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

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Case No.08 of 2019

**In the matter of:**

M/s. A.G Peripherals Plot No. 55-56, Bhatoli Kalan, Baddi.

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 Barotiwala (H.P.).
  3. The Sr. Executive Engineer, Electrical Division, HPSEBL, Baddi (HP).
- .....Respondents

**And**

**In the Matter of**

Representation under Regulation 28 of HPERC ( Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013 against the Order dated 28.08.2018,29.08.2018, 30.08.2018 passed by the Consumers Grievances Redressal Forum of HPSEBL Consumer Kasumpti, Shimla-9 (H.P.) in Complaint No.1453/4/17/072, 1453/4/17/073, and 1453/4/17/074 titled as M/s. A.G Peripherals Plot No. 55-56, Bhatoli Kalan, Baddi.V/s HPSEBL through their Counsel.

**Present for:**

- Applicant:** Sh.Rakesh Bansal
- Respondent:** Sh. Anil Kumar God, Advocate  
Sh. Partap Singh AE. Barotiwala.

**(ORDER)**

**( Last Heard on 28.02.2020 )**

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 28.08.2018,29.08.2018, and 30.08.2018 passed by the Consumers Grievances Redressal Forum of HPSEBL Consumer Kasumpti, Shimla-9(H.P) in Complaint 1453/4/17/072, 1453/4/17/073 and 1453/4/17/074, titled as M/s. A.G Peripherals Plot No. 55-56, Bhatoli Kalan, Baddi.V/s HPSEBL through their Counsel.

**Complainant's Contention:**

- 1) On 14.12.2017, M/s A.C Peripherals filed three grievances with the Consumer Grievances Redressal Forum of HPSEBL viz: Complaints No. 1453/4/17/072, 1453/4/17/073, and 1453/4/17/074 on various different matters involved in the different complaints. On 28.08.2018, 29.08.2018, and 30.08.2018 the complaints were disposed off in favour of the complainant.
- 2) As per Regulation 27 of the HPERC Regulations, 2013, the orders of the Forum are to be complied within 21 days of the orders or such shorter period as may be directed by the Forum. More than one year has passed but the orders passed by the Forum has not been complied by the Forum in all three complaints mentioned in this complaint. In all the orders passed by the Forum, the refunds are due to the complainant along with interest, the interest payable to the complainant is growing day by day.
- 3) Regulation 27 has been amended on 26.11.2019 in order to remove the contradiction between Regulation 27 and Regulation 28 of the HPERC Regulations, 2013 as it was not clear earlier whether to approach HPERC for non-implementation of Forum's orders or to approach the Electricity Ombudsman. Regulation 27 has now been suitably amended and the complainant is filling the Representation here seeking condonation of delay in filling on the grounds of recent amendment of the Regulations.

**Prayer:**

- a) To condone the delay in filling this representation in view of the removal of contradiction between regulations vide a recent amendment as explained in para 3 above;
- b) To direct the respondents to comply with the orders of the Forum completely in respect of all three complaints;
- c) In case of continued non- implementation even till the disposal of this representation, allow the complainant for approaching the HPERC under section 142 of the Electricity Act, 2013;

**Respondents Contention:**

In reply to this para No 2, it is submitted that in case no. 1453/4/17/072 the order has been implemented by the Respondent Board & the refund of Rs.2,39,635/- was given to the complainant consumer vide cheque no. 576441 dated 29-11-2019. In case no.1453/4/17/073 &1453/4/17/074 the respondent board challenged the order dated 09.05.2018 and Civil Writ petition is admitted in the Hon'ble High Court Shimla as per the direction given by the Executive Director (Persn.) Vidyut Bhawan, HPSEBL Shimla.

**Order of CGRE: (COMPLAINT No. 1453/4/17/072)**

The complainant has filed a complaint that he was having Industrial Connection at a voltage of 11KV with its connected load of 1950 Kw and Contract Demand as

