HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
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In the matter of:

Sh. Joginder Singh Ram Singh Thakur, S/o Lt Sh. Ram Singh Thakur, R/O Padam Kunj, Basement, Below TCP Office, Dev Nagar, Kasumpti, Shimla-171009 - Complainant

Vs

1. **Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004**
2. **The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Khalini, Shimla, HP-171002**

   Respondents

Complaint No. 02/2022 (Registered on 12/01/2022)
(Orders reserved on 30/04/2022, Issued on 24/05/2022)

Counsel for:

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

CORAM:

Er. K.L.Gupta
HP Electricity Ombudsman

Order

The case was received and registered on 12/01/2022. The case was first sent for reconciliation between the parties under provisions of Regulation 34 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 to be returnable by 03/02/2022. No communication was received from either of the parties and the case was listed for admission hearing on 11/03/2022. The Respondents were to file their reply by 25/02/2022 and the Complainant was to file his rejoinder by 04/03/2022.

The Respondents sought more time to file their reply and in the meantime the Complainant deposited the entire disputed amount (Rs 34,917/-) stating that the Respondent Board is levying surcharge and the amount is increasing. The Respondents were to file their reply by 17/03/2022 and the Complainant was to file his rejoinder by 25/03/2022 and the case was listed for hearing on 08/04/2022.

H.P. Electricity Ombudsman Khalini, Shimla-2

24/05/2022

The Respondents filed their reply on 17/03/2022 and on next date, the Complainant chose to argue his case. The Respondents were directed to file certain additional information by 20/04/2022 and the Complainant was to file his rejoinder, if any by 27/04/2022. The case was further listed for final arguments on 30/04/2022. The information was submitted by the Respondents on 30/04/2022. Arguments were closed and the orders were reserved. Hence the delay.

A - Brief Facts of the Case:

1. Sh. Joginder Singh Ram Singh Thakur, S/o Lt Sh. Ram Singh Thakur, R/O Padam Kunj, Basement, Below TCP Office, Dev Nagar, Kasumpti, Shimla-171009 have filed an application received and registered on 12/01/2022 through Sh. Nitin Thakur (hereinafter referred to as 'The Complainant'), under the provisions of Regulation 28 (1) (b) and (2) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for quashing and setting aside the orders of the Consumer Grievance Redressal Forum in Complaint No. 1211/1/20/048, dated 21/07/2020 passed on 24/08/2021, further quashing the demand for Rs 31,462/-. He had also submitted an order of the Supreme Court in MA No. 21/2022 in MA No. 665/2021 in Suo moto WR (C) No. 3 of 2020 dated 10/01/2022 wherein the Hon'ble Apex court have excluded the period from 15/03/2020 till 28/02/2022 for the purpose of limitation.

B – The Complainant' submissions:

1. The Complainant submits that the Learned Forum Below has side line the reply which has been filed by the Respondent HPSEBL wherein they have categorically admitted that due to high voltage surge the lines of the complainants building was changed further the fault is of the person taking meter reading from last so many years.

2. The Complainant submits that his grievance has not been redressed as the loss caused to him has not been taken into account and HPSEBL has been asked to give slab wise rebate. Moreover during the pendency of the Complaint, the Respondents have been increasing the outstanding charges despite deposit of electricity bill by him.

3. The Complainant further submits that he has paid the charges as raised by the Respondents by monthly bills. As such fault of the HPSEBL and its employees cannot be fasten upon him.

4. The Complainant submits that the specific complaint against the SDO Khalini who has no respect for Court/ Forum/ Law has not been taken into account despite the fact that his clerks' affidavit was filed along with the detailed application. As such the present representation.

24/05/2022

5. The Complainant submits that the Learned Forum below has been constituted for the protection and redressal of grievances of the Consumer however the faith of the Consumer goes if the Forum shelters and side lines the mistakes of Respondent Board.

6. The Complainant submits that the Learned Forum below has not appreciated that the jump in the meter reading was due to high voltage surge and such the entire building received exorbitant energy charges.

7. The Complainant submits that the order was passed on 24/08/2021, and the certified copy of the same by post which was received in the last week of September 2021. However, on the perusal of the same it transpired that the order was passed against Shri Joginder Singh Ram Thakur despite formal application being moved that Shri Joginder Singh Ram Thakur died on 01/02/2021 and his legal heirs may kindly be brought on record. However, an application for correction of order was moved however it is only in January 2022 that the order remains as it is however correction has been made separately. As such any delay in approaching this Hon'ble Forum may kindly be condoned.

