



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

In the matter of:

M/S Sturdy Ploymers Ltd, Plot No. 21, HPSIDC, Baddi, Tehsil Baddi, Distt Solan HP-173205

– Complainant

Vs

1. Executive Director (Personal), HPSEBL, Vidyut Bhawan, Shimla-HP-171004
2. Assistant Executive Engineer (E), Electrical Sub-Division, HPSEB Ltd, Baddi, Distt Solan HP - 173205
3. Sr Executive Engineer (E), Electrical Division, HPSEB Ltd, Baddi, Distt Solan HP-173205

- Respondents

Complaint No. 17/2020, Registered on 17/03/2020
(Decided on 14/09/2020)

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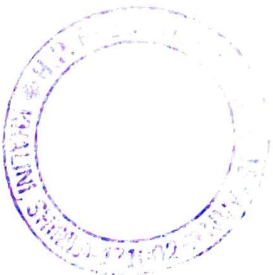
K L Gupta
HP Electricity Ombudsman

Counsel for:

Complainant: Sh. Rakesh Bansal
Respondents No. 1,2 & 3: Mr Anil Kumar God, Advocate
Order

(Case previously heard on 25/07/2020, Reply sought by 07/08/2020 and Rejoinder by 14/08/2020)

Although the case was last listed for 27/03/2020 but due to Covid-19 Pandemic lockdown enforced w.e. from 23/03/2020 onwards, the case could not be heard. The delay caused in deciding the case was beyond control. The case was finally listed for 25/07/2020 and the Respondents were directed to submit their reply by 07/08/2020. The Complainant was also directed to submit their Rejoinder by 14/08/2020. No further hearing in the case was done. The reply by the Respondents was filed on 07/08/2020 and Rejoinder by the Complainant on 21/08/2020, hence the delay.



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A – Brief Facts of the Case:

1. M/S Sturdy Polymers Ltd, Plot No. 21, HPSIDC, Baddi, Distt Solan HP-173205 has filed application through Sh. M. L. Gupta (hereinafter referred as the Complainant). The Complaint has been filed under regulation No. 28 (c) and 33 (e) of the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. The Complainant has preyed to direct the Respondents to comply with the orders of the Consumer Grievances Redressal Forum dated 14/06/2018 in Complaint No. 1454/02/18/04, dated 24/04/2018 in letter and spirit and on non-compliance of same, report the matter to Himachal Pradesh Electricity Regulatory Commission.

B – The Complainant's Submissions:

1. The Complainant submits that on 25/09/2018 (*Appears to be 24/04/2018*), M/s Sturdy Polymers Ltd filed grievance with the Consumer Grievances Redressal Forum of HPSEBL viz: Complaint No. 1454/2/18/04 in the matters of final settlement as well as refund on account of sub-metering. On 14/06/2018, the Complaint were disposed in favour of the Complainant directing the Respondents to:
 - a) to refund the security amounting to Rs. 5,60,000/- within one month with interest as notified by the Board;
 - b) to refund the interest on security amount for FY 2016-17;
 - c) to refund for consumption recorded by sub-meter;
 - d) to refund amount charged in excess, Rs 6,790/- over and above the tariff in the energy bill within one month.
2. He further submits that 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. The Complainant has received a sum of Rs. 4,66.329/- only vide Ch. No. 034189 dated 29/10/2019, after a delay of more than one year. No detail has been provided to the Complainant as to the details of amount worked out. The Complainant has no clue as to which part of the order has been complied but it is definitely clear that the amount is much less than what was ordered by the Forum.
3. The Complainant submits that 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, 2003 as it was not clear earlier whether to approach HPERC for non-implementation of Forums orders or to approach the Electricity Ombudsman. Regulation 27 has not been suitably amended and the Complainant is filling the representation here





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seeking condonation of delay in filing on the grounds of recent amendment of the Regulations.

4. **Prayer:** The Complainant prayed that without prejudice to the rights of the Complainant to initiate action under section 142 of the Electricity Act, 2003, the representation may kindly be allowed in the interest of justice, particularly in respect of a) to condone the delay in filing 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 letter and spirit in respect of the Complaint; c) to report the extent of Non-compliance to the HPERC; d) call for the record of the case and e) any other or further orders which this Hon'ble Ombudsman may deem fit any proper, in the fact and circumstances of the case may kindly be passed in favour of the Complainant company and against the Respondents/distribution licensees.

