



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

In the matter of:

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
2. The Superintending Engineer (E), Operation Circle, HPSEBL, Solan, District Solan, HP-173212
3. The Assistant Executive Engineer, Electrical Sub-Division, HPSEBL, Baddi, Distt Solan-HP-173205
- Complainant

Vs

M/S Him Chlorates, 150, HPSIDC, Industrial Area Baddi, District Solan, HP-173205
- Respondents

Review Application No. 10/2021 in case No. 50/2020 registered on 16/06/2021
(Decided on 11/08/2021, Last heard on 09/08/2021 and orders were reserved)

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Er. K.L.Gupta
HP Electricity Ombudsman

Counsel for:

The Complainants: Sh. Anil Kumar God Advocate, Sh. Kamlesh Saklani, Law Officer
The Respondents: Sh. O. C. Sharma, Advocate

Order

The review application was received on 15/06/2021 and registered on 16/06/2021. The case was first listed for 17/07/2021 but preponed to 15/07/2021. The Respondent was to file his reply by 30/06/2021 and the Complainants were to file their rejoinder by 09/07/2021. Since the Respondent had not received the copy of the review application, the case was listed further for 26/07/2021. A copy was provided to him during hearing of the case.

The Respondent prayed for additional time to file the reply on next date of hearing which was granted and the case was listed for 09/08/2021 for arguments. The Respondent was to file his reply by 02/08/2021 and the Complainants were to file their rejoinder by 09/08/2021. The Respondent filed his reply through email dated 04/08/2021 and provided a copy of same on 09/08/2021. Both parties advanced their arguments on 09/08/2021 and the orders were reserved.



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A – Brief facts of the case:

1. HPSEB Ltd through its Executive Director (Personnel) (hereinafter referred to as 'The Complainants') have filed a review application under Regulation 37 (8) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 registered as RA No. 10/2021 in Case No. 50/2020 orders of which were passed on 13/04/2021. The Complainants have further prayed for allowing their review on the grounds stated in the review application.

B – The Complainants' submissions:

1. The Complainants submit that the Non-Applicant/ Complainant filed the representation under Regulation 28 (1) (c) of the HPERC (CGRF and Ombudsman) Regulations, 2013 for the implementation of the order dated 06/09/2021 passed by the Id. Consumer Grievances Redressal Forum, which was registered as Complaint No 50/2020 and the same stood decided by this Hon'ble Ombudsman on 13/04/2021. In the Complaint filed by the Non-Applicant/ Complainant before the Id CGRF, the Complainant had prayed to correct and rectify all the monthly energy bills issued w.e.f. November, 1997 to December, 1999 by levying the tariff under the category MS instead of LS-2 and to refund the amount of RS 20,98,359/ in favour of the Complainant firm as allegedly charged in excess under category LS-2. The Id CGRF disposed of the Complaint of the Complainant with the observation that the action of the Respondent Board to charge category of the Complainant Consumer having a Connected Load of 484 kW for MS to LS category in bills issued with effect from 03/10/1997 onwards are wrong and against the provisions of Tariff applicable at that time. Thereafter, all bills issued for the period w.e.f. November 1997 to December, 1999 on the basis of LS-2 category/ Tariff were quashed with the directions that the Review Applicant/ Respondent Board should review and recast all bills for this period by applying MS Category/Tariff to the Complainant Consumer.
2. The Complainants submit that in the instant case, electric connection with load of 484 kW was sanctioned on dated 26/08/1995 in favour of the Non-Applicant/ Complainant, which was further released vide SCO dated 22/01/1996 and effected from 23/01/1996. The premises of the Non-Applicant/ Complainant Company were inspected by the Sr. Xen (FSU-1) on 18/09/1997 and it was pointed out that the MDI was found to be 650 kVA at site, which showed that the Consumer is using load in excess of the sanctioned load and also involved the change of category of the Non-Applicant/ Complainant from MS to LS-II category and accordingly the Consumer billing was done on the basis of tariff applicable for LS –II category w.e.f. October 1997 by taking into account the Connected Load as 585 kW and Contract Demand 650 kVA by the CBC in the office of Chief Engineer (Commercial). The Non-Applicant/ Complainant aggrieved with the change of category and also the demand raised on account of differential amount to the tune of Rs 20,98,359/- approached the Board Level Dispute Settlement Committee in the year of 2002, which



