



**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 Virgo Aluminum Ltd, Village Rampur Jattan, Nahan Road, Kala Amb, District Sirmour HP-173030  
- Complainant

Vs

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
  2. The Sr Executive Engineer, Electrical Division, HPSEB Ltd, Nahan, District Sirmour, HP-173001
  3. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Kala Amb, District Sirmour, HP-173030
- Respondents

Complaint No. 01/2023 (Registered on 16/01/2023)

(Orders reserved on 06/05/2023, Orders issued on 09/05/2023)

Counsel for:

The Complainant: Sh. O.C. Sharma Advocate, Sh. O. P. Dubey Manager HR

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

CORAM

Er. K. L. Gupta

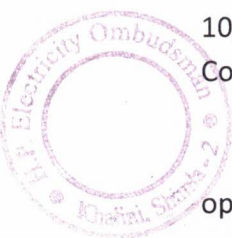
HP Electricity Ombudsman

Order

The case was received and registered on 16/01/2023. The case was first listed for 25/02/2023. The Respondents were to file their reply by 06/02/2023 and the Complainant was to file his rejoinder by 13/02/2023. Since the Respondents failed to file their reply by 06/02/2023, the case was listed for 25/03/2023. The Respondents were to file their reply by 17/03/2023 and the Complainant was to file his rejoinder by 24/03/2023.

The Respondents again failed to file their reply by 17/03/2023 and the case was listed for 13/04/2023. The Respondents were to file their reply by 10/04/2023 and the Complainant was to file his rejoinder by 12/04/2023. The Respondents again failed to file their reply by 10/04/2023 and last opportunity was given them to file their reply by 27/04/2023 and the Complainant was to file his rejoinder by 04/05/2023. The case listed for 06/05/2023.

The Respondents again failed to submit their reply even by 06/05/2023 despite last opportunity and the orders were reserved. Hence the delay.



Sent by  
09/05/2023



**A – Brief facts of the case:**

1. M/S Virgo aluminium Ltd, Village Rampur Jattan, Nahan Road, Kala Amb, District Sirmour HP-173030 have filed a case through Sh. Om Prakash Dubey (hereinafter referred to as 'The Complainant') under the provisions of Regulation 28 (1) (c) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 201 against the orders passed by Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017 in Complaint No. 1515/3/16/037, dated 30/09/2013.
2. The Respondent Board had earlier filed a case earlier against the orders passed by the Consumer Grievance Redressal Forum at Kasumpti in the Hon'ble HP High Court bearing CWP No. 886/2018 which was dismissed on 03/12/2018. Subsequently, the Respondent Board filed a review in Double Bench of the Hon'ble HP High Court bearing LPA No. 15/2019 which was again dismissed on 23/12/2022. Now the Consumer have filed the present application in this Appellate Forum for non-compliance of the orders dated 31/07/2017.

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

**BRIEF FACTS OF THE CASE:**

1. The Complainant submits that the facts of the case are that the he is a limited Company duly incorporated under the Companies Act and is having its registered office and works at Village Rampur Jattan, Nahan Road, Kala Amb, District Sirmour, H.P. Further, that his Company is a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and can by the said name sue or be sued. Shri Om Prakash Dubey is its Manager and authorized representative and is a competent person to file, sign and verify the present Complaint/ representation, rejoinders, replications, applications and other pleadings on behalf of the Company. He is competent person to depose on oath as to the facts of the present Complaint
2. The Complainant submits that his Company filed Complaint under the relevant Regulation of HPERC (CGRF and Ombudsman) Regulations, 2013 before the Ld. CGRF at Shimla and thereby sought the following reliefs:
  - a) *An order directing the Respondents to refund the amount of Rs. 56,66,869/- i.e. Rs. 39,93,376/- deposited on 03.06.2010 in cash and Rs. 16,73,493/- being cost of material deposited on 23.04.2011, alongwith compound interest @ 12% p.a. till its realization in favour of the Complainant.*
  - b) *Any other relief which this Hon'ble Forum deem fit and proper under the facts and circumstances of the case may also be granted in favour of the Complainant consumer Company and against the Respondents, in the interest of justice.*



