

**/CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI,
SHIMLA-09**

No. CGRF/Complaint No. **3232/4/20/041-R3332/1/23/12**

Complaint No.:- 3232/4/20/041-R3332/1/23/12

Date of Admission:- 03.03.2023

**Quorum:- Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member**

In ref:-

M/s HRA Paper Mills Pvt. Ltd,
Village Tibbi Mauja Khundia
Hadbast No. 42, Tehsil Indora
Distt. Kangra (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Chief Engineer, (OP) North,
HPSEBL, Dharmshala H.P.
3. The Sr. Executive Engineer,
Electrical Division, HPSEBL,
Fatehpur, Distt. Kangra (HP).
4. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Indora, Distt. Kangra (HP).

Respondents

Final hearing:-28.03.2023

Counsels:-

- | | |
|-------------|---|
| Complainant | 1. Sh. Lalit Sharma and Ashwani Sharma (Advocates) |
| Respondent | 1. Sh. Anil Kumar God, Advocate
2. Sh. Kamlesh Saklani, Under Secretary Law
3. Er. Ajay Kumar, A.E. ESD Indora
4. Er. Rajesh Puri, J.E. Indora |

Date of Decision:-25.04.2023

ORDER

PRELIMINARY –

- (1) Appeal filed by M/s HRA Paper Mills Pvt Ltd in the year 2020 was disposed as dismissed ex-parte by this Forum, vide its Order dated 25.03.2021, on grounds that Appeal filed under regulation 32 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, is not maintainable before the Forum;
- (2) Before the ibid Appeal was disposed ex-parte by this Forum, several opportunities were afforded to the appellant therein on 21.01.2021 and 25.02.2021, when Interim Orders were passed on 25.03.2021 by the Forum. The Complainant conveniently chose to remain absent on these dates without any valid reason;
- (3) The ibid Order dated 25.03.2021 of the Forum, was subsequently agitated by the appellant before the Ld Ombudsman. On grounds that the case cannot be dismissed merely on citing wrong provisions of Regulations, the Ld Ombudsman on 27.08.2022 passed Orders, remanding therein the case back to the Forum along with directions to revive the case under appropriate Regulations and procedure and to decide the same on merits;
- (4) On 01st March, 2023, the ibid appellant submitted an un-dated miscellaneous application before the Forum for the revival of the case, citing therein the Order of the Ld Ombudsman dated 27.08.2022.

BRIEF FACTS OF THE CASE –

- (5) The Complainant was originally released electricity connection bearing Consumer ID 100012000239 by the Respondent in August 2011, which was later in February 2013 permanently disconnected due to default on the part of the Complainant to make payments of outstanding dues to the tune of Rs 57,95,250/= against this original connection;

- (6) Thereafter a Civil suit was filed by the Respondent before the Hon'ble HP High Court for the recovery of the outstanding dues of Rs 39,70,000/=, which was determined after adjusting Bank Guarantee and Security Deposit (or earlier referred to as ACD). The Suit was referred for mediation, which was settled between parties therein on 23.04.2018 for an amount of Rs 39,84,779/= plus Court fees of Rs 42,429/= and final decision was passed by the Hon'ble Court on 30.05.2018. By this Order, the Hon'ble Court was pleased to dispose the Suit as "withdrawn / settled" as the entire dispute inter-se parties stood settled;
- (7) Thereafter, the Complainant applied for electricity reconnection on 06.10.2018 by submitting the Application and Agreement Form (A&A) and a new electricity connection bearing Consumer ID 100012001774 was released by the Respondent on 26.11.2018;
- (8) For the release of this new connection, Complainant had allegedly paid Surcharge of Rs 93,42,670/= against old connection bearing Consumer ID 100012000239. Also, for the release of this new connection bearing consumer ID 100012001774, the Complainant paid Rs 21,11,000/= as Security Deposit (earlier referred to as ACD) and Rs 27,20,000/= as Infrastructure Development Charges (or IDC);
- (9) The Complainant has impugned the ibid demands of Surcharge of Rs 90,98,628/= and of IDC of Rs 27,20,000/= and has prayed for setting these aside and for the refund of these.