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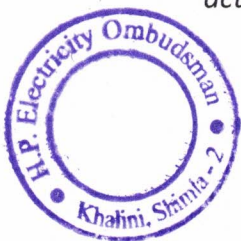
was later on withdrawn by the Complainant on 02/03/2006. Thereafter the Non-Applicant/ Complainant approached the CGRF at Shimla by filing Complaint No 1424/1/006/09 and the same was decided by the Id CGRF on dated 06/09/2006. The present Review Applicant feeling aggrieved with the order passed by the Id CGRF approached the Hon'ble High Court of Himachal Pradesh by filing Civil Writ petition bearing No 1196 of 2008 and when the writ petition came up for hearing before the Hon'ble court on 07/09/2017, the same was withdrawn with liberty to file fresh, assailing the very same order on all the available grounds.

3. The Complainants submit that the Non-Applicant/ Complainant Company filed representation before this Id Electricity Ombudsman under the provisions of Regulations 28 (1) (c) of the HPERC (CGRF and Ombudsman) Regulations, 2013 for seeking compliance of the order passed by the Id CGRF dated 06/09/2006 and the during the course of hearing of the representation, this Id Ombudsman was pleased to relegate the parties in the matter for the settlement. They further submitted that during the course of the settlement, the Complainant agreed for the principal amount of Rs. 20,98,359/- and therefore, Review/ Applicant/ Respondent/ HPSEBL paid the above amount by way of cheque bearing No 757142 dated 19/03/2021.
4. The Complainants submit that hereafter this Id Ombudsman was pleased to dispose of the representation of the Non-Applicant/ Complainant vide order dated 13/04/2021 with the following orders/directions:

"The Respondents are directed to provide interest on Rs. 20,98,359 w.e.f. 29/05/2009 till 06/08/2018 at twice the SBI's PLR prevalent on the first of April of the relevant year and then simple interest on the excess amount @ 15% per annum since 07/08/2018 till 18/03/2021 in line with provisions under Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009.

The Respondent are further directed to report compliance of direction at Sr. No. 1 within a period of 30 days from the date of this order or latest by 15/05/2021 positively failing which the matter shall be reported to the Hon'ble Commission for violation of direction issued under the provisions of Regulations 37(6) of HPERC (CGRF and Ombudsman) Regulations, 2013 for taking appropriate action under the provisions of the Act.

The matter regarding defiance of the order of this Court by Respondent No. 2, The Superintending Engineer, Operation Circle Solan has already been reported to the Hon'ble Commission on 22/03/2021 and 05/04/2021 and is pending adjudication/appropriate action by the commission under the provisions of the electricity act, 2003.



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The Complaint filed by M/s Him Chlorates, 50 HPSIDC industrial Area Baddi, Distt. Solan HP is hereby disposed off."