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1200 KVA fed from common feeder. The Contract Demand was later reduced to 880 KVA by the Respondent Board on his request. The Power Connection was got disconnected permanently on 30.10.2015. He deposited on account of security Rs. 6,75,138/- in cash and 13,05,000/- by way of bank Guarantee with the Respondent Board. After disconnection the request was made to adjust the final Bill payable out of the security already available. The Respondent Board adjusted a sum of Rs. 4,43,000/- in place of Rs. 6,75,138/- against the last and final bill for Rs. 4,95,322/- which was erroneous and also included late payment surcharge. The late payment surcharge was not payable by him as he was having enough security to cover the final bill. But due to late issue of final bill he was made to pay late payment surcharge which was included in the total amount of Rs. 4,95,322/-. The Complainant never refunded the balance amount of security and the surcharge wrongfully charged even till date. The Respondent have not paid interest to him on year to year basis which was skipped. For some year the interest was paid on less amount of security than what was eligible. The interest was payable on the security deposited by the Consumer at the rate specified in the Regulation once in a year by way of credit in the energy bill for the month of June every year. The Regulation also provide for the payment of penal interest, if the interest of security is not paid by the designated date under the Regulation.

The Respondent Board has replied that the Complainant has not approached this Forum with clean hands and has concealed the material facts from the Forum. The Complainant has filed this appeal after the period of limitation of period of two year so this should be dismissed. They have already paid the interest as per regulation. The Complainant never objected to the interest paid by them from the period from 2007 to 2015. The Complaint should not be considered and the Complainant has approached the Forum after a lapse of period from 2.5 years to 10 years. They never intentionally refunded less/ wrong interest however, if any, reconciliation is required, it may be rectified.

**The Forum observed that:-**

- I. It is mandatory on the part of License to pay simple interest on security deposit of the Consumer on 1<sup>st</sup> April every year at the rate notified by the Reserve Bank of India or such higher rate which may be fixed by the commission from time to time.
- II. If the Licensee fail to pay the interest in time, the Consumer is liable to get penal interest payable at twice the rate.
- III. The License is liable to pay simple interest on security @ 12% per annum, if security is not refunded within one month of the effective date of termination of agreement after adjusting all its outstanding amount.

**The Forum ordered that the Complainant may be paid by the Respondent Board:-**

- (i) The amount of Security available lying balance after adjusting final bill issued after permanent disconnection plus any other amount payable by the Complainant pointed out by any Authority as per Law.
- (ii) Penal Interest at twice the rate of interest applicable on security may be paid.

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iii) Interest @ 12% on security remained with the Respondent Board after 30 days from the date of termination of agreement may be paid after adjusting the due amount payable by the Complainant, if any.

(iv) No surcharge may be levied after permanent disconnection on outstanding amount as per supply code and bill may be corrected accordingly.

**Order of CGRF:** (COMPLAINT No. 1453/4/17/073)

M/s A.G. Peripherals filed a Complaint that he applied for reduction of Contract Demand from 1200 KVA to 880 KVA on 10.01.2013 and the processing fee Rs. 8000/- was also charged from him but the reduction was delayed by 15 months on one pretext or the other in order to collect higher unjustified revenue from him by way of demand charges. Finally his case was processed and Contract Demand was reduced to 880 KVA during April, 2014 i.e. almost after a delay of 15 months. Subsequently he again applied for permanent reduction from 880 KVA to 50 KVA in the month August, 2015. Rs. 20,750/- were also deposited on account of processing fee. This time again the reduction was denied and there he chose to apply for permanent disconnection. He suffered a loss of Rs. 19,61,400/- on account of excess demand charged. He made correspondence with the Respondent Board for the refund of excess amount charged in the bills but the Respondent Board never replied till date. It is requested to direct the Respondent Board to refund Rs. 19,61,400/- paid in excess on account of Demand Charges and Rs. 20,750/- charged from him on account of processing fee as his second application was never processed. The Penal Interest on excess amount may also be got paid to him.

The Respondent Board has replied that the grievance may be rejected as these has been submitted after two years from the date of cause of action arisen.

**The Forum Observed that:-**

1. The Respondent Board took 15 months of process the application submitted by the Complainant for reduction of Load from 1200 KVA to 880 KVA, though it has to be processed within 30 days from the date it was submitted in the Sub-Division along with processing fee.
2. The application for reduction of Contract Demand From 880 KVA to 50 KVA was never processed. The fault on the part of Respondent Board.
3. The Complainant vide his letter dated 03.10.2017 received by the concern Sub-Division on 04.10.2017 lodged his protest that his application for reduction of Contract Demand has not been processed so power connection may be disconnected permanently.