C – The Respondents' Submissions:

1. The Respondents submitted that the refund of the security to Rs. 4,66,329/- vide cheque No. 034189 dated 29/10/2019 has been given to the Complainant consumer & the refund of the sub-meter unit charged amount has been given to the consumer vide sundry item No. 159 dated 05/08/2020 in the energy bill bearing consumer ID 100012002244.
2. They further prayed that the Complaint of the Complainant may kindly be dismissed.

D – The Complainant's additional submissions:

1. The Complainant submits that the Hon'ble Ombudsman has issued orders dated 25/07/2020 in the matter, wherein the Respondents were directed to file their reply by 7th August, 2020 and the Complainants were directed to file the rejoinder, if any, within one week thereafter by 14th August; and the period for reply expired on 7th of August 2020, but the Complainant has not received any reply from the Respondents till date; and under these circumstances he may not be able to file any rejoinder, the date of which shall expire on 14th of August, 2020;

D – The Complainant's additional submission through rejoinder:

1. The Complainant submits that the Respondents have stated in the communication/ reply that they have paid the following sum to the Complainant;

- i) Rs. 4,66,329/- vide cheque no. 034189 dated 29/10/2019



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ii) Rs. 6,02,453/- vide credit in bill for Aug, 2020 in sister concern of the Complainant having consumer ID 100012002244.

2. The Complainant further submits that a) there is no mention of other reliefs ordered by the Forum, Specifically 1(b) and 1(d) of the representation; b) the difference in the amount of security which was Rs. 5,60,000/- and Rs. 4,66,329/- have not been explained anywhere; and there is no explanation given by the Respondents for the delay in refunding the amounts ordered by the CGRF.

Date of orders of CGRF

14/06/2018

Date of partial compliance vide refund of Rs. 4,66,329/-

29/10/2019

Date of another partial compliance refund through credit Rs. 6,02,453/- August, 2020

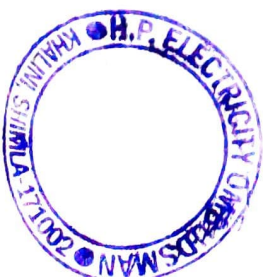
3. The Complainant submits that the Respondents must be either directed to pay interest for delay in refund or action must be initiated for non-compliance in terms of delay in implementing the orders passed by the CGRF. If such carelessness on the part of Respondents persists and they are let away without paying interest for delayed implementation, such delays will continue to occur in future.
4. The Complainant submits that the Respondents have refunded the amount of Rs. 6,02,453/- alongwith another amount of another case in the energy bill of the sister concern, which is falls in the range of Rs. 40,000/- per month. Such amounts credited will take about two years to get adjusted, whereas the Complainant is facing loss on account of interest for such period. The Respondents be directed to refund the amount through cheque to the Complainant or bear interest for such payment in instalments through energy bills.

E - CGRF order:

1. The Forum order that the Consumer shall be refunded the Security total amounting to Rs. 5,60,000/- within one month after adjusting of outstanding amount with interest as notified by the Board, interest on Security amount for the year 2016-2017 shall also be paid to the Complainant. The refund for consumption recorded by sub-meter may also be given to the Complainant. The amount already charged in excess of Rs.6,790/- over and above tariff in the energy Bill may also be refunded within one month.

F – Analysis of the Complaint:

