

ORDER

- (1) The instant case is with regard to a Review Application filed in the month of February 2022 by the HPSEBL against the Order of Ld Consumer Grievance Redressal Forum (in short the CGRF or the Forum) dated 22.09.2021 in original complaint No. 3111/4/20/043, matter being that of Himachal Pradesh Tourism Development Corporation Vs the HPSEBL wherein M/s Himachal Pradesh Tourism Development Corporation (or the HPTDC) was the Complainant and the HPSEBL was the Respondent. Here in after HPSEBL is referred to as the 'Review Applicant' and M/s HPTDC as the 'Review Respondent';
- (2) The instant Review Application has been filed under sub-regulation 26(7) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;
- (3) The Review Applicant is aggrieved by the Order of the Ld CGRF dated 22.09.2021 wherein this Order reliance has been made upon section 126(5) of the Electricity Act, 2003 for the purpose of considering the period of short assessment / account over hauling due to the missing of one 'R phase' of meter, to only six (6) months instead of for the period from year 2016 to 2018, i.e 2 years, as the matter was not covered under section 126 of the Electricity Act, 2003;
- (4) The Review Applicant HPSEBL has placed on record the tempering of meter data report of consumer (Annexure RA-4) with temper data for Two (2) months of October, 2016 and November, 2016, as a new evidence;
- (5) For the purpose of covering-up for the delay of more than 4 months in filing the instant Review Application, the Review Applicant has referred to Miscellaneous Application No 665 of 2021 before the Hon'ble Apex Court, wherein Hon'ble Court has passed Order on the cognizance of extension of limitation due to Covid-19 (Not placed on record by the Review Applicant);
- (6) The Review Respondent on the other hand has opposed the Application mainly on grounds that the Order dated 22.09.2021 passed by the Ld Forum is a comprehensive and legally valid Order while the Review Application is barred by limitation specified in the sub-regulation 26(7) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;
- (7) Briefly, The Ld Forum vide its Order dated 22.09.2021 had taken a conscious decision to apply a period of 6 months towards metering error in absence of sufficient data placed on record by the Respondent HPSEBL in the original complaint to support its claim.

During the period of complaint before the Forum, ample opportunity was available to the Respondent to make good the data insufficiency which was not done. The Ld Forum vide the said Order dated 22.09.2021 had quashed and set aside the Demand of Rs 2,70,832/- raised by the Respondent HPSEBL with the directions to raise fresh demand based on period of six (6) months. In the Forum's decision, the Forum was quite aware of the provisions and scope of section 126 of the Electricity Act, 2003 with regard to assessment in respect of un-authorized use of electricity. The Ld Forum was also well aware of its barred jurisdiction specified in regulation 19(b) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 on matters covered under section 126 of the Electricity act, 2003. The Ld Forum had accordingly consciously relied upon and taken the support of the provisions of section 126(5) of the Electricity Act, 2003, only for the limited purpose of specifying the 'period' of short assessment with regard to metering error which could not be ascertained from the limited data placed on record by the Review Applicant herein. Section 126 (5) of the Electricity Act, 2003 reads as –

Quote

.....
126. Assessment.--(1) If on inspection.....

.....
³[*(5) If the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place and if, however, the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months, immediately preceding the date of inspection.*]

Un-Quote

- (8) This Forum has heard the parties. This Forum has examined the relevant provisions of the Electricity Act, 2003 and the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;
- (9) Having gone through the Review Application and after affording an opportunity of being heard to the Respondent HPSEBL in the original complaint / Review Applicant herein, this Forum observes that the Order by the Ld Forum dated 22.09.2021 is a reasoned and conscious one. The Review Application is devoid of substance wherein the only new and important matter of evidence that has been discovered and placed on record by the

Review Applicant is the temper data for Two (2) months of October, 2016 and November, 2016 (Annexure RA-4) while the Review Applicant is seeking relief for a period of 2 years ie for the period from year 2016 to 2018. The Review Applicant has also not been able to show any mistake or error apparent on face of record in the Forum's Order dated 22.09.2021 nor there exists any sufficient reasons in the Application that may enable the Review Application to pass the test specified under sub-regulation 26(7) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;

- (10) At the same time the instant Review Application is delayed by more than 4 months. The Forum has also gone through the Hon'ble Apex Court Order dated 23.09.2021 on the cognizance of extension of limitation due to Covid-19 (Not placed on record by the Review Applicant) passed in Miscellaneous Application No 665 of 2021. This Forum finds that this Order is certainly not in favour of the Review Applicant and does not support the Applicant's case. Therefore, the instant Review Application is also hit by limitation period specified as 30 days in ibid sub-regulation 26(7) for the purpose of allowing this Review Application.

In view of aforesaid, this Forum does not find any merit whatsoever in the present Review Application filed by the Review Applicant herein / Respondent HPSEBL in the original Complaint such as to render the Forum's Order dated 22.09.2021 as wrong in any way.

In foregoing terms, the Review Application is decided on merits against the Review Applicant herein being the Respondent HPSEBL in the original Complaint and is accordingly disposed of as dismissed.

No Order as to costs.

Order reserved is released before the parties present today on 26.08.2022 at Shimla in open Forum.

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:-26.08.2022

Place:- Shimla

Sd/-
Vikas Gupta
(Member)

Sd/-
Tushar Gupta
(Chairperson)

Notice

Registered

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.
No. CGRF/Complaint RA.3111/1/22/06 Org. 3111/4/20/043 **Dated:-**

HPSEBL & Others. **(Review Applicant (Previously Respondent))**

V/s.

M/s Himachal Pradesh Tourism,
Development Corporation Ltd.,
Ritz Annexure, The Mall Shimla-171001. **(Review Respondent (Previously Complainant))**

RA.3111/1/22/06 Org.3111/4/20/043

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division HPSEBL,
Dharamshala Distt., Kangra (H.P)
3. The Assistant Executive Engineer,
Electrical Sub Division HPSEBL,
Dharamshala Distt., Kangra (H.P) **Review Complainants (Previously Resp.)**

The Certified copy of final order dated 26.08.2022 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-171009.

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.

No. CGRF/Complaint No. RA.3111/1/22/06 Org. 3111/4/20/043 Dated:-

Complaint No.: - RA.3111/1/22/06 Org. 3111/4/20/043
Date of Admission: - 18.02.2022
Quorum: - Er. Tushar Gupta, Chairman.
Er. Vikas Gupta, Member I,

HPSEBL & Others.

Review Applicant

V/s.

M/s Himachal Pradesh Tourism,
Development Corporation Ltd.,
Ritz Annexure, The Mall Shimla-171001.

Review Respondent

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division HPSEBL,
Dharamshala Distt., Kangra (H.P)
3. The Assistant Executive Engineer,
Electrical Sub Division HPSEBL,
Dharamshala Distt., Kangra (H.P)

Review Complainants (Previously Resp.)

Final hearing:-

29.07.2022

Present for:-

Complainant

1 None.

Respondent

1. Sh. Kamlesh Saklani, Law Officer
2. Sh. Anil K. God, Advocate.

Date of Decision: -

26.08.2022