



In the matter of:

Complaint No. 24/2023

Sh. Dina Nath Sharma, S/o Sh. Maru Ram, r/o Village Bhadsin, PO Lehari
Srail Pargna Ajmerpur, Tehsil Bharari, District Bilaspur HP-174027

- Complainant

Vs

1. Chairman, HPSEB Ltd, Shimla-171002
2. The Sr Executive Engineer, Electrical Divisions, HPSEB Ltd, Ghumarwin, District Bilaspur, HP-174021
3. The Assistant Engineer Electrical Sub-Division No. 2, HPSEB Ltd, Ghumarwin, District Bilaspur HP-174021
4. Sh. Sanjeev Kumar Sharma (Sharma Light House), VPO Dadhol (Mahavir Chowk), Padyalag Pargana, Ajmerpur, Tehsil Bharari, District Bilaspur, HP-174027
5. Sh. Sanjeev Kumar Sharma s/o Sh. Inder Raj, r/o Village Bhadsin, PO Lehri Sarail-174027 Pargana Ajmerpur, Tehsil Bharari, District Bilaspur, HP-174027.
6. Sh. Devinder Singh Halqa Patwari Lehari Sarail (Presently Kanongo) Tehsil Bharari, District Bilaspur HP-174027.

- Respondents

1. Complaint No. 24/2023 (Registered on 15/12/2023)
2. (Orders reserved on 30/01/2024, Issued on 13/02/2024)

Counsel for:

The Complainant:
The Respondent-1,2,3:

The Respondent-5:

S.K. Sharma, Advocate
Sh. Rajesh Kashyap, Advocate
Er. Viveka Nand, Assistant Engineer
Er. Abhishek Dhiman, JE
Sh. Sanjay Kumar Sharma, Advocate

CORAM

Er. Deepak Uppal
HP Electricity Ombudsman



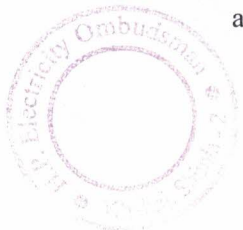
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Order

1. The case was received & registered on 15/12/2023, under the provisions of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by the Additional Consumer Grievance Redressal Forum (CGRF) at Hamirpur on dated 16/11/2023 in Complaint No. 01/2022 transferred from ACGRF Bilaspur in compliance to Hon'ble HPERC order dt.19/07/2023 on the request of Complainant. Copy of the Complaint also stands sent by the Complainant on 12/12/2023 to the respective Respondents by post.
2. The complainant during admission hearing was directed through Interim order dt.18.12.2023 to satisfy the court regarding 50% deposit of the disputed amount with the Respondent Board in terms of prevalent provisions or otherwise the proceedings would not be initiated. The matter was listed for admission hearing on 27/12/2023.
3. The matter was heard. The Complainant discussed at length on the issue of 50% submission of disputed amount and subsequently the officers appearing on behalf of Respondent also deliberated their contentions on the 50 % amount in different ways which were not in line with the amount earlier adjudicated in the order dated 16/11/2023 issued by Independent Member of ACGRF Hamirpur. Hence, after long discussions both the parties arrived at the consensus that till the matter is under process of adjudication, the amount of Rs 4,489/- which was considered earlier, may be considered as disputed amount. This court agreed and the Complainant also satisfied this court on having deposited 50 % of the said amount as a proof. The matter was allowed for admission and further proceedings thereof.
4. The Respondent Board along with other Respondents were directed to submit the reply on or before the next date of hearing and subsequent rejoinder by the Complainant thereafter. The matter was listed for hearing on 09/01/2024.
5. The matter was heard. The Respondent Board could not submit the reply as directed vide this court order dt. 27/12/2023 and sought some more time for submission. This court agreed and directed Respondent Board to submit reply within one week's time and rejoinder thereafter within weeks' time by the complainant. The counsel for Respondent No.5 submitted the reply which was also taken on record. The matter was listed for final arguments on 30/01/2024 subject to the submission of above documents.
6. Case called, the matter was heard. the Respondent Board in compliance to this court order dt. 09/01/2024 submitted the reply within two weeks' time. The complainant also submitted a copy of Rejoinder in the court room on dt.30.01.2024 and was taken on record.
7. Thereafter, with the consensus of all the parties present in the court room, the final arguments were conducted. During arguments, the officers appearing on behalf of Respondent Board prayed for minor corrections in respect of meter no. BN-57 which hence forth was to be read as BN-59. Prayer granted and the officer concerned also confirmed corrections in writing in the court room which was taken on record. The officer concerned appearing in the court also handed over certain documents pertaining to meter reading instances as well as site photographs which were also taken on record for further reference. The record envisaged post 2012 consumption of energy by the Complainant.
8. During arguments the issue related to maintainability was also highlighted. After advancing arguments, the counsel for both Respondent Board and Respondent-5 as well as other officers agreed to the decision dt.16/11/2023 of Independent member of ACGRF Hamirpur on



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maintainability and this court after arriving at consensus by the concerned , agreed and considered the instant matter as maintainable.

9. The arguments were concluded and the Orders reserved. Hence, proceedings ended within 60 days without any delay.

A-Brief Facts of the Case:

Sh. Dina Nath Sharma, S/o Sh. Maru Ram, r/o Village Bhadsin, PO Lehari Srail Pargna Ajmerpur, Tehsil Bharari, District Bilaspur HP-174027 has filed the said complaint under provisions of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by the Additional Consumer Grievance Redressal Forum (CGRF) at Hamirpur on dated 16/11/2023 in Complaint No. 01/2022 transferred from ACGRF Bilaspur. He is consumer of Respondent Board holding A/C No. BN-36 in his name.

B-The Complainant's Submission:

1. The Complainant files an Appeal/Representation under regulation No 28 of the HPERC Consumer grievance Redressal (CGRF and Ombudsman) Regulation 2013 against the order passed by the two members of the Additional Consumer Grievance Redressal forum at Operation HPSEBL Hamirpur (HP) dated 16/11/2023 in case no. 01/2022 titled as Dina Nath Versus Chairman HPSEBL Shimla & others.
2. The Complainant submits that being aggrieved and dissatisfied by the impugned order dated 16/11/2023 in case No. 01/2022 titled as Dina Nath Versus Chairman HPSEBL Shimla & others passed by two members of the Additional Consumers grievances redressal Forum HPSEBL Hamirpur (HP) the petitioner prefers the instant appeal/Representation for kind consideration and for the setting aside of the impugned order dated 16/11/2023 passed by two members of the Forum and adjudicate the matter in accordance with law and procedure and grant the relief sought by the appellant/ petitioner on the following amongst other grounds as under:-

Fact of the Case

3. The Complainant submits that the petitioner filed the complaint before the ACGRF (OP) Circle HPSEBL Bilaspur (HP) which was registered as complaint No. 01/2022 titled as Dina Nath Vs Chairman HPSEBL & others which was decided by the Forum on dated 19/11/2022 in favour of the respondents. Thereafter, the petitioner filed a representation before the Hon'ble HPEO Shimla and the Ld. Ombudsman held the order dated 19/11/2022 unsustainable in law and on facts and remanded the case back to the ACGRF Bilaspur (HP) for deciding the matter afresh vide its order dated 01/04/2023. The petitioner herein moved an application for the transfer of the proceedings to another Forum either at Mandi, Una or Hamirpur as the ACGRF misbehaved with the petitioner during proceeding of the case and threatened to through the petitioner out of his office by force and by manhandling. This unbecoming behavior of the ACGRF was reported to the HPERC, Block No 37 SDA Complex kasumpti Shimla 9 and vide its order dated 19/07/2023 the Commission transferred the matter to be adjudicated by the ACGRF Hamirpur (HP).
4. The Complainant submits that the ACGRF Hamirpur is constituted of three members out of them one is the chairman and the two others are the members of the Forum. The Forum decided the





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matter by passing two judgments and are not anonymous on one decision. The two members of the Forum passed one judgment and other member passed other judgment. The two members judgment of the forum has not adjudicated the matter on merit and granted the relief to the petitioner. The two members judgment is very astonishing and they have shown their inability to adjudicate the matter as the matter has already been decided by their counterpart ACGRF (OP) Circle at Bilaspur (HP). However, the order passed by the ACGRF(OP) Circle at Bilaspur (HP) was held unsustainable by the Hon'ble Ombudsman vide its order dated 01/04/2023. The two members of the Forum did not adjudicate the matter on merit and shown their inability of the complaint of the aggrieved complainant. Hence, the instant appeal/ representation for adjudicating the matter on merit at your end.