*Accepted*  
*09/05/2023*





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

3. The Complainant submits that the said Complaint was registered by the Ld. C.G.R.F. as Complaint No 1515/3/16/037 and the same was decided on 31/07/2017 with the following observations:
- i) The Respondents are directed to refund Rs. 39,93,736/- to the Complainant alongwith interest @ 12% per annum since 04.06.2010 till date of making the payment.
  - ii) The Respondents are directed to make payment of Rs. 15,19,540/- to the Complainant on account of cost of cable provided by the Complainants. No interest on this amount is allowed as the Respondents have not used this cable for any of their use. This cable can be used by the Respondents for any of their use at any other location.
  - iii) The execution of the said deposit work is struck down. The Respondents are directed not to continue with this work.
  - iv) The respondent Board is at liberty to recover the losses, if any, on account of above directions from the officers/officials responsible for this undue/huge delay.
4. The case is decided in favour of the Complainant.
5. The Complainant submits that the Respondents filed CWP No. 886/2018 against the order dated 31/07/2017 passed by the Ld. CGRF at Shimla in Complaint No. 1515/3/16/037 in the Hon'ble High Court of H.P. at Shimla. The Hon'ble High Court of H.P. has been pleased to dispose off the CWP No. 886/2018 in term of the judgement pronounced on 03/12/2018 and thereby dismissed said civil writ petition No. 886/2018 by upholding the order passed by the Ld. CGRF at Shimla and further imposed cost of Rs. 1 Lakh on the HPSEBL to be paid to him within a period of one week from the date passing of the judgement.
6. Further, that the Respondents filed LPA No. 15/2019 before the Hon'ble High Court of HP against the judgement dated 03/12/2018 passed in CWP No. 886/2018. The Hon'ble High Court of HP has disposed of the LPA No. 15/2019 in terms of judgement dated 23/12/2022 and thereby dismissed the appeal preferred by the Respondents.
7. The Complainant submits that the Respondents have intentionally and willfully failed to make compliance of the Order dated 31/07/2017 in Complaint No. 1515/3/16/037 passed by the Ld. C.G.R.F. despite the receipt of the copy of order dated 31/07/2017 and subsequently the copies of judgements dated 03/12/2018 passed in CWP No. 886/2018 and LPA No. 15/2019 dated 23/12/2022 till date despite having acquired the knowledge of passing of the aforesaid orders and judgements and the said acts of the Respondents are seriously in defiance to and contravention of the order originally passed by the Ld. C.G.R.F. and thereafter against the judgement passed by the Hon'ble High Court of HP in C.W.P. 886/2018 as well as in L.P.A. No. 15/2019 and as such, the Respondents deserve to be dealt with seriously for non -compliance of above stated orders and judgements, hence the



Accepted  
09/05/2023





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

present representation before this Ld. Authority for non-compliance of the Order passed by the Ld. C.G.R.F. Further, that the non-compliance of Order dated 31/07/2017 passed by the Ld. C.G.R.F. tantamounts 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.

8. The Complainant submits that the Respondents ought to have complied with the order dated 31/07/2017 passed in Complaint No. 1515/3/16/037 by the Ld. C.G.R.F. after the passing of order dated 31/07/2017 and further judgement passed in C.W.P. No. 886/2018 and thereafter passed in L.P.A. No. 15/2019 dated 23/12/2022. The Respondents have intentionally, willfully disobeyed and flouted the order dated 31/07/2017 passed in Complaint No. 1515/3/16/037 by not making refund of Rs. 39,93,376/- alongwith interest @ 12% upto the date of refund and the cost of material as ordered for by the Ld. C.G.R.F. to him. 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.
9. The Complainant submits that the Respondents have willfully, deliberately and intentionally disobeyed the order dated 31/07/2017 passed in Complaint No. 1515/3/16/037 by Ld. C.G.R.F. and are continuing to do so. The Respondents failed to comply with the orders and directions as have been issued in CWP No. 886/2018 as well as in LPA No. 15/2019 and as such, the Respondents deserve to be dealt with seriously and be penalized accordingly by this Ld. Authority.
10. Further, 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. Further, that no representation was earlier made in respect of the present grievances before this Hon'ble Authority.
11. The Complainant submits that the present representation for non-compliance of Order dated 31/07/2017 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. The Respondents kept on pursuing their remedies as available to them in accordance with law by way of filling CWP No. 886 of 2018 and thereafter LPA No. 15/2019 and the entire proceedings and litigations came to an end on 23/12/2022 and the Respondents despite of culmination of the litigations, have failed to make the requisite refund to him as such, the present representation before this Ld. Authority.
12. 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 31/07/2017 passed in Complaint No.



