



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

In the matter of:

Case No. 57 of 2018

M/s Tafe Motors and Trctors Ltd, Plot No 29-30 sector-2, Industrial Area, Parwanoo-173220 through its authorised representative Sh. Rakesh Bansal & Rahul Mahajan, Advotates.

Applicant/Representationist

Versus

- 1 The Executive Director (Personnel), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
- 2 The Asstt. Engineer, Electrical Sub-Division, HPSEBL, Parwanoo
- 3 The Sr. Executive Engineer, Electrical Divisionh, HPSEBL, Parwanoo

Respondents/Applicants

And

In the matter of:

Representation under Regulation Nos 16, 17 and 18 of the HPERC Consumers Grievances Redresal (Consumer Grievances Redressal forum and Ombudsman) Regulation against the Order dated 11.04.2018 passed by the Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1421/3/17/054 titled as M/s Tafe Motors and Trctors Ltd, Plot No 29-30 sector-2, Industrial Area, Parwanoo-173220 through its authorised representative Sh. Rakesh Bansal & Rahul Mahajan, Advotates.

13.06.2018

Present for:

Applicant : Sh. Rakesh Bansal, Advocate

Respondents : Sh. Bhagwan Chand, Counsel

ORDER

(Last Heard on 13.06.2018)

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 in context of the Order dated 11.04.2018 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1421/3/17/054 titled as M/s Tafe Motors and Trctors Ltd, Plot No 29-30, sector-2, Industrial Area, Parwanoo-173220 through its authorised representative Sh. Rakesh Bansal & Rahul Mahajan, Advotates Versus HPSEB Ltd. and others.

Complainant's Contention:

1. The complainant has a industrial power connection for 2179 kW of load with 1350 kVA of contract demand and is at present categorized in industrial Large HT2, consumer category. The existing power connection which is now in the name of TAFE Motors and Tractors Limited, was earlier in the name of Eicher Tractors Limited, which is a subsidiary of M/s Eicher Motors Limited. The complainant purchased the entire plant from M/s Eicher Motors Limited including the running business at Parwanoo by way of slump sale agreement. The management of the plant changed and the plant continued to operate with the existing power connection in the name of Eicher Tractors Limited for some time. Meanwhile, the complainant applied for increase of contract demand from 1350 kVA to 1800 kVA vide application No.141/LS. The application for extension was submitted in the name of Eicher Tractors Ltd., in which name the connection existed at that time. The complainant thought that the change of name will be carried out later. The formalities relating to change of name were later notified by the Board in January 2013. The complainant's change of name was falling under Sr. Number 4 of the circular, which dealt with the procedure for change of name when the plant was sold to another party.
2. The application for extension of load was submitted by Tafe Motors and Tractors Limited under their letter head but in the name of M/s Eicher Tractors Ltd., the respondents demanded payment of Infrastructure development charges @ Rs 2000/kVA for the additional demand of 450 kVA, alongwith the processing fee of Rs. 11250/- @ Rs. 25/kVA. The complainant deposited the amount demanded vide Cheque No 180599 dated 19.02.2014, issue by Tafe Motors and Tractors Ltd., which was acknowledged vide respondent's receipt number 063595 dated 19.02.2014. The application for increase of contract demand was processed to the level of the sanctioning authority, but finally rejected by the respondents due to the question of name change. The complainant then shelved the proposal of increase of load, but later applied for change of name as per procedure notified by respondents. During the processing of the change of name, the affidavits/undertakings have to be taken from both the parties, under both the names, so as to absolve each

other in the event of any past or future liabilities. The documents were submitted and the application was approved for change of name. As a result, the security deposited by Eicher Tractors Limited and other dues automatically stood transferred in the new name i.e. TAFE Motors and Tractors Ltd

3. The complainant, thereafter communicated that since they have changed the business plans and therefore, the increase in load that was sought earlier, was no more required and therefore, the infrastructure development charges of Rs 9.00 lacs deposited earlier should be refunded/adjusted in the energy bills. Since, no sanction was accorded to the pending application, the IDC at normative rates were not recoverable. As such, no dedicated infrastructure was created for the complainants application. Supply Code, 2009 para 3.2.6 provides for deduction of 20% of the advance cost share of Rs.1000 per kVA paid at the stage of PAC, if the consumer does not submit an application after obtaining PAC. In this case, the consumer had submitted application, but the same was rejected by the respondents and therefore, even the provisions of para 3.2.6 and are not attracted. Therefore, legitimately full amount of IDC paid by the complainant was due to be refunded once the application was rejected.
4. The respondents denied the refund due to the complainant on the basis of name. the respondents insisted that the complainant was not eligible for refund and only Eicher Tractors Ltd. was eligible for refund. The respondents did not contest that the refund was not admissible, but insisted that the refund could not be made to M/s Tafe Motors and Tractors Limited as the connection at the time of application was in the name of M/s Eicher Tractors Limited. Despite the fact that, the amount was deposited by Tafe Motors and Tractors Limited, vide a cheque issued by them, the refund was denied. The respondents even ignored the provisions of transfer of liability and the mutual undertakings given by both the companies for covering each others liabilities in respect of the said factory and the said connection.