GROUND OF APPEAL/REPRESENTATION

5. The Complainant submits that the two members of the ACGRF Hamirpur (HP) vide their judgment dated 16/11/2023 did not adjudicate the matter on merit nor on the issue of maintainability of the complaint which was remanded for adjudication to the ACGRF Bilaspur (HP) by the Ld. Ombudsman HPSEBL Shimla. However, after remand the matter was transferred to the ACGRF Hamirpur (HP) by the Hon'ble Regulatory Shimla on the application of the complainant.
6. The Complainant submits that the two members of the Forum ACGRF Hamirpur also observed in their order dated 16/11/2023 that the Ld. Ombudsman is not a Court and the matter as adjudicated by the ACGRF Bilaspur cannot be re-adjudicated by them as the ACGRF Hamirpur is not an appellate Forum. This version of the two members of Ld. ACGRF Hamirpur is wrong and the Forum was bound to adjudicate the matter as per the directions and order passed by the Ld. Ombudsman Electricity Shimla vide its order dated 01/04/2023. As stated supra the order passed by the Ld. ACGRF Bilaspur (HP) vide order dated 19/11/2022 is held as unsustainable by the Ld. Ombudsman vide its order dated 01/04/2023 and the matter was transferred to the Ld. Forum ACGRF Hamirpur for adjudicating the matter afresh. However, two members of the ACGRF Hamirpur failed to exercise their jurisdiction vested in them over the matter and passed the impugned order dated 16/11/2023 by denying the status and jurisdiction of the Ld. Ombudsman pertaining to remand order of the complaint dated 01/04/2023 of the two members of the forum is illegal, wrong, null and void and is not sustainable on facts & Law.
7. The Complainant submits that the complainant is aggrieved and dissatisfied by the observation made by the two members of the forum submitted the instant representation to the Ld. Ombudsman to adjudicate the matter afresh at your end by setting aside the observation made by the two members of the ACGRF Hamirpur vide their order dated 16/11/2023. The two-member order is discernible that they have not adjudicated the matter as assigned and referred/ remanded to them for adjudication. Hence in such circumstances the order of the independent member shall prevail as the matter is only adjudicated by the independent member of the ACGRF Hamirpur (HP) only.
8. The Complainant submits that the petitioner is fully satisfied by the order passed by the independent member of the ACGRF Hamirpur (HP) Ld. Shri Ajay Vikrant independent Member, ACGRF at operation Circle HPSEBL Hamirpur (HP) who adjudicated the matter on maintainability and on merit as per directions of the Ld. Ombudsman Electricity Shimla. However, the two members of the ACGRF Hamirpur has not adjudicated the matter and such in circumstances the findings recorded and order passed by the independent member shall prevail.

Sumit



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Hence the order passed by the two members of the ACGRF be declared as null and void and the order of the independent member be confirmed in the interest of justice and fare play.

9. The Complainant submits that the Ld. Ombudsman has the jurisdiction to hear and decide the matter and set aside and quash the impugned order dated 16/11/2023 passed by the two members of the ACGRF Hamirpur (HP).
10. The Complainant submits that the Representation is well within the period of limitation.
11. The Complainant submits that the requisite fee has already been paid and deposited in the bank in the account of the Executive Engineer HPSEBL Ghumarwin Distt. Bilaspur (HP)

Prayer:-

12. The Complainant submits that it is, therefore, respectfully prayed that the order passed by the two members of ACGRF (OP Circle) HPSEBL Hamirpur (HP)-177001 is illegal, wrong, null and void and the two members have not exercised their jurisdiction vested in them and have not obeyed the remand order dated 01/04/2023 passed by the Ld. Ombudsman Electricity Shimla and rendered the matter un adjudicated and questioned the status of the Ld. Ombudsman in passing the order dated 19/11/2022 passed by the ACGRF Bilaspur (HP) and refused to exercise their jurisdiction illegally and wrongly. Therefore, the relief sought by the complainant has not been granted which is satisfactorily granted by the independent member vide his order dated 16/11/2023 by the ACGRF Hampirpur (HP). Therefore, the instant representation for further order after requisition of the case file record from the ACGRF (OP) circle Hamirpur (HP) and justice be done.

C- The Respondent (HPSEBL) -3's Submission:

Preliminary Submissions:

1. The Respondent submits that the representation as filed by the complainant is not maintainable for the reasons that the Ld. ACGRF Hamirpur has filed a detailed and well-reasoned speaking order that warrants no interference by this Ld. Forum. Hence, the representation of the complainant deserves to be dismissed.
2. The Respondent submits that the complainant has no cause of action and Locus Standi to file and maintain the present representation therefore, also the representation deserves to be dismissed.
3. The Respondent submits that the complainant has suppressed true and material facts from this Ld. Court, therefore, the representation deserves to be dismissed on this score alone.

REPLY ON MERITS:

1. The Respondent submits that the contents of para 1 of the representation being matter of record are admitted to the extent that the complainant has filed a complaint before ACGRF (OP) circle Bilaspur which was registered as complaint No. 1/2022 and the same was decided on 19/11/2022. However, it is submitted that before filing the complaint before ACGRF (OP) circle Bilaspur the complainant has already raised his grievances before Consumer Disputes Redressal Forum Bilaspur camp at Ghumarwin in consumer complaint no. 47/2018 (G) which has been dismissed on 23/02/2022. Copy of the order dated 23/2/2022 passed by Ld. CDRF Una camp at Bilaspur is annexed as **Ann. R 3/1**. It is further submitted that the applicant had also filed a civil suit U/S. 9, 26 order VII rule 1 & 3 CPC read with section 38 & 39 of the specific relief act 1963 which was registered as CS NO. 337-6/2022 and the same stand dismissed vide order dated 15/07/2022. Copy of the application & order is also annexed as Ann. R 3/2 for kind perusal of this Hon'ble Ombudsman. It is admitted that the petitioner has filed representation before the Ld. Ombudsman Shimla and the same was remanded back to ACGRF (OP) circle Bilaspur for



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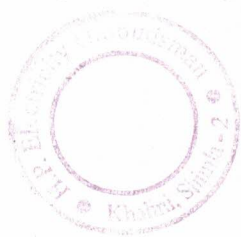
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deciding the matter fresh vide its order dated 01/4/2023. Rest of the contents are denied for want of knowledge.

2. The Respondent submits that the contents of para 2 of the representation are admitted to the extent that the LD. ACGRF Hamirpur is constituted of three members i.e., Chairman and two other Members of the Forum. It is pertinent to mention here that the complainant has wrongly observed that the order passed by the single member has decided the matter on merit and granted the relief to the complainant. The fact of the matter remains that the contents of this para are based on wrong assumptions and misrepresentation of the legal position by the complainant and the settled proposition of Law is that only majority judgments holds the binding value and minority opinion has only persuasive value.

REPLY TO GROUNDS OF APPEAL/ REPRESENTATION:

1. The Respondent submits that the contents of para 1 of the grounds of appeal are vehemently denied that the two members of the ACGRF Hamirpur did not adjudicate the matter on merit nor on the issue of maintainability. However, it is submitted that Ld. ACGRF Hamirpur has rightly considered the case in accordance with Law and has thus rightly rejected the case of the complainant by passing a well-reasoned and speaking orders. Therefore, this Ld. Ombudsman warrants no interference in the order passed by ACGRF Hamirpur.
2. The Respondent submits that the contents of para 2 of the grounds of the appeal are admitted to the extent that the two members of the forum at ACGRF Hamirpur observed in the order dated 16/11/2023 that once an order has been passed by the forum and the complainant not being satisfied by the orders pass by the forum has approached the Ld. Ombudsmen and their representation has been entertained by the Ombudsman under Regulation 33 of ibid HPERC Regulation 2013 and on aforesaid terms the complaint has been disposed of. It is pertinent to mention here that the one independent member of ACGRF operation circle Hamirpur has commented and passed the order on very same day i.e. 16/11/2023 and has wrongly come to the conclusion that the electricity bills having account no. BN-36 post 2012 that in his opinion there might have not been any power consumption post 2012. The fact of the matter remains that TDCO has been done in the year 2018 whereas independent member has assumed that the same has been done in the year 2012 which is factually incorrect. The independent member has further assumed that there was no consumption whereas as per record of the replying respondent there was a consumption post 2012. It is submitted that independent member of ACGRF Hamirpur has wrongly mentioned the date in the order dated 16/11/2023 as 08/03/2012 whereas it should have been mentioned as 08/3/2018 and the entire observations have been made on the basis of the year 2012. It is submitted that Ld/ ACGRF Bilaspur has conducted elaborate proceedings on the issue wherein the complainant and the respondents were heard in length and after examining all the facts and records the Ld. Forum has held the complainant liable to pay ₹9822/- for non-payment of electricity bill and the Forum also observed that there was no irregularity in outstanding amount. It is empathically denied that the observations of the two members of the Forum is Legal, wrong, null and void and is not sustainable on facts and Law.
3. The Respondent submits that the contents of the para 3 of the grounds of appeal are empathically denied being false and wrong. It is denied that the complainant is aggrieved by the observations dated 16/11/2023 made by two members of the forum. The fact of the matter remains that the two members of the ACJRF Hamirpur has rightly considered the case of the complainant in accordance with law and rejected the claim of the complainant through its majority view.
4. The Respondent submits that the contents of the para 2 of the reply to the facts of the case are reiterated for the purpose of gravity. The binding values in majority judgments therefore, by



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implication complainant cannot claim benefits on the basis of minority view. Giving benefit to the complainant on the basis of minority judgments would mean unsettling the settled legal positions.