5. The Complainants submit that the Review Applicants/ Respondents, aggrieved with the order dated 13-04-2021 passed in Complaint No. 50 of 2020 prefers this Review Application inter-alia on the almost others grounds listed hereinafter:
6. The Complainants submit that the Non-Applicant/ Complainant filed representation before this Id Ombudsman under the provisions of Regulation 28 (1) (c) of HPERC (CGRF and Ombudsman) Regulations, 2013 on account of the non-implementation of the Forums order for which the limitation as provided under the Regulation 28 (2) (c) is 30 days. Hence the representation of the Complainant/ Non-Applicant is hopelessly time barred, and could not have been entertained by this Id. Ombudsman. Since an error apparent has crept in, in the face of record, therefore the impugned order dated 13/04/2021 deserves to be reviewed in the facts & circumstances of the case.
7. The Complainants submit that the representation filed by the Complainant/ Non-Applicant itself was beyond the provisions of Regulations as the representation was filed for the implementation of order dated 06/09/2006 passed by Id. CGRF and the prayer made therein for the grant of interest was/ is beyond the scope of the provisions of Regulations 28 (1) (c). Consequently, the representation was not maintainable. Therefore, on this count also the order passed by this Id. ombudsman deserves to be reviewed.
8. The Complainants submit that the order passed by this Id ombudsman is beyond the pleadings of the Non-Applicant/ Complainant as the claim of the Non-Applicant was for implementation of the Id Forum's order dated 06/09/2006, whereas, this Id. ombudsman has exceeded its jurisdiction, by awarding the interest w.e.f 29/05/2009 till 06/08/2018 at twice the SBI's Prime Lending Rates prevalent on the 1st April of the relevant year and the simple interest on the excess amount @ 15 % per annum since 07/08/2018 till 18/03/2021. They further submit that hence the impugned order dated 13/04/2021 deserves to be reviewed.
9. The Complainants submit that Non-Applicant/ Complainant had filed representation before this Id. Ombudsman under regulation 28 (1) (C) of HPERC (CGRF & Ombudsman) Regulations, 2013 on account of non-implementation of the Id. Forum's order dated 06/09/2006 for which the limitation under Regulations is provided only 30 days hence the representations as preferred by the Non-Applicant/ Complainant deserves dismissal on this score alone.
10. The Complainants submit that the Non-Applicant Firm had filed the representation under the provisions of Regulation 28 (1) (c) and 37(6) of the Regulations of 2013. Under



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Regulations 28 (1) (c), a Complainant may preferring representation before this Id. Ombudsman appointed/ designated by the Id. Commission, in case the Complainant is aggrieved by the non-implementation of the Forum's order by Licensee, while Regulation-37 (6) provides that the non-compliance of the Ombudsman order shall be deemed to be violation of Regulations and shall be liable for appropriate action by the commission under the provisions of Act. In the instant matter the representation was only on account of the non-implementation of the Forum's orders for which the limitation as provided under the Regulation 28 (2) (c) was is 30 days after the time limit specified for the implementation of the order. Since the Complaint ex-facie having been preferred during 12/2020 for the implementation of forum's order dated 06/09/2006, was patently time barred and consequently could not have been entertained by this Id. Ombudsman, therefore, on this count the order deserves to be reviewed having been passed in excess of the jurisdiction vested in it.

11. The Complainants submit that the representation itself was beyond the provisions of Regulations in as much as the representation at best could have been filed for the implementation of the forum order and the prayer made therein for the grant of interest is beyond the scope of the provisions of Regulations 28 (1) (c) and consequently was not maintainable. Therefore, on this count also the order dated 13/04/2021 passed by this Ombudsman deserves to be reviewed and representation deserves to be dismissed having been preferred beyond the scope of Regulation- 28 (1)(C) and 28 (2) (C). The. Id. CGRF was pleased to disposed of the Complaint of the Complainant vide order dated 06/09/2006 without granting any interest, consequently no interest could have been granted by this Id. Ombudsman in the representation filed by Non-Applicant
12. The Complainants submit that not only this the perusal of the order passed by this Id. Ombudsman goes to show that it has even gone beyond the pleading to the parties in as much as the claim of the firm was for implementation of the Forum orders, whereas the Ombudsman by exceeding his jurisdiction, has even awarded the interest w.e.f. 29/05/2009 till 06/08/2018 at twice the SBI's PLR prevalent on the 1st of April of the relevant year and the simple interest on the excess amount @ 15% PA, since 07/08/2018 till 18/03/2021, in line with the provisions under Clause 5.7.3 of the Himachal Pradesh Supply Code, 2009, in as much as while entertaining the petitioner's representation under the provisions of Regulations 28 (1) (c) this Id. Ombudsman was not in fact adjudicating the dispute/ grievances but was only to see as to whereas the order passed by the Id. CGRF has been complied with or otherwise It is settled law that the courts cannot travel beyond the pleadings of the parties and more specifically relief prayed by the party. Hence, the order passed by the Id. Ombudsman dated 13/04/2021 is deserves to be reviewed.



