

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1421/3/20/026

Complaint No.: - 1421/3/20/026

Date of Admission: - 05.08.2020

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

M/s AB Tools Pvt. Ltd.
Plot No. 7 & 8, Sector 3,
Parwanoo, District Solan (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Superintending Engineer,
(OP) Circle, HPSEBL, Solan,
District Solan (HP).
3. The Sr. Executive Engineer,
Electrical Division, HPSEBL,
Parwanoo, Distt. Solan (HP).
4. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Parwanoo, Distt. Solan (HP).

Respondents

Final hearing:-

16.09.2020

Present for:-

Complainant

1. Sh. Rajesh Kumar Parmar, (Authorized Representative)

Respondent

1. Sh. Anil Kumar God, Advocate
2. Er. Ashok Kumar, AEE, ESD, Parwanoo

Date of Decision: -

16.09.2020

ORDER

1. The instant complaint has been filed to quash and set-aside the demand of Rs.14,67,392.35 raised by HPSEBL, in the monthly bill for the month of July 2020 by overhauling account No.LS-19 of complainant in a illegal and arbitrary manner and without any basis. Complainant refers to advisory/notification of Government of India and state Government issued for time to time in view of the present COVID-19 pandemic and Lockdown imposed thereof w.e.f. 22/March 2020. The complainant also refers to the Respondent Board announcement regarding relaxation to consumer vide communication that demand charges for the months of April and May 2020 will be deferred and will be changes in instalments stats from July 2020 and HPSEBL shall charge 1.5 % surcharge on these instalments.
2. The Complainant also submit that said orders were opposed and representation filed for reconciliation of demand charges and waiver thereof, in view of Lockdown “Force Majeure” vide representatives Exhibit ABT-4 and ABT-5 etc. but no response from Respondents till date of filing present complaint. The complainant has sought relief mainly on the basis that present Pandemic COVID-19 constitute “Force Majeure” events, as per extant Regulations and relevant tariff orders. The main issue involved in the present complaint is **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 ?**
3. The parties today argued the matter briefly and prayed to dispose of the complaint accordingly. The Ld. Counsel for the Board did not prefer to file reply of complaint and submitted that present COVID-19 Pandemic and Lockdown thereof, is not specifically included in the Regulations and tariff orders referred to, in the present complaint. Forum is not competent to declare a COVID-19 Pandemic as a “Force Majeure” event. The competent authority to declare it in Regulations/tariff orders etc., is HPERC/HPSEBL. Thus, present complaint is to be dismissed for want of competence to decide the issue of COVID-19 Pandemic as “Force Majeure” or not.
4. We have heard both the Parties and examined the relevant record, Regulations and tariff orders etc. placed on record by the parties during course of hearing. In our opinion, it would be appropriate for complainant to approach the competent authority 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 existing 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. The current pandemic situation, as also apparent from the Regulation/Tariff orders, 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

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 1421/3/20/026

Dated:-

M/s AB Tools Pvt. Ltd.
Plot No. 7 & 8, Sector 3,
Parwanoo, District Solan (HP).
Pin-173220

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1421/3/20/026

1. The Executive Director (Pers.),
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Parwanoo, Distt. Solan (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.