*Accepted*  
*09/05/2023*





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

**1515/3/16/037** by Ld. C.G.R.F. by way of making refund of Rs. 39,93,376 alongwith interest @ 12% per annum since 04/06/2010 till date of making the payment and further payment of Rs. 15,19,540/- to him 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' submission:**

1. Despite opportunities given to Respondents to file their reply vide Interim Orders dated 16/01/2023, 25/02/2023, 25/03/2023 and lastly 13/04/2023. Even after the last opportunity provided to the Respondents on 13/04/2023 to file their reply on compliance status of the Orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017 in Complaint No. 1515/3/16/037, dated 30/09/2016, the Respondents failed to submit the same. Even on the last date of hearing they were not sure of the time frame to file their reply.
2. The reply to be filed by the Respondents was only regarding implementation status of the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017 after their appeal twice at HP High Court which was dismissed with cost which they failed to do so even four opportunities since January 2023.

**D – Orders passed by the Consumer Grievance Redressal Forum at Kasumpti:**

1. We have heard the arguments of both the parties and have gone through their claim and counter claims vis-à-vis copies of various details and documents filed with the Complaint, reply thereafter. Thus the Forum observes as under:
2. We have gone through all the documents and have very carefully listened to the arguments of both the parties. We observe that the Complainants applied for dedicated 33 kV feeder for reliable and quality supply. The Respondents agreed to the request of the Complainants and sanctioned estimate for Rs 57,31,870/-. The Respondents asked the Complainants to deposit Rs 39,93,376/- in case and to supply material worth Rs 16,73,493/-. The Complainants deposited Rs 39,93,376/- with the Respondents on dated 03/06/2010 and supplied material costing Rs 15,19,450/- (Rs 7,59,770/- + Rs 7,59,770/-) on 23/04/2011.
3. On one pretext or the other, the Respondents could not complete the job till the filing of this Complaint i.e. 30/09/2016. It is surprising that the small deposit work was not completed for 6 years by the Respondents. The Forum, on one pretext or other, also provided ample opportunities to the Respondents to complete the job since 30/09/2016 but the Respondents did not look serious for completion of the work and in every hearing replied irresponsibly.



*Heupt*  
*09/05/2023*



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

4. We observe that the Respondents were so irresponsible that they are using the amount deposited by the Complainants since 30/06/2010 and paid no heed towards the duty of completing the work. Even after filing of the Complaint, the Respondents were careless about their duty that they did not make any serious efforts to complete the work for about nine months.
5. We are, thus, of the opinion that such high headed attitude of the Respondents is very dangerous for the system and Consumers. The Complainants have also prayed, since beginning of the hearings, that the said deposit work is not required by them at this stage as the very purpose of its benefits is already defeated. We feel that it is very unfair on the part of the Respondents to utilize such huge amount of Rs 39,93,370/- for years together and to keep the material worth Rs 15,19,540/- unutilized for years. We feel that the Complainants must be at least compensated for the financial losses suffered. We thus direct as under:
- i) The Respondents are directed to refund Rs 39,93,376/- to the Complainants alongwith interest @ 12% per annum since 04/06/2010 till date of making the payment.
  - ii) The Respondents are directed to make payment of Rs 15,19,540/- to the Complainants on account of cost of cable provided by the Complainants. No interest on this amount is allowed as the Respondents have not used this cable for any of their use. This cable can be used by the Respondents for any of their use at any other location.
  - iii) The execution of the said deposit work is struck down. The Respondents are directed not to continue with this work.
  - iv) The Respondent Board is at liberty to recover any losses, if any, on account of above directions from the officers/ officials responsible for thus undue/ huge delay.
6. The case is decided in favour of the Complainants.