5. The Respondent submits that the contents of the para 5 of the grounds of appeal are incorrect and hence denied. Since there is no illegality in the order passed by Ld. ACGRF Hamirpur therefore, the complaint/representation deserves dismissal.
6. The Respondent submits that the contents of the para 6 of the grounds of appeal being formal in nature needs no reply.
7. The Respondent submits that the contents of the para 7 of the grounds of appeal needs no reply being matter of record.
8. The Respondent submits that the representation being devoid of any merit deserves to be dismissed with cost.

D- The Respondent-5's Submission:

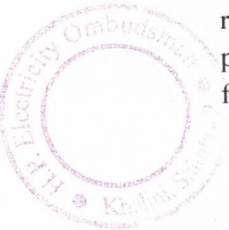
The respondent no. 5 submits as under: -

Preliminary Objections –

1. The Respondent submits that the present appeal/ representation is not maintainable and deserves to be dismissed.
2. The Respondent submits that the appellant has no cause of action and locus standi to file the present appeal.
3. The Respondent submits that the appellant is estopped to file the present appeal by his own act, conduct, omission and commission.

Reply on grounds of appeal/representation-

1. The Respondent submits that the para no. 1 of the appeal/representation is denied that ACGRF Hamirpur decided the matter wrongly and in the order of ACGRF Hamirpur the forum clearly mentioned that they are not competent to decide the matter as it was already decided by their peer Additional Forum and this forum cannot be an appellant forum to its peer forum. It is submitted that the respondent no. 5 has built his own house and the appellant has no concerned with that. The connection BN 57 was installed by the electricity department after all the formalities completed by respondent no. 5 .
2. The Respondent submits that the para no. 2 of the appeal/representation is wrong hence denied.
3. The Respondent submits that the para no. 3 of the appeal/representation is wrong hence denied.
4. The Respondent submits that in reply of the para no. 4 of the appeal/representation it is submitted that Ld. Sh. Ajay Vikrant Independent member ACGRF at operation circle Hamirpur comments upon the present complaint and gave his findings that there can be one separate connection to each dwelling unit so it is clearly mentioned that where there are separate dwelling unit there can be a separate connection i.e. the case in present complaint. The defendant no. 5 is living in his separate house and the electric connection to account no. BN 57 was installed in his name by following the proper procedure every formality was completed by the respondent no. 5 and each was verified by the electricity department. Nothing wrong was done by the respondent no. 4 is well as he gave the test report of the premises of Sh. Sanjeev Kumar i.e respondent no. 5, also the report given by respondent no.6 was true and genuine and nothing wrong was done by anyone in performing their part. There is no concerned of the appellant in the electric meter BN no. 57. In fact at the time of renovating the house the respondent no. 5 asked the complainant again and



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again to take his electric meter as the premises was in possession of the respondent no. 5 but the appellant did not pay any attention to the complainant and file this false complaint .

5. The Respondent submits that in reply of the para no. 5 of the appeal/representation it is submitted that when the matter was decided by the ACGRF Bilaspur then there is no need to decide the matter again as the electric meter BN 36 which was on the name of appellant was disconnected by the department after the order of ACGRF Bilaspur. It is submitted that the electrical meter on the name of Sh. Sanjeev Kumar respondent no. 5 bearing BN no. 57 was installed in his own house with which the complainant has no concerned with.
6. The Respondent submits that the para no. 6 of the appeal/representation needs no reply.
7. The Respondent submits that the para no. 7 of the appeal/representation of the needs no reply.

Prayer: -

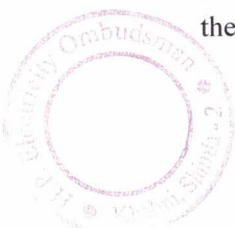
The Respondent submits that it is, therefore, respectfully prayed before this Ld. Court that the appeal of the appellant may kindly be dismissed with costs as there is no merits in the appeal in the interest of justice and justice be done.

E- The Complainant's Additional Submissions through Rejoinder:
REJOINDER TO THE PRELIMINARY OBJECTIONS.

1. The complainant Submits that para No. 1 of the preliminary objection is wrong. Hence denied. The representation is maintainable in the present forum. It is white lie to tell that the Ld. Addl. CGRF Hamirpur has decided the matter finally. The two members of the Forum has shown their inability to decide the matter put before them on the ground that the matter has already been decided by their counterpart i.e. ACGRF Bilaspur. However, the decision rendered on dated 19-11-2022 by The ACGRF Bilaspur has been quashed and set aside by the Hon'ble Ombudsman vide his order dated 01-04-2023 and the order was held unsustainable and the matter was remanded back to the Ld. ACGRF Bilaspur (HP) to decide the matter afresh. However, the matter was got transferred to the Ld. ACGRF Hamirpur (HP) by the complainant.
2. The complainant Submits that para No. 2 of the preliminary objection is wrong. Hence denied. It is wrong to say that the complainant has no cause of action and locus standi to file the instant representation as alleged.
3. The complainant Submits that para No. 3 of the preliminary objection is wrong. Hence denied. It is wrong to say that the complainant has concealed and suppressed the material facts from the Hon'ble Forum as alleged.

REJOINDER TO THE FACTS OF THE CASE.

1. The complainant Submits that para No. 1 of the reply is correct in so far as the admission made by the respondents. Rest of the para is wrong. Hence denied. The complaint filed by the complainant before the Consumer Disputes Redressal Forum Una camp at Ghumarwin is dismissed on the ground of maintainability before the Forum. Similarly, the Civil suit filed by the complainant before the Ld. Civil Court has also not been entertained and the plaint was returned to the complainant being not maintainable before the Ld. Civil Court and these facts do not prevent the complainant not to file the complaint before the Ld. ACGRF Bilaspur (HP) for redressal of grievances pertaining to electricity disputes.
2. The complainant Submits that para No. 2 of the reply is correct in so far as the admission made by the respondent No. 1 to 3. Rest of the para is wrong. Hence denied. The para No. 2 of the representation is true and correct. It is again submitted that out of three members two have



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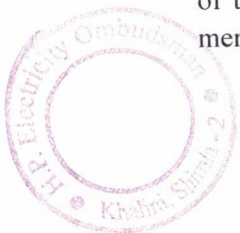
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not decided the matter by saying that the matter has already been decided by the Ld. ACGRF Bilaspur vide his order dated 19-11-2022. However, the order dated 19-11-2022 had been set aside by the Hon'ble Ombudsman vide his order dated 01-04-2023 and remanded the matter to The ACGRF Bilaspur to decide the matter afresh. Only one member of the ACGRF Hamirpur (HP) decided the matter on merit which is acceptable to the complainant. The two members raised the objection over the remand order dated 01-04-2023 passed by the Hon'ble Ombudsman by saying that the Ld. Ombudsman has no jurisdiction to remand the matter as the Ld. Ombudsman is not a Court. The two members of Forum observed that The Ld. Ombudsman is not an appellate Court. The two members of the Forum also observed that they are not competent to decide the matter which has already been decided by their counterpart i.e. ACGRF Bilaspur (HP). Hence the judgement and order passed by Sh. Ajay Vikrant Independent Member, ACGRF Operation Circle HPSEBL Hamirpur (HP) is the decision on merit and he only adjudicated the matter on merit would prevail. The two members' majority decision is only passed by saying that they are not competent to adjudicate the matter as they are not competent to decide the matter which has already been stood decided by their counterpart ACGRF Bilaspur on dated 19-11-2022 and they cannot sit on judgment already passed by their counterpart i.e. ACGRF Bilaspur (HP). Hence the majority order is no order in the eye of law as the two members majority order is passed by abstaining themselves from passing any judgment on merit.

REJOINDER TO THE GROUNDS OF REPRESENTATION.

1. The complainant Submits that para No. 1 of the reply is wrong. Hence denied. Not admitted. The para No. 1 of the representation is true and correct. It is wrong to say that two members have adjudicated the matter on merit as alleged. It is, wrong to say that the complaint has been dismissed by the majority decision as alleged. However, the two members have abstained themselves from passing any judgment and denied to adjudicate the matter on merit by saying that Ld. Ombudsman had no jurisdiction to remand the matter, further held that Ld. Ombudsman is not an appellate Court to remand the matter from deciding the matter afresh. The two members order also questioned the jurisdiction of the Ld. Ombudsman. The two members Forum further held that they cannot sit in judgment over the order passed by the Ld. ACGRF Bilaspur (HP) on dated 19-11-2022. However, this order had already been set aside and quashed by the Order passed by the Ld. Ombudsman on dated 01-04-2023. Hence the order of the independent member, ACGRF Hamirpur Sh. Ajay Vikrant would prevail.
2. The complainant Submits that para No. 2 of the reply on grounds of appeal in so far as the admission made by the replying respondents are correct. Rest of the para is wrong. Hence denied. The para No. 2 of the grounds of appeal is true and correct. The version as stated by the respondents is false, illegal, wrong, null and void. The judgment and order passed by the Ld. Independent Member Sh. Ajay Vikrant ACGRF Hamirpur (HP) is legal, valid and binding and has been passed as per law, rules and procedure. The proceedings of the ACGRF Bilaspur has been quashed and set aside by the Ld. Ombudsman vide his order dated 01-04-2023 and the matter was remanded back for deciding the matter afresh. As the complainant had no faith upon the Ld. ACGRF Bilaspur (HP) the matter was got transferred to the Ld. ACGRF Hamirpur (HP) by the order of the Hon'ble Regulatory Commission Shimla.
3. The complainant Submits that para No. 3 of the reply is wrong. Hence denied. The para No.3 of the representation is true and correct. The two members have not decided the matter on merit and abstain from passing the order on merit but abstain themselves from acting over the



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matter. Hence there is no question of rejecting the claim of the petitioner as alleged. The observations made by the two members on the legal authority of the Hon'ble Ombudsman is wrong and rightly admitted by the replying respondent No. 1 to 3.