**The Forum Order that:-**

- I. The excess amount charged on account of demand charges amounting to Rs. 19,61,400/- may be refunded along with simple interest by the Reserve Bank of India as the application for reduction of load was delayed by the Respondent Board for no fault of the complainant.
- II. Rs. 20,750/- as charged on account of processing fee may also be refunded with simple interest as the second application for reduction of load from 880 KVA to 50 KVA was never processed by the Respondent Board.

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- I. No compensation for delay in processing the application for reduction of load is granted.
  - IV. No cost of complainant is granted.

**Order of CGRF:** (COMPLAINT No. 1453/4/17/074)

M/s A.G. Peripherals, Baddi, has filed a complaint that he has deposited Rs. 54,00,500/- as per Annexure C-3 with Respondent Board on account of IDC Charges @ 3600/- per KVA for Power connection of Contract Demand 1200 KVA on the demand of Respondent Board. This cost was to be charged from the Consumer having power Connection from 66/11KV HIMUDA Sub-Station. The Power Connection to his firm was released from Jharmajri- Barotiwala Sub-Station which was constructed much earlier. The HIMUDA Sub-Station was commissioned on 15.06.2015 whereas he availed his connection during 2006 so the IDC charges recovered from him are not payable and required to be refunded.

The Respondent Board has replied that the Forum may reject the grievances in case where the grievance has been submitted two years after the date on which the cause of action has been arisen.

**The Forum observed that:-**

I. The mechanism given by HPERC on 05.10.2016 in suo-moto case No.25 of 2016 for recovery of IDC charges and endorsed by the Chief Engineer (Comm.), Shimla letter No. HPSEBL/CE (Comm.)/APTEL/VOL-1/2016-1002-10135 dated 01.11.2016 so the Complaint cannot be rejected merely on the basis of time barred condition.

II. IDC charges can be recovered, if applicable from the Sub-Station from where the consumer is availing his power connection not for the other Sub-Station. The contention of the complainant has not been rebutted by the Respondent Board that the Power Connection has been released from different Sub-Station and the cost is being charged of other Sub-Station in spite of numerous opportunities given to the Respondent Board.

The Forum Order that the IDC charges recovered from the Complainant @ 3600/- per KVA for 1200 KVA Contract Demand may be refunded within two months along with simple interest as notified by HPSEBL for relevant period year basis. IDC of the Sub-Station from which Power Connection has been released to the Complainant can be recovered, if applicable. No order to cost.

**Electricity Ombudsman findings and order:**

The complainant M/s A.G. Peripherals, Baddi, has filed three complainants 1453/4/17/072, 1453/4/17/073 & 1453/4/17/074 on different matters before CGRF. The CGRF passed the order in all three complaints on 28-8-2018, 29-8-2018 and 30-8-2018 respectively. The applicant approached Electricity Ombudsman aggrieved by non-implementation of CGRF orders. Regulation 28 of HPERC (CGRF and Ombudsman) Regulation, 2013 allows the applicant to file a representation if the complainant is aggrieved by non-implementation of CGRF orders. Hence, this representation was admitted and proceeded further. The

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representation was last heard on 28-2-2020. The complaint-wise implementation status as per records produced by the applicant and respondents as well as reply and other documents filed by both parties given below:

**Complaint No. 1453/4/17/072:**

The CGRF issued following direction:

- i) to refund the amount of security lying balance after adjusting final bill issued after permanent disconnection plus any other amount payable.
- ii) to pay interest paid short on security amount available from time to time.
- iii) to pay penal interest at twice the rate of interest applicable as security for delay in payment of interest.
- iv) to pay interest @ 12% as security that remained with the respondent after 30 days from the date of termination of agreement after adjusting the due amount payable by complainant, if any.
- v) to correct the final bill so that no surcharge be levied after permanent disconnection.

**Findings:** Based on statements made during the course of the proceeding and documents submitted by both the parties an amount of Rs. 2,39,635/- has been refunded as a result of ii) above which is not disputed by the applicant.

• However the following contraventions are proved:

- a) There is contravention in terms of delay in implementation of the orders of the CGRF which as per Regulation 27 of HPERC (CGRF and Ombudsman) Regulations 2013, had to be complied within 21 days of receipt of orders by the licensee. The refund to Rs 2,39,635/- has been refunded to the applicant after approx 15 months with significant delay.
- b) No Compliance has been carried out on the points i), iii), iv) and v) above even till date.

