

Dina Nath Sharma Vs. The Chairman (AGRF), HPSEBL Bilaspur and Others.

Suo-Moto Petition No. 2 of 2023

19.07.2023

Present: None for the Complainant.

Sh. Kamlesh Saklani, Authorised Representative with Sh. Mandeep Singh, Chief Engineer (Commercial) for HPSEBL.

ORDER

This Suo-Moto Petition was entertained on the application of the applicant dated 10.04.2023 for transferring Complaint No. 01/2022 titled as Dina Nath Sharma Vs. The Chairman, HPSEBL Shimla and others. Pending before the Additional Consumer Grievances Redressal Forum (ACGRF for short) at Bilaspur to other ACGRF at Hamirpur, Una or Mandi.

2. On notice, the Chairman of ACGRF, Bilaspur has filed the reply. The HPSEBL has also filed reply to the application.
3. It is mentioned in the application that the applicant has no faith in the Presiding Officer of the ACGRF, Operation Circle Bilaspur