4. The complainant Submits that para No. 4 of the reply is wrong. Hence denied. There is no majority judgment passed by the ACGRF Hamirpur (HP) but majority members have abstained themselves from passing any order on merit. Hence the judgment and order passed by independent member of the Forum Ld. Sh. Ajay Vikrant would prevail.
5. The complainant Submits that para No. 5 of the reply is absolutely wrong. Hence denied. Not admitted. The para No. 5 of the grounds of appeal are true and correct.
6. The complainant Submits that para No. 6 of the reply needs no rejoinder.
7. The complainant Submits that para No. 7 of the reply needs no rejoinder.

PRAYER:

8. The complainant Submits that it is, therefore, respectfully prayed that the representation as filed by the petitioner may very kindly be considered sympathetically and the relief sought in the prayer clause of the representation may very kindly be granted in favour of the petitioner and against the respondents and the order passed by the independent member sh. Ajay Vikrant of the ACGRF Hamirpur (HP) be confirmed and justice be done.

F- The Complainant's written Arguments:

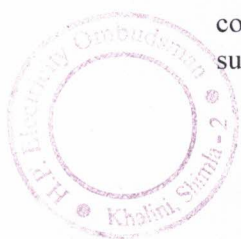
The Complainant did not submit any written arguments instead preferred oral arguments.

G- The Respondent's written Arguments:

The Respondent-1,2,3(HPSEBL) & Respondent-5 also preferred oral arguments.

H- The Arguments among parties during proceedings :

1. The final arguments were conducted on dt. 30.01.2024 on the submission of reply by the respondents and rejoinder by the Complainant and further after having consensus of all the concerned parties present in the court room.
2. During arguments, the officer appearing on behalf of Respondent Board prayed for minor corrections in respect of meter no. BN-57 which was to be read as BN-59 and erroneously stood mentioned as BN-57. Prayer granted and it was affirmed that hence forth A/C No. BN-57 shall be replaced with A/C No. BN-59 for all purposes of analysis and final order. The officer concerned also confirmed corrections in writing in the court room which was taken on record.
3. The officers appearing as Respondents on behalf of HPSEBL handed over certain documents pertaining to the meter reading instances as well as site photographs in the court room which were also taken on record for further reference. The documents during final arguments established that there was post 2012 consumption of energy in meter No. BN-36.
4. During arguments, the Complainant asserted that the meter No. BN-36 was made redundant / nonfunctional after the meter No. BN-59 was installed in year 2012. But the Respondent Board categorically emphasized that there occurred consumption even post 2012 and supplemented the contentions with the documents which were also placed on record. This made the matter suspicious and added apprehensions that the meter was functional even after 2012 and was used



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occasionally as and when the Complainant visited the premises and thereafter long back in year 2018 when the TDCO was issued, the meter was made non-functional.

5. This court after listening both the parties and documents placed on record observed and convinced that the Complainant submissions were based on surmises and trying to conceal certain facts from this Appellate Forum which were important with legitimate conclusion, by diverting the attention that the meter BN-36 was made redundant from 2012 onwards whereas after examining the consumption pattern placed on record by the Respondents in the court room, it was conceived that the Complainant occasionally visits premises and uses Respondent's services to his requirements as is evident from post 2012 consumption. However, the aggravation of the amount is due to non-payment by the Complainant. Hence, the contentions of Complainant were contrary to the averments and factual status was substantiated by the record submitted by the Respondent Board during final arguments which established without any doubt that there was post 2012 consumption of energy in meter No. BN-36.
6. During arguments the issue related to maintainability was also highlighted. After advancing arguments, the counsel for Respondent Board and Respondent-5 as well as other officers present in the court agreed to the decision dt.16/11/2023 of Independent member of ACGRF Hamirpur on maintainability and this Appellate Forum after arriving at consensus, agreed and considered the instant matter as maintainable.

I- Consumer Additional Grievance Redressal Forum:

i) Consumer Additional Grievance Redressal Forum Order Bilaspur:

Date of decision 19/11/2022

Order

Brief facts of the complainant: -

1. The complainant is a domestic consumer of the respondent having Meter Account No. BN-36, Due to Non-payment of arrear of Bill respondent has issued TDCO on 08/03/2018. Aggrieved from above order complainant has approached this forum with following prayer.
 - i) That the Meter No. BN-36 of the complainant be made functional and the supply of electricity be restored through meter & meter No. BN-57 in the name of Sanjeev Kumar be made non-functional and removed from the premises of the complainant.
 - ii) The recovery of Rs. 4489/- standing against connection No. BN-36 of the complainant by making the connection function illegally, wrongly and arbitrarily be waived off in the interest of justice.

Brief facts of Respondent: -

2. Respondent states that aforesaid Meter Having Account No. BN-36 has been installed in the name of petitioner since 1964. The petitioner has not deposited electricity bill which accumulated to amount Rs. 4489/- till March 2018. Thereafter respondent has issued TDCO with a direction to deposit the outstanding arrear of Bill amounting to Rs 4489/- within 15 days which hasn't been deposited by petitioner till date. Moreover, now this outstanding



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amount has been reached to Rs 9822/- as on September 2022 i.e. date on admission of this petition in the forum. The supply is disconnected temporarily due to non-payment and meter is existing at site.

3. Respondent further state that Meter Account No- BN-57 has been installed on the name of Sanjeev Kumar in the year 2012 after completing all the codal formalities including revenue report duly signed by concerned authority.
4. On scrutiny of the record provided by the respondent as well as complainant and during the course of hearing, it has been observed respondents No. 4, 5 & 6. this forum has no jurisdiction to hear such dispute in respect of these parties.
5. The bill issued to the complainant since year 2018 is for zero consumption due to Temporary Disconnection Order and has accumulated due to fixed charges and surcharges levied there on.
6. Respondents in particular Assistant Engineer ESD No. II Ghumarwin hasn't been able to recover the outstanding amount and effect Permanent Disconnection Order (PDCO) due to various cases filed in other forums & civil court till now. Respondent also highlighted safety concern in case above meter BN-36 connection is restored as since there is no load made available by the complainant.

Opinion of the Forum.

7. On first hearing on dt. 29/09/2022 complainant was given an option to clear the outstanding dues amounting to Rs. 9822/- and revoke his connection to which he agreed vide interim order No. CGRF /Operation Circle (Bilaspur) /Complaint No. 1/2022-09-11 dated: 29/09/2022 but during seconds hearing on dated 01/11/2022 complainant informed that he hasn't deposited the amount and insisted on waiver of the entire bill amount. Also, complainant has failed to prove that any electrical load can be connected to above energy meter by him. Neither could he prove his ownership of the premises on which meter having account no. BN-57 is installed and is being requested to be disconnected.
8. The complainant was given another 15 days' time to prove his ownership or to produce a test report for the load he intends to connect directly to this forum observes as far as grievance regarding making the meter redundant by issuing another connection BN-57. It is the responsibility of owner of the premises to get a special reading done by the licensee at the time of occupancy or on the premises failing vacant (as per supply code instruction No. 5.2.12)

After examining all the facts & record this forum is of the following opinion: -

- i) Meter having Account No. BN-36 is installed in the name of Complainant and isn't energize due to TDCO and prior to that from 2012 was disconnected from mains due to safety issues due to non-availability of load by the consumer.
- ii) Outstanding amount amounting to Rs. 9822/-(as on September 2022) is only due to Non- Payment of Electricity Bill i.e. no irregularity is found in the outstanding amount.



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- iii) Meter having account No. BN-57 is installed in the name of Sanjeev Kumar only after completing all the codal formalities including revenue record duly signed by concerned authority.