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13. The Complainants submit that this Id. Ombudsman has also erred in passing the directions contained in the order dated 13/04/2021 particularly when the amount of Rs. 20,98,359/- stands refunded to the Consumer vide cheque no. 757142 dated 19/03/2021 and thus the order of the Id. CGRF stood complied with by the HPSEBL.
14. The Complainants submit that the impugned order dated 13/04/2021, sought to be revised, has been passed by this Id. Ombudsman without granting adequate opportunity for the purpose of filing reply, hence deserves to be reviewed. Further, they submit that the impugned order is wrong & incorrect both on facts and law and consequently deserves to be reviewed and the impugned order has been passed on conjecture and surmises and without application of mind and consequently deserves to be reviewed.
15. The Complainants submit that since a mistake or error apparent on the face of record has crept in, while passing the impugned order dated 13/04/2021 therefore, there are sufficient grounds to consider the present review.
16. They further submit that the present application is within the limitation as prescribed under the regulations as the copy of order dated 13/04/2021 was received on 20/04/2021 and thereafter on account of the COVID-19 surge in the State of HP, the state Government had imposed curfew and restrictions also in the entire state in the month of May, 2021. Moreover, the Hon'ble Supreme Court has pleased to extend the limitation period on account of the Pandemic. Hence the present application is within the limitation.
17. The Complainants submit that keeping in view the facts of circumstances narrated here in above, the order dated 13/04/2021 passed by this Id. Electricity Ombudsman in Case No. 50/2020 titled as M/s Him Chlorates Vs. HPSEBL & ors. may very kindly be reviewed in the interest of justice and fair play.

C – The Respondent's submissions:

1. The Respondent submits that the contents of the first paragraph of the Review Application are absolutely wrong to the extent that the non-applicant/ Complainant filed representation only under Regulation 28 (1) (c) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. As a matter of fact, the non-applicant filed representation under Regulation 28 (1) (c) and Regulations 28 (1) (b) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.
2. The Respondent submits that in reply to the contents of third para of the Review Application, the representation was filed by the non-applicant /Complainant before this Hon'ble Authority under Regulation 28 (1) (b) and 28 (1) (c) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and not only under



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Regulation 28 (1) (c) of Ibid Regulations 2013. The non-applicant/ Complainant filed Complaint No. 50 of 2020 under Regulations 28 (1) (b) of Ibid Regulations 2013 for the grant of interest @15% per annum on Rs. 20,98,359/- w.e.f. December, 1999 onwards. He further submits that this Hon'ble Authority required the Review Applicant to make compliance of Order dated 06/09/2006 passed in Complaint No 1424/1/006/09 and also to mutually settle the issue with regard to the payment of amount of interest claimed in the Complaint No. 50 of 2020. The Review Applicant made refund of Rs. 20,98,359/- only through cheque No. 737142 dated 19/03/2021 and no payment was made to the non-applicant/ Complainant towards the interest amount claimed in the representation. No settlement as averred in the present application arrived at with the non-applicant/ Complainant whereby and whereunder the Complainant firm agreed upon to settle the entire claim at Rs. 20,98,359/- only and the entire averments made in the review application in this para are misleading, misconceived and wrong, hence the contents of the same are denied.

3. The Respondent submits that the contents of para No. 5 (a) of the review application, as represented, are wrong hence vehemently denied. He further submitted that the non-applicant/ Complainant has filed Complaint No. 50 of 2020 on 17/12/2020 under Regulations 28 (1) (b) and 28 (1) (c) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and alongwith the representation the non-applicant/ Complainant also filed an application for condonation of delay, if any, occurred in filing the said representation. This Hon'ble Authority has considered the application for condonation of delay and thereafter has admitted and entertained the representation of the non-applicant/ Complainant. The said application for condonation of delay is on the record of the Complaint No. 50 of 2020. There is no error apparent on the face of the record and do not call for review of Order dated 13/04/2021. The present application of review filed by the applicant is misleading, misconceived and vague and deserves to be dismissed outrightly.
4. The Respondent submits that the contents of para 5(b) to 5(g) of the review application, as represented, are absolutely wrong, incorrect, misconceived, misleading and as such the present review application deserves outright dismissal. There is no error, irregularity and illegally apparent on the face of the order dated 13/04/2021 passed in Complaint No. 50 of 2020 and as such, the review application deserves to be dismissed. The non-applicant has not filed representation under Regulation 37 (6) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 as represented in para 5(e) of the application.
5. The Respondent submits that the contents of para 5(e) to 5(k) of review application are wrong hence vehemently denied. The Order dated 06/09/2006 passed by the C.G.R.F. was required to be complied with by the review applicants within two months from the date of passing of order and licensee instead of making compliance of Ibid order, the non-



