

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

Complaint No.: - 1515/3/22/24

Date of Admission: - 20.07.2021

**Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member
Sh. K.S. Dhaulta, Member**

In ref:-

M/s JB Rolling Mills Ltd.,
Vill. Kheri, Trilokpur Road,
Kala Amb, Nahan,
Sirmaur, H.P.

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. XEN, (E) Division Nahan,
HPSEBL, Nahan,
Distt. Sirmaur,
(H.P.)
3. Assistant Engineer,
Electrical Sub-Division Kala Amb,
HPSEBL, Nahan,
District Sirmour (H.P.).

Respondents

Final hearing:-

29.07.2022

Present for:-

Complainant

1. Sh. O.C. Sharma, Advocate

Respondent

1. Sh. Anil Kumar God, Advocate
2. Sh. Kamlesh Saklani, Law Officer
3. Sh. Suh Jain

Date of Decision: -

29.07.2022

ORDER

1. The instant complaint came up for hearing today in view of the Interim Order dated 20.07.2022 passed by this Forum, on the application preferred for issuing the Ad-Interim Ex-Parte Stay Order. The Ld. Counsel for the complainant placed on record the copy of Interim Order passed by the Ld. Ombudsman dated 23.07.2022. The parties argued the matter on admission of the main complaint. The complainant submitted that the present complaint may be admitted having different cause of action than the cause of action raised by the complainant before the Hon'ble High Court Himachal Pradesh in CWP No.4275/22 which is pending adjudication before the Hon'ble High Court. The Respondent Board vehemently opposed the admission of the complaint at this stage when the matter on similar set of facts is pending decision before the Hon'ble High Court. The Respondent Board submitted that the similar matter is being agitated before the Hon'ble High Court by the present complainant in CWP No.4275/22 wherein the Hon'ble High Court has directed the petitioner (Complainant in the present case) to deposit 50% of the entire outstanding amount in the registry of this Court within three weeks from today. The Court was further pleased to direct that the recoveries, ordered to be effected vide Annexure P-31 and P-32, shall remain stayed.

2. The Respondent Board further submitted that this Forum cannot admit or entertain the present complaint in view of the regulation 19(a) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations 2013, which clearly states that the Forum may reject the grievance in cases where proceedings in respect of the same matter and between the same complainant and the licensee are pending before any Court, tribunal, arbitrator or any authority or award or a final order has already been passed by any such court, tribunal, arbitrator or authority. Ld. Counsel for the complainant in rebuttal submitted that the issue involved in present complaint is not same and pending decision in the CWP No. 4275/2022 preferred by the complainant. Thus, the present complaint may be admitted.

3. After hearing the parties and going through the complaint and the record placed before this Forum, it is clearly established that the complainant has filed a CWP No. 4275/2022

alongwith CMP No.8500/2022 before the Hon'ble High Court of HP which had come up for hearing on 01.07.2022. The Hon'ble High Court has already passed the interim order directing the petitioner (Complainant in the present case) to deposit 50% of the entire outstanding amount in the registry of this Court within three weeks from today. The Court was further pleased to direct that the recoveries, ordered to be effected vide Annexure P-31 and P-32, shall remain stayed. The writ has been listed for hearing on 16.08.2022. In the meanwhile the complainant has preferred the present complaint on 20.07.2022 before this Forum. The complainant though has placed on record the stay order of Hon'ble High Court with the complaint but for reasons best known to Complainant, the copy of the writ has not been placed on record to ascertain as to whether the issues involved in the complaint are similar to the issues covered in CWP No. 4275/2022 or not. The Respondent Board on the other hand has pointed that the complainant has raised the similar issues before the Hon'ble High Court in the above writ as per copy of CWP provided to Respondent Board, further in view of the clear provisions of the Regulation 19 of the HPERC ibid Regulations, 2013, the present complaint cannot be entertained and admitted on same set of facts sub-judice before Hon'ble High Court.

4. We find force in the arguments of the Respondent Board. It is also apparent from the facts on record that the complainant has approached this Forum simultaneously, when the matter on similar set of facts/issues is sub-judice before the Hon'ble High Court in CWP No. 4275/2022. Since the Hon'ble High Court has already listed the matter for hearing on 16/08/2022, in such a situation it will neither be prudent nor proper for this Forum to entertain the complaint at this stage and hear it. Further this Forum cannot entertain or admit the instant complaint, in view of the express provisions of Regulation 19(a) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations 2013, which clearly states that the Forum may reject the grievance in cases where proceedings in respect of the same matter and between this same complaint and the licensee are pending before any court, tribunal, arbitrator or any authority or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.

5. In view of the observations made here-in-above, without going into the merits of the case, the present complaint is rejected in pursuance of the provisions of Regulation 19(a) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations 2013, as the matter is also pending adjudication before the Hon'ble High Court as stated in paras above.

Accordingly, the present complaint is disposed of in the aforesaid terms. Parties are left to bear their own costs. Announced before the parties present at Shimla on 29/07/2022.

6. 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.

Place:-Shimla

Dated:-29.07.2022

Sd/-

(K.S.Dhaulta)
(Member)

Sd/-

(Vikas Gupta)
(Member)

Sd/-

(Tushar Gupta)
Chairman

CGRE SHIMLA

Notice

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.
No.CGRF/Complaint No. 1515/3/22/24 **Dated:-**

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Complainant

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HPSEBL, Nahan,
District Sirmour (H.P.).

Respondents

The Certified copy of final order dated 29.07.2022, passed by the Hon'ble Forum in the aforesaid complaint is enclosed herewith for further necessary action at your end please.

DA:-As above

Secretary,
Consumers Grievances Redressal Forum,
HPSEBL, Kasumpti Shimla-171009.