9. In light of above facts and circumstances the complaint is disposed off and decided in favour of the respondent HPSEBL.
10. The respondent in particular respondent No. 2 & 3 may proceed as per sales manual instruction No. 36 (Being a case of default in payment of dues & charges) & 37.3 (Discontinuance on account of immediate danger/damage to the equipment) and affect recovery of arrear from the defaulting consumers as per sales manual instruction No. 38.

ii) Consumer Additional Grievance Redressal Forum Order Hamirpur:

ACGRF Order

Forum's Order

1. Pursuant to the order passed on 01/04/2023 by the Ld. Ombudsman, this Forum has re-examined the matter vis-à-vis the HPERC and Ombudsman Regulations, 2013 and amendments thereto notified by the HPERC and re-heard the matter in wake of the observations made and directions passed by the Ld. Ombudsman in its said order with regard to adjudication of the complaint on its maintainability.
2. The Additional Forum observes from perusal of the ibid Regulations that it is not within its jurisdiction to adjudicate afresh on a matter decided by a per Additional Forum for the simple reason that this Forum can't be an Appellate Forum to its per Forum;
3. The Forum further observes that the matter in hand is not one of a lower Forum deciding the matter on maintainability which was followed by an appellate Forum adjudicating and passing Orders without going into the issue of maintainability. This would certainly prompt a higher Court to issue Orders to the said appellate Forum to first discuss the issue on maintainability. This is not the case here. Here LD. Ombudsman is not a Court. Further, the instant matter is one which was decided by the Additional CGGRF, Bilaspur on merits. Thus, the question of its adjudication on maintainability by the same Forum does not arise and neither is it open to Ld. Ombudsman to pass orders to this Forum to decide on maintainability. The Ld. Ombudsman has not appreciated this proposition of law and has wrongly directed for matter to be decided afresh after going into its maintainability.
4. On perusal of the ibid 2013 Regulations, Forum in its considered opinion also observes that once an order has been passed by the Forum and the Complainant not satisfied by the order passed by the Forum has approached the Ombudsman under Regulation 33 of the bids HPERC and ombudsman Regulation, 2013, then the only way forward is that the matter be decided by the Ld Ombudsman under its jurisdiction and thus the matter cannot be remitted back to the Forum to be decided afresh;
5. On aforesaid terms the complaint is disposed of.

iii) Consumer Independent Additional Grievance Redressal Forum Order:

Comments & Order by Ajay Vikrant, Independent Member, ACGRF at Operation Circle, HPSEB, Hamirpur (HP):-

1. I did not agree to the procedures and action taken by the Respondent No. 3 i.e. Sub Divisional Officer, Electrical Sub Division -11, HPSEBL, Ghumarwin, Distt.- Bilaspur(HP) while

(Signature)





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releasing electrical connection to Mr. Sanjeev kumar @ Sanjay kumar S/o Sh. Inder Raj, Resident of village Bhadsin, P.O. Lehri Sarail, Distt. Bhaspur (HP) -174027 having Account No. BN- 57 (Respondent No.5), disconnecting of electrical load of Account no. BN-36 in the name of Sh. Dina nath Sharma S/O Sh. Maru Ram (Complainant) while installing electric connection to Account no. BN-57 & subsequently working out amount due on account of different charges of HPSEBL for Account no. Bn-36 amounting to Rs 4489/-till March 2018, needs reviewing as under: -

- a. HPSEBL Sale Manual Inductions under Conditions of Supply, Para No. 4.3, titled, "one Connection in one Premise", read "Generally one connection is released to one premise except in case of domestic consumer where, one separate connection is released to each dwelling unit. If Consumer requests for separate connection in the premises, it shall be allowed as additional load to the already existing connection."
- b. However, HPREC- 2004 for Duty of licensee to supply on request says," on the receipt of an application from the owner or occupier of the premises, every distribution licensee shall, within the time frame specified hereunder, issue, by a resisted post/ speed post, a demand notice to the applicant, clearly indicating-(a) all deficiencies to be made good and the codal formalities to be completed by the applicant."
- c. "Verification of Load "reads" the actual load requirements of load of prospective consumer/applicant will be entered in the A & A in the A & A from/ requisition from attached with the A & A from. The actual requirements of the load of the consumer should be carefully estimated through personal visit of JE/ AE to the premises where the electric connection is required within the time specified for this purpose. The definition of connected load as provided in the H.P. Electricity Supply Code (Refer Clause 1.2.11) must kept in mind while verifying the connection load"
- d. HPSEBL Electricity Supply Code Clause no. 1.2.11, "Connected load" expressed in KW means aggregate of the manufacturers rated capacities of all energy consuming devices or apparatus connected with the distribution licensees service line, on the consumer's premise, which can be simultaneously used.
- e. ACGRF, Operation Circle, HPSEBL, Bilaspur (HP) Order dated 19/11/2022, case refer no. ACGRF/Complaint No. 01/2022, says "meter having Account No. BN-36 is installed in the name of complainant and is not energies due to TDCO and prior to that from 2012 was disconnected from mains due to safety issues due to non-availability of load by the consumer. Hence, in my opinion there might have not been any power consumption post 2012.
- f. However, the saying of ACGRF, Operation Circle, HPSEBL, Bilaspur (HP) is vague/ arbitrary as Respondent No. 3 i.e. Sub Division Officer, Electricity Sub Division No.- 11, HPSEBL, Ghumarwin (HP) issued ' Notice for Disconnecting of Electricity' to Sh. Dina Nath, village – Bhadsin (Complainant) on dated 08/03/2012 vide refer no. HPSEB/GESD-ii/C-ii/2017-2018 -555 dated 08/03/2012 that says " whereas you have neglected to pay the charges of electricity and amount of Rs 4489/- have become outstanding against the Account No. BN-36. So as per provision under Section 56 of Electricity Act 2003, a fifteen (15) days' notice is hereby given to deposit the full



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amount failing which the supply to the premises will not be restored until the full amount along with reconnection charges are paid. However, this is without prejudice to recover the same by suit". It seems that electrical supply of account no. 36 was not disconnected prior to 2012 i.e. 08/03/2012.

- g. Para no. 7.1.2, titled," Disconnection and Reconnection of Power Supply", says," where a consumer fails to deposit, the billed amount or any sum other than the charge for electricity due from him, with the licensee by the due date mentioned in the bill, the licensee may, after giving not less than fifteen days clear notice in writing to such consumer and without prejudice to his other rights to recover such amount, disconnect supply to the consumer temporarily and for that purpose disconnection any electric supply line or other works being the property of such a licensee. The authorized official of the licensee shall ensure that the cases pertaining to default payment (s)/ temporary disconnections are mentioned regularly and where default in payment (s) is continued for a period of six months, from the date of the payment first became due, the supply may be disconnected permanently."
- h. On hearing on dated 16/10/2023, it has observed that the Complainant was not making payment of any bill due to Account No. BN-36 prior to year 2012 being residing at other location for the last two decades, as such, he was failed to pay any due bill of Account No. BN-36 subsequent to year 2012 till March, 2018. The payment of energy bills of o/a periodic power consumption was recorded having account no. BN-36 prior to year 2012, were being made by the Occupant of premise i.e. Sanjeev Kumar or his guardian (Respondent No.-5)
- i. HPSEBL Application and Agreement from (CS-1b) envisages wherein the applicant declare/ undertakes that grant of electrical connection will not confer any legal right for the regularization of building/land use in respect to the electricity connection provided at the Applicants premise.
- j. Neither Respondent No.3 had maintained sanctity of HPSEBL/HPERC Sale Manual & Supply Code guidelines & procedure nor Complainant (Sh. Dina Nath Sharma) understood his responsibility for making payment of electricity bills prior & post year 2012 but, Mr. Sanjeev Kumar & /Sh. Inder Raj was in occupying the premise in which Energy Meter having Account No. BN-36 was installed. The installation of Account No. 57 was/is the violation of codal norms & procedures.
- k. The finding of order of ACGRF, HPSEBL, Bilaspur (HP) is lack of merit. Hence, the maintainability of grievance was prevailed.

2. In my opinion, Mr. Sanjeev Kumar S/o Sh. Inder Raj (Respondent No.5) was/ is accountable for making payment of electricity bills having Account No. BN-36 post 2012 up to a period of first six months & for remaining period the officials of HPSEBL were responsible for not issuing/ effecting PDCO in line to Para no. 7.1.2, titled," Disconnection and Reconnection of power Supply" well in time. Further, as envisaged in Application and Agreement Form (CS-1b) will not confer any legal right for the regularization of building/ land use in respect to the electricity connection provided at the Applicant's premises, the existence of Account No. 36 will not yield any legal rights in premise share holding to the Complainant, as such, the prayer for restoring electrical Energy Meter Account No.36 is set aside.



