



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

Case No. 44 of 2018

In the matter of:

M/s Shivalik Industries, Plot No. 14, Sector-2, Parwanoo (HP)-173220 through its authorised representative Sh. Rakesh Bansal.

Applicant/Representationist

Versus

1. The Executive Director (Personnel), HPSEB Ltd., Vidyut Bhawan, Shimla-171004
2. The Asstt.. Executive Engineer, ESD,HPSEBL, Parwanoo

.....Respondents/Applicants

And

In the matter of:

Representation under Regulation 6 (2) of HPERC (Recovery of Expenditure for supply of Electricity) Regulation, 2005 against the Order dated 15.12.2017 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1421/2/17/039 titled as M/s Shivalik Industries, Plot No. 14, Sector-2, Parwanoo (HP)-173220 through its authorised representative Sh. Rakesh Bansal.

27.03.2018

Present for:

Applicant : Sh. Rakesh Bansal, Advocate
Sh. Rahul Mahajan, Advocate

Respondents : Sh. Bhagwan Chand, Counsel

ORDER

(Last Heard on 27.03.2018)

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 06.01.2018 in context of the Order dated 15.12.2017 passed by the FRGC, Shimla, in Complaint No. 1421/2/17/038 titled as M/s Shivalik Industries, Plot No. 14, Sector-2, Parwanoo (HP)-173220 through its authorised representative Sh. Rakesh Bansal.

Complainant's Contention:

1. The complainant was sanctioned a power connection of 350 kW with contract demand of 250 kVA in the year 2010 at 11 kV supply voltage. Besides the security, a sum of Rs. 3,50,000/- was charged as Infrastructure Development Charges towards sub-station cost.
2. The Respondents also recovered line cost share of Rs. 1,29,780/- and Rs. 3,74,920/- respectively/- as Line Cost Share. The complainant also deposited the amount of estimate separately.
3. The complainant observed that some of the amounts charged and recovered from the complainant are illegal and beyond the provisions of the applicable regulations.
4. The IDC of Rs. 3,50,000/- recovered by the respondents are also wrongly calculated. These charges have been recovered on kW basis instead on the kVA basis.
5. The IDC in respect of the sub-station cost was only applicable in the areas where new sub-stations were set-up or the capacity of the existing sub-stations were augmented after the IDC Regulations came into force in 2005.

Respondents Contention:

The Respondents have submitted that they recovered the IDC from the complainant/appellant as per the order of HPERC. This amount was recovered by the replying respondent as per the provisions of law prescribed by HPERC, however Appellate Tribunal in their order dated 18/12/2015 have set aside the said order alongwith findings recorded therein that all the consequential actions or the subsequent orders of the consequential demand notices or bills raised by the respondents board on the strength of clarificatory order dated 02/05/2011 of HPERC have also been quashed and set aside. It is important to mention here that this shall in no way debar the distribution licensee to make recoveries in accordance with the provisions of the Recovery of Expenditure Regulations 2005 or the Recovery of the Expenditure Regulation 2012 as may be relevant.

The Respondent also submitted that the complainant is not entitled for any interest from the replying respondents as it is evident from the order dated 05/10/2016 passed by HPERC. It has been made clear that the amount received or to be received as per para

3.2.2 of the supply Court 2009 for grant of Power of Availability Certificate (PAC) in respect of the contract demand applied by consumer/applicant be adjusted in accordance with the mechanism purposed in para-9 read with item-IV under para 16 of the order of HPERC on dated 05/10/2016. Moreover, the Ld. Forum below has also specifically made clear that the complainant is not entitled for the payment of interest as mechanism for adjustment has come recently i.e. on dated 05/10/2016. Under these circumstances it is clear that the replying respondents have not committed any illegality regarding the charges to IDC from the appellant and therefore the appellant is not entitled for any interest on the refund of IDC.

Forum's Observations:

The Complainant has filed the complaint for the refund of IDC charges with interest and submission of detail of expenditure incurred for the construction of line for feeding power to the complainant.

The Respondents have submitted that the Complaint is not entitled for refund of IDC Charges and line cost deposited as the whole amount has been utilized by them.

On the basis of arguments and record submitted the courts order that :-

1. The adjustment of IDC charges may be made as order issued by HPERC in the suo-moto case No.25/2016 & endorsed by HPSEBL, No.HPSEBL/CE(Comm.)/APTEL/VOI-1/2016-10021-10135 dated 01.11.2016.
2. The Respondents are directed to furnish the account of expenditure actually made for the construction of line for SOP to the complainant.
3. The complainant is not entailed for the payment of interest as mechanism for adjustment of IDC has come recently i.e. on dated 05.10.2016.

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 complainant has sought relief from Ombudsman in the order passed by the CGRF dated 15/12/2017 in complaint No. 1421/2/17/038 titled as M/s Shivalik Industries, Plot No. 14, Sector 2, Parwanoo (HP)-173220 V/s HPSEBL in respect of para-3 of the above order as the complainant is satisfied with the decision of the Forum with regard to Para-1 and 2 of the order of the Forum. Thus, complainant seeks relief in terms of interest on the amount i.e. refundable to them

which was recovered in excess as per para 5.7.3 of supply code for the period the money of the complainant was held by the respondent from the date of refund of amount ordered by para 1 and 2 of the Forum's Order which was due to the complainant within three months of the release of connection as per Regulation 6(2) of the IDC Regulation 2005. Accordingly, this office is only considering the plea of complainant for relief sought in term of interest on the amount that is refundable to them which has been denied by CGRF in para 3 of its order. After going through all the submissions, it is ordered that while making compliance by respondent of para 1 & 2 of Forum's Order, the payment of interest on the amount refundable to complainant, if any, is allowed for the period money of the complaint was held by HPSEBL from the date of order of Forum till the date the amount is refunded/adjusted.

The compliance be reported by both parties within a month of issue of this order.

Dated:31.03.2018

Electricity Ombudsman