**Complaint No. 1453/4/17/073:**

The CGRF issued following directions:

- i) The excess amount of Rs 19,61,400/- charged on account of demand charges may be refunded along with simple interest by Reserve Bank of India.
- ii) To refund processing fees of Rs 20,750/- charged along with simple interest.

**Findings:** In reply submitted by the respondents, it has been stated that a decision has been taken, in principle and approval to challenge the orders of CGRF. It is pertinent to mention here that the respondents have so far not produced and reference number of the writ petition so filed by them. The action taken by respondents is beyond the time period of 21 days provided for implementation or agitation of orders of CGRF. The respondents could not produce any interim stay orders issued by Hon'ble High Court of HP. in the matter, in the absence of which the orders passed by CGRF are still operational. Therefore, contravention in term of delay in implementation of CGRF orders in this complaint and non- adherence to the time-lines defined in the Regulation is proven. The respondents have still not produced here record of any such filing before the Hon'ble High Court.

**Complaint No. 1453/4/17/074:**

The CGRF issued following directions:

- i) to refund the IDC charges recovered from the complainant @ Rs 3600 per KVA for 1200 KVA Contract Demand within two months along with simply interest.
- ii) to recover the IDC for supplying sub-station, if applicable.

**Findings:**

In reply submitted by the respondents it has been stated that a decision has been taken in principle and approval has been accorded by appropriate authorities to challenge the orders of CGRF in this complaint. It is pertinent to mention here that the respondents have so far not produced and reference number of the writ petition so filed by them. The action taken by respondent is beyond the time period of 21 days provided for implementation a agitating of CGRF orders. The respondent could not produce any interim stay orders issued by Hon'ble High Court of HP. in the matter, in the absence of which the orders passed CGRF are still operational.

Therefore, the contravention in terms of delay in implementation of CGRF orders in this complaint and non- adherence to the time- lines defined in Regulation is proved. The respondents have still not procured here record of any such filing before the Hon'ble High Court.

**Conclusion:**

Regulation 27 of HPERC (CGRF and Ombudsman) Regulation 2013 reads as follows:

"27. Compliance of the orders of Forum:

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(1) The licensee shall comply with the order of the Forum within 21 days or within such shorter period as may be directed by an order made by the Forum, from the date of receipt of order. In appropriate cases, considering the nature of the case, the Forum, upon the request of the licensee, may extend the period for compliance of its order up to a maximum of three months. **Non-compliance of the order of the Forum shall be treated as violation of the regulations of the commission and accordingly liable for action under section 142 of the Act.**

(The letter in bold deleted w.e.f. 26-11-2019)

In view of the aforesaid discussion and the regulations, it is therefore concluded that first out of three orders have been partly complied by the respondents with delay, whereas the second and third orders are in process of agitation before the Hon'ble High Court of HP but the orders are still operational as no interim orders passed by the Hon'ble High Court of HP. have been placed here.

It is further concluded that

- a) The delay in implementation of CGRF orders in all three complaints within time period of 21 days from the date of receipt of CGRF orders is established.
- b) The respondents in complaint No 1453/4/17/072 has not complied with the following part of the orders:
  - i) to refund the amount of security lying balance after adjusting final bill issued after permanent disconnection plus any other amount payable.
  - ii) to pay penal interest at twice the rate of interest applicable on security for delay in payment of interest.
  - iii) to pay interest 12% on security that remained with the respondent Board after 30 days from the date of termination of agreement after adjusting the due amount payable by complainant, if any.
  - iv) to correct the final the bill so that no surcharge levied after permanent disconnection.

**Orders:**

Without any prejudice to the rights of any person including the applicant for initiating any action for non-compliance contravening any of the provisions of the Act or the Rules or Regulations made thereunder, and the rights of respondents for judicial review of the orders




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by the CGRF, the respondents are directed to implement the orders passed by the CGRF in letter and spirit within the time period of 30 days from the date of this order.

The time period of 30 days provided for the implementation of the orders of the CGRF under these orders may not be construed as extension of the time period of 21 day for implementation as has been provided in the HPERC(CGRF and Ombudsman) Regulation, 2013 and the legal framework, because the delay has already occurred. However, these directions are issued to provide one more opportunity to the respondent, in the interest of reducing of the contravention merely to delay in implementation only.

Dated: 9.3.2020

  
Electricity Ombudsman