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3. In view of what has been stated above, the notice/order bearing refer. No.: HPSEB/GESD-II/C-41/2017-18-555 dated 08/03/2018 issued by Respondent no.3 should be nullified and as a consequence the Respondent No.3 may not ask the Complainant (Sh. Dina Nath Sharma) to pay the charges of electricity and amount of Rs 4489/-

J-Analysis of the Complaint:

1. The case file bearing Complaint No. 01/2022 titled as Dina Nath Versus Chairman HPSEBL Shimla & others and order passed by two members of Additional Consumer Grievance Redressal forum at Operation Circle HPSEBL Hamirpur (HP) on dated 16/11/2023 & order dt.16.11.2023 by the Independent member of ACGRF Hamirpur have been requisitioned and gone through.
2. The order dt. 19/11/2022 passed by the Consumer Additional Grievance Redressal Forum Bilaspur on merits and set aside by that Ombudsman vide order dt. 01/04/2023 have also been gone through and reproduced for record purpose.
3. The submissions made by the parties and Rejoinder submitted by the Complainant have also been incorporated in this order to have composite view of the entire case.
4. The documents on record, arguments made by all the parties concerned in the case have been taken on record and gone through in totality.
5. The relevant Acts, Supply Codes, Manual of Instructions Part-1 and relevant supply conditions have been referred to for judicious settlement.
6. Sh. Dina Nath Sharma, S/o Sh. Maru Ram, r/o Village Bhadsin, PO Lehari Srail Pargna Ajmerpur, Tehsil Bharari, District Bilaspur HP-174027 has filed the said complaint under provisions of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by the Additional Consumer Grievance Redressal Forum (CGRF) at Hamirpur on dated 16/11/2023 in Complaint No. 01/2022 transferred from ACGRF Bilaspur. He is consumer of Respondent Board holding A/C No. BN-36 in his name.
7. For the sake of clarity and analysis, the relevant submissions appended by the individual concerned have also been reproduced as under:

The Complainant:

- a. The Complainant contends that the petitioner filed the complaint before the ACGRF (OP) Circle HPSEBL Bilaspur (HP) which was registered as complaint No. 01/2022 titled as Dina Nath Vs Chairman HPSEBL & others which was decided by the Forum on dated 19/11/2022 in favour of the respondents. Thereafter, the petitioner filed a representation before the Hon'ble HPEO Shimla and the Ld. Ombudsman held the order dated 19/11/2022 unsustainable in law and on facts and remanded the case back to the ACGRF Bilaspur (HP) for deciding the matter afresh vide its order dated 01/04/2023. The petitioner herein moved an application for the transfer of the proceedings to another Forum either at Mandi, Una or Hamirpur.
- b. The Complainant further contends that on the request of Complainant, Hon'ble Commission vide its order dated 19/07/2023 transferred the matter to be adjudicated by the ACGRF Hamirpur (HP).



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- c. The Complainant contends that the Forum decided the matter by passing two judgments and are not anonymous on one decision. The two members of the Forum passed one judgment and other member passed other judgment.
- d. The Complainant contends that the two members' judgment of the forum has not adjudicated the matter on merit and granted the relief to the petitioner. The two members' judgment is very astonishing and they have shown their inability to adjudicate the matter as the matter has already been decided by their counterpart ACGRF (OP) Circle at Bilaspur (HP). However, the order passed by the ACGRF(OP) Circle at Bilaspur (HP) was held unsustainable by that Hon'ble Ombudsman vide its order dated 01/04/2023.
- e. The Complainant contends that the two-member order is discernible that they have not adjudicated the matter as assigned and referred/ remanded to them for adjudication. Hence in such circumstances the order of the independent member shall prevail as the matter is only adjudicated by the independent member of the ACGRF Hamirpur (HP) only.
- f. The Complainant contends that the petitioner is fully satisfied by the order passed by the independent member of the ACGRF Hamirpur (HP) Ld. Shri Ajay Vikrant independent Member, ACGRF at operation Circle HPSEBL Hamirpur (HP) who adjudicated the mater on maintainability and on merit as per directions of that Ld. Ombudsman Electricity Shimla.

The Respondent Board:

- a. The Respondent Board contends that the representation as filed by the complainant is not maintainable for the reasons that the Ld. ACGRF Hamirpur has filed a detailed and well-reasoned speaking order that warrants no interference by this Ld. Forum. Hence, the representation of the complainant deserves to be dismissed.
- b. The Respondent Board contends that the one independent member of ACGRF operation circle Hamirpur has commented and passed the order on very same day i.e. 16/11/2023 and has wrongly concluded that the electricity bills having account no. BN-36 post 2012 that in his opinion there might have not been any power consumption post 2012. The fact of the matter remains that TDCO has been done in the year 2018 whereas independent member has assumed that the same has been done in the year 2012 which is factually incorrect.
- c. The Respondent Board further contends that the independent member has further assumed that there was no consumption whereas as per record there was a consumption post 2012 and also the Independent member of ACGRF Hamirpur has wrongly mentioned the date in the order dated 16/11/2023 as 08/03/2012 whereas it should have been mentioned as 08/3/2018 and the entire observations have been made on the basis of the year 2012.
- d. The Respondent Board submits that Ld./ ACGRF Bilaspur has conducted elaborate proceedings on the issue wherein the complainant and the respondents were heard in length and after examining all the facts and records the Ld. Forum has held the complainant liable to pay ₹9822/- for non-payment of electricity bill and the Forum also observed that there was no irregularity in outstanding amount.



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The Respondent-5 (Sh. Sanjeev Kumar):

- a. The Respondent-5(Sh. Sanjeev Kumar) submits that he has built his own house and the appellant has no concerned with that. The connection BN-57 now read as BN-59 was installed by the electricity department after all the formalities completed by respondent no. 5.
 - b. The Respondent-5 submits that Ld. Sh. Ajay Vikrant Independent member ACGRF at operation circle Hamirpur comments upon the present complaint and gave his findings that there can be one separate connection to each dwelling unit so it is clearly mentioned that where there are separate dwelling unit there can be a separate connection i.e. the case in present complaint.
 - c. The Respondent-5 submits that he is living in his separate house and the electric connection to account no. BN-59 was installed in his name by following the proper procedure every formality was completed by the respondent no. 5 and each was verified by the electricity department. Nothing wrong was done by the respondent no. 4 as well as he gave the test report of the premises of Sh. Sanjeev Kumar i.e respondent no. 5, also the report given by respondent no.6 was true and genuine and nothing wrong was done by anyone in performing their part.
 - d. The Respondent-5 submits that there is no concerned of the appellant in the electric meter BN no. 59. In fact, at the time of renovating the house the respondent no. 5 asked the complainant again and again to take his electric meter as the premises was in possession of the respondent no. 5 but the appellant did not pay any attention to the complainant and file this false complaint.
 - e. The Respondent-5 submits that when the matter was decided by the ACGRF Bilaspur then there is no need to decide the matter again as the electric meter BN-36 which was on the name of appellant was disconnected by the department after the order of ACGRF Bilaspur.
 - f. The Respondent-5 submits that the electrical meter on the name of Sh. Sanjeev Kumar respondent no. 5 bearing no. BN-59 was installed in his own house with which the complainant has no concerned with.
8. In consonance with the relevant extract of provisions of clause 1.2.13 of the Himachal Pradesh Electricity Supply Code, 2009 “**Consumer**” means any person who is supplied with electricity for his own use by a licensee or by the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and includes bulk supply consumer, any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be and shall also include (c) “in case of death of a consumer, his legal heirs or representatives;”
9. Analysis of the above averments made by both Complainant and Respondents reveals that A/C No. BN-36 and BN-59 have been established by the Respondent Board after furnishing all the codal formalities as asserted by the Respondent Board and hence, both Complainant & Respondent-5 respectively are domestic consumers of Respondent Board in terms of above provisions. However, as per submissions and arguments advanced by the Respondent Board, TDCO stands issued on dt. 08/3/2018 and PDCO on 01/12/2022 against A/C No. BN-36 which is in the name of Complainant Sh. Dina Nath Sharma, S/o Sh. Maru Ram, due to nonpayment of the outstanding amount raised by the Respondent Board.





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10. The above submissions and name of the respective consumers falling against each A/C Nos are clearly indicative that Sh. Dina Nath Sharma, S/o Sh. Maru Ram & Sh. Sanjeev Kumar Sharma s/o Sh. Inder Raj are under contractual obligations as per A&A form signed at the time of releasing the connection and are bound to adhere to the relevant supply conditions as per Manual of Instruction Part-I as well as other related provisions envisaged in the prevalent supply code.
11. Further analysis infers that BN-59 was released in the name of Sh. Sanjeev Kumar Sharma s/o Sh. Inder Raj after furnishing all the codal formalities as asserted by the Respondent Board as well as Respondent-5 in their submissions and arguments, cannot be the part of ambiguity if nothing stands outstanding against the above Account Number.
12. Scrutiny of the record reveals that the said case was remanded back by that Ombudsman to ACGRF Bilaspur vide its order dt. 01/04/2023 for deciding the matter on maintainability which was finally decided by Independent member of ACGRF Hamirpur vide order dt. 16/11/2023. This Appellate Forum agrees with the proceedings and decision of Independent member of ACGRF Hamirpur on maintainability and this Appellate Forum sustains the issue on maintainability after seeking views & consensus arrived at during final arguments on dt.30.01.2023 in the court room by the respective counsels of both Respondent Board and Respondent-5 in the instant case.
13. The analysis on the contentions and record produced by the Respondent Board and reply submitted thereof, sounds that Meter Account No. BN-59 has been installed in the name of Sanjeev Kumar in the year 2012 after completing all the codal formalities. Respondent-5 in his reply and during final arguments has also clarified that henceforth, after releasing said connection, he is dwelling in his own house which is in his possession thereafter and also contended that the report given by respondent no.6(Sh. Devinder Singh Halqa Patwari Lehari Sarail (Presently Kanongo) Tehsil Bharari, District Bilaspur HP-174027) was true and genuine and nothing wrong was done by anyone in performing their part.
14. This Appellate Forum shall not delve more on the revenue report part of averments and deduces that the A/C NO. BN-59 stands released by the Respondent Board after furnishing all mandatory requirements as well as ascertaining the possession of Respondent No.-5 as deliberated by Respondent-5 during arguments, in line with the prevalent provisions in their responsible capacities.
15. This Appellate Forum after observing collective views of all concerned during detailed arguments and going through the documents placed on record, agrees and confines adjudication only to the extent of the status of A/C No. BN-36 that the legitimate contentions arose due to non-payment of outstanding amount as well as contrary act by the Complainant against the contractual obligations.
16. On further examining the record produced and averments made by the Respondents, this Appellate Forum deduces that in particular the Respondent Board hadn't been able to recover the outstanding amount and could not effect Permanent Disconnection Order PDCO due to various cases filed in other forums & civil court till then and could issue only on 01.12.2022 after the order dt.19/11/2022 issued by ACGRF Bilaspur.
17. Independent member of ACGRF Hamirpur in its order dt.16/11/2023 after due adjudication has categorically mentioned that "*it seems that electrical supply of account no. 36 was not disconnected prior to 2012 i.e. 08/03/2012*".
18. On further scrutiny of the order dt.16/11/2023 of Independent member of ACGRF Hamirpur, this Appellate Forum observed that in the said order it was also mentioned explicitly which is



