



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

In the matter of:

**M/S Emmbros Autocomp Ltd, Village Katha, Baddi, District Solan, HP-173205**  
**- Complainant**

Vs

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

**Complaint No. 51/2020 (Registered on 31/12/2020)**  
**(Decided on 25/03/2021)**

Counsel for:

**The Complainant: Sh. Rakesh Bansal**

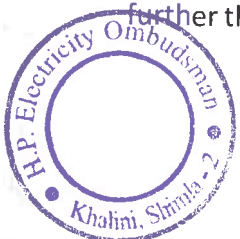
**The Respondents: Sh. Anil Kumar God, Advocate, Sh. Kamlesh Saklani, Law Officer**

**Order**

The case was registered on 31/12/2020 and listed for admission hearing on 15/02/2021. The Respondents were to file their reply by 28/01/2021 and the Complainant were to file his rejoinder by 04/02/2021. The Respondents sought additional time to file their reply which was extended to 08/02/2021 and the Complainant was to file his rejoinder by 15/02/2021.

Reply from the Respondents was received on 02/02/2021. On the date of hearing the Respondents informed that they have filed a case at HP High Court challenging the decision of the orders passed by the Consumer Grievance Redressal Forum on dated 10/04/2019 and the same is yet to be listed. They also attached a copy of receipt. The Respondents were directed to file the status of the case at HP High Court. The case was further listed for 20/03/2021.

On 20/03/2021, the Respondents informed that the status is same and the case has yet not been registered. Since the Complainant had filed the application under 28 (1) (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for non-implementation of the Forum's orders dated 10/04/2019 and the Respondents informed that they have not complied with the orders of the Forum and further there was no stay by the Hon'ble HP High Court, the orders were reserved. Hence the delay.



*Kept  
25/03/2021*



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**A – Brief facts of the Case:**

1. M/S Emmbros Autocomp Ltd, Village Katha, Baddi, District Solan, HP-173205 have filed an application through Sh. Harish Mehta (hereinafter referred to as 'The Complainant') under Regulation 28 (1) (c) and 37 (6) 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 28/08/2019 in Complaint No. 1454/2/19/009, dated 10/04/2019. He has further prayed to initiate action against the Respondents under Regulation 37 (6) for non-compliance of the orders dated 30/11/2019 passed by the HP Electricity Ombudsman in Case No. 03/2019.
2. The Complainant had approached this Court against the orders of the Forum dated 28/08/2019 and the case was registered as Case No. 03/2019 the orders for which were passed on 30/11/2019 allowing the interest.

**B – The Complainant's submissions:**

1. The Complainant submits that he is an industrial consumer falling in HT2 category of Large Supply industrial Consumers. The Complainant was issued a Power Availability Certificate (PAC) for 1900 kW/ 1550 kVA of load on 14/10/2015 for their new industrial unit at Village Bhud in Baddi Tehsil. The load was subsequently sanctioned vide Office Order dated 05/03/2016 by the Superintending Engineer, OP Circle, Solan for the same load. A test report was submitted for 1037.591 kW of Load and the load was released to the Complainant on 31/03/2017. The first energy bill was issued to the Complainant for the month of April, 2017 in which the Respondents charged demand charges based on sanctioned Contract Demand of 1550 kVA, whereas the recorded maximum demand during the billing period was only 758 kVA. The Complainant wrote to the Respondents that he should be charged on the basis of actual maximum recorded/ availed demand during the first six months of the release of connection as per Clause 3.9 of the Supply Code, 2009. No response was received from the Respondents, the Complainant filed grievance with the Consumer Grievance Redressal Forum of HPSEBL seeking relief as follows:
  - a) To direct the Respondents to overhaul the bills issued to the Complainant as per clause 3.9 of the Supply Code, 2009.
  - b) To direct the Respondents to pay interest on amount refundable to the Complainant as per para 5.7.3 of the Supply Code, 2009.
  - c) Cost of the complaint amounting to Rs. 50,000/-.
  - d) Call for the record of the case.
  - e) Any other or further orders which this Hon'ble Forum may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the Complainant company and against the Respondents/distribution licensees.

