



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 Prontos Pvt Ltd, Plot No. 63-65, Sector-V, Parwanoo, Tehsil Kasauli, District Solan, HP-173220

-Complainant

Vs

- 1. The Executive Director (Personnel), HPSEB Ltd, Vidyut Bhawan Complex, Shimla-171004**
- 2. The Sr Executive Engineer, Electrical Division, HPSEB Ltd, Parwanoo, District Solan, HP-173220**
- 3. The Assistant Engineer, Electrical Sub-Division, HPSEB Ltd, Parwanoo, District Solan, HP-173220**

-Respondents

Complaint No. 04/2021
(Decided on 19/07/2021)

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Er. K. L. Gupta
HP Electricity Ombudsman

Counsel for:

The Complainant: Sh. O.C. Sharma, Advocate

The Respondents: Sh. Anil Kumar God Advocate, Sh. Kamlesh Saklani, Law Officer

Order

The case was received and registered on 05/03/2021. The case was sent for reconciliation on 05/03/2021 to be returnable by 22/03/2021. Since no communication regarding reconciliation was received from either of the parties, the case was listed for admission hearing on 17/04/2021. The Respondents were to file their reply by 09/04/2021 and the Complainant was to file his rejoinder by 16/04/2021.

The Respondents sought 15 days extension in time for filing the reply vide affidavit date 08/04/2021. The Respondents were directed to file their reply by 30/04/2021 and the Complainant was to file his rejoinder by 06/05/2021. The case was listed for 07/05/2021. Due to Covid 19 Pandemic lockdown announced by the Govt of HP w.e. from 07/05/2021 till 30/05/2021, the case was postponed and re-listed for 03/07/2021. No reply was received from the Respondents during the meantime even though their offices were functional. The



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Respondents were directed again to file their reply by re-scheduled date 23/06/2021 and the Complainant was to file his rejoinder by 30/06/2021.

Again, vide email dated 30/06/2021 followed by original submission of affidavit dated 30/06/2021 on 15/07/2021, the Respondents sought another 15 days extension in time to file their reply. The case was re-listed for 15/07/2021. During hearing on 15/07/2021, the Law Officer for the Respondent Board informed that they don't intend to file the reply and are assailing the orders of the Consumer Grievance Redressal Forum. The orders were reserved. Hence the delay.

A – Brief Facts of the Case:

1. M/S Prontos Pvt Ltd, Plot No. 63-65, Sector-V, Parwanoo, Tehsil Kasauli, District Solan, HP-173220 have filed the application through Sh. Aditya Vikram Newar, MD (hereinafter referred to as 'The Complainant') under Regulation 28 (1) (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for non-implementation of the Orders passed by the Consumer Grievance Redressal Forum on 20/08/2020 in Complaint No. 1421/1/19/002, dated 17/01/2019. He has further prayed for recommending the case to the Hon'ble Commission in case of non-implementation under Section 142 of the Electricity Act, 2003.

B – The Complainant's submissions:

BRIEF FACTS OF THE CASE:

1. The Complainant submits that briefly stated the facts of the case are that he is a Private Limited Company duly incorporated under the Companies Act and is having its registered office and works at Plot No. 63-65, Sector-V, Parwanoo, Tehsil Kasauli, District Solan, H.P. Shri Aditya Vikram Newar is its Managing Director and is a competent person to file, sign and verify the present representation on behalf of the Company.
2. The Complainant submits that he has filed Complaint under the relevant Regulation of CGRF and Ombudsman Regulations 2013 **seeking therein the relief for the release of payment of interest amount of Rs. 9,05,000/- accrued on Rs. 45,57,500/- calculated at the rate of 24% per annum for the period 04/07/2016 to 07/06/2017 and refund of Rs. 75,070/- deposited on 25/05/2015 in his favour.** HE further submits that the said Complaint was registered by the Ld. C.G.R.F. as Complaint No. 1421/1/19/002. The Ld. C.G.R.F. decided the Complaint of the Complainant Company by way of passing order dated 20/08/2020 and the relevant para of the said Order is reproduced as under:

"In view of above observation, the present Complaint is allowed. The respondent Board is directed to pay the interest on the excess amount of Rs. 45,57,500/- used by it w.e.f.