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applicant Consumer was put in prolonged litigation and ultimately on 19/03/2021 only refund of Rs. 20,98,359/- was made to the non-applicant and no interest was paid on the aforesaid refunded amount and the same is wrongly and illegally being withheld by the review applicants which warrants the indulgence of this Hon'ble Authority as well as HPERC to proceed against the review applicants/ licensee under Section 142 of the Electricity Act.

6. The Respondent submits that the contents of para No. 6 of the review application are wrong hence vehemently denied. There is no error, irregularity and illegality apparent on the face of Order dated 13/04/2021. the Order dated 20/04/2021 passed by this Hon'ble Authority is well reasoned, speaking and same do not call for review.
7. The Respondent thus prayed that the present application seeking review of order dated 13/04/2021 passed in Complaint No. 50/2020 may kindly be dismissed as the same is vague, misleading and misconceived with cost throughout, in the interest of justice.

D – The Complainants' additional submissions (Verbal arguments):

1. The Complainants have chosen not to file any rejoinder and instead argued during the hearing.
2. The Law officer for the Complainants argued that they have field the review basically under provisions of 37 (8) (i) and (iii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 on discovery of new and important matter of evidence and for other sufficient reasons.
3. Has further argued that the Respondent has not made any pleadings for granting interest on refund and has mentioned the same in the prayer only and the HP Electricity Ombudsman could not have traveled beyond the pleadings made.
4. He argued that the new evidence is that as per provision under Regulation 33 (1) (f) of current Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and also available in the Himachal Pradesh Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers) Regulations, 2003, is that the Respondent has not come within a period of 30 days for modification of the orders and the Complaint filed as Case No. 50/2020 was time barred and the HP Electricity Ombudsman has not addressed this issue in his order dated 13/04/2021.



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E – The Respondent’s submissions (Verbal arguments):

1. The arguments advanced by the Respondent was that he has filed the representation under provisions of Regulation 28 (1) (b) & (c) both of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and not on 28 (1) (c) of said regulation as alleged by the Complainants.
2. He further argued that the case remained under litigation for almost entire period. The Complainants first didn't review and recast the bills for 11/1997 to 12/1999 as ordered by the Forum on 06/09/2006. Then the Complainants approached the Electricity Ombudsman which turned down their plea since Distribution Licensee can't approach directly. Further, the Respondent Board filed a review through CWP 1196/2008 which was withdrawn in 2018 with fresh liberty to file the case.
3. He argued that still the Respondent Board didn't refund the amount and he was left with no option then to approach this court in 2020. He argued that this is also the part of the order and the Electricity Ombudsman has dealt with this issue.

F - Orders in Case No. 50/2020:

1. The Respondents are directed to provide interest on Rs 20,98,359/- w.e. from 29/05/2009 till 06/08/2018 at twice the SBI's PLR prevalent on the first of April of the relevant year and then simple interest on the excess amount @ 15% per annum since 07/08/2018 till 18/03/2021 in line with provisions under Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009.
2. The Respondents are further directed to report Compliance of Direction at Sr. No. 1 within a period of 30 days from the date of this order or latest by 15/05/2021 positively failing which the matter shall be reported to the Hon'ble Commission for violations of directions issued under the provisions of Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for taking appropriate action under the provisions of the Act.
3. The matter regarding defiance of the orders of this court by Respondent No. 2 Er. Rakesh Thakur, Superintending Engineer Operation Circle Solan has already been reported to the Hon'ble Commission on 22/03/2021 and 05/04/2021 and is pending adjudication/ appropriate action by the Commission under the provisions of the Electricity Act, 2003.