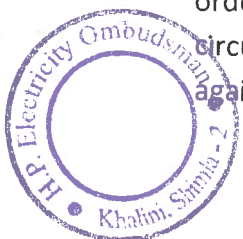


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2. The Complainant submits that the CGRF ordered relief as per para a) of the prayer, but did not address the other reliefs sought by the Complainant company particularly the interest on extra amount charged in the electricity bills as per 5.7.3 of the Supply Code, 2009 and towards cost of the Complaint specifically in the orders. The Complainant approached the Hon'ble Ombudsman seeking interest as per Clause 5.7.3 of the Supply Code, among other reliefs. Hon'ble Ombudsman ordered that their interest cannot be denied on the amount payable to the Complainant. The Respondents were directed to proceed accordingly and report compliance within a month of the issue of the order.
3. The Complainant submits that neither the orders passed by the Forum, nor the orders passed by Hon'ble Ombudsman have been implemented by the licensee to any extent and these orders remain totally non-complied. Hence the present representation is being filed under Regulation 28(1)(c) of the HPERC (CGRF and Ombudsman Regulations), 2013. He further submits that this representation is also seeking action against the erring officers of the Respondents under Regulation 37(6) of the HPERC (CGRF and Ombudsman Regulations), 2013.
4. The Complainant submits that he has waited for a much longer time than was granted vide orders and the period that is allowed under the Regulations, but still is awaiting for the compliance of the orders. It was due to hardship faced by the Complainant during the pandemic that the Complainant could not approach the Hon'ble Ombudsman earlier as the entire business of the Complainant got disturbed due to Covid- 19 pandemic. The Complainant is facing financial hardship due to disruption of business activity due to Covid-19, whereas the sum refundable due from the respondent is lying stuck.
5. The Complainant thus prayed that the representation may kindly be allowed and the findings of the Consumer Grievances Redressal Forum in the order dated 28/08/2019 passed in the Complaint number 1454/2/19/009 titled as M/s Emmbros Autocomp Ltd. Vs. HPSEBL and others, and the findings of the Hon'ble Ombudsman in the Case No 3 of 2019, which stand non-complied as on date and in view of above submissions, the Complainant firm prays to Hon'ble Ombudsman **a)** to allow this representation and initiate action against the Respondents for non-compliance of orders dated 28.08.2019 passed by the Forum in Complaint No. 1454/2/19/009; **b)** to initiate action against Respondents under regulation 37 (6) of the HPERC (CGRF and Ombudsman Regulations), 2013 for non-compliance of the orders dated 30/11/2019 passed by Hon'ble Ombudsman in Case No. 3 of 2019; **c)** to recommend to the Himachal Pradesh Electricity Regulatory Commission to take action u/s 142 of the Electricity Act, 2003 for various contraventions on the part of the Respondents; **d)** call for the record of the case and condone the delay, if any and **e)** Any other or further orders which this Hon'ble Ombudsman may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the Complainant company and against the Respondents/distribution licensees.



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**C – The Respondents’ submissions:**

1. The Respondents submits that the Complaint is based on mere apprehension surmises and conjectures. The Complainant has made misleading statement, therefore, on this score alone the Complaint deserves dismissal.
2. The Respondents submits that the Complainant did not approach this Id. Electricity Ombudsman with the clean hands and has concealed the material facts before this Id. Electricity Ombudsman and is stopped to file this Complaint by their Acts, conduct and deeds.
3. The Respondents submits that the para regarding sanction of load of 1900 KW/1550 KVA & test report submission of 1037.591 KW is admitted. However, the manipulation of petitioner of clause 3.9 for building up load is denied. Clause 3.9 clearly states that:-