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04/07/2016 to 07/06/2017 i.e. till the date of final settlement to the Complainant in terms of provisions of para 5.7.3 of Supply Code 2009, at twice the SBI's short term PLR rate prevalent on 01/04/2016. The Board is also directed to refund/ adjust the amount of interest and Rs. 75,070/ charged from the Complainant as unauthorized use of electricity charges for one day i.e. on 14/05/2016 as the same was the part of the final settlement of Rs. 75,33,500/-, against any due amount or amount becoming due to licensee in future, after calculating the interest as per extent provisions of Supply Code 2009".

3. The Complainant submits that the copy of Order dated 20/08/2020 has been sent by the Ld. C.G.R.F. to the Respondents for making compliance of the same. He further mentions that in terms of mandate of Regulation 27 of H.P.E.R.C. (C.G.R.F.) and Ombudsman Regulations 2013, the Respondents were to comply with the Order passed by the Ld. C.G.R.F. within 21 days in letter and spirit. The Complainant submits that he has repeatedly requested the Respondents to comply with the order dated 20/08/2020 but till date the Respondents are negligent in making compliance of the said Order.
4. The Complainant submits that the Respondents have intentionally and willfully failed to make compliance of the Order dated 20/08/2020 passed by the Ld. C.G.R.F. despite the receipt of the copy of order dated 20/08/2020 and the said wrongful and illegal acts of the Respondents warrant the indulgence of this Hon'ble Authority to proceed against the Respondents for non-compliance of the Order passed by the Ld. C.G.R.F. The non-compliance of Order dated 20/08/2020 passed by the Ld. C.G.R.F. tantamount to non-compliance of Rules and Regulations made by the Hon'ble H.P.E.R.C. and as such, the Respondents deserve to be prosecuted and proceeded against under Section 142 of Electricity Act 2003.
5. The Complainant submits that the Respondents ought to have released the amount of interest accrued on Rs. 45,57,500/- w.e.f. 04/07/2016 to 07/06/2017 and refunded amount of Rs. 75,070/- to the Complainant within 21 days after passing the Order dated 20.08.2020 by the Ld. C.G.R.F. HE further submits that the Respondents have willfully and knowingly withheld the requisite payment of interest amount and refund of Rs. 75,070/- in favour of the Complainant. The said acts of the Respondents constitute contravention of rules and regulations made by the H.P.E.R.C. and the Respondents are liable to be dealt with under Section 142 of the Electricity Act, 2003.
6. He further submits that the Respondents have willfully, deliberately and intentionally disobeyed the order dated 20/08/2020 passed in Complaint No. 1421/1/19/002 by Ld. C.G.R.F. and are continuing to do so.



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7. The Complainant submits that there is no representation filed by the Complainant, in respect of the same grievances, nor is pending in any proceedings before any Court or Tribunal or Arbitrator or any other authority and that no representation was earlier made in respect of the present grievances before this Hon'ble Authority.
8. The Complainant submits that he is not satisfied with the redressal of grievances as the Respondents have failed to make compliance of the order dated 20/08/2020 passed by Ld. C.G.R.F. in Complaint No. 1421/1/19/002 in letter and spirit.
9. The Complainant submits that the present representation for non-compliance of Order dated 20/08/2020 is within the statutory period of limitation as the Respondents have not till date complied with the aforesaid orders and are continuing to make contravention of the same which constitute contravention of the rules and regulations by the H.P.E.R.C. and consequently liable to be dealt with under Section 142 of the Electricity Act, 2003.
10. The Complainant thus prayed that following reliefs may be granted in favour of the Consumer/ Complainant and against the Respondents; a) the Respondents may kindly be directed to make compliance of Order dated 20/08/2020 passed in Complaint No. **1421/1/19/002** by Ld. C.G.R.F. by way of release of payment of interest amount on Rs. 45,57,500/- w.e.f. 04.07.2016 to 07.06.2017 and refund of Rs. 75,070/- deposited on 25.05.2015 and in case of default, the case may be referred to the Hon'ble H.P.E.R.C. for initiating appropriate proceedings under Section 142 of the Electricity Act 2003, in the interest of justice.