8 The Complainant sought following nature of Relief from the Ombudsman: -

a) Quash and set side order dated 24/08/2021; and / or

b) Quash and set aside the demand of Rs. 31,462 for the period of December 2020 to January 2021 and declare the same as illegal; and / or

c) Direct Respondents to pay / compensate the Complainant for the loss caused; and / or

d) Direct the Respondent to inspect the meters and replace the faulty meter; and / or

e) To rectify the increase of outstanding during the pendency of the Complaint before the Forum below; and/ or

f) Adjust the 1/3rd amount paid by the complainant in the 1st week of February 2021 in future bills; and / or

g) Pass any further or other order as deem fit and appropriate in the facts and circumstance of the representation.

Electricity Ombudsman Shimla-2

24/05/2022

C – The Respondents' submissions:

Preliminary Objection: -

1. The Respondents submit that the representation is patently time barred & consequently not maintainable at this stage and that the Ld. Forum has passed an order dated 24/08/2021 which is just & proper, reasoned one and the representation is not maintainable.

2. The Respondents submit that the bill dated 20/01/2021 issued to the Complainant is no actual consumption consumed by him because he was billed in past on lower consumption. Therefore, the bill in dispute in term of the provision of the supply code & sales manuals.

3. The Respondents submit that the grievance of the Complainant has been redressed and he has been given slab wise rebate as per Regulations. It is wrong that during the pendency of the Complaint the Respondent- board increased the outstanding charges.

4. The Respondents submit that it is admitted to the extent that the Complainant has paid the charges by monthly bills except disputed amount.

5. The Respondents submit that the Ld. Forum has passed reasoned order keeping in view the provisions of the Supply Code, Regulations and on the basis of the record placed before the forum. The present representation has been filed by the Applicant with ulterior motive just to harass to the replying Respondents and to evade the payments legal dues as per the decision of the Ld. Forum. The Applicant has not shown any error apparent on face of record of the Order dated 24/08/2021 passed by the Ld. Forum. They further submitted that the Application has not shown any valid reason at all by way of pleading, which at all makes out a case for filling representation against the order dated 24/08/2021. Moreover, representation/ application as moved by the Applicant does not satisfy the parameters on which this representation/ Application can be entertained. They further submit that the matter was duly considered & heard by the Ld. Forum and same has been decided on merits. They submitted that as per record it is not established that there is any jump in the meter. The metering equipment is perfectly correct. Therefore, Forum has passed the order in the Complaint after going through the record pertained to the Applicant/ Complainant. Therefore, the Ld. Forum has rightly passed the order dated 24/08/2021, which is reasoned order and the same has been passed on the basis of the record placed before the Forum and consequently the representation warrants no interference and deserves on dismissal.

24/05/2022

6. In view of above submissions made therein above, the Respondents prayed that the representation filed by the Applicant/ Complainant may kindly be dismissed, in the interest of justice.

D – Additional Submissions by the Complainant through Rejoinder/ arguments:

1. The Complainant didn't file any rejoinder and instead argued his case on 08/04/2022. Since certain additional information was sought from the Respondents, the same was filed on 30/04/2022 with prior copy to the Complainant and the Complainant again didn't file any rejoinder and instead argued his case on 30/04/2022.

2. The Complainant's main arguments were focused on two things a) sudden jump in the meter reading due to high voltage surge and the Respondents also changed his service wire, the fact admitted by the Respondents in their reply at the Forum but not in this court, and b) other Consumers in the same building have also got increased energy bill during the month in dispute.

E – The Respondents' additional submissions:

1. The Respondents filed their additional submissions sought vide Order dated 08/04/2022. They submitted energy consumption for the other occupants of the same building w.e.from June 2020 till July 2021. They submitted monthwise consumption for six occupants of the building including that of the Complainant.

F – CGRF orders:

1. The Complainant in its application has also contested higher surge voltage on 8th December 2020 which has resulted in damage of electronic / electrical equipments gadgets which has been negated by the respondent HPSEBL. Respondent HPSEBL has intimated that the official who was deputed for metering issuing of bills to the consumers has not issued bills on actual consumption and issued the bills at lower consumption since 01.09.2018 whereas the actual consumption on meter was more and have provided the detailed consumption. The reply and detail provided by the Respondent HPSEBL is placed in the record file. This has resulted in accumulation of more units in the month of December 2020 reflected in the energy bill of January 2021.