**Delay to take supply or avail Contract Demand**

*“In case of supplies involving two part tariff, where the licensee has completed the work required for supply of electricity to an applicant, but the applicant is not ready or delays to receive supply of electricity or does not avail the full contract demand, the licensee shall, after a notice of sixty days, charge the demand charges on the sanctioned contract demand at the rates given in the relevant tariff order.”*

4. The Respondents submits that the above clause is not applicable to this firm & HPSEBL as there is no any delay either on HPSEBL part or on firm part and HPSEBL has neither issued any notice nor recovered charges for delay in accordance with this clause.
5. Actually, no delay was there and Consumer has availed supply without any delay in accordance with clause 3.9. Moreover, as per as demand is to be concerned i.e (1550 KVA sanction Contract Demand) the petitioner has never approached the HPSEBL office for reduction of Contract Demand permanently. Even petitioner has never approached for reduction of Contract Demand on temporary basis up to 1001 KVA. As such billing has been done on the basis of applicable tariff order, which says “demand charges would be levied on the actual maximum recorded demand in a month in any 30-minute interval in a month or 90% of the Contract Demand, whichever is higher but up to a ceiling of Contract Demand”. Accordingly, the demand charges had been taken from the consumer on the sanctioned contract demand i.e 1550 KVA.
6. The Respondents further submits that the order passed by the Id. CGRF on dated 28/08/2019 & Id. Electricity Ombudsman 30/11/2019 has already been challenged in Hon’ble High court.



Accepted  
25/03/2021



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7. The Respondents further submitted that after taking the legal opinion of order passed by the Id. CGRF on dated 28/08/2019 & Id. Electricity Ombudsman 30/11/2019, the Respondent Board decided to challenge both the orders before the Hon'ble High court. But due to the advent of COVID-19 and in consequence thereto, the Government of India imposed the nation-wide lockdown w.e.f 24/03/2020 and the state of Himachal Pradesh imposed curfew all across the states for months due to which working process got hampered. The Respondents further submit that it is not only Complainant Consumer but the working process of every institution got disturbed. Furthermore, they submitted that the Respondent had submitted the complete case file to the standing counsel of the Board to file the petition before the Hon'ble High court but due to pandemic situation due to COVID-19 the court was closed. As such delayed in the process of filing the civil writ petition before the Hon'ble High court to challenge the order passed by the Id. CGRF. They further submitted that the civil writ petition has been filed in Hon'ble High court.
8. The Respondents thus prayed that since the order passed by the Id. CGRF on 28/08/2019 & Id. Electricity Ombudsman 30/11/2019 are assailed before the Hon'ble high court at Shimla H.P, no action for non-compliance orders & recommendation to the HPERC to take action u/s 142 of IE Act, 2003 be initiated against Respondent Board.

**D – The Complainant additional submissions through rejoinder:**

1. The Complainant has chosen not to file any rejoinder in the case.

**E - CGRF Orders:**

1. We have carefully gone through the records of the case and the relevant provisions of the Supply Code 2009 and observed that the Board erred in the interpretation of this clause 3.9 of Supply Code, 2009 by charging Demand Charges on 90% of the Contract Demand. The said clause provides that :- (i) For initial 6 months from the expiry of notice period or date of release of connection, whichever is earlier, the demand charges shall be made on Maximum demand actually availed, if any; (ii) For next 6 months the demand charges shall be levied on Maximum demand actually availed, if any, or 30% of total sanctioned Contract Demand, whichever is higher. (iii) After expiry of the period provided in (ii) the demand charges shall be levied on Maximum demand actually availed, if any, or 50% of the total sanctioned contract demand, whichever is higher. "Provided that the minimum limits, as given in item (ii) and (iii) shall not be further decreased on the account of tariff provisions relating to charging of demand charges of lesser quantum of demand due to non utilization or temporary reduction of contract demand".



