

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1454/3/19/044

Complaint No.: - 1454/3/19/044

Date of Admission: - 12.09.2019

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

Dr. Reddy's Laboratories Ltd.
Village Khol, P.O. Bhud,
Baddi-Nalagarh Road, Baddi,
District Solan (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Additional Superintending Engineer,
HPSEBL, Electrical Division, Baddi,
District Solan (HP)
3. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Baddi, District Solan (HP).

Respondents

Final hearing:-

20.08.2020

Present for:-

Complainant

1. Sh. O.C. Sharma, Advocate

Respondent

1. Sh. Anil Kumar God, Advocate
2. Er. Robin Bansal, XEN, Baddi

Date of Decision: -

20.08.2020

ORDER

1. The complainant has failed the present complaint for wrong and arbitrary demand of balance amount of Rs.18,95,370/- on account of balance amount of IDC towards recovery of expenditure for supply of electricity raised through demand notice dated 22.05.2019 with a prayer to quash and set-aside the same. The complainant has also prayed to direct the Respondents to refund an amount of Rs.12,97,230/-, as has been charged in excess on account of IDC towards recovery of expenditure for supply of electricity.
2. The briefly stated facts are that initially a complaint No.1451/4/14/039 was failed before this Forum challenging demand notice dated 01.09.2014 for Rs.31,92,600/- on account of IDC for 1700 KVA contract demand @ Rs.1878/- per KVA and Rs.40,88,000/- on account of IDC for Rs.2000KVA revised contract demand. The complaint stood dismissed by this Forum vide order dated 30.06.2015 (**Annexure C-1**) in terms of Regulation 4 of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005.
3. The complainant assailed the order dated 30.06.2015 (**C-1**) before the Ld. Electricity Ombudsman as a case No. 12 of 2015. The Ld. Appellate Authority vide its order dated 23.01.2016 (**Annexure C-3**) set-aside the demand notice dated 01.09.2014. The complainant submits that Licensee is required to comply with the orders to Ld. Authority on the representation filed for its implementation by the complainant. The respondents in utter disobedience and violation of order dated 23.01.2016, as alleged in complaint, have now issued demand notice dated 22.05.2019 for recovery of IDC of Rs.18,15,370/-. The complainant further submits that it has deposited Rs.53,85,230/- as IDC with Respondents and after subtracting the same, the present demand of Rs.18,95,370/- has been raised as per Annexure C-4. The Complainant alleges that said notice is in complete violation of order dated 23.01.2016 passed by Ld. Electricity Ombudsman: whereby earlier demand notice dated 01.09.2014 stood set-aside.
4. The Respondents in reply stated that the complaint is barred by the principles of Res-Judicata, as the dispute has already been decided between the parties in case No.12 of 2015 decided on 23.01.2016, by Ld. Ombudsman. The demand has been raised in accordance with the directions of the Hon'ble H.P. Electricity Ombudsman passed in the

said case. Thus, complaint is not maintainable and liable to be dismissed. The impugned notice does not suffer from any infirmity or illegality, hence present complaint deserves to be dismissed. The demand notices dated 17.08.2017 and subsequently dated 22.05.2019, have been served to the complainant strictly as per the Regulations 419/2005, and, as is directed by the Hon'ble Ombudsman at Para No.12 of its order. The authority has directed the Respondents to raise demand on complainant, strictly as per the Regulation No.4 (Specific Provisions for High Tension Supply and Regulations and Recovery of Costs) of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005. The respondents further submit that the complainant's required load is from 33.KV system, due to which the KVA rates of 33KV supply system should be implemented, as per order of Chief Engineer (Comm.) placed on record as (Annexure RA-2). The per KVA rate of 33 KVA system is @ 2044/- for which demand notice of Rs.18,95,370/- has been raised vide notice dated 17.08.2017 and 22/05.2019.

5. The complainant in rejoinder reiterates its complaint submission and submits that the notice dated 22.05.2019 is de-hors the order dated 23.01.2016 period by Ld. Electricity Ombudsman, whereby notice dated 01.09.2014 has been quashed and set-aside. The respondents are stopped from raising the demand which is set-aside and quashed. The Regulations No.499 of 2005 stood replaced by HPERC with enactment of Regulations, 2012 and as such the Regulation No.419 of 2005 are not in force and cannot be put as a defence.
6. We have heard both the parties at length and gone through the record adduced before us by the parties during the course of hearing the matter. Admittedly the Ld. Electricity Ombudsman had passed an order dated 23.01.2016, whereby the impugned demand notice dated 01.09.2014, has been quashed and set-aside. It is also not denied by the complainant that Ld. Ombudsman, in its order dated 23.01.2016 (Annexure C-3) in Para-12 has categorically directed the Respondents to raise demand on the applicant/Representationist strictly, as per the Regulation No.6 (Recovery Cost) of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations 419/2005. We find force in the arguments of the Respondent Board that the present Complaint is barred by the principles of Res-Judicata, as the dispute relating to similar matter (demand notice)

has already been decided between the parties in case No.12 of 2015 on 23.01.2016, by Ld Electricity Ombudsman.

7. It is also observed that the Respondents have raised the subsequent demand notice in compliance of the order of Ld. Electricity Ombudsman dated 23.01.2016 referred above in Paras-Supra. We find no substance in the contention of the complainant that the impugned notice dated 22.05.2019 is de-hors the order dated 23.01.2016. However, the issue whether respondents have reiterated the demand of IDC through notice dated 22.05.2019 in the same manner, as that of the previous notice dated 01.09.2014, or not, cannot be determined by this Forum for the simple reason that present complaint is barred by the principles of Res-Judicata. This Forum cannot sit on judgment on the case/issue already decided by higher appellate authority. Any violation or illegality in compliance of orders of Ld. Ombudsman dated 23.01.2016 by respondents, alleged to be caused by way of the impugned notice Annexure C-2; is to be taken up for redressal by complainant before appropriate higher authority. We find it just and proper to order at this stage that the Respondent Board shall not press the demand raised against the complainant vide notice dated 22.05.2019 **Annexure C-4** in the facts and circumstances of the case stated above, till appeal time provided under CGRF Rules, 2013 or resolution of the issue between parties, whichever is earlier.
8. In the aforesaid terms, the present complaint is disposed of being barred by the principles of Res-Judicata. It will be just and proper to state that this Forum without going into the merits of the case, disposed of the instant complaint with liberty to the parties to approach appropriate authority for redressal of their grievance, if any. Parties are left to bear their own costs.

Announced before the parties present at Shimla on 20.08.2019.

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 order be supplied to both the parties.

Dated:-20.08.2020

Place:- Shimla

Sd/-
(K.S. Dhaulta)
Member

Sd/-
(Sanjay Dewan)
Chairman

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.
No.CGRF/Complaint No. 1454/3/19/044 **Registered**
Dated:-

Dr. Reddy's Laboratories Ltd.
Village Khol, P.O. Bhud,
Baddi-Nalagarh Road, Baddi,
District Solan (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1454/3/19/044

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3. Assistant Executive Engineer,
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Baddi, District Solan (HP).

Respondents

The Certified copy of final order dated 20.08.2020 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.