

MA No.56/07
&
57/07
in
Compliance Case No. 250/06

In re:-

M/S Chlorates, 150, HPSIDC,
Industrial Area,
Baddi, Tehsil Nalagarh
Distt.

Complainant

- (i) HPSEB
- (ii) Asstt. Executive Engineer,
Electrical Sub-Division,
Barotiwala, Tehsil Kasauli
Distt. Solan. H.P.

Respondents

Complaint under section 142 & 146 of the Electricity Act, 2003 for non-implementation of the order dated 6.9.06, passed by the Forum for Redressal of Grievances of Consumers, H.P.

Present for M/S Chlorates
(Complainant)

Sh. O.C. Sharma, Adv.

for Respondents

Sh. Bimal Gupta, Adv.

ORDER

M/S Him Chlorates, 150, HPSIDC, Industrial Area Baddi, Tehsil Nalagarh, Distt. Solan. H.P. filed a complaint (registered as complaint case No. 250/06), under sections 142 & 146 of the Electricity Act, 2003, against the HPSEB and the Asstt. Executive Engineer, Electrical Sub-division, Barotiwala, Tehsil Kasauli, Distt. Solan for non-compliance of the order dated 6.9.2006 passed by the Forum for Redressal of Grievances of the Consumers of HPSEB (hereinafter referred to in short as Forum). The said complaint was received in the Commission Registry on 15.12.2006.

2. On the admission hearing Shri Bimal Gupta, Advocate for the respondents brought to the notice of the Commission that the respondents have filed the appeal against the Forum's said order and the same is pending before the H.P. Electricity Ombudsman for adjudication and the next date for hearing stood fixed for 3.3.2007. From this it is evident that the complainant has knowingly concealed

the fact of pendency of the appeal before the Electricity Ombudsman. Accordingly, the complainant was directed to inform the Commission, the date on which the notice of the said appeal, issued by Electricity Ombudsman, was received by him.

3. The complainant through MA No. 56/07 has submitted that the complainant could not inform the Commission, regarding the presentation of the appeal before the Electricity Ombudsman under the bonafide belief that the said appeal was not admitted for hearing and the application under section 5 of the Limitation Act, for condonation of delay for filing the appeal was under consideration and now the same has been finally decided on 3.3.07. The affidavit of Sh. Surinder Kumar Gupta, Attorney of the complainant Firm submitted in support of the said MA No. 56/07 states that after 26.2.2005 M/S Him Chlorates terminated the services of all the employees and since then there is no person in the employment of the Firm at Baddi except a Chowkidar kept to watch and ward the factory premises. The partners of the firm have been carrying on their other business and usually sit in the Head Office at Ludhiana. The Chowkidar of the complainant firm sent the copy of the notice dated 5.12.06 issued by the Electricity Ombudsman through FAX at 3.26 P.M. on 15.12.06 to Ludhiana Head Office of M/S Him Chlorates. The knowledge of the presentation of the appeal was acquired on 15.12.06 at 3:26 P.M. and prior to that the fact of presentation of appeal was not in the knowledge of the deponent and the partners of the firm.
4. After passing of the Forum's order dated 6.9.06, the complainant filed a caveat petition before the Electricity Ombudsman. The respondents had not refunded the amount due interms of the of the Forum's order, the complainant engaged Shri. O.C. Sharma, Advocate on 30.11.06 to file complaint under section 142 of the Electricity Act, 2003. Sh. O.C. Sharma had already filed the complaint No. 250/06 before the Commission on 15.12.06, i.e. the date on which the complainant Firm came to know the fact of the filing of the appeal in question. The appeal before the Electricity Ombudsman has only been admitted, after condonation of delay, on 3.3.07. The deponent and the partners of the Firm have not intentionally and knowingly concealed the pendency of the appeal before the Electricity Ombudsman.
5. MA No. 57/07 has also been moved by the complainant for withdrawal fo the complaint No. 250/06 under the changed circumstances as the appeal of the HPSEB has been admitted for hearing on 3.3.07 by the Electricity Ombudsman.

The Commission, after taking into the consideration the facts and circumstances of the case, the arguments advanced and the documents produced, allows the withdrawal of the complaint.

Complaint is dismissed as withdrawn.

Announced in open Court.

The case file be consigned to record room.

Dated. 24.3.2007

(Yogesh Khanna)
Chairman.