2. On scrutiny the record provided by the Respondent as well as Complainant it has been noticed that due to issuing of less bill by the Board officials Since September 2018 till the date of issuing of bill amounting to Rs. 31462/- dated 20.01.2021 higher slab consumption have been inadvertently charged from the consumer which should not have been levied in actual. The Forum vide its interim order dated 24.03.2021 has instructed Respondent HPSEBL to bifurcate the bill on average basis since September 2018. Accordingly HPSEBL has made such bifurcation based on the average consumption of the consumer

H.P. Electricity Ombudsman Khalini, Shimla-2

24/05/2022

authenticated from his previous record. Meter working has never been challenged and according to HPSEBL it is still working well, there is no question of meter fault.

3. Now, based on this average consumption, the slab wise rebate have been provided to the consumer to the tune of Rs. 11999/-. Which will be provided to the complainant by the Respondent Board in the forthcoming energy bills. The action of Respondent HPSEBL seems to be correct and in accordance to tariff in force.

4. In the aforesaid terms, the complaint is disposed off. The complaint is partially allowed in favour of complainant. The parties are left to bear their own costs.

G – Analysis of the Complaint:

1. The case file at Consumer Grievance Redressal Forum having Complaint No. 1211/1/21/048, dated 21/07/2020 orders on which were passed on 24/08/2021 have also been requisitioned and gone through.

2. The Complaint have been filed under the provisions of Regulation 28 (1) (b) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.

3. The Complainant received an energy bill issued on 20/01/2021 for a Consumption of 5946 units amounting to Rs 31,462/-. The Complainant resides at the same place since 2008 and is having electricity connection under Domestic Category with account number is 100001116406.

4. As per the Complainant, on 08/12/2020 his electrical/ electronic equipments were damaged due to high voltage surge and on Complaint from his neighbor, since he was tested Covid Positive on 2nd/ 3rd December 2020, the Respondent Board replaced his service wire, the fact which have also been acknowledged by the Respondents in their reply at Forum on 18/07/2021.

5. The Complainant have also attached purchase bills of iPhone charger dated 31/12/2020, purchase of new TV on dated 16/01/2021 to support his claim of high voltage surge.

6. The Respondent Board have denied his claim of high voltage surge but acknowledged that the meter reader/ bill distributor had recorded lower consumption since 01/09/2018 which was corrected in the said energy bill. However, the Respondent Board later gave monthwise slab benefit to the Complainant to the tune of Rs 11,999/- and his energy bill was reduced to Rs 18,672/- from Rs 30,670/- (Without other fixed charges) as per record of file at Consumer Grievance Redressal Forum.

24/05/2022

7. The Respondent Board didn't acknowledge his claim of high voltage surge despite replacing the service wire and gave him only the benefit of monthwise slab benefit. Further, the Consumer Grievance Redressal Forum also didn't deliberate upon the claim of the Complainant of high voltage surge in detail and have relied upon the report of the Distribution Licensee wherein they have negated the claim of the Complainant for high voltage surge. The Forum have further relied upon the claim of lower consumption recorded by the meter reader/ bill distributor, as submitted by the Respondents, and also the monthwise slab benefit given by the Respondent Board.

8. The Respondents also submitted a copy of site report of the Committee constituted on 23/01/2021 without mentioning the date of such site visit that there is no problem of high voltage in the area and there is no other Complaint received. They also mentioned about DTR being checked and found OK besides visiting Maliana sub-station for no instance of high voltage recording. There is no mention of the members of the said committee and report has been filed by the Respondent No. 2 to Respondent No. 2 which is quite strange. Further, the report has not been signed by all the members of the Committee.

9. On direction to submit data in respect of other Consumers of the building, the Respondent Board submitted the data on 30/04/2022. In total data for six Consumers of the same building have been submitted.

10. The consumption of three Consumers have shown high consumption of units for the month of January 2021. One Sh. Vikram Karel has consumption of 3424 units for January 2021, 2323 for February 2021, 2899 for March 2021 and 1209 units for April 2021. His regular consumption is otherwise 300 to 400 units on an average.

11. Other Consumer Sh. Subhash Chand has shown 1208 units of Consumption for January 2021 and his average consumption is around 300 to 400 units. The Complainant's Consumption is 5946 units for January 2021 and his normal consumption is on an average of 300 to 400 units.

12. The Respondent Board's claim of lower consumption being recorded since 2018 seems to be an afterthought since the Consumption of the Complainant even after January 2021 is around 300 to 400 units except for January 2021, which is the contention of the Complainant and for January 2022 where his consumption is 749 units. There was heavy snowfall in January 2022 and this could be the reason for slightly higher consumption. The Consumption of other Consumers is also same after surge in units in January 2021 which negates the claim of the Respondent Board that there was lower consumption recorded since 2018.

Electricity Ombudsman H.P. Khalini, Shimla-2

24/05/2022

13. In case the lower consumption was being recorded since 01/09/2018, apparently there should have been increased consumption of the Complainant after January 2021 energy bill but the same is not the case. Similar is the case with three other occupants of the building as their consumption is around same after January 2021.

