

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 3325/2/22/16 - 3325/1/23/11

Complaint No.: - 3325/2/22/16 - 3325/1/23/11
Date of Admission: - 03.03.2023
Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member

In ref:-

M/s Vardhman Ispat Udyog,
Village Bathri, Tehsil Haroli, Near Tahliwal,
District Una (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division,
HPSEBL, Gagret, Distt. Una (HP).
3. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Tahliwala, Distt. Una (HP)

Respondents

Final hearing:-

29.03.2023

Present for:-

Complainant 1. Sh. Mohit Pathak vice of Sh. Rakesh Bansal, (Auth. Rept.)

Respondent 1. Sh. Anil Kumar God, Advocate
2. Sh. Kamlesh Saklani, Under Secretary Law

Date of Decision: -

29.03.2023

ORDER

- (1) A Complaint filed by M/s Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwal, District Una (HP), was disposed by this Forum vide Order dated 17.10.2022 on grounds of maintainability under provisions of regulation 19(a) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. At the time of its disposal, grounds of maintainability were considered in view of the concurrent CWP 2788 of 2022 filed by the Complainant petitioner before the Hon'ble High Court of Himachal Pradesh;
- (2) The ibid Order of the Forum dated 17.10.2022, was subsequently agitated by the Complainant before the Ld Ombudsman. On 20.02.2023, the Ld Ombudsman passed Order wherein, the ibid Order of the Forum dated 17.10.2022 has been set aside and quashed with directions to Forum to decide the matter on merits;
- (3) In compliance to the ibid Order passed by Ld Ombudsman on 20.02.2023, the Forum has examined the complaint on merits. The Forum has once again examined the complaint as well as the ibid CWP 2788 of 2022 under adjudication before the Hon'ble High Court. The matter has been argued by the parties;
- (4) At the outset, Forum finds from the facts and record of the complaint, that the Complainant, on one hand, in the ibid CWP is placing challenge to the regulations on Lower Voltage Supply Surcharge (or LVSS) as provided in ibid code 2.1.6 of the Supply Code, 2009 Regulations notified by the Ld HP Electricity Regulatory Commission (or the HPERC).
- (5) On the other hand, the Complainant in the instant complaint, is simultaneously relying on this very code 2.1.6 to seek monetary benefit in

respect of change of tariff applicability, by extending an argumentative and distorted interpretation to the tariffs contained in the Tariff Orders;

- (6) The Forum finds that in this complaint, the argument extended by the Complainant is that because, the Complainant has been charged LVSS, under code 2.1.6 of the Supply Code Regulations for availing supply at a lower voltage instead of higher voltage, it is therefore entitled to another tariff which is applicable for a different sub-category existing at higher voltage. Such argument carries within it the inherent implication of giving a lower voltage category consumer the status of a higher voltage category consumer and therefore the entitlements as well and for this reason the Forum holds this argument of the Complainant as distorted and thus not tenable;
- (7) The Forum is again convinced on facts and record of the complaint, that the issue of Low Voltage Supply Surcharge (or LVSS) as provided in code 2.1.6 of the Electricity Supply Code, 2009 (amended on 16.06.2014) notified by the HPERC, is the very reason in the instant complaint as well as that in the CWP 2788 of 2022 filed by the same party before the Hon'ble High Court of Himachal Pradesh. Perusal of the *ibid* writ petition and the complaint clearly reveals this fact. This fact was also stated by the Forum in its Order dated 17.10.2022. There is no doubt in the mind of the Forum that *ibid* code 2.1.6 of the Electricity Supply Code, 2009 notified by the HPERC, is being manipulated to extract different outcomes in the present complaint and then in the said CWP, by the same party;
- (8) The Forum is consciously aware that in case any Order is passed on merits by it in the instant complaint, then the same is likely to prejudice the outcome of the proceedings pending before the Hon'ble High Court in CWP 2788 of 2022. Conversely, any decision by the Hon'ble Court in the future in

the said CWP, is likely to render the outcome of the decision by this Forum as irreversibly wrong. Both these eventualities are inherently bad in law;

- (9) The Forum is also aware that it is not within its jurisdiction and authorities to either allow a particular tariff category to the Complainant or to interpret tariffs which are notified from time to time by the Ld HP Electricity Regulatory Commission (or the HPERC) vide its Tariff Orders under the extant Regulations. The Forum in the facts and circumstances of the matter is convinced that the cause of action raised by the Complainant in the instant complaint is seriously flawed, argumentative in nature and clearly misleading, indirectly requiring interpreting tariffs notified by the Ld HPERC.
- (10) The Forum accordingly concludes that it cannot be misled into extending unlawful benefits to the Complainant and further holds that it cannot pass Orders on merits in the face of the present facts and circumstances of the case;
- (11) Thus, in view of the foregoing stated position, the Forum after considering the complaint on merits, in unequivocal terms declines to pass Orders on merits;
- (12) Otherwise also, in accordance with sub-regulation 19(a) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the Forum cannot decide the matter on merits once a concurrent CWP is pending before the Court in a similar matter;
- (13) In view of foregoing, the Forum concludes that it is neither proper nor lawful to pass any Order on merits in the present complaint as the same / similar issues are pending adjudication before the Hon'ble High Court in CWP 2788 of 2022;

Seen from any angle, the complaint clearly deserves dismissal. On foregoing term, the complaint is disposed of as dismissed.

Announced in open Forum before the parties present today on 29.03.2022 at Shimla.

Parties are left to bear their own cost.

Certified copies of this Order be supplied to the parties.

The original case file be consigned to record room along with this Order, for safe custody.

Dated:-29.03.2022

Place:- Shimla

Sd/-
Vikas Gupta
(Member)

Sd/-
Tushar Gupta
(Chairperson)

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.
No.CGRF/Complaint No. 3325/2/22/16 - 3325/1/23/11

Registered

Dated:-

M/s Vardhman Ispat Udyog,
Village Bathri, Tehsil Haroli, Near Tahliwal,
District Una (HP).
V/s.

Complainant

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Respondents

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Respondents

The Certified copy of final order dated 29.03.2023, passed by the Hon'ble Forum in the aforesaid complaint is enclosed herewith for further necessary action at your end please.

Sd/-

DA:-As above.

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