1. The case file at Consumer Grievances Redressal Forum has also been requisitioned and gone through.



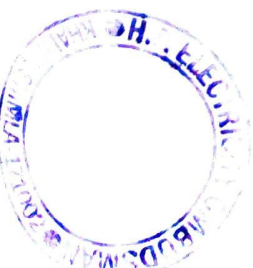
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2. The Complainant has filed Complaint on account of non-implementation of the orders of the Consumer Grievances Redressal Forum passed on dated 14/06/2018 in Complaint No. 1454/2/18/04, dated 24/04/2018. The Forum had ordered to refund an amount of Rs 5,60,000/- within one month after adjusting the outstanding amount with interest as notified by the Board besides interest on security for FY 17 and also refund the consumption recorded in sub-meter after adjusting excess paid amount of Rs 6,790/- within one month.
3. The Respondents have refunded the security after adjustment amounting to Rs 4,66,329/- on 29/10/2019 through Cheque. The Respondents have further refunded the sub-meter unit consumption through Sundry item in energy bills of sister concern having Consumer ID 100012002244 through Sundry Credit vide item No. 159, dated 05/08/2020.
4. The Complainant submitted that they have not been provided details of adjustment while making payment for security refund amounting to Rs 4,66,329/- and further they have adjusted the sub-meter consumption vide credit in separate account of their sister concern amounting to Rs 6,02,453/-. The Complainant's refund made to sister concern have energy bills in the range of Rs 40,000/- per month and it will take time to adjust as well as they will lose interest on same and he has prayed to either refund the amount through cheque or bear interest for such payment in installment through energy bills. Further the Complainant has also prayed for interest on security refund made to them after a gap of more than one year.
5. From the scrutiny of the case and record file, it is clear that the Respondents have erred in making refund on security amount which should have been done within a period of not later than 30 days of the orders of the Forum. Further they have not provided detail of adjustment made by them for outstanding amount alongwith interest.
6. The Respondents have also erred in giving credit in energy bills of their sister concern amounting to Rs 6,02,453/- in August 2020 after a gap of more than two years which has energy bills running to approx. Rs 40,000/- per month. No mechanism to pay interest on the remaining balance amount have also not been worked out.
7. The regulation 8 (1) of the Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations, 2005 states:

"Where an agreement for supply of electricity is terminated as per the terms and conditions of supply, the licensee shall be required to refund the security deposit if any, after making adjustments for the amounts outstanding from the consumer to the licensee, within one month of the effective date of termination of the agreement:



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Provided that if such refund is delayed beyond the period of one month as specified above, the licensee shall pay simple interest on such deposit @ 12 % per annum from the effective date of termination of the agreement without prejudice to other rights of and remedies available to the consumer."

8. The Permanent Disconnection to the unit, for which refund of security deposit have been ordered, was done on 25/02/2017. As per Regulation 8 (1) of Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations, 2005, the refund was to be made by 25/03/2017 without interest.
9. Since the security refund has been delayed beyond one month and was made on 29/10/2019, as per Proviso 1 to regulation 8 (1) of Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations, 2005, simple interest on such deposit @12% per annum from the effective date of termination of the agreement i.e. 25/02/2017 was to be made till the date of payment.
10. Further, the second refund was due to consumption recorded by the sub-meter within one month alongwith amount already charged in excess of Rs 6,790/- which has been given credit in another account which is of sister concern of the Complainant in monthly energy bills starting in August 2020 onwards without mechanism for adjustment of interest on balance amount in credit.
11. Clause 5.7.3 of Himachal Pradesh Electricity Supply Code, 2009 states:

"If on examination of a complaint, the licensee finds a bill to be erroneous, a revised bill will be issued to the consumer indicating a revised due date of payment, which will not be earlier than ten days from the date of delivery of the revised bill to the consumer. If the amount paid by the consumer under para 5.7.1 is in excess of the revised bill, such excess amount will be refunded through adjustment first against any outstanding amount due to the licensee and then against the amount becoming due to the licensee immediately thereafter. The licensee will pay to such consumer simple interest on the excess amount @15% per annum, or where the rate is fixed by the Commission at the rate so fixed, on daily basis from the date of payment till such time the excess amount is adjusted."
12. The Complainant is entitled to have interest on late payment for second refund made through energy bills of sister concern on full amount till start of adjustment in August 2020 after which the interest should be on reducing credit amount.
13. There is no proof on record to show that the Respondents have made interest payment on security for FY 2017, as ordered by the Consumer Grievances Redressal Forum.