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relevant to the process of justice in the instant case and says that *"hearing on dated 16/11/2023, it has observed that the Complainant was not making payment of any bill due to Account No. BN-36 prior to year 2012 being residing at other location for the last two decades, as such, he was failed to pay any due bill of Account No. BN-36 subsequent to year 2012 till March, 2018. The payment of energy bills of o/a periodic power consumption was recorded having account no. BN-36 prior to year 2012, were being made by the Occupant of premise i.e. Sanjeev Kumar or his guardian (Respondent No.-5)"*

19. On examining simultaneously, the reply submitted by the Respondent Board and above extract of the order dt. 16.11.23 of the Independent member of ACGRF Hamirpur, this Appellate Forum is of the considered opinion that the instant ambiguity arose due to non-payment by the Complainant and convinced that the Independent member has erroneously considered that the TDCO has been issued in the year 2012 whereas the same has been done in the year 2018 and the Respondent Board also submitted certain documents in the court room during final arguments which were taken on record for giving final findings on the apprehensions and substantiated that there was power consumption even after 2012 also and established clear understanding that the Complainant occasionally visited the premises after 2012 after the installation of meter BN-59 and consumed power against meter no. BN-36 for which he is the sole account holder and liable to pay outstanding amount within the ambit of contractual obligations. The independent member has further assumed that there was no consumption whereas as per record of the replying Respondent Board there was a consumption post 2012 also.
20. This Appellate Forum further agrees with the reply of Respondent Board on the contentions that Independent member of ACGRF Hamirpur has wrongly mentioned the date of TDCO in the order dated 16/11/2023 as 08/03/2012 whereas it should have been 08/3/2018 and landed to contrary findings.
21. On analysis it was also observed that the said order dt.16/11/2023 of Independent member of ACGRF Hamirpur further adds to its findings which says *"of Neither Respondent No.3 had maintained sanctity of HPSEBL/HPERC Sale Manual & Supply Code guidelines & procedure nor Complainant (Sh. Dina Nath Sharma) understood his responsibility for making payment of electricity bills prior & post year."*
22. This Appellate Forum after getting into depth in the above averments concedes without any doubt that the instant case is a clear a matter of non-payment of the energy bills by the Complainant Sh. Dina Nath Sharma who as per record is consumer of A/C No. BN-36 and inconsonance with the contractual obligations as per terms and conditions of A/A form signed at the time of releasing the connection, the consumer is bound to pay the bill raised by the licensee. Since as per above cited definition of consumer, Sh. Dina Nath Sharma is Consumer of the Respondent Board in respect of BN-36 and hence bound to comply with. Any occupant or tenant is not responsible for disbursement of outstanding amount raised, as the account holder of the connection is "consumer" of the licensee for all intends and purposes as Sh. Dina Nath ji is in the instant case of A/C No. BN-36. This Appellate Forum understands that settlement of outstanding dues between owner/consumer and tenant is a personnel matter but between the consumer and licensee attracts, provisions if not complied to.
23. The opinion of the Independent member of ACGRF Hamirpur as reproduced under para-18 above also provides clear understanding that the Complainant is staying in some other location and after the occupant vacated the premises, henceforth did not make payment of outstanding dues which as per the arguments advanced by the Respondents inferred that, the



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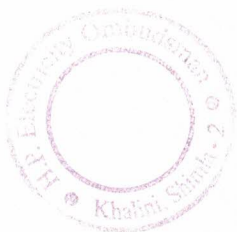


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bills issued to the complainant until year 2018 (TDCO) were of post 2012 consumption and accumulation due to fixed charges and surcharges levied there on as per provisions.

24. The above analysis further reveals that as far as energy consumption part is concerned, the bill stands paid except for energy consumption post 2012 and accumulation of fixed charges and surcharges due to non-payment by the Complainant Sh. Dina Nath Sharma as per the documents placed on record in the court room during final arguments by the officers appearing on behalf of Respondent Board.
25. After asserting above analysis in details, this Appellate Forum is of the considered opinion that it is an established fact that the amount became due against A/C No. BN-36 on account of non-payment by Sh. Dina Nath Sharma ji who is consumer in the Account Books of Respondent Board in respect of BN-36 and is under contractual obligation to meet the mandatory provisions of Supply Code and Conditions of Supply as mentioned herein the Manual of Instructions Part-I and is liable to pay the differentials as raised by the Respondent Board without any prejudice.
26. The analysis reveals intervention of certain provisions of the Himachal Pradesh Electricity Supply Code, 2009 in the interest of justice, the relevant extract of which are laid down as under:
 - a. clause 1.2.13 (Relevant Extract)
"Consumer" means any person who is supplied with electricity for his own use by a licensee or by the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and includes bulk supply consumer, any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be and shall also include (c) "in case of death of a consumer, his legal heirs or representatives;"
 - b. clause 5.2.12 (Relevant extract):
It will be the responsibility of the owner of a premises to get a special reading done by the licensee at the time of change of occupancy or on the premises falling vacant.
 - c. clause 5.7.1 (Relevant extract):
*A consumer will effect full payment of the billed amount even if it is disputed one, failing which the licensee may initiate action treating it as a case of non-payment:
 Provided that no action will be initiated if such a consumer deposits under protest-*
 - d. clause 5.5 (Relevant Extract):
(a) In case a consumer does not pay the bill by the due date, late payment surcharge shall be payable as per the Tariff Order
 - e. Clause 7.1.9 (Relevant extract) (**Fourth Amendment dt. 03.07.2020**):
*(a) if dues are not paid by the consumer, the delayed payment surcharge, as per Tariff Order shall be levied up to the date of permanent disconnection, and
 (c) the delayed payment surcharge shall not be charged for the period beyond the date of permanent disconnection and instead interest shall be charged on the outstanding amount, for the actual number of days for which such amount remains unrecovered/ unadjusted, at a simple interest rate of 12% per annum:*



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27. This Appellate Forum in terms of above provisions has observed that the Complainant has not adhered to any of the above mandates, resulted into litigation and aggravation of the outstanding amount.
28. Respondent No.5 during arguments categorically mentioned that the Complainant was well informed many times when he was under process of installation of meter no.BN-59 and further added to the arguments that inspite of all these messages, the Complainant did not bother to comply with and the same contentions appear in the submissions made by him which is reproduced as a relevant extract to the findings in the interest of justice, says “ *The Respondent-5 submits that there is no concerned of the appellant in the electric meter BN no. 59. In fact, at the time of renovating the house the respondent no. 5 asked the complainant again and again to take his electric meter as the premises was in possession of the respondent no-5 but the appellant did not pay any attention to the complainant and file this false complaint*”.
29. After detailed analysis, this court deduces that the action taken by the Respondent Board is in conformity with the above provisions in view of the reply submitted & arguments made that the connection under A/C No. BN-59 to Respondent-5 was released after furnishing all the codal formalities and the Complainant being the consumer holding A/C No.BN-36 is liable to pay the outstanding amount that stands accumulated till date due to non-payment and in violation to the said provisions. Hence, the relief sought by the Complainant does not carry any force in the instant case.
30. Under the ambit of above provisions, this Appellate Forum gathers considered opinion to originate the following issues.

K- Issues in Hand:

Issue No.1:

Whether the petition is maintainable?

Issue No.2:

Whether the meter No. BN-36 made redundant after the meter No. BN-59 was installed in the year 2012?

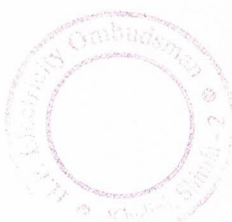
Issue No.3:

Whether the amount raised is payable by the Complainant?