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G – Analysis of the Complaint:

1. The case file 50/2020 have also been referred to, orders of which dated 13/04/2021 are under review.
2. The Complainants have based their review & arguments advanced on 09/08/2021 mainly on the following issues:
 - a) That the Respondent had filed the Complaint No. 50/2020 under the provisions of Regulation 28 (1) (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and the Electricity Ombudsman could not have modified the orders of the Forum and granted relief of interest which was beyond the scope of the provisions of the said regulations. They further contended that the Electricity Ombudsman has exceeded his jurisdiction in awarding the interest.
 - b) That the Respondent had filed the Complaint No. 50/2020 after the limitation period of 30 days as specified in Regulation 33 (1) (f) of current Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and similar applicable provisions may also be there in the Himachal Pradesh Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers) Regulations, 2003. *(In the 2003 regulations, the provisions under Regulation 13 was for 40 days from the date of Forum's orders for appeal)*. They had further contended that the Electricity Ombudsman should have touched the limitation/ condonation of delay issue in his order.
 - c) They have taken this plea as a new and important evidence of matter under provisions of Regulation 37 (8) (i) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. They argued that their review is based on the provisions of Regulation 37 (8) (i) and (iii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. Other pleadings in their review are for the sufficient reasons.
 - d) That the Respondent have not made pleadings for grant of interest in the main Complaint No. 50/2020 and instead only made a prayer for the same and the Electricity Ombudsman could not have traveled beyond the provisions to grant the interest which are not part of their pleadings.
 - e) That the Electricity Ombudsman have passed the orders dated 13/04/2021 without granting adequate opportunity for the purpose of filing the reply.



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- f) That they had complied the orders of the Forum since they had made a refund of Rs 20,98,359/- even before passing of the orders dated 13/04/2021.
- g) That their review is within limitation period.
3. The Respondent have contended that he has filed the earlier Complaint No. 50/2020 under the provisions of Regulation 28 (1) (c) as well as Regulation 28 (1) (b) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and the submissions made by the Complainants are wrong to the extent.
4. The Respondent contended that after reconciliation approach by the Electricity Ombudsman, the Complainants agreed to make a refund of Rs 20,98,359/- but he had not agreed for the forfeiting his claim for interest and the submissions made by the Complainants are wrong, misleading and misconceived.
5. The Respondent also contended that the Electricity Ombudsman has considered the application for condonation of delay and thereafter admitted and entertained.
6. The Respondent contended that the orders of the Forum were to be complied within a period of two months from the date of passing the orders but the Licensee instead of making the compliance, put prolonged litigation and ultimately made a refund of Rs 20,98,359/- on 19/03/2021 and no interest was paid and was illegally held by the Complainants and which warrants the proceedings against them under Section 142 of the Electricity Act, 2003.
7. Now let us examine the submissions made by the parties;
8. The Respondent had made Complaint under provisions of the Regulation 28 (1) (b) & (c) both and not on 28 (1) (c) alone of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 as alleged by the Complainants in review. Both provisions were mentioned in the subject of the Complaint as per record. The plea made by the Complainants in review is wrong.
9. Further, the limitation issue had also not been contested earlier by the Complainants in their reply as well as in their arguments which can be observed in the proceedings of the case No. 50/2020. However, on limitation issue, the matter has already been addressed in paragraphs G-3 to G-16 of the Orders dated 13/04/2021 and the contention of the Complainants in this review is wrong. Since the Respondent Board had not implemented the decisions of the Forum pending litigations, the position had relegated back to



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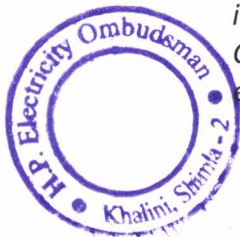
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06/09/2006, date of passing of order by the Forum and even after that they had continued denying the legitimate refund/ interest of the Respondent.

