



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

Case No. 37of 2017

In the matter of:

M/s K.B.M. Food Products, Village Juttiwala, Opp. Fire Station, Baddi-Barotiwala Road, Baddi, Distt. Solan (H.P.)-173205, through its authorised representative Sh. Rakesh Bansal.

Applicant/Representationist

Versus

1. The Executive Director (Personnel), HPSEB Ltd., Vidyut Bhawan, Shimla-171004
2. The Sr.Executive Engineer, Electrical Division, HPSEBL, Baddi,distt. Solan (HP).
3. The Asstt.. Executive Engineer, ESD,HPSEBL, Barotiwala,distt. Solan (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 8.9.2017 passed by the FRGC, Shimla, in Complaint No. 1453/1/17/005 titled as M/s K.B.M. Food Products, Village Juttiwala, Opp. Fire Station, Baddi-Barotiwala road, Baddi, Distt. Solan (H.P.)-173205 through its authorised representative Sh. Rakesh Bansal Versus HPSEB Ltd. and others.

23.02.2018

Present for:

Applicant : Sh. Rakesh Bansal

Respondents : Sh. Bhagwan Chand, Counsel
Sh. Laxmi Chand, Sr.Asstt, ESD,HPSEBL, Barotiwala (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 20.9.2017 in context of the Order dated 08.09.2017 passed by the FRGC, Shimla, in

Complaint No. 1453/1/17/005 titled as M/s K.B.M. Food Products, Village Juttiwala, Opp. Fire Station, Baddi-Barotiwala road, Baddi, Distt. Solan (H.P.)-173205 through its authorised representative Sh. Rakesh Bansal Versus HPSEB Ltd. and others.

Complainant's Contention:

1. That against the impugned order dated 08.09.2017 passed by the Consumer Grievances Redressal Forum of HPSEBL is bad in law ought to be quashed and set aside and is, asking the complainant/applicant company to deposit an amount of Rs. 1,60,638/- as arrears of less/slow metering is illegal, arbitrary, and without taking into consideration the provisions of act, rules and regulations. In case the recovery of these charges is not stayed, it will result irreparable loss and injury to the complainant/applicant which cannot be compensated or otherwise.
2. The respondents are required to check the meters periodically as a routine within every six months. The respondent's contention that the meter was slow by 33% since three and a half years is itself a proof that the metering was never tested/verified during such a long period.
3. The defective meter was not replaced for quite some time even after the issuance of demand notice for arrears and the bills were issued to the appellant charging slowness in the subsequent period. The continuance of the defective meter in use, has resulted further loss to the respondents as the date of removal of the defective meter is crucial to determine the period of overhauling.

Respondents Contention:

1. The complainant was served a demand notice for recovery of less billed amount to the tune of Rs. 1,60,638/- as current in B phase is missing w.e.f. 06.06.2013. The consumer is free to ask for MRI data which can be provided by depositing applicable fees as per tariff orders. The slowness of 33% is exact as current in one phase is missing.
2. As exact period of missing current in B phase is recorded in MRI event data, therefore overhauling of account for 6 months is not correct. Moreover the consumer should also be billed for the consumption used by him. And even after knowing the complete facts, that consumer has used electricity & the

intensions of the consumer for paying energy for six months is malafide and against natural justice.

3. The meter was not defective however it has not recorded one phase consumption and as the motor load is balanced & consumption in every phase is equal. So it can be concluded that 1/3rd less consumption have recorded & analysis of MRI data support it. It is pertinent to mention that no loss has occurred to complainant as he is being billed only for energy consumption consumed by him.

4.

Forum's Observations:

We have heard the arguments of both the parties and have gone through their claims and counter claims vis-à-vis copies of various details and documents filed with the complaint, reply thereafter. Thus the Forum observes as under:-

We have gone through the documents and listened to the arguments of both parties very carefully. We observe that the respondents served demand notice dated 03.01.2017 to the complainants demanding Rs. 1,60,638/- on account of defective metering after overhauling the accounts since 06.06.2013 to 11/2016. The respondents issued demand notice stating that the current in B-Phase was missing since 06.06.2013 and the energy has been recorded 33% less.

The respondents have also supplied copy of tamper report which also indicates that the current in B-Phase is missing. The respondents also verified the percentage of less energy being recorded by installing a check meter in parallel. The check meter also indicted that 31.95% less energy is being recorded by the old meter.

The complainant pleaded during arguments that overhauling of accounts should not be for the period 06.06.2013 to 11/2016 but only for a period of six months.

The respondents argued for overhauling for the complete period as 33% more energy has been used by the complainants.

We also checked the overhauling details of the demand of Rs. 1,60,638/-, the tamper report and the comparison of consumption by the check meter and old meter. We find that the current in B-Phase was actually missing since 06.06.2013. We are also satisfied with the plea of the respondents that the complainants have used 33% more energy than actually billed. We are also satisfied with the overhauling details of the demand raised. We are, thus, of the opinion that the complainants must pay for the energy consumed by them. We

also do not agree with the plea of the complainant to overhaul the accounts for six months instead of whole period because the actual date of 33% less energy being recorded is available in records i.e. 06.06.2013. We, therefore, feel that the plea of the complainant to restrict the overhauling of accounts to six months is not maintainable and should be rejected. We, thus, direct as under:-

- i) The demand of Rs. 1,60,638/- raised by the respondents is held right.
- ii) The respondents are directed to adjust all the money already received against their complaint in the above said demand of Rs. 1,60,638/-.
- iii) The respondents are directed to recover the balance amount in six equal monthly instalments alongwith the monthly bills of next six months.

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 the plea of the respondent that the complainant has used 30% more energy than actual billed and the complaint must pay for the energy used by them is sustainable. The actual consumption of the energy (33% less) being recorded is available in records. The consumption of main meter and check meter is also almost equal. The plea of the complainant to restrict overhauling of account for only six months is also not maintainable. No doubt, the respondents are required to check the meters periodically as a routine within every six months which has not been done by the respondents which shows laxity on the part of respondents, but the fact that demand is raised for actual consumption of energy can also not be disputed. There is no overbilling or undue debiting of amount to the consumer and the consumer has been charged for the actual consumption which has not been charged from him in the past. No loss has been occurred to consumer. The meter was recording 1/3rd less energy of actual energy used by consumer which is clearly supported by MRI data available. The demand raised by respondent on the basis of actual energy consumption is correct because this amount has become due as per the actual consumption of energy by complainant..

Dated:01.03.2018

Electricity Ombudsman