

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY
COMMISSION SHIMLA**

CORAM
S S Gupta

Case No. 34/2003

In the matter of:

Complaint Handling Mechanism and Procedure notified by the Commission vide its Order No. HPERC/010/2002 dated 8th Feb., 2003.

AND

In the matter of:

Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Shimla

-----Respondent

AND

In the matter of:

Submission of Annual Report in respect of the complaints received/redressed during the financial year, 2002.

Present for:

Petitioner	:	Self – Sh.P.N.Bhardwaj
Respondent- Board	:	Sh. D.N.Bansal, CE(Com.) Sh. S.K.Sood, CE(O)South Sh. S.K.Gupta, CE(O)North Sh. S.P.Sharma, CE(O)CZ

ORDER

Heard.

In the interim order of 17-10-2003 the presence of Shri P.N.Bhardwaj was recorded and discussed as Consumer Representative inadvertently. It should be read as petitioner.

The petitioner referred to the order dated 8-2-2002 vide which the CHMP came into force. He read out from Section 1.0 “nature of complaints”, 2.0 “procedure”, 4.0 “token compensation”, 5.8 “appointments” and 10.0 “review and monitoring” of the CHMP and submitted that the order dated 8-2-2002 required, amongst other things, the “Hindi” and the “English” version of the various documents to be made available upto the level of ‘primary responsibility centres’.

He contended that until 1998 the consumer interests had been totally neglected but by issuing the CHMP the Commission had done a commendable job in empowerment of the consumers. The necessity of the summons dated 8-9-2003 arose out of the Commission’s dissatisfaction over the inaccuracies and inadequacies of the figures

given in the Board's 'annual report' dated 31-7-2003. He submitted that the summons dated 8th September, 2003 required affidavits giving category-wise, division-wise, circle-wise and zone-wise break up of complaints received, redressed, violations established, amount as penalty imposed on erring officers/officials and amount of token compensation paid alongwith monthly report on Form X as prescribed under Section 10 (iv) of the Complaint Handling Mechanism & Procedure of each Division under their control. The Chief Engineer (Commercial) was to submit an affidavit to the effect that the documents to be provided under Section 10(viii) have been made available in all Primary Responsibility Centres alongwith the supporting documents.

The petitioner then recapitulated the directions given in the interim order dated 17-10-2003 which stipulated that the random sampling check should be so spread amongst the various levels so as to complete 100% verification of the factual position and the affidavits shall state categorically the random sampling check conducted at various levels and dates, the inaccuracies and inadequacies discovered, violations committed but compensation not paid and the incumbency of officers/officials at various levels during the period. Further the responsibility was to be fixed for reporting inaccurate, wrong and false information and the violations wherever committed had to be compensated. Copies of Form X and allied documents upon which the respondents intended to rely were also to be filed. With the above background of issuing the notice of inquiry the petitioner went on to discuss the affidavits filed by the various Chief Engineers. He referred to the affidavit filed by the Chief Engineer (Com.) which states that while six Deputy Commissioners have confirmed that they had distributed the copies upto Block Samities, 2 had not received the copies and 4 have not responded. Copies of English version of documents as at 10 (viii) have been made available upto the Primary Centres and that the documents are also available on the Website of the HPSEB and wide publicity given in 4 daily newspapers. He has asked for extension in time for Hindi version to be made available. The petitioner pointed out that the dates on which these documents had been distributed had not been mentioned and the Hindi translation had not been done even 22 months after the order of 8-2-2002. The petitioner wanted the responsibility to be fixed for this lapse. Consumers were entitled to know who was responsible. He went on to say that directory of N.G.Os. was available in GOI and GOHP and still the copies of documents had been made available to only those whose list was given by him.

The petitioner while discussing the affidavit of CE(O) South submitted that the same does not give category-wise, Division-wise, Circle-wise break up of complaints. The information has been provided with respect to only interruptions in power supply. Copies of the monthly report on Form X for each Division have also not been filed. Information with regard to violations established, penalty imposed upon erring Officers/Officials, token compensation paid, random sampling check conducted at various levels with dates, inaccuracies and inadequacies discovered, incumbency of officers/officials, responsibility fixed etc. have not been furnished. He pointed out the variations between the figures supplied in the annual report and the affidavit.