10. Their contention that since they had complied by the orders of the Forum by refunding Rs 20,98,359/- on 19/03/2021 even before passing of the orders in Case No. 50/2020 on 13/04/2021 does not absolve them of not granting the same within two months of the orders passed by the Forum. They could have made payment of interest also in line with provisions of Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009 alongwith refund on their own and they did not require any orders of either Forum or of this court to do so. It appears they had agreed for refund of Rs 20,98,359/- fearing action under Section 142 of the Electricity Act, 2003.
11. The contention of the Complainants that in case No. 50/2020, the pleadings for interest was not part of the pleadings and the Electricity Ombudsman could not have travelled beyond the same in granting the interest is also wrong since the Respondent in that case had filed the Complaint under provisions of Regulations 28 (1) (b) & (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and it was part of their prayer/relief sought as well as their arguments during hearings/ proceedings. The same can also be corroborated through Interim Order dated 15/02/2021 wherein after acceptance of refund, the Respondent had refused to forfeit their claim of interest. This court has awarded the interest within the provisions of the Regulations/ Himachal Pradesh Electricity Supply Code 2009 and have not, by any stretch of imagination, exceeded the jurisdiction.
12. The plea made during verbal arguments that the Forum had not ordered the interest is also out of place since the provisions for same exists in the Himachal Pradesh Electricity Supply Code 2009. The Respondent Board could have made payment of interest to the Consumer on delayed refund on their own in line with provisions of Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009 after the withdrawal of the case at HP High Court by them and they did not require any orders/ directions to this effect from either the Forum or by this court. The provision of 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 interest on the excess amount at simple interest on the excess amount @ 15 percent 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."



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"Prior to 07/08/2018 amendment, the interest rate was twice the SBI's PLR prevalent on the first April of the relevant year."

13. The contention of the Complainants that the orders were passed on dated 13/04/2021 without granting adequate opportunity for the purpose of filing the reply is wrong since they were given adequate opportunity and they had filed their reply on merits of the case on dated 20/03/2021 as per record of the case.
14. Fact remains that the Complainants have denied the legitimate due of refund ordered by the Forum vide orders dated 06/09/2006 till 18/03/2021. They have further denied the interest on the refund for Rs 20,98,359/- made on 19/03/2021 during proceedings in this court on reconciliation approach which was their legitimate due in line with provisions of Clause 5.7.3 of the Himachal Pradesh Electricity Supply Code 2009.
15. Although the review filed by the Complainants was beyond a period of 30 days and the plea taken that they have received the orders on 20/04/2021 does not appear to be correct since the orders were uploaded on the website same day and email intimation was also sent to all concerned parties. However, their delay was condoned vide Interim Order dated 16/06/2021.

H – Issues in question:

1. There is only issue whether the points raised by the Complainants in the review application as well during arguments are valid reasons in line with provisions of Regulation 37 (8) (i) and (iii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 or not?

I – Findings on the issues:

1. As is evident from the discussions and analysis done above on each issue raised by the Complainants, the points raised by them does not hold to be true and the same have already been addressed in the orders dated 13/04/2021.
2. The contention of the Complainants regarding provisions of the regulation under which the Complaint No. 50/2020 filed by the Respondent is also wrong since the Respondent have mentioned both the provisions in their subject clearing specifying that they are filing their representation under provisions of Regulation 28 (1) (b) & (c) both of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.



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

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3. The limitation issue has already been addressed in the orders dated 13/04/2021. Further, the Respondent had made prayer in their Complaint under Regulation 28 (1) (b) for granting of interest also and naturally was their part of the prayer/ relief being sought.

J - Order:

1. The review filed by the Complainants i.e. HPSEB Ltd in case No. 50/2020, orders for which were passed on 13/04/2021, is hereby dismissed.
2. The Complainants i.e. HPSEB Ltd are hereby directed to make compliance of the directions in the orders dated 13/04/2021 in Complaint No. 50/2020 within a period of 15 days from the date of issue of this order or latest by 26/08/2021 positively failing which the matter shall be reported to the Hon'ble Commission for violation of directions under Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
3. The Review application filed by the HPSEB Ltd & others is hereby disposed off.
4. No cost to litigation.



Given under my hand and seal of this office.

[Signature]
Electricity Ombudsman