



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

PHONE 0177-2624525

Case No. 68/2018

In the matter of:

M/s MBD Printographics Pvt Ltd, Ram Nagar, Industrial Area, Gagret, Tehsil Amb, Distt Una (H.P.) - 177201 through their Counsel Sh. Rakesh Bansal, Advocate.

Applicant/Representationist

**Versus**

1. The Executive Director (Personnel) H P State Electricity Board Ltd, Vidyut Bhawan, Shimla-4.
2. The Asstt. Engineer, Electrical Sub Division HPSEBL, Gagret, Distt. Una (H.P.)
3. The Sr. Executive Engineer, Electrical Division, HPSEBL, Gagret, Distt. Una (HP).

And

Respondents

In the Matter of

Representation under Regulation 28 of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013 against the Order dated 09.10.2018 passed by the Consumers Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No 3321/2/18/028, titled as M/s MBD Printographics Pvt Ltd, Ram Nagar, Industrial Area, Gagret, Tehsil Amb, Distt. Una (H.P.) - 177201 through their Counsel Sh. Rakesh Bansal, Advocate.

31.01.2019

Present for:

Applicant: Sh. Rakesh Bansal, Advocate

Respondent: Sh. Bhagwan Chand, Advocate

**ORDER**

(Last Heard on 31.01.2019)

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 the Order dated 09.10.2018 passed by the Consumers Grievances Redressal forum of HPSEBL, Shimla-9 (H.P.) in complaint No 3321/2/18/023, titled as M/s MBD Printographics Pvt Ltd, Ram Nagar, Industrial Area, Gagret, Tehsil Amb, Distt. Una (H.P.) - 177201 through their Counsel Sh. Rakesh Bansal, Advocate.

### **Complainant's Contention:**

The Consumer Grievances Redressal Forum, ordered the respondents to refund the demand charges excess charged from the complainant, but the interest as per Regulation 57.3 of the Supply Code, 2009, has been denied by the forum.

The complainant also cited the provision of regulation 26 (2) of HPERC (CGRF & Ombudsman) Regulation, 2013.

"26(2) If, after the completion of the proceedings, the forum is satisfied that the allegations contained in the grievances are correct, it shall -

(a) Issue an order to the distribution licensee directing it to do one or more of the following things in a time-bound manner, namely -

- (i) To remove the cause of grievance in question,
- (ii) To return to the complainant the undue charges paid by the complainant along with the interest at the rate equal to the short Term Prime Lending Rate of the State Bank of India as on 1st April of the financial year for the period for which the undue disputed amount was withheld by the licensee or;

The complainant has not challenged the amount that has been ordered for refund. The complainant has prayed for the following relief:

- a) To direct the respondents to pay interest on excess amount that is refundable to the complainant as per interest rate of 15% per annum notified in the Supply Code, 2009.
- b) Cost of the complaint amount to Rs. 10,00,000/-
- c) Call for the record of the case.
- d) Any other or further orders which this Hon'ble Forum may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the complainant company and against the respondents/distribution licensees.

### **Respondent's Contention:**

The respondent has contested that the provisions of interest are not applicable in the present case.

During the proceedings, the respondent also argued that since the order of the CGRF was under challenge before the Hon'ble High court of Himachal Pradesh, the representation may not be dealt until and unless the decision of the amount refundable to the complainant is concluded.

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**CGRF's Order:**

"No interest is payable to the complainant. No cost to pay for complaint."

**Electricity Ombudsman's findings and Order:**

M/s MBD Printographics Pvt. Ltd., Ram Nagar, Industrial Area, Gagret, Tehsil Amb, Distt. Una (H.P.) has filed representation against orders of CGRF in complaint number 3321/2/18/028 for their entitlement of interest as well as costs, on the amount of refund ordered by the CGRF in the said complaint as per applicable regulations and provisions of the Supply Code, 2009 as amended.

After going through all the submissions, written as well as oral, of both parties i.e. the complainant and the respondents, it is quite clear, as per Regulation 26(2) of the HPERC (CGRF and Ombudsman) Regulations, 2013 that the CGRF actually had no choice for denying interest once the refund due to the complainant was established. The CGRF has on one hand ordered for the refund of amount due to the complainant but has denied the payment of interest thereupon. Payment of simple interest is further provided in the Regulation 5.7.3 of the Supply Code, 2009 on the amounts overbilled to the consumers.

The proceedings before the Hon'ble High Court shall have no bearing on the proceedings before the Electricity Ombudsman. Also, the orders of the CGRF have not been granted stay by the Hon'ble High Court. As such, the contention of the respondent to stop/pause the proceedings is denied.

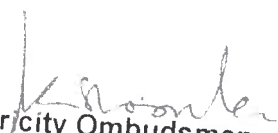
After going through the above stated findings, it is concluded and ordered that:

- a) The order of the CGRF is 'half baked'. Actually the CGRF has no choice to deny interest once the refund is genuine and established.
- b) The complainant is eligible for payment of interest on the amount refundable at simple interest as per provisions of Supply Code, 2009.
- c) The relief in terms of costs is denied as there is no such provisions in the applicable Regulations.

Given under my hand and the seal of this office, the 4<sup>th</sup> day of February, 2019.

Dated: 04.02.2019



  
Electricity Ombudsman