

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1432/3/20/028

Complaint No.: - 1432/3/20/028

Date of Admission: - 11.08.2020

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

Asian concretes and Cements Pvt. Ltd.
Village Katha, Baddi,
District Solan (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,
Nalagarh, Distt. Solan-173001 (HP).
3. Assistant Executive Engineer,
Electrical Sub-Division No.II,
HPSEBL, Nalagarh Distt. Solan
173001 (HP).

Respondents

Final hearing:-

16.09.2020

Present for:-

- | | |
|-------------|---|
| Complainant | 1. Sh. Rakesh Bansal, (Authorized Representative) |
| Respondent | 1. Sh. Anil Kumar God, Advocate |

Date of Decision: -

16.09.2020

ORDER

1. The present complaint filed by the complainant regarding wrong billing on account of Demand Charges for the consumption period April and May 2020 which were not to be charged, as per instructions issued in circular dated 22.04.2020 (Annexure-C2). The Complainant also refers to circular dated 06.05.2020 (Annexure-C3) of the MD of Respondent Board, whereby the Demand Charges for registered Hotel and Restaurants under commercial category of consumers are waived of for the consumption period April to September 2020. The complainant alleged that the bills for March to June 2020 Annexure C-1 have added charges for lockdown period, as demand charges which were paid by the complainant. The contentions of the complainant as submitted in the complaint mainly pertains to the situation aroused due to global COVID-19 pandemic situation, resulting in complete/partially closure by the Central as well as State Government of all activities by imposing Lockdown from 24th March 2020. This Lockdown had disrupted all industrial activities and prevented business operations. The said Lockdown/COVID-19 pandemic situation as per complainant, accounts for a force majeure event in view of HPERC Regulations on the matter.
2. The Respondent Board has admitted the fact that due to current Covid-19 Pandemic situation resulting in complete Lockdown from 24th March 2020, has adversely affected the industries & prevented smooth business operations during lockdown period. However, the complainant did not took up the issue of waiver of demand charges etc., with the higher authorities of the respondent board to resolve the issue & has approached this Forum without exhausting the available channel to redress the grievance. Thus, the present complaint is premature.
3. The Complainant in rebuttal confirms the fact that they did not approach the respondent board. However, the complainant submits that the interest of the industrial consumers during lockdown period is to be watched by the Respondent Board by providing relief in Demand Charges, as done for Hotels and Restaurants under commercial category of consumers.
4. We have heard both the Parties and have gone through the case file carefully. After examination of complaint, it is observed that the complainant has raised main issue of declaring the lock down imposed by the Central as well as State Governments resulting in complete/ partial closer since 24th March 2020, as a force “majeure event”. Further it is also observed that the complainant has not exhausted the available channel before approaching this Forum. We find substance in the submissions of the Respondent Board that complainant did not took up the issue of waiver of

demand charges etc., with the higher authorities of the Respondent Board or before the Hon'ble HPERC, to resolve the issue. The Complainant has approached this Forum without exhausting the available channel to redress the grievance. Thus, the present complaint is premature. In our opinion, it would be appropriate for complainant to approach the Respondent Board/ HPERC at first instance, to resolve the main issue that **whether the lock down imposed by the Central Government as well as the State Government resulting in complete/ partial closure from time to time since 24th March, is a force majeure event or not ?**

5. The issue of COVID-19 outbreak to be considered as “force majeure event”, require to be decided by the competent authority to cover such eventuality under the relevant tariff order notified by the Hon'ble commission from time to time, under the relevant “clause force majeure”. The present force majeure clause, as referred to in the complaint by the complainant does not cover the present lock down imposition due to COVID -19 pandemic. We are of this considered opinion that this authority is neither, competent nor mandated, to declare or not to declare present pandemic situation, as a “force majeure” event. As the current pandemic situation, as also admitted by the complainant in complaint, is not specifically mentioned in the “force majeure” event defined in detail in HPERC (Terms and conditions for Determination of Wheeling Tariff and Retail Supply Tariff) (third Amendment) Regulations, 2018 under its clause (11-a) “force majeure event”. Accordingly the complaint is dismissed and disposed of with a liberty to complainant to approach the appropriate authorities for redressal, as per provisions of Regulations on the matter.
6. The parties are left to bear their own costs. Announced before the parties present at Kasumpti, Shimla on 16.09.2020.

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

Dated:-16.09.2020

Place:- Shimla

Sd/-
(K.S. Dhaulta)
Member

Sd/-
(Sanjay Dewan)
Chairman

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 1432/3/20/028

Registered
Dated:-

M/s. Clear Mipak Packaging Solutions
Ltd. Khasra No.544/151, Village Dhana
District Solan-174001.

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1432/3/20/028

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173001 (HP).

Respondents

The Certified copy of final order dated 16.09.2020 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.