**E – Analysis of the Complaint:**

1. The case file bearing Complaint No. 1515/3/16/037, dated 30/09/2016 orders on which were passed by Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017 have also been requisitioned and gone through.
2. The submissions made by the Complainant and arguments advanced for the facts of the case and its status have also been gone through.



upto  
09/05/2013





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

3. The submission made by the Complainant have also been incorporated in this order in order to have overall bird eye view of the case at one place.
4. Despite four opportunities given since the registration of the case on 16/01/2023, the Respondents failed to submit their reply on the compliance status of the case. The Respondent Board, after dismissal of their case at HP High Court twice on 03/12/2018 and 23/12/2022 was only to implement the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017.
5. The compliance was to provide status of refund of Rs 39,93,376/- alongwith interest since 04/06/2010 till the actual refund and further refund of Rs 15,19,540/- without interest.
6. The Hon'ble HP High Court had monitored the case after last orders dated 23/12/2022 for recovery of cost of Rs 1,00,000/- from the concerned officers/ officials after enquiry which has also been closed vide orders dated 10/04/2023 on filing of compliance by the Respondent Board vide instructions dated 25/03/2023.
7. Even opportunity given by the Hon'ble HP High Court after orders dated 23/12/2022 in LPA 15/2019, the Respondent Board failed to implement the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017. Even they failed to comply with the orders of the Forum below after registration of the case on 16/01/2023.
8. In the last hearing on 06/05/2023, even the Law Officer for the Respondent Board was not certain of time frame for implementation and he stated that the case is with higher authorities for approval. The further extension in time was disallowed since vide Interim Order dated 13/04/2023, it was made clear that this will be last opportunity for them to file their reply/ compliance status which they failed to do so.

**F – Issues at hand:**

1. **Issue No. 1:** There is only one issue that whether the Respondent Board have implemented the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017 in Complaint No. 1515/3/16/037, dated 30/09/2016 or not?

**G – Findings on the issue:**

**Issue No. 1**

1. As is evident from the analysis done above and the facts/ documents on record, the Respondents have failed to implement the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 31/07/2017 in Complaint No. 1515/3/16/037, dated 30/09/2016.



Kasumpti  
06/05/2023



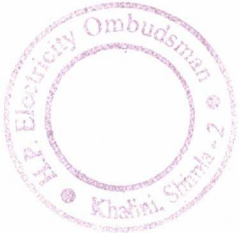
**HIMACHAL PRADESH ELECTRICITY OMBUDSMAN**  
**SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002**  
Phone: 0177-2624525, email: [ombudsmanelectricity.2014@gmail.com](mailto:ombudsmanelectricity.2014@gmail.com)

2. Further, they were given ample opportunity to file the status of the compliance of the orders of the Forum below and even after the orders passed by the Hon'ble HP High Court on 23/12/2022, they have not implemented the orders passed by the Forum below on 31/07/2017.

**H – Order:**

1. The Respondent Board have not implemented the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on dated 31/07/2017 in Complaint No. 1515/3/16/037, dated 30/09/2016 despite ample opportunities after their appeal was dismissed twice by the Hon'ble HP High Court on 03/12/2018 and finally on 23/12/2022 and even after registration of the case at this Appellate Forum on 16/01/2023.
2. The Respondents are directed to implement the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on dated 31/07/2017 in Complaint No. 1515/3/16/037, dated 30/09/2016 within a period of 30 days from the date of issue of this order or latest by 08/06/2023.
3. 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 or latest by 08/06/2023 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.
4. The Complaint filed by M/S Virgo aluminium Ltd, Village Rampur Jattan, Nahan Road, Kala Amb, District Sirmour HP-173030 is hereby disposed off.
5. No cost to litigation.

Given under my hand and seal of this office.



*Leapt*  
09/05/2023  
Electricity Ombudsman