L-Findings on the Issues:

Issue No.1:

1. Both Respondent No-3(HPSEBL) and Respondent-5 in their reply has contended that the instant Complaint is not maintainable. After going through the record, submissions made by all the concerned parties and arguments , this Appellate Forum deduces that the matter as per record was registered as Complainant No. 02/2023 and after adjudication , but for the issue of maintainability, the matter was remitted back to Additional Consumer Grievance Redressal Forum at Bilaspur by that Ombudsman for deciding the matter afresh which stood decided earlier on merit by the ACGRF Bilaspur in Complaint No. 01/2022 on 19/11/2022 and accordingly, the complaint was disposed of by that Ombudsman.
2. The matter thereafter was transferred to ACGRF Hamirpur on the request of Complainant by order of Hon'ble HPERC and was heard and disposed of by ACGRF Hamirpur vide order dt. 16.11.2023 with view point that once the matter stands adjudicated at length before ACGRF Bilaspur, the equivalent forum, does not warrant further proceedings and intervention, being not the Appellate Forum of the counterpart.



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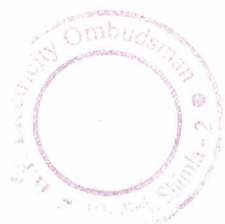
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3. Thereafter, the matter was also heard by the Independent member of ACGRF Hamirpur who is one among the members of ACGRF Hamirpur, concluded the matter on the same day on 16.11.2023 in his capacity as Independent member and held the instant complainant maintainable with the assertion that *"The finding of order of ACGRF, HPSEBL, Bilaspur (HP) is lack of merit. Hence, the maintainability of grievance was prevailed"*.
4. While doing findings on the instant issue, it was also observed that the Complainant filed the said case, under provisions of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by the Additional Consumer Grievance Redressal Forum (CGRF) at Hamirpur on dated 16/11/2023 in Complaint No. 01/2022 transferred from ACGRF Bilaspur.
5. In terms of provisions under Regulation 36(2), of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, since the matter is held maintainable by the Independent member of ACGRF Hamirpur, this Appellate Forum affirms that it must be guided by the principles of natural law of justice and warrants opportunity to the aggrieved one, as such this Appellate Forum agrees with the findings of the Independent member Hamirpur only to the extent of maintainability and after consensus of concerned respondents during final arguments, holds the instant petition maintainable.

This closes the findings on the issue No.1.

Issue No.2:

1. This Appellate Forum observed that the Complainant during arguments added that the meter No. BN-36 was made non-functional after the installation of BN-59 with effect from 2012 onwards. After going through the documents placed on record by the Respondent Board during final arguments on dt.30.01.2024, it was observed that there occurred energy consumption in many instances even after 2012 which is an indicative that the Complainant occasionally visited the premises and as per his requirement consumed energy as and when required. This preposition overrules the contentions of the Complainant on meter being non-functional/redundant.
2. During further delving the issue and with due reference to the record produced, this Appellate Forum fetched considered opinion that the amount got accumulated due to post 2012 energy consumption, addition of fixed charges and levy of late payment surcharge as per provisions as deliberated clearly by the Respondent Board during arguments and thereafter on non-compliance to the directives of Respondent Board, the TDCO was issued on 08.03.2018 and PDCO on 1.12.2022.
3. On examination of the documents in depth it was observed by this Appellate Forum that the opinion of the Independent member of ACGRF Hamirpur as reproduced under para-18 of analysis above also provides clear understanding that the Complainant is staying in some other location and after the occupant vacated the premises, could not make payment thereafter of the outstanding dues which as per the arguments advanced by the Respondents, infers that, the bills issued to the complainant until year 2018 (TDCO) is of post 2012 consumption, fixed charges and surcharges levied there on as per provisions and not of period prior to 2012.
4. While concluding findings on this issue, the considered opinion arrives at is that the Complainant is trying to deliberate on vulnerable contentions rather than on the factual status of the events and this Appellate Forum after going through the record and averments, arrives at clear understanding without any doubt that the meter BN-36 was not made redundant in year 2012 when the connection BN-59 was released after furnishing all the



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codal formalities, whereas it was made non-functional after the TDCO was issued on 08/03/2018 on account of non-payment by the Complainant due to post 2012 consumption and accumulation of fixed charges and surcharges there on as per provisions. Hence, the contentions are not viable on this issue.

This closes the finding on issue-2.

Issue No.3:

1. After examining the averments in details this Appellate Forum infers that in consonance with the relevant extract of provisions 1.2.13 of the Himachal Pradesh Electricity Supply Code, 2009 "**Consumer**" means any person who is supplied with electricity for his own use by a licensee, as such both Complainant and Respondent-5 under A/C No. BN-36 and BN-57 respectively have been established as consumer in terms of above provisions by the Respondent Board after furnishing all the codal formalities as asserted by the Respondent Board.
2. Further findings and prima-facia to the documents placed on record reveal that the amount as stood outstanding against BN-36, accumulated from Rs.4489/- to Rs.9822/- as on September, 2022 due to non-payment by the Complainant of energy charges on account of energy consumption post 2012 and subsequent levy of fixed charges & surcharges thereon as per provisions.
3. After going through the documents including orders issued by different forums, proceedings and above analysis in details, this Appellate Forum holds that the amount became due against A/C No. BN-36 on account of non-payment by Sh. Dina Nath Sharma ji who is consumer in the Account Books of Respondent Board in respect of BN-36 and under contractual obligations in terms of supply conditions as agreed by the Complainant while signing A&A form at the time of releasing the connection, cannot absolve himself from such responsibility and retain any outstanding amount as raised by the Respondent Board and is bound to meet with the mandatory provisions of Supply Code and Conditions of Supply as mentioned herein the Manual of Instructions Part-I and is liable to pay the differentials as raised by the Respondent Board.
4. While delving on the issue, this Appellate Forum further gathers opinion that the Complainant has violated the relevant provisions which makes him liable for payment of outstanding amount accumulated till date being consumer against A/C No. BN-36.
5. This Appellate Forum while passing through the phase of references, observed that the complainant neither bothered to act in conformity with clause 5.2.12 of the supply code which warrants intervention/responsibility of the owner of the premises to get special reading done by the licensee at the time of change of occupancy or on the premises falling vacant nor complied with clause 5.7.1 of the supply code which categorically sounds that a consumer is supposed to effect full payment of the billed amount even if it is disputed one, failing which the licensee may initiate action treating it as a case of non-payment. These provisions of the said clause also provide that no action will be initiated if such a consumer deposits under protest or otherwise attracts provision of clause 5.5 read with clause 7.1.9 (Fourth Amendment) along with said provisions. **(relevant provisions in details have been reproduced while doing analysis and may be referred to for the sake of clarity)**
6. While concluding findings on this issue, this Appellate Forum conceives that in the instant case, the complainant by not adhering to above directives of the prevalent provisions, landed into the domain of non-payment category and attracts action as is liable for a consumer who defaults the payment. The Complainant also, did not privilege himself to exercise above





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provisions of clause 5.7.1 for payment under protest, resulted into levy of fixed charges and surcharges in addition to post 2012 energy consumption charges and elevation of outstanding amount thereof from Rs. 4489/- to Rs.9822/-.

7. This Appellate Forum after arriving at conscious consensus, conceives without any doubt that the instant petition is a case of non-payment and the meticulous impact of said provisions owing to non-compliance makes the Complainant liable for payment of outstanding dues arising out of post 2012 energy consumption charges, fixed charges & surcharges accumulation thereof.

This closes the finding on issue-3.

M-Order:

1. The order passed by Additional Consumer Grievance Redressal forum at Hamirpur (HP) in Complaint No. 01/2022 on dated 16/11/2023 is upheld partially.
2. The order passed by the Independent member of ACGRF Additional Consumer Grievance Redressal forum at Hamirpur (HP) in the said complaint on the same day on dt.16/11/2023, is also upheld partially to the extent that issue related to maintainability was adjudicated and held as maintainable.
3. This being the case of non-payment in terms of specific provisions, the Complainant in violation to the clause 5.7.3 read with clause 5.7.1, 5.5 & 7.1.9 of Supply Code 2009 is held liable to pay the outstanding amount as raised by the Respondent Board.
4. The demand raised by the Respondent Board is sustained in principle subject to ascertaining the correctness of the computations and adherence to the relevant provisions.
5. The Complainant is directed to pay all outstanding amount as stands raised/accumulated against A/C No.BN-36 in the name of Sh. Dina Nath Sharma, S/o Sh. Maru Ram, r/o Village Bhadsin, PO Lehari Srail Pargna Ajmerpur, Tehsil Bharari, District Bilaspur, within 20 days excluding holidays from the date of issuance of this order to avoid any further remedial action by the Respondent Board thereof.
6. The Respondent Board is at liberty to initiate any remedial action in line with the provisions after the expiry of the above period.
7. The parties are left to bear their own costs.
8. The order is placed at site for the convenience of reference.
9. The Complaint filed by Sh. Dina Nath Sharma, S/o Sh. Maru Ram, r/o Village Bhadsin, PO Lehari Srail Pargna Ajmerpur, Tehsil Bharari, District Bilaspur HP-17402 is hereby disposed of.

Given under my hand and seal of this office.

Dated: 13/02/2024

Shimla

[Signature]
13/02/2024

Electricity Ombudsman