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G – Issues in question:

1. **Issue No. 1:** Whether the orders of Consumer Grievances Redressal Forum dated 14/06/2018 in Complaint No. 1454/2/18/04, dated 24/04/2018 have been complied in letter and spirit by the Respondents?
2. **Issue No. 2:** Whether the Complainant is entitled for interest on delayed payment of refund of security deposit?
3. **Issue No. 3:** Whether the Complainant is entitled for interest on refund on consumption recorded by the sub-meter?

H – Findings on Issues:

Issue No. 1:

1. From the above analysis, it is evident that the Respondents have not complied with the orders of Consumer Grievances Redressal Forum dated 14/06/2018 in Complaint No. 1454/2/18/04, dated 24/04/2018 in letter & spirit since they have made one payment of Rs 4,66,329/- vide cheque dated 29/10/2019, after a gap of 16 months and 15 days after adjustment of outstanding amount without any detailed calculations to the Complainant. There is no proof on record either whether they have paid interest on Security amount for the FY 2017 as ordered by the Consumer Grievances Redressal Forum. The second refund for consumption recorded by the sub-meter after including Rs 6,790/-, amount charged over and above tariff, have also been delayed for more than two years and adjustment is being made in energy bill of sister concern w,e, from August 2020 through Sundry Credit.

Issue No. 2:

1. From the above analysis and in line with provisions at first proviso of regulation 8 (1) of the Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulations, 2005, it is evident that the Complaint is entitled for simple interest on delayed security deposit refund which was due immediately within 30 days after the Permanent Disconnection Orders on 25/02/2017 @ 12% per annum. The CGRF had ordered the interest on security refund for FY 2017 only.



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Issue No. 3:

1. From the above analysis and in line with provisions under Clause 5.7.3 of Himachal Pradesh Electricity Supply Code, 2009, it is evident that the Complainant is entitled for interest on delayed payment on the consumption recorded by the sub-meter in addition to Rs 6,790/-, charged extra over and above tariff and as ordered by the Forum. The second refund of Rs 6,02,453/- for consumption recorded by sub-meter have been given to the Complainant after a period of 26 months without any detailed calculations through credit given in their sister concern's energy bill in August 2020 instead of single payment and the Complainant has lost interest on such delayed payment adjustment.

I – Order:

1. The Respondents have not complied with the orders of Consumer Grievances Redressal Forum dated 14/06/2018 in letter and spirit within a period of one month, as ordered and have made payments adjustments after 30 days of the orders dated 14/06/2018. It is fit case to be reported to the Himachal Pradesh Electricity Regulatory Commission being non-compliance of the orders passed by the Consumer Grievances Redressal Forum dated 14/06/2018 in Complaint No. 1454/2/18/04, dated 24/04/2018.
2. The Respondents are directed to provide detailed calculations to the Complainant for adjustment made in refund amount of Rs 4,66,329/- instead of Rs 5,60,000/- ordered by the Consumer Grievances Redressal Forum.
3. The Respondents are further directed to make interest payment on security for the FY 2017 as ordered by the CGRF, if not adjusted in the refund amount of Rs 4,66,329/-.
4. The Respondents are further directed to make interest payment on the net refund due after adjustment of outstanding amount on Rs 4,66,329/- or the exact amount due for refund after adjustment of outstanding amount plus interest on security for FY 2017 (if any) at simple interest @ 12 % per annum from 01/04/2017 onwards till the actual payment done on 29/10/2019 (the effective date of termination of the agreement was 25/02/2017 and CGRF has ordered interest for FY 2017 already till 31/03/2017).
5. The Respondents are directed to provide detailed calculations reached at Rs 6,02,453/- for consumption recorded by sub-meter after including the amount already charged in excess of Rs.6,790/- over and above tariff in the energy Bill.
6. The Respondents are further directed to make interest payment on Rs 6,02,453/- w.e. from 14/06/2018 onwards till July 2020 (credit given in energy bills for August 2020) at



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simple interest @15% per annum and thereafter at simple interest rate of 15% per annum on the reducing payment being adjusted in energy bills of sister concern in Consumer ID 100012002244.

7. Compliance be reported within a period of 30 days.
8. The Complaint filed by M/S Sturdy Polymers Ltd is hereby disposed off.
9. No cost to litigation

Given under my hand and Seal of the Office.



Leup to 14/04/2020
Electricity Ombudsman