C – The Respondents' submissions:

1. The Law Officer for the Respondents, during the last hearing held on 15/07/2021 informed that they don't intend to file the reply and it has been approved by the higher authority to assail the orders of the Consumer Grievance Redressal Forum passed on dated 20/08/2020 in Complaint No. 1421/1/19/002, dated 17/01/2019.

D – The Complainant's additional submissions through rejoinder:

1. Since no reply was filed by the Respondents, the Complainant didn't file his rejoinder.

E – CGRF Order:

1. In view of above observations, the present complaint is allowed. The Respondent Board is directed to pay the interest on the excess amount of Rs.45,57,500/- used by it w.e.f. 04/07/2016 to 07/06/2017 i.e., till the date of final settlement to the Complainant in terms of the provisions of Para 5.7.3 of Supply Code, 2009, at twice the SBI's short term



Accepted
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PLR rates prevalent on 1st April, 2016. The Board is also directed to refund/ adjust the amount of interest and Rs.75,070/- charged from the complainant, as unauthorised use of electricity charges for one day i.e. on 14/05/2016, as the same was the part of the final settlement of Rs.75,33,500/-; against any due amount or amount becoming due to licensee in future, after calculating the interest as per extant provisions of supply code 2009. The interim orders, if any, shall stand vacated accordingly.

F – Analysis of the Complaint:

1. The case file at Consumer Grievance Redressal Forum have also been requisitioned and gone through.
2. The Law Officer for the Respondent Board intimated on the last date of hearing i.e. on 15/07/2021 that they are not filing their reply since the higher authority have decided to assail the orders of the Forum passed on 20/08/2020 in Complaint No. 1421/1/19/002 dated 17/01/2019.
3. He further informed that they have not implemented the orders of the Forum dated 20/08/2020 as on date.

G – Issues at hand:

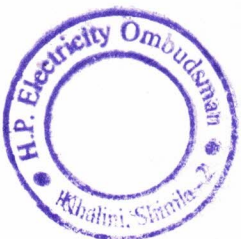
1. There is only one issue whether the Respondents have implemented the orders of the Consumer Grievance Redressal Forum passed on 20/08/2020 in Complaint No. 1421/1/19/002 dated 17/01/2019 or not?

H – Findings on the issues:

1. As is evident from the analysis above and as informed by the Law Officer for the Respondents on last date of hearing i.e. 15/07/2021, the Respondents have not implemented the orders of the Consumer Grievance Redressal Forum passed on 20/08/2020 in Complaint No. 1421/1/19/002 dated 17/01/2019 as on date and they intend to assail the same before the appropriate authority.

I – Order:

1. The Respondents have not implemented the orders of the Consumer Grievance Redressal Forum passed on 20/08/2020 in Complaint No. 1421/1/19/002 dated 17/01/2019 as on the last date of hearing.



Accepted
15/07/2021



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2. The Respondents are directed to implement the orders passed on 20/08/2020 in Complaint No. 1421/1/19/002 dated 17/01/2019 within a period of 15 days from the date of issue of this order or latest by 02/08/2021 positively failing which the matter shall be reported to the Hon'ble Commission for violations of the 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 Act.
3. The Complaint filed by M/S Prontos Pvt Ltd, Plot No. 63-65, Sector-V, Parwanoo, Tehsil Kasauli, District Solan, HP-173220 is hereby disposed off.
4. No cost to litigation.



Given under my hand and seal of this office.

Hepto
19/07/2021
Electricity Ombudsman