The petitioner went on to discuss the affidavit filed by the CE(O) North who has similarly deposed the information of interruptions in supply and the random sampling check of 10% conducted by him without dates. Copies of monthly reports on Form X for each Division have not been filed. Similarly, information with regard to violations established, penalty imposed upon erring Officers/Officials, token compensation paid, random sampling check conducted at various levels with dates, inaccuracies and

inadequacies discovered, incumbency of officers/officials, responsibility fixed etc. have not been furnished. Though CE had issued instructions for carrying out the check, it was not known whether they had been complied with.

Commenting upon the affidavit filed by CE(O) Central Zone the petitioner, Shri P.N.Bhardwaj submitted that the same was not notarised and was merely a piece of ordinary paper. It deposes that the information supplied by the Kullu Circle is not correct but he has not fixed the responsibility for this lapse. He submitted that the details had been supplied by Sundernagar and Kullu Divisions in September, 2003 while Manali information was inconsistent. Anil Division alone had given the category-wise information but only in September, 2003. Similarly the incumbency of the officers/officials at various levels during the period has also not been furnished. The copies of division-wise report on Form X have not been filed. Copies of Division-wise monthly reports filed are in respect of only interruptions in supply. Similarly, information with regard to violations established, penalty imposed upon erring officers/officials, token compensation paid, random sampling check conducted at various levels with dates, inaccuracies and inadequacies discovered, incumbency of officers/officials, responsibility fixed etc. have not been furnished. The petitioner also pointed out variations between the numbers in annual report and the affidavit.

The petitioner argued that all the above respondents have failed miserably to comply with the provisions of CHMP. The affidavits filed by all the Chief Engineers appeared to be based upon the information supplied by their subordinate officers whose affidavits have not been filed. He contended that the affidavits are incomplete and misleading. He submitted that it is humanely impossible by any stretch of imagination to attend all the complaints even of interruption in supply within the stipulated period guaranteed in CHMP. He contended that the summons and directions of the commission have not been taken seriously by the respondents. They had not even cared to go through the requirements of summons and directions carefully. He argued that during the hearing on 17-10-2003 all the respondents asked for extension in time in order to bifurcate and supply category-wise information since the work involved scrutiny, cross-checks and verification of the records upto the Section level and that some of the records were required to be collected from far flung areas of the State. The commission accordingly allowed the extension upto 10-12-2003 and still the affidavits filed now were incomplete and misleading. In conclusion of his arguments, he submitted that all the respondents have committed a very serious contravention of the directions of the Commission. He, therefore, pleaded for appointment of 'investigating authority' under Section 28(i) of the Electricity Act, 2003 and to initiate proceedings under Section 142 of the Act for contravention of the directions of the Commission besides initiating proceedings under Section 193 of IPC and Regulations 19(iii) of the HPERC (Conduct of Business) Regulations, 2001, for filing wrong, incomplete and misleading affidavits. He further prayed for directions under Section 23 of the Electricity Act, 2003 to establish independent 'Bijli Suvidha Kendras' (Call Centre Mechanism) for maintaining efficiency in the supply of electricity and equitable distribution of electricity for better service to the consumers since the consumers of HP could no longer rely upon the HPSEB for implementation of CHMP, given the rough-shod treatment accorded to it in the last 22 months.

Shri D.N.Bansal, Chief Engineer (Comm.) submitted that the 'English' and 'Hindi' versions of the CHMP were published in time and sufficient copies were supplied to all the Chief Engineers in March, 2002. He contended that the Board was following the CHMP in letter and spirit. He submitted that CHMP had been put on the website

of HPSEB and wide publicity had been given both in English and Hindi in 4 daily newspapers on 15-11-2003. He prayed for extension in time upto 31-1-2004 for making available the Hindi version of the documents as prescribed in Section 10(viii) of CHMP since the translation is to be received from the Director (Language & Culture), Shimla who had already been requested vide his letter dated 3-11-2003. He submitted that copies had also been supplied to the NGOs whose addresses had been obtained from the petitioner, Shri P.N.Bhgardwaj.