Respondents Contention:

1. It is specifically denied that the appellate firm applied for increase of contract demand from 1350 kVA to 1800 kVA vide application No.141/LS. It is pertinent to mention here that as per application No. 141/LS dated 18/02/2014 the application for extension of load 1350 kVA to 1800 kVA on behalf of Eicher Tractors. So far as the complaint as well as the present appeal filed by the appellant on behalf of M/s Tafe Motors and Tractors Limited and the complaint as well as the present appeal filed by this company. As per the record of Eicher Tractors (A&A) form) dated 18.02.2014 the money was deposited by this Company not by the present appellant and as such the present appellant is not competent company in order to claim of refund of amount Rs 9,11,250/- from the replying respondents. But the respondents already to refund the aforesaid amount to the genuine and authorized person of the Eicher Tractors since this amount has been deposited by this company and as such the reply respondents are ready to refund of aforesaid mount to the authorized representative of this company.
2. That from the documents available with answering respondents it is very much clear that the present Company has been changed in the name of M/s Eicher Tractors. The amount so deposited by the M/s Eicher Tractors for enhancement of contract demand with the answering respondent in the name of M/s Eicher Tractors. This fact has also been clear in the receipt through which the amount of Rs 9,11,250/- has been deposited by M/s Eicher Tractors. It is important to mention here that the answering respondent No.4 wrote a letter to present company on 23.07.2016 in which it has been made clear that Eicher Tractor is entitled to take the IDC refund from the department.
3. The appellant has not forwarded any kind of documents which shows that the present company has been changed the business plans. The present company has intentionally conceal this fact from this Ld. Authority in order to grab the aforesaid amount unauthorizdely. Whereas the appellant was legally bound to give information with respect of change of business to the answering respo0ndents. As a matter of fct, the answering respondents are

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ready to refund the aforesaid amount of Rs.9,11,250/- to the authorized persons of M/s Eicher Tractors but not to the present company.

- 4. There is no illegality in the order of the Forum. Whereas the answering respondents are ready to refund the deposited amount by the Eicher Tractors and therefore the answering respondents are ready to refund the authorized persons or Eicher Tractors and not the present appellant. As per the documents filed by the answering respondents which clearly shows that the amount deposited by the Eicher Tractors with the answering respondents. It will be in the principle of natural justice if the present appellant supply and provide true and correct information with respect of the amount of Rs. 9,11,250/- so that the answering respondents are able to refund this mount to authorized person in avoid to any further litigation.

Forum's Order:

The complainant filed a complaint that he has deposited a sum of Rs 9,00,000/- on account of IDC charges for extension of contract demand from 1350 kVA to 1800 kVA vide application No 141/LS. This application was rejected by the respondent Board. So the said amount be got refunded to him. The respondent Board replied that this application for extension of contract demand was applied by M/s Eicher Tractors not by the complainant. So this refund cannot be made to complainant.

The Forum observed that the money was deposited on account of IDC charges by one party and refund is sought by another party. This is not good in the eyes of law and not maintainable therefore the complaint is dismissed.

Electricity Ombudsman findings and Order:

That appellant has represented against the CGRF order dated 11/04/2018 passed in complaint No 1421/3/17/054. In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and arguments, the applicant M/s Tafe Motors & Tractors Ltd. agreed to submit an affidavit that as "the change of name in respect of Electric Connection in the name of M/s Eicher DEMM to M/s TAFE Motors and Tractors Ltd" has been done by the respondent the amount of Rs. approx. 9 Lacs which will be refunded to M/s Tafe Motors & Tractors (the amount which stands deposited by M/s Eicher Tractors earlier on account of IDC). M/s Tafe Motors & Tractors owns responsibility to pay back this amount to M/s Eicher tractors in case respondent is approached for the refund by M/s Eicher Tractors in later stage. The respondent also agreed that if such an affidavit is submitted on behalf of M/s Tafe Motors and Tractors they are ready to refund the amount to M/s Tafe Motors & Tractors Ltd. Accordingly the matter is decided to the satisfaction of both the parties. The compliance be reported in a month of issue of this order.

Dated: 29.06.2018



(Signature)
Electricity Ombudsman