



**HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, KHALINI, SHIMLA-171002**

Case No. 25 of 2016

In the matter of:

M/s Koyla Industries, Plot No. 11 B, Industrial Area, Ratti, Tehsil BALH, Distt. Mandi (H.P.)
through its authorised representative-Sh. Sushil Gupta.

Applicant/Representationist

Versus

1. The Executive Director (Personnel), HPSEB Ltd., Vidyut Bhawan, Shimla-171004
2. The Sr.Executive Engineer (Comm. & Works), Operation Circle, HPSEBL, Bilaspur(HP).
3. The Asstt.. Executive Engineer, ESD,HPSEBL, Ner Chowk,distt. Mandi (HP)

.....Respondents/Applicants

And

In the matter of:

Representation under Regulation 28 read with Regulation 32 of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations,2013, against the order dated 20.8.2016 passed by the FRGC, Shimla, in Complaint No. 2233/3/15/029 titled as M/s Koyla Industries, Plot No. 11 B, Industrial Area, Ratti, Tehsil BALH, Distt. Mandi (H.P.) Versus HPSEB Ltd. and others.

23.02.2018

Present for:

Applicant : Sh. Ajay Vaidya, Counsel

Respondents : Sh. Bhagwan Chand, Counsel
Sh. Dinesh Kumar Gupta,, AE ESD,HPSEBL, Ner Chowk, Mandi (HP).

ORDER

(Last Heard on 23.02.2018)

Heard. Taking into consideration, the arguments exchanged by representatives of both the parties during the course of hearing and the Application/Petition and Additional submission in support of Review petition/application filed by the Applicant/Respondent Board on 1.10.2016 in context of the Order dated 20.8.2016 passed by the FRGC, Shimla, in Complaint No. 2233/3/15/029 titled as M/s Koyla Industries, Plot No. 11 B, Industrial Area, Ratti, Tehsil BALH, Distt. Mandi (H.P.) Versus HPSEB Ltd. and others.

Complainant's Contention:

- 1 That against the illegal demand raised by the respondent Board complainant preferred Complaint No. 2233/3/15/046 for redressal of the grievance before the Hon'ble Forum, HPSEB, Kasumpti, Shimla-9, that vide order dated 20.8.2016, complaint was dismissed without affording an opportunity of being heard. It is pertinent to mention here that it was observed that on the last occasion none was present on behalf of the Complainant whereas on the contrary the HPSEBL was seeking adjournments on a ground or another and some time even the Board was not represented by any one even then the Complaint was not allowed in favour of the complaint.
1. That the Complainant is a proprietary firm running its industry at 11-B Industrial Are, Ratti, Sundernagar, Distt. Mandi (H.P.). That the complainant have taken an electricity connection from the Respondent Board. The complainant have been issued bills from time to time and all the payments due up have been cleared as and when demanded.
2. That in the month of February, 2015 the complainant received one notice for outstanding energy bill amounting to Rs. 5,80,543/- and no period has been specified by the Board and no ground has been stated in the notice that how this demand has been created by the Board. The complainant immediately brought to the notice of the officials of the Board all these issues that the amount which has been reflected in the notice that neither period has been specified by the Board and no grounds has been stated in the notice that how this demand has been created by the Board. Against this order the complainant file complaint No. 2233/1/15/029. After filing of the Complaint the appellant after negotiations with the officials of the Board, who had assured that the amount which had been paid by the complainant which as PAC vide receipt No. 0060694 dated 00.4.2011 will be adjusted against this Demand and rest of the amount will be recovered in eight equal installments.
3. That the Board in stead of adjusting the amount rejected and stated in that letter that amount of Rs. 206830/- has been adjusted against the amount of cost sharing as per HPERC regulations. Further the complaint was directed to pay the entire amount and are repeatedly threatening to disconnect the electricity supply to the premises of the complainant in case the entire amount is not deposited. The action of the

respondent board of issuing this demand notice and adjustment made on account of cost sharing is wrong, illegal and arbitrary and liable to be set aside. All the previous payments pertaining to the electricity bills have been made by the complainant as and when the bills were received. There has not been a single default in the payment of monthly electricity bills for the previous months. The non professional attitude is causing mental stress, harassment, pressure and financial hardship to the complainant.

4. The amount of Rs. 580543/- which is alleged to be payable, it is submitted that the complainant even otherwise cannot pay such heavy amount at once and thus for no fault of the complainant the respondents cannot disconnect the electricity supply to the premises of the complainants.
5. That the amount of Rs. 580543/-overbilling is not payable by the complainants and action of the respondents demanding the said amount is liable to be set aside. The complainants even otherwise cannot pay such a heavy amount at once and thus for no fault of the complainants the respondents cannot disconnect the electricity supply to the premises of the complainants.