Shri S.K.Sud, Chief Engineer (O) South explained variations in numbers and submitted that the percentage random sampling checks had been assigned to the various subordinate officers. He admitted that earlier, enough seriousness had not been extended to the implementation of CHMP. He cited the shortage of staff as difficulty in submitting the incumbency of the various officers/officials.

Shri S.P.Sharma, Chief Engineer (O)CZ submitted that he had himself checked 10% of record and wherever needed got the record reconstructed. He disclosed that he had discovered many shortcomings during the inspections. He also conceded that earlier the seriousness was missing in implementation of CHMP and assured that in future the CHMP shall be accorded all the importance and respect it deserved. He regretted the submission of wrong information.

Shri S.K.Gupta, Chief Engineer (O)North submitted that due importance has been given, is being given and shall continue to be given to CHMP. However, he conceded that there was no seriousness at lower levels. He had checked 10% records personally and assigned percentage random sampling check to the subordinate officers. He regretted that he had not put the dates on the check carried out by him. He wanted his sincere regrets to be placed on record. He, however, pointed out that the complainants were not willing to give the complaints in writing. He cited the shortage of man-power which was sufficient only for maintenance.

The petitioner on wrap up prayed for more education and awareness of the consumers with regard to their rights. He reiterated his pleas, pleadings and submissions made earlier during the hearing.

After hearing the parties, the commission observed that the monitoring system contemplated in Section 10 "review and monitoring" of CHMP was given a complete go-by resulting in total collapse of CHMP. The contempt with which the respondents, who are some senior most officers of the Board, have treated the CHMP is condemnable. The Commission was inclined to agree with most of the suggestions and prayers made by the petitioner in order to make CHMP a tool of real empowerment of the consumers. The extension applied for making available the "Hindi" version of the documents by CE(Comm.) is allowed upto 31-1-2004. The Commission further gave the following directions:

DIRECTIONS:

1. Commission is satisfied that the above respondents have failed to comply with the provisions of the Complaint Handling Mechanism & Procedure. In exercise of the powers vested in it under Section 28(1) of the Electricity Act, 2003, the Commission may appoint an Investigating Authority in due course to investigate the affairs of the 4 Offices of CEs i.e. CE(O) South/North/Central

Zone & CE(Comm) and Offices subordinate to them and report to the Commission on the investigation made by him.

He may, wherever required, employ any auditor or any other employee for assisting him in discharging his duties of investigation. He will enjoy all the powers under Section 128 of the Act.

2. The Commission further is of the opinion that it is necessary and expedient to put in place independent Bijli Suvidha Kendras (BSK) (Call Centre Mechanism) for maintaining the efficiency in supply of electricity and equitable distribution of electricity for better service to the consumers. Therefore, in exercise of the powers vested in it under Section 23 of the Electricity Act, 2003, the Commission directs the HPSEB to establish Bijli Suvidha Kendras at each district Headquarter within a period of six months from today.

These BSKs shall be manned round the clock for receiving complaints directly from the consumers in person, on phone, fax or e-mail. These BSKs shall be suitably equipped with requisite hardware/software for recording the complaints, action taken for the redressal of the complaint and generating requisite MIS reports. Further these Kendras shall have the necessary communication facility to communicate with all the local complaint centres/JEs/SDOs in-charge of the distribution area. HPSEB may follow the model being practiced in Haryana, Punjab, Madhya Pradesh, Andhra Pradesh or any other State.

3. Show cause before the next review hearing why proceedings under section 142 of the Act not be initiated against them jointly and severally for contravention of directions of the Commission without prejudice to any other penalty that they may be liable under the Act. .
4. Show cause before the next review hearing why proceedings under Section 193 of IPC and Regulation 19(iii) of HPERC Conduct of Business Regulations, 2001 be not initiated against them for filing wrong, false incomplete and misleading deposition.
5. Affidavits of all subordinate officers be filed before 3-1-2004.
6. The Commission shall review the position of compliance of above directions on monthly basis on first Saturday of the month until Commission is satisfied that all the directions have been complied with.
7. All the respondents shall file affidavits on the latest position two days before the date of hearing

Announced in the open court on 12-12-2003.
List for monthly review hearing on 7-2-2004.

Dated: 12th Dec., 2003.
22nd Dec., 2003.

CHAIRMAN