COMPLAINANT –

- (10) The grievance of the Complainant is mainly on the grounds that the litigation remained pending before the Hon'ble Court from 17.12.2014 to 30.05.2018 and once the entire dispute was settled / compromised by way of mediation and in terms of Orders passed by the Hon'ble High Court on 30.05.2018, thus the ibid impugned

recoveries are contrary to law and facts. The Respondent has erred gravely and acted with material irregularity and illegality;

- (11) The Complainant is aggrieved by the action of the Respondent mainly to raise ibid impugned monetary demands towards Surcharge of Rs 90,98,628/= and towards IDC for Rs 27,20,000/= and has prayed for setting these aside and for their refund along with Interest;
- (12) During the course of hearing, the Complainant vehemently opposed the Levy of Surcharge on grounds that Surcharge cannot be recovered by the Respondent for the duration the litigation remained pending;
- (13) However, on the counts of Infrastructure Development Charges (or IDC) and Security Deposit (earlier referred to as ACD) the Complainant was not averse to these, such being of nature of statutory recoveries for release of new connection bearing Consumer ID 100012001774 under relevant statute.

RESPONDENT –

- (14) On the other hand the Respondent has stated that only the Suit amount was compromised and not the entire outstanding amount since the amount claimed by the Respondents at the time of restoration of the supply connection is as per Sales Manual / Chapter VII of the HP Electricity Supply Code, 2009 / regulation 10 of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012;
- (15) During the course of hearing, the Respondent admitted that once matter was compromised /settled by way of mediation, then the recovery of Surcharge for the duration the litigation remained pending before the Hon'ble Court, is wrong. However, other charges such as IDC and Security Deposit were recoverable, being statutory recoveries.

FORUM –

- (16) In compliance to the ibid Ld Ombudsman Order dated 27.08.2022, the Forum now proceeds to treat the ibid appeal filed before it under

regulation 32 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, as a complaint under regulation 17 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and to examine and determine it on merits;

- (17) At the outset, Forum finds that the Complainant while impugning the demands that may have been paid by it under protest or otherwise, has no-where in its complaint laid specific challenge to the Orders / document(s) by which these demands may have been raised. The Forum observes that the Complainant ought to have properly filed the complaint rather than to leave it to Forum to assume and guess;
- (18) From facts and record, Forum observes that the Complainant is disputing the monetary demand of surcharge and Infrastructure Development Charges (or IDC) raised by the Respondent HPSEBL, on grounds that the action of the Respondent to raise these monetary demands are against the Order / Judgement dated 30.05.2018 passed by the Hon'ble High Court of Himachal Pradesh in Civil Suit No 22 of 2014. The Complainant contends that once Order / Judgement has been passed by the Hon'ble High Court in pursuance to the outcome of mediation / compromise, then there is no question of raising the demand, which the Complainant has deposited under protest and thus the same is refundable;
- (19) Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the HP Electricity Regulatory Commission (or the HPERC) including HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, HP Electricity Supply Code, 2009 and the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012 and amendments thereto notified by the HPERC, and record as facts along with pleadings of the parties. This Forum has heard the parties at length. The considered opinion of the Forum has been gathered

after considering the fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;

- (20) The Forum finds from record that that the proceedings and the final settlement by way of mediation against original electricity connection bearing No 100012000239, has not been placed on record neither by the Complainant nor by the Respondent. Thus the Forum proceeds to determine the complaint based on the record placed before it -
- (21) It is undisputed that the Complainant's original electricity connection bearing No 100012000239 was permanently disconnected and thereafter a Suit bearing No 22 of 2014 was filed by the Respondent HPSEBL in the Hon'ble Court for the recovery of outstanding dues against this connection. This was followed by subsequent mediation and thereafter Order was passed by the Hon'ble HP High Court on 30.05.2018.
- (22) It is also undisputed that the Complainant has complied to the ibid Orders passed by the Hon'ble Court, by depositing the settled amount;
- (23) It is also undisputed that new electricity connection bearing Consumer ID 100012001774 has been released to the Complainant on 26.11.2018 after the Complainant had paid outstanding dues against original electricity connection bearing No 100012000239 and after paying IDC and Security (or ACD) against new electricity connection bearing No 100012001774;
- (24) Based on the facts and record before the Forum, the Forum is convinced that once compromise / settlement has taken place by way of mediation in respect of outstanding dues against original electricity supply connection bearing No 100012000239, which was permanently disconnected in February 2013 and subsequently Order passed by the Hon'ble HP High Court on 30.05.2018, then raising any demand by the Respondent against this original electricity connection would be wrong, against the spirit of the mediation and in disregard of the Orders of the Hon'ble Court;

