

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1414/202503/05

M/s PK Construction

Vs

HPSEBL & Another

Brief Facts of Complaint:

- (1) Complaint has been filed by M/s PK Construction, Village Diarighat, Tehsil Kandaghat, District Solan, HP by Complainant bearing consumer ID 100011001344 against HPSEB Ltd who is the distribution licensee and Respondent herein;
- (2) Since the year 2001 Complainant was a Medium Industrial Power Supply (MIPS) category consumer of HPSEB Ltd running a Hot Mix Plant with 49 kW of connected load;
- (3) The Respondent at the behest of Audit, changed the category of the Complainant from MIPS category to Temporary Metered Supply (TMS) category with effect from August 2018 and consequently raised demand of short recovery of Rs 9,89,424/- upon the Complainant vide Demand Notice dated 04.01.2025 (**Annexure C1**). This Notice was followed by Notice (**Annexure C2**) and electricity bill dated 03.03.2025 (**Annexure C3**) containing therein arrears of outstanding;
- (4) The Complainant is aggrieved by the ibid actions of Respondent to change the category of the Complainant and to raise impugned monetary demand upon it, such actions in the eyes of the Complainant being illegal, against the principle of natural justice, without affording opportunity of being heard to it, without the Complainant applying for Temporary connection and without any Agreement executed for the same as per clause 3.3 of the HP Electricity Supply Code, 2009;
- (5) In its Rejoinder, the Complainant has contested that the Respondent's interpretation that Hot Mix Plant falls under the Temporary Supply is selective and incorrect as it no-where in any Tariff Order falls in the Temporary Supply category. The Respondent has ignored the permanent industrial nature of the Complainant's operations. The Hot Mix Plant has been running for

the last 24 years. The Respondent's reliance on Audit Report is also against the Hon'ble Supreme Court's decisions.

- (6) Accordingly, the Complainant has prayed for quashing and setting aside **Annexure C1, Annexure C2, Annexure C3**;
- (7) On the other hand it is the case of the Respondent that the MIPS tariff category was wrongly being levied despite provisions of Tariff Order passed by the Ld HP Electricity Regulatory Commission (or HPERC) wef FY 2002 onwards (**Annexure R1 Colly**). The hot mix plants fall under the Temporary supply tariff category which came into the knowledge of the Respondent at the behest of Audit;
- (8) The Respondent has further stated on record that it is settled principle of law by the Hon'ble Apex Court that Regulations override existing contracts and thus the Respondent is not precluded from applying correct tariff category despite Agreement not having been executed. Since Hot Mix Plant is squarely covered under Temporary Supply for construction purposes including civil works by Government Departments, the MIPS was wrongly applied which is a bona-fide mistake;
- (9) The Respondent has also stated on record that it is mandated under section 62 of the Act for distribution licensee to recover electricity dues and other charges strictly as per Tariff Orders. Because the Complainant did not pay heed to Demand Notice the impugned amount was included as sundry in bill dated 05.02.2025 (**Annexure R2 Colly**).
- (10) Respondent has prayed that because the demand and bills are legal, the complaint is liable to be dismissed;

ORDER

- (11) Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the Ld HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 (or the CGRF Regulations), various Tariff Orders passed by the Ld HPERC, and record as facts

along with pleadings of the parties. 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;

- (12) At the outset, Forum observes that it is not in dispute that the Respondent as a distribution licensee is mandated under section 62 of the Act to recover electricity dues and other charges strictly as per Tariff Orders;
- (13) However, from pleadings of the Respondent and from its action in the matter, Forum observes that the moot issue in the instant complaint of suddenly changing and charging Complainant's Hot Mix Plant under the Temporary Schedule of Tariff has arisen due to interpretation by the Respondent of Tariff Orders passed by the Ld HPERC;
- (14) Forum falls short of understanding as to how an electricity supply connection for Hot Mix Plant which was of Permanent nature from the start ie from 2001 onwards can suddenly be made of Temporary nature from August 2018 onwards and not before. Forum from perusal of provisions of Tariff Orders, finds this change arising in the hands of the Respondent to be in absence of any change in the express provisions contained in Tariff Orders prior to FY 19 and those passed by the Ld HPERC from FY 19 onwards or in absence of introduction of any new express provisions in the Tariff Orders from FY19 onwards in respect of Hot Mix Plants. During the hearing stage, the Respondent was unable to give any cogent explanation for this to the Forum;
- (15) Clearly, it is the Respondent's own interpretation that because Hot Mix Plants cater to construction work therefore, the Hot Mix Plant conforms to definition of Temporary Metered Supply (TMS) Schedule contained in 'Applicability' under this Schedule, which the Complainant does not agree and disputes. On this interpretation made by the Respondent, Forum is constrained to observe for the purpose of its understanding, as to whether any industry such as

cement plants or refractories etc, which also cater to construction while having a permanent electricity supply connection, may also in future suddenly become of temporary nature supply. During the hearing stage, the Respondent was unable to give any cogent explanation for this too to the Forum;

- (16) However, despite any credible rationale forthcoming from the Respondent on its action as foregoing, Forum observes that the instant matter still clearly pivots on the interpretation of provisions in general of the Tariff Orders passed by the Ld HPERC and specifically on the definition contained in 'Applicability' under various permanent categories of consumers vis-à-vis Temporary Metered Supply (TMS) schedule defined in these Tariff Orders especially with regard to hot mix plants;
- (17) Forum holds in the instant matter, that once issue of interpretation of Tariff Orders passed by the Ld HPERC has arisen, it cannot adjudicate upon the instant complaint because such interpretation falls within the sole domain of the Ld HPERC;
- (18) Accordingly Forum grants liberty to the Complainant to approach the Ld HPERC in the matter.

On aforesaid terms the complaint is Disposed.

Parties are left to bear their own costs.

Order is announced before the parties present today on 22.07.2025 at Shimla in open Forum.

Certified copies of this Order be supplied to the parties. The complaint along with this Order be consigned to record room for safe custody.

Date: 22.07.2025

Shimla

--Sd--

--Sd--

**Vikas Gupta
(Member)**

**Tushar Gupta
(Chairperson)**

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI,
SHIMLA-9.**

Complaint No.: - 1414/202503/05

Date of Admission: -12.03.2025

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

In ref:-

M/s PK Construction, Village Diarighat,
Vaknaghat, Tehsil Kandaghat, District Solan **Complainant**

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Kandaghat,
District Solan (H.P.)

Respondents

Final hearing:- 27.06.2025.

Counsels:-

Complainant 1. Mr. Arun Kumar Verma, Advocate

Respondent 1. Sh. Rajesh Kashyap, Advocate

2. Sh. Kamlesh Saklani, U.S. Law

Date of Decision: -22.07.2025

Notice

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI
SHIMLA-171009.

No. CGRF/Complaint No. 1414/202503/05

Dated:-

M/s PK Construction, Village Diarighat,
Vaknaghat, Tehsil Kandaghat, District Solan **Complainant**

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1414/202503/05

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.

2. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Kandaghat,
District Solan (H.P.)

Respondents

The Certified copy of final order dated 22.07.2025 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.