

MA No. 91/2018
in
Petition No. 22 of 2018

Present for:-

M/s Radiant Casting
.....Petitioner
The H.P. State Electricity Board Ltd.
.....Respondent No.1
The Addl. S.E. (ED) Baddi
....Respondent No.2

Sh. P.C. Dewan Adocate a/w
Sh. Jitender Kr. Gupta
Sh. Surinder Saklani, Standing Counsel
Er. Joginder Singh, SE (Inter State)
Er. Ajay Thakur, Sr. Xen (Com.)
Er. Anshul Kumar, AEE (Comm.)
Er. Rakesh Kumar, ASE (ED), Baddi

ORDER

30.06.2018

MA No. 91 of 2018 containing reply filed by the respondents Board is taken on record.

Shri P.C. Dewan, Advocate representing the petitioner confirmed that the reply to the Petition has been received from the Respondent on 29.06.2018 and he argued on the following lines: -

- (i) As per the clarification 315/2005, the cost of works at the upstream substations may not be recovered from the consumers. In the instant case the connection was given from Barotiwala Substation (P-4) and the pro-rata charges of some works done at upstream sub-station of Baddi (P-3) are not recoverable from him.
- (ii) The provisions of Subsection 3(i), 4(i) and 5(i) of the Regulation 419/2005 have not been honoured. They attempt to charge pro-rata cost of the power system planned and created as a part of their normal investment plan from the Consumers should normally be claimed in ARR as per Tariff Regulation 2004 Section 8.
- (iii) He is unable to approach the CGRF as he is not in a position to deposit 50% of disputed amount as per the CGRF requirements.
- (iv) The Commission may take appropriate action against the Respondent under section 142 of the Electricity Act, 2003 which deals with the non compliance of the Regulations.

In rebuttal, Shri Surinder Saklani, Standing Counsel representing the Respondent Board has strongly argued that as the disputed bills in respect of the Consumers fall under the jurisdictions of the CGRF constituted under section 42(5) of the Electricity Act, 2003 and stressed that the petition should not be entertained by the Commission, instead the Petitioner may approach the CGRF by following the due process. He however also rebutted the other arguments made by the petitioner and stated that the demand has been raised strictly as per the Regulation 419/2005 and also stated that the Electricity connection to the petitioner has been released from 220/66 kV Sub-station at Baddi and not from the 132 kV Sub-station at Barotiwala. In this connection, he also referred the copy of PAC issued by the Respondent Board on 06/11/2004, which is also available at Annexure P-1.

Keeping in view the fact that the respondent Board has raised demands in conformity with the statutory provisions i.e. the provisions of the Act and regulations

framed thereunder, and that the nature of the dispute was between the licensee and a consumer, for which the Electricity Act, 2003 stipulates an adjudicatory body in the form of the Consumers Grievances Redressal Forum set up under section 42 of the Act and the Ombudsman was yet another Forum which could have been approached in case of the Consumers Grievances Redressal Forum did not satisfy the consumer. The Commission is of the view that there is no provisions in the Act which gives the Commission jurisdiction to settle such disputes and in relation to the relief, other than that under Section 142 of the Electricity Act, 2003, sought by the petitioner, does not fall in the jurisdiction of this Commission and the matter would fall under the jurisdiction of the Forum for Redressal of Grievances of consumers set up under section 42 of the Act.

Despite the aforesaid provision the present petition has been moved under the garb of securing compliance of the Regulations and also for invoking the penal provisions under Section 142 of the Act against the respondent Board. The ultimate aim of the petition seems to seek the intervention of this Commission for re-opening the issues and seeking directions of this Commission to the respondent Board to rework the charges claimed from the Industrial Consumers. The Commission has already stated in clear terms that the Charges are to be worked out, and bills are to be raised, by the Distribution Licensee in conformity with the regulations. The disputes, especially the billing disputes, between the licensee and consumers are to be adjudicated by an adjudicatory body stipulated in the Act i.e. the Forum of Consumers Grievances Redressal i.e. the Forum set up, and the Ombudsman appointed, under Section 42 of the Act, unless the complainants succeed to establish any contravention of the provisions of the Act, regulations and directions of the Commission and the extent to which any person is likely to sustain loss or damage due to such contravention. In the present case the petitioner has not been able to clearly set out these pre conditions to invoke the provisions of either Section 142 or of Section 129 of the Act for securing compliance of the provisions of the Regulations. This Commission has already disposed of similar petition filed by the BBNIA in petition No. 94 of 2015 on 07.01.2016.

In the light of above discussion the Commission, therefore, declines to entertain the said petition with the direction that, if the petitioner still feel aggrieved by the action of the respondent Board, the petitioner would be at liberty to approach the appropriate Forum set up for the resolution of such disputes.

This petition is disposed of accordingly.

--Sd/-
(Bhanu Pratap Singh)
Member

--Sd/-
(S.K.B.S.Negi)
Chairman