Respondents Contention:

1. That the contents of Para No.1 of the representation are wrong and denied to the extent that the respondent Board raised legal demand from the appellant. It is pertinent to mention here that the replying respondent raised demand from the complainant amounting to Rs, 5,80,543/- against which the appellant filed complaint before the Forum for Redressal of Grievances of Consumer, SDA Complex, Kasumpti. Rest of the contents of this para are totally wrong and against the factual position. The Ld. Counsel for the replying respondents informed that the complainants have deposited the whole amount and as such the case was decided by the Forum below accordingly. It is specifically denied that the complaint was dismissed without affording any opportunity of being heard. It appears from the order of the form that the present appellant has not approached this Hon'ble Authority with clean hands and as such concealed material facts from this authority.
2. That in reply of para No.3 of the representation it is submitted here that one notice was raised for outstanding amount of Rs. 5,80,543/- to the appellant and reason has been specifically made clear in the notice and against that

notice appellant filed complaint before the forum and as per the order passed by the Forum on 26.06. 2015 the complaint was withdrawn by the counsel for the appellant with the submission that to seek leave to withdraw his complaint and the prayer of the appellant was allowed and the complaint was dismissed as withdrawn. So far as the contents of this para, it appears tht the appellant has concealed material facts from this Hon'ble Authority. It is pertinent to mention here that as per the statement given by the official of the respondent before the Forum below, the appellant had deposited whole amount which was to be paid by the appellant in eight equal installments after adjusting the mount which has already been paid by the complainant. As and when the appellant paid the whole amount in dispute to the replying respondent that the appellant did not appear before the Forum below and as such the forum below had rightly passed the order dated 20.8.2016.

3. That in reply of para 4 of the representation it is submitted here that the amount of Rs. 2,06,830/- deposited by the complainant on account of PAC dated 02.04.2011 has to be adjusted against the amount towards cost sharing as per HPERC regulations. Hence this amount can not be adjusted against energy bill as requested by the appellant. Therefore, the appellant was directed to pay the whole outstanding energy bill to the replying respondent.
4. That the contents of para 5 of the representation are false, incorrect, wrong and as such are denied. It is pertinent to mention here that the amount of Rs. 5,80,543/- is outstanding amount of energy bill which has to be paid by the appellant. As per the record of the replying respondent this amount has already been deposited by the appellant and the appellant had intentionally thereafter not mark his presence before the Forum below and as such the forum passed legal order which is not liable to be set aside.
5. That the contents of para 6 of the representation are wrong and denied.
6. That the contents of para 7 of the representation needs no reply being matter of record.
7. That the contents of para 8 of the representation needs no reply being matter of record.
8. That the contents of para 9 of the representation are false, incorrect, wrong and as such are denied. The order passed by the Forum below are properly

legal and based upon the factual position and therefore these order cannot be declared null and void and illegal and therefore these order cannot be set aside. It I respectfully submitted here that as per the order of Forum, it is clear that the complainants have failed to appear before the Forum below since last three occasions and the appellant has not made any cogent and sufficient reason why this order should be declared null and void and is liable to be set aside. Moreover the appellant was having option to move application before the Forum below to set aside this order but the appellant failed to move any application before the forum below. So far as the order dated 26.06.2015 it is very much clear that the Appellant himself sought leave from the Hon'ble Forum to withdraw the complaint and thereafter the forum below has left no other remedy except to withdraw the complaint of the Appellant and he action of the forum below is totally legal and justified. Moreover, the representation filed by the Appellant is totally against the provision of law and the appellant failed to redress any grievances before this Hon'ble Authority by way of the present representation how and in what manner the order of the forum below are illegal null and void. From the bare perusal of the present representation it is very much clear that the appellant just to file the present representation to harass the replying respondent despite of having used the energy provided by the replying respondent and thereafter is hesitating to make the payment of the used energy to the replying respondents. It shows the malafide intention of the appellant against the replying respondents. Therefore, the present revision petition should be dismissed with heavy cost.

Forum's Observations:

“The Ld. Counsel for the respondents informed that the complainants have deposited whole amount. The complainants are not attending the hearings since last three occasions. We feel that the complainants are not interested in pursuing their case any further. In view of the fact that the complainant has deposited the whole amount and is not attending the hearings, we dispose of the case accordingly”.

Electricity Ombudsman findings and Order:

In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and written arguments, it is observed that:-

That Rs. 5,80,543/- stands deposited by the complainant and there is no issue with the respondent thereof. Further, amount of Rs. 2,06,830/- deposited by the complainant on account of PAC dated 02.04.2011 which was to be adjusted against the amount towards cost sharing as per regulations in vogue at that time, the account of this amount has not been furnished by the respondent to the appellant till date. Accordingly, the respondent is directed to submit the details of accounts immediately and if any refund is given to complainant the same may be refunded within a month's time as the matter is already over delayed.

Compliance may be made within a one month.

Dated: 06.03.2018

Electricity Ombudsman