice amounting to Rs. 2,70,823/- only on account of one phase missing w.e.f. Nov.2016 to April -2018.
8. It has been noticed that neither MRI data was provided for this period nor any authentication have been provided by the Respondents except MRI data for the period w.e.f. 07.01.2018 to 21.02.2018. This shows only MRI data for only 1-1/2 months approximately have been provided. This data shows there is zero voltage in one phase most of the time.
9. The detail of consumption of complainant before MCO, after MCO and after settling right the connection by connecting R phase have also been provided by the Respondent which are placed on the case file.
10. We have heard the parties at length and gone through the relevant record produced during the course of hearing by the parties. We have also examined the relevant regulations and Sales Manual etc., After due consideration of the material placed on record as per regulations etc., Forum is of the opinion that the MRI data has been provided by the Respondent for only for one and a half months approximately. The MRI data shows voltage in one phase missing and it will not be possible and proper to ascertain from the records provided by the Respondent, as to when the phase is missing.
11. The provision of Electricity Act, 2003 on the matter are clear and expressly provide presumption for unauthorized use of electricity to be reached by the assessing officer in such cases.
12. Section 126 (5)(3) of The Electricity Act, 2003 provides that “ if the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, it shall be presumed that such unauthorized use of electricity was continuing for a period of three months immediately preceding the date of inspection in case of domestic and agricultural services and for a period of six months immediately preceding the date of inspection for all other categories of services, unless the onus is rebutted by the person, occupier or possessor of such premises or place.”

13. In view of above observations and the provisions of section 126(5)(3) of Electricity Act, 2003 which is relevant, applicable to the instant case, this Forum is of this considered view and hold that respondents shall make only six months assessment relevant for one phase missing strictly in accordance with the tariff rate prevalent at that point of time i.e. during 2016-2018. The respondents are also required to issue to complainant, a fresh demand/energy bills for disputed period in accordance with the provisions of section 126 of Electricity Act, 2003 as well as by applying the tariff prevalent at that time. It will be relevant that only 6 months assessment for one phase missing be made, the consumer be issued fresh demand/bill accordingly in accordance to provision under Section 126 of Electricity Act, 2003 mentioned above, as well as by applying the tariff prevalent at that time.

In the aforesaid terms, the demand raised by Respondent to the tune of Rs. 2,70,823/- is quashed and set aside. Respondents are directed to raise fresh demand to the complainant for the period of six months prior to the date of inspection by flying squad on account of one phase missing. Accordingly the complaint is disposed off. The parties are left to bear their own costs.

The file is consigned to the record along with original copy of the order. The certified copy of order be kept in safe custody in the folder of order. Certified copies of this order be supplied to all parties.

Place: - Shimla

Dated: -22.09.21

-Sd-
(K.S.Dhaulta)
(Member)

-Sd-
(Vikas Gupta)
(Members)

-Sd-
(M.G. Sharma)
(Chairman)

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 3111/4/20/043

Registered
Dated:-

Himachal Pradesh Tourism
Development Corporation Ltd.
Ritz Annexe, The Mall Shimla-171001.

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 3111/4/20/043

1. Himachal Pradesh Tourism
Development Corporation Ltd.
Ritz Annexe, Shimla-1.

Complainant

2. The Area Manager, Dhauladhar Hotel
Kotwali Bazar , Dharamshala
Distt. Kangra Himachal Pradesh

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5. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Dharmshala, Distt. Kangra (HP).

Respondents

The Certified copy of final order dated 22.09.2021 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.