14. The Consumption for one particular month is significantly high and whereas for previous months since 01/09/2018 onwards and after January 2021, the Consumption is on an average of 300 to 400 units only, the claim of Respondent Board could have been valid of recording lower consumption since 2018 if the consumption of the Complainant had increased after that particular month i.e. after January 2021.

15. The lower Consumption claim of the Respondent Board recorded since 01/09/2018 can't be relied upon further since there is no lower consumption seems to have been recorded for other three Consumers of the same building. Same meter reader/ bill distributor couldn't have targeted only three Consumers and instead he might have been recording lower consumption for all six occupants of the building which doesn't seems to be the case.

16. The Respondent Board had acknowledged at the Forum that they had replaced his service wire which supports the claim of the Complainant that the reading of the meter had jumped. The surge could be local issue on one particular phase only on which three consumers were being fed which couldn't have been recorded at the supply DTR or even at Maliana sub-station.

17. Apparently, no high voltage surge has been reported by other occupants of the same building. However, since there is some doubt over the claim of the Respondent Board for lower consumption being recorded since 01/09/2018 and also of high voltage surge but the replacement of service wire of the Complainant cast further doubt about local short circuit and sudden jump in the meter reading, the benefit of doubt tilts towards the Consumer and in my considered opinion, based upon the facts and record of the case, the Complainant have been unnecessarily penalized for apparently no fault of his.

18. As already deliberated, the Forum had not touched the surge issue on 08/12/2020 in detail but relied upon the reply of the Respondent Board that there was no such surge and have also not taken in to account the replacement of service wire of the Complainant by the Respondents.

19. The Forum have not gone in details of the issues raised by the Complainant and only relied upon the reply filed by the Respondents.

Lokpt
24/05/2022

20. Further, there is an apparent issue of date of receipt of the Complaint mentioned by the Forum as 21/07/2020 wherein the Complaint have been acknowledged to have been admitted on 31/01/2021.

H – Issues at hand:

1. Whether the higher Consumption of the Complainant in January 2021 energy bill was due to lower consumption recorded since 01/09/2018 or due to sudden jump in the meter reading due to some surge on 08/12/2020?

2. Whether the Consumer Grievance Redressal Forum have passed orders in Complaint No. 1211/1/21/048, dated 21/07/2020 (Admitted on 31/01/2021) passed on 24/08/2021 in line with the facts on record and after deliberating all issues raised by the Complainant?

I – Findings on the Issue:

Issue No. 1

1. As is evident from the analysis done above and facts of the record available, the sudden increase in consumption in the energy bill issued on 21/01/2021 does not appears to be of lower Consumption recorded since 01/09/2018 since the consumptions recorded thereafter is also in the same average range of units Consumed prior to January 2021.

2. The Respondent Board have also replaced the service wire of the Consumer which may be due to local short circuit on 08/12/2020 causing sudden jump in the meter reading. This fact can also be corroborated with the Consumption recorded in three other meters who have also shown sudden jump in the reading in January 2021 energy bill and might have been fed through one particular phase.

Issue No. 2

1. As is evident from the analysis done above and facts and record of the case, the Consumer Grievance Redressal Forum have only relied upon the reply submitted by the Forum and have not gone through the record of the case and those of other occupants of the same building.

J – Order:

1. **The orders passed by the Forum in Complaint No. 1211/1/21/048, dated 21/07/2020 (Admitted on 31/01/2021) passed on 24/08/2021 are hereby quashed and set aside.**

2. **The energy bill issued on 21/01/2021 to the Complainant is also quashed and set aside.**

3. **The Respondents are directed to charge the Complainant for energy consumption for an average of last 12 months and overhaul the account of the Complainant accordingly.**

24/05/2022

4. The Respondents are further directed to refund the entire excess amount charged from the Complainant within a period of 30 days from the date of issue of this order but not later than 24/06/2022. In case of delay beyond 30 days, the Complainant shall be entitled for refund alongwith interest in line with Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009.

5. The Respondents are further directed to report compliance of the above directions within a period of 30 days from the date of issue of this order but not later than 24/06/2022 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.

6. The Complaint filed by Sh. Joginder Singh Ram Singh Thakur, S/o Lt Sh. Ram Singh Thakur, R/O Padam Kunj, Basement, Below TCP Office, Dev Nagar, Kasumpti, Shimla-171009 is hereby disposed off.

7. No cost to litigation.

Given under my hand and seal of this office.

24/05/2022

Electricity Ombudsman