

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1454/3/19/042

Complaint No.: - 1454/3/19/042

Date of Admission: - 02.09.2019

Quorum: - Er. Sanjay Dewan, Chairman.
Sh. K.S Dhaulta, Member.

M/s Prime Steel Industries Pvt. Ltd.
(Formerly known as M/s A.M. Iron
Steel Rolling Mills Pvt. Ltd.)
R/o Amlah Road, Opposite Aman Gas Agency,
Mandi gobindgarh, Distt. Fathegarh Sahib,
Punjab. Pin-147301 (PB)

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Transmission Division, HPSEBL,
Nalagarh, Distt. Solan (HP).
3. The Assistant Engineer,
Electrical Sub-Division, HPSEBL,
Baddi, Distt. Solan (HP).

Respondents

Final hearing:-

20.08.2020

Present for:-

Complainant

1. Sh. Rakesh Bansal (Authorized Representative)

Respondent

1. Sh. Anil Kumar God, Advocate
2. Er. Gurcharan Singh, Sr. XEN, Division Nalagarh

Date of Decision: -

20.08.2020

ORDER

1. The brief history of the case is that M/s Sri Rama Steel Industry Unit-I and M/s Chandigarh Iron & Steel Ltd., got amalgamated in M/s Sri Rama Steel Unit-II on 30.10.2009. The M/s Rama Steels applied for connected load of 19991.7 KW on 132 KV sub-station Jharmajari, to its factory take off point for its exclusive use. The Respondents accordingly constructed & provided 132 KV Transmission line on dedicated feeder from 132 KV sub-station Jharmajari to its factory take off point at the entire costs & expenses of M/s Rama Steels Ltd. Subsequently due to a default by M/s Shree Rama Steels Ltd., Unit II in the repayment of the loan of the H.P. Financial Corporation. (HPFC) and interest accruing thereupon the HPFC under Section 31 and 31 (G) of State Financial Act 1951 initiated recovery proceedings by filing an application before the respective Competent Authority and obtained decree for sale of mortgaged /hypothecated/attached properties/assets of M/s Sri Ram Steels Industry Unit-II. The outstanding liabilities of M/s Sri Rama Steels Unit-II accumulated to Rs.12, 68, 88,782.50 and outstanding liabilities of M/s Chandigarh Iron and Steels Co. Ltd. accumulated to Rs. 5, 69, 65,750/- up to 09.10.2012. In the meanwhile , M/s Sri Rama Steel Unit-II and M/s Iron and Steel Co. Ltd. submitted a proposal with the HPFC for settlement of their loan account by sale of their mortgaged/hypothecated/attached properties/assets by the HPFC and introduced a buyer namely M/s Prime Steel Industries (P) Ltd., who negotiated the matter with the HPFC and agreed to buy the assets / properties of M/s Rama Steel Ltd. Unit-II and M/s Chandigarh Iron & Steel Co. Ltd. for a total consideration of Rs. 16 Cr. The HPFC exercising power under Section 32 G of the State Financial Corporation Act, 1952 agreed to transfer the said properties and assets to M/s Prime Steels Industries Ltd. for a total consideration of Rs. 16 Cr. This amount was deposited by the present complainant with the HPFC and sale deed dated 07.03.2019 was registered in the office of the Sub-Registrar, Baddi, Distt. Solan (HP). A total land measuring 60 Bigahs along with building and superstructure built upon the said land and machinery and accessories installed at site on the said land stood transferred in favour of the Complainant Company. The complainant further submits that as per Clause 2 (5) of the Sale Deed dated 07.03.2019 (Annexure-C-1), the HPFC declared that the said property hereby transferred to buyer/Complainant, is free from all encumbrances and in case any dispute arises qua this, the Seller HPFC shall be bound to clear such encumbrances at its own cost and shall keep the buyer indemnified at all time. Again the complainant asserts that as per Clause 2(7) of the Sale Deed, the Complainant Co. has acquired vested rights over the existing Connected Load of 19991.7 KW

with sanctioned Contract Demand of 22214 KVA, along with Infrastructural Development Charges (IDC) deposited with the Respondent Board and existing rights over Private Transmission Line to 132 KVA Grid. The complainant company had also obtained approval of its project after execution of sale deed (C-1) from Industry Department of State Government on 2.5.2019 (Annexure-C-2).

2. The Complainant Company applied for issuance of demand notice for release of connected load of 19991.7 KW with initial Contract Demand of 12700 KVA on the existing 132 KV Transmission Line emanating from 132 KV sub-station Jharmajari. The Respondent Board has now issued a demand notice dated 18.7.2019 (Annexure C-3) for release of 19991.7 KW with a Contract Demand of 12700 KVA at 132 KV Supply Voltage from 132 KV sub-station Jharmajari on the existing dedicated transmission line in favour of the complainant company. The present Complainant has therefore, filed this Complaint mainly on the ground that the interference of Respondent Board in the existing dedicated 132 KV transmission line emanating from 132 KV sub-station Jharmajri to the take off point of factory, by way of tapping the same in order to provide supply of power to other consumers is arbitrary, illegal, unjustified and adverse to the rights & entitlements of the complainant company. The complainant has prayed to issue directions to the Respondent Board to the effect that Board will not cause any interference in the existing 132 KV transmission line emanating from 132 KV sub-station Jharmajri which was provided to the exclusive use of M/s Rama Steel Ltd., & presently the right & entitlement over same have been acquired and vested upon the complainant company in terms of sale deed dated 7.3.2019, by way of tapping the existing dedicated 132 KV transmission line emanating from 132 KV sub-station Jharmajri in order to provide supply of power to other consumers. The Complainant has further sought to direct the Respondents not to release the power supply connection to any consumers from existing dedicated 132 KV transmission line, without the permission of the complainant company & payments of line expenses in terms of HPERC (Recovery of Expenditure for supply of Electricity) Regulations as amended up to date.
3. The Respondent Board, in its reply has taken the stand that on the request of the M/s Rama Steel Ltd., in the year 2005, for release of connection, an estimate of Rs.184.70 lac was framed & firm offered to get the line constructed by themselves as per Annexure-1. The said arrangement was in accordance with the HPERC (Recovery of Expenditure for supply of Electricity) Regulations, 2005. The said regulations provide for maintenance of such supply by licensee & the licensee shall also have the right to supply electricity to any other prospective applicant through the said work and the said works shall become the property of the licensee. The respondents deny the factum that 132 KV transmission line was for exclusive use of M/s Shree Rama Steels. The

respondent further submits that the consumer had already submitted an affidavit stating therein that they will provide right of way for extending the line of supply to the other consumers through their premises. The complainant Company has no right over the 132 KV transmission line which exists in the name of HPSEBL. The complainant company became the absolute owner in possession of M/s Rama Steel Pvt.ltd.Unit, except 132 KV transmission line corridor which is the property of HPSEBL being a licensee. The board in reply asserts that the complainant has in no way acquired all rights of the line. HPSEBL shall be providing supply to other consumers from this line as per HPERC (Recovery of Expenditure for Supply of Electricity) Regulation, 2012 and as amended by 4th & 5th Amendment Regulation, 2018. The connection of the M/s Rama Steel Pvt.ltd was permanently disconnected during 2013 & the said line remained idle till date. The supply to the other consumers is being released strictly as per norms of HPERC which is not illegal. The board further submits that complainant can only sustain its claim on the property mortgaged by HPFC which does not include the locations of these 5 towers or even the 6th tower located on firm's premises as per Electricity Act,2003 under section 185 sub-clause 2(B) read with Indian Electricity Act,1910 section 13.

4. The Complainant in its Rejoinder & written arguments dated 20.8.2019 has reiterated the stand taken by him in his Complaint and prayed that the Respondents be directed to refund the cost & interest thereon of 132 KV line, on pro rata basis, while recovering the same from prospective buyers as per Regulation 6 of HPERC (Recovery of Expenditure for Supply of Electricity) Regulation, 2005.
5. We have heard both the parties at length and also gone through the case file carefully and it has transpired that the Service Line in question was built by the predecessor of the present Complainant prior to HPERC Regulations of 2005. It has also come to our notice that the present Respondent has also moved the Hon'ble High Court of H.P. by way of filing a civil suit of 31/20166 for recovery of outstanding amount from M/s Rama Steels Industries Ltd. as per the provisions of the supply code dated 2009 Para 5.2.13. It is evident from the averments of the parties made here-in-above that main issue of dispute pertains to the complainant's assertions that as per Clause 2(7) of the Sale Deed, the Complainant Co. has acquired vested rights over the existing Connected Load of 19991.7 KW with sanctioned Contract Demand of 22214 KVA, along with Infrastructural Development Charges (IDC) deposited with the Respondent Board and existing rights over Private Transmission Line to 132 KVA Grid. The complainant company had also obtained approval of its project after execution of sale deed (C-1) from Industry Department of State Government on 2.5.2019 (Annexure-C-2). Further the complainant seeks to stop interference of Respondent Board in the existing dedicated 132 KV transmission line emanating

from 132 KV sub-station Jharmajri to the take off point of factory, by way of tapping the same in order to provide supply of power to other consumers is arbitrary, illegal, unjustified and adverse to the rights & entitlements of the complainant company.

6. The entire issue of contention between the parties, is with respect to rights of ownership of the existing dedicated 132 KV transmission line emanating from 132 KV sub-station Jharmajri. The issue of right of ownership of the said transmission line is squarely of civil in nature, as parties has to establish their claim for ownership by leading evidence & documents etc., in accordance with provisions CPC before the competent court of law for its effective adjudication. This Forum, in our considered opinion, is not competent to decide the matters pertaining to rights of the parties, to claim ownership & consequential rights thereupon, on the existing dedicated 132 KV transmission line emanating from 132 KV sub-station Jharmajri. Once the issue of right of ownership on the said transmission line is resolved effectively by competent court of law, then the other incidental issues shall get resolved in accordance with the extant HPERC Regulations on the matter.
7. In view of the aforesaid terms, without expressing any opinion on the merits of the complaint; the present complaint stood disposed of, with a liberty to the parties to approach the competent court of law in the first instance, to settle the claim of ownership & consequential rights of the parties thereupon, on the existing dedicated 132 KV transmission line emanating from 132 KV sub-station Jharmajri.

The file be consigned to record room after due completion. A copy of the order be kept in safe custody of folder of orders. A certified copy of these orders be supplied to both the parties.

Place: - Shimla

Dated: -20.08.2020

Sd/-

(K.S.Dhaulta)
Member

Sd/-

(Sanjay Dewan)
Chairman

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.

No. CGRF /Complaint No. 1454/3/19/042

Registered
Dated:-

M/s Prime Steel Industries Pvt. Ltd.
(Formerly known as M/s A.M. Iron
Steel Rolling Mills Pvt. Ltd.)
R/o Amloh Road, Opposite Aman Gas Agency,
Mandi gobindgarh, Distt. Fathagarh Sahib,
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Electrical Sub-Division, HPSEBL,
Baddi, Distt. Solan (HP).

Respondents

The Certified copy of final order dated 20.08.2020 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.