- (25) It thus becomes evident that the mediation against a dispute settled between parties on 23.04.2018, could only be in terms of an existing electricity connection, either active or disconnected and therefore could not be in terms of any future electricity connection that did not even exist at the time of mediation;
- (26) The Forum finds that the Order passed by the Hon'ble Court clearly states that "entire dispute inter-se parties stands settled";
- (27) Thus based upon the foregoing discussions, the Forum holds that the demand of Surcharge raised by the Respondent is wrong and cannot sustain in the eyes of law;
- (28) With regard to the new electricity connection bearing No 100012001774 released on 26.11.2018, the Forum is of the considered opinion that the terms of new electricity connection, have to be in compliance of the HP Electricity Supply Code, 2009, the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012 and amendments thereto notified by the HPERC;
- (29) The Forum finds that the Complainant has failed to establish the invalidity of IDC recovered by the Respondent against the new electricity connection on grounds of such being in contravention to the extant Regulations framed by the HPERC;
- (30) Thus the Forum holds that any charges of statutory nature, for and against the ibid new electricity connection bearing Consumer ID 100012001774 released on 26.11.2018, such as Security Deposit, Infrastructure Development Charges (or IDC), future bills etc, are recoverable by the Respondent distribution licensee strictly as per the ibid extant Regulations and resultantly payable by the Complainant. Thus the Forum further holds that the Complainant cannot evade the IDC which becomes payable by a consumer for a new connection in accordance with Regulations;
- (31) In view of foregoing, the Forum concludes that 'Surcharge' in respect of original electricity connection bearing No 100012000239,

recovered by the Respondent subsequent to the Orders passed on 30.05.2018 by the Hon'ble Court in the matter, have so been wrongly recovered by the Respondent, for the simple reason that entire dispute against this original electricity connection stands settled between parties by way of mediation and final Orders passed by the Hon'ble Court on 30.05.2018 and thus this surcharge is refundable along with Interest, in accordance with the extant Regulations notified by the HPERC;

- (32) Accordingly, the Forum directs that Surcharge recovered from Complainant by the Respondent against original electricity connection bearing No 100012000239, subsequent to mediation and final Orders passed by the Hon'ble Court on 30.05.2018, be refunded to the Complainant with Interest in accordance with the extant Regulations notified by the HPERC.

On aforesaid term, the complaint is partially allowed and accordingly disposed.

Announced in open Forum today on 25.04.2023 at Shimla, before the parties present.

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:-25.04.2023

Place:- Shimla

Sd/-

**Vikas Gupta
(Member)**

Sd/-

**Tushar Gupta
(Chairperson)**

Notice

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-
171009.

No.CGRF/Complaint No. 3232/4/20/041-R3332/1/23/12

Dated:-

M/s HRA Paper Mills Pvt. Ltd,
Village Tibbi Mauja Khundia
Hadbast No. 42, Tehsil Indora
Distt. Kangra (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 3232/4/20/041- R3332/1/23/12

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Chief Engineer, (OP) North,
HPSEBL, Dharmshala H.P.
3. The Sr. Executive Engineer,
Electrical Division, HPSEBL,
Fatehpur, Distt. Kangra (HP).
4. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Indora, Distt. Kangra (HP).

Respondents

The Certified copy of final order dated 25.04.2023, 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-9.