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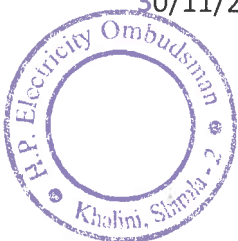
2. In view of the foregoing discussions, the Forum Orders the Respondent Board to overhaul the Bills issued to the Complainant as per Supply Code 2009 and further amended vide HPERC notification (No. HPERC/438) dated 11 June,2014 and if any amount is payable to the Complainant, the same may be adjusted in future energy bills

**F – HP Electricity Ombudsman orders dated 30/11/2019**

1. After going through all the above i.e. application, reply & CGRF order it is clear that CGRF decided the case in favour of the applicant in accordance with the relevant clause of the supply code 2009 which clearly states that the Licensee will pay to such Consumer Interest on the excess amount so there is no need to specifically mention about interest part in the order. However, since the case has been decided as per supply code 2009 & further amended vide HPERC notification (No. HPERC/ 438) dated 11 June 2014, the interest cannot be denied if any amount is payable to the Consumer. So, in view of above prayer of applicant is allowed and Respondent Board is directed to proceed further as per provision of clause 5.7.3 in letter and spirit.

**G – Analysis of the Complaint:**

1. The case file No. 1454/2/19/009 at Consumer Grievance Redressal Forum have been requisitioned alongwith case file 03/2019 at HP Electricity Ombudsman and have been gone through.
2. The Respondents have filed their reply on merit as per reply filed at Consumer Grievance Redressal Forum whereas the case before this court is only for non-implementation of the orders passed on dated 28/08/2019 by the Forum in Complaint No. 1454/2/19/009, dated 10/04/2019. Hence the case need not to be discussed on merits of the case at Forum.
3. The first case was filed at Consumer Grievance Redressal Forum on 10/04/2019 vide Complaint No. 1454/2/19/009 and the Forum passed orders on 28/08/2019. The Forum ordered to overhaul the bills of the Complainant as per Himachal Pradesh Electricity Supply Code 2009 and further ordered that if any amount is payable to the Complainant, the same may be adjusted in future energy bills.
4. The Complainant filed an application at HP Electricity Ombudsman which was registered as Case No. 03/2019 for modification of the orders of the Forum and also requested to direct the Respondents to pay interest as per para 5.7 of the Himachal Pradesh Electricity Supply Code 2009 till the actual date of refund. The HP Electricity Ombudsman vide orders dated 30/11/2019 allowed the interest as per supply code provisions under Clause 5.7.3.



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5. The Complainant has filed this application 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 of the Forum dated 28/08/2019. He has further prayed under 37 (6) to initiate action against the Respondents for non-compliance of the orders of the HP Electricity Ombudsman dated 30/11/2019.
6. After the monitoring of the compliance in old cases which included the case No. 03/2019, since the Compliance was not reported by the Respondents by the additional time given till 26/02/2021, the case was reported to the Commission for violations of the directions under Regulation 37 (6) of the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 on 02/03/2021. Originally the Compliance was to be reported within a month i.e. by 30/12/2019.
7. The Respondents had intimated in respect of Compliance against Case No. 03/2019 that they have assailed the orders of the Forum dated 28/08/2019 and of HP Electricity Ombudsman dated 30/11/2019 in HP High Court and attached a copy of the receipt dated 23/01/2021 but failed to provide the case No./ status since the same was not registered as yet. Apparently, there was no stay on the implementation of the orders of the Forum as well as that of HP Electricity Ombudsman.
8. The Respondents had filed the case at HP High Court on 23/01/2021 only after non-compliance case was filed by the Complainant at HP Electricity Ombudsman on 31/12/2020. Apparently, the action by the Respondents appears to be after thought only to delay the legitimate dues of the Complainant otherwise they could have assailed the orders of the Forum dated 28/08/2019 and that of HP Electricity Ombudsman dated 30/11/2019 within the time frame specified in the regulations or within the implementation period granted by the HP Electricity Ombudsman i.e. before 30/12/2019.
9. Since the case No. 03/2019 have already been reported to the Commission on 02/03/2021, there is no need to discuss the implementation of the same further. But since the orders of the HP Electricity Ombudsman and that of Forum are interlinked, the case regarding non-implementation of the Forum's orders dated 28/08/2019 shall be discussed further.
10. In their reply as well as in their arguments during hearings, the Respondents stated that they have assailed the orders of the Forum dated 28/08/2019 and that of HP Electricity Ombudsman dated 30/11/2019 at HP High Court and produced a receipt dated 23/01/2021. As on date of last hearing on 20/03/2021, the case has not yet been registered and apparently there is no stay on both the orders and this court can proceed further with the issuance of the orders under the provisions of the applicable rules/ regulations.



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11. As on date it is very much clear from the reply filed by the Respondents and arguments on 20/03/2021 that they have not implemented the orders of the Forum dated 28/08/2019 in Complaint No. 1454/2/19/009 dated 10/04/2019. Instead they have filed the case at Hon'ble HP High Court on 23/01/2021 after the present case for non-implementation has been filed by the Complainant on 31/12/2020 just to deny the legitimate dues of the Complainant.
12. The Respondents have neither acted upon the orders of the Forum dated 28/08/2019 within a period of 21 days as provided in the regulations nor have assailed the same before appropriate authority within the time frame specified. But since the further case filed by the Complainant was also decided on 30/11/2019, the Respondents have also not acted on same within a period of 30 days given in the orders.
13. There are no stay orders on the execution of the orders of the Forum dated 28/08/2019 and even on the orders of this Court dated 30/11/2019 in Case No. 03/2019 and the Respondent No. 2 & 3 have failed to implement the orders of the Forum dated 28/08/2019

**H – Issues at hand:**

1. There is only one issue that whether the Respondents have complied with the orders of the Forum passed on dated 28/08/2019 in Complaint No. 1454/2/19/009, dated 10/04/2019 or not?

**I – Findings on the Issues:**

**Issue No. 1:**

1. As is evident from the analysis done above and the application and reply on record, the Respondents have failed to implement the orders of the Forum passed on dated 28/08/2019 in Complaint No. 1454/2/19/009, dated 10/04/2019.
2. The Respondents have assailed the orders of the Forum dated 28/08/2019 as well as the orders of this court passed on dated 30/11/2019 on 23/01/2021 after the Complainant filed the case of non-implementation for same at this court on 31/12/2020. They have failed to implement the orders of the Forum dated 28/08/2019.
3. The case filed at HP High Court has not yet been registered as on last date of hearing on 20/03/2021 and apparently there is no stay on execution of the orders of the Forum dated 28/08/2019.



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**J -Order:**

1. The Respondents have failed to implement the orders of the Forum passed on dated 28/08/2019 even after a period of more than 19 months in Complaint No. 1454/2/19/009, dated 10/04/2019.
2. The Respondents are directed to implement the orders passed by the Consumer Grievance Redressal Forum on dated 28/08/2019 in Complaint No. 1454/2/19/009, dated 10/04/2019 within a period of 15 days from the date of issue of this order i.e. latest by 09/04/2021 positively.
3. The Respondents are further directed to report Compliance within a period of 21 days from the date of issue of this order i.e. latest by 17/04/2021 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 taking appropriate action by the Commission under the provisions of the Electricity Act, 2003.
4. Since the non-compliance in Case No. 03/2019, orders of which were passed on 30/11/2019 by this court, have already been reported to the Commission for violations of directions under Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 on 02/03/2021, in case of non-compliance of this order, the case shall also be linked together and sent to the Commission for taking appropriate action by the Commission under the provisions of the Electricity Act, 2003.
5. The Complaint filed by M/S Emmbros Autocomp Ltd, Village Katha, Baddi, District Solan, HP-173205 is hereby disposed off.
6. No cost to the litigation.

Given under my hand and seal of this office.



*Leypth*  
25/03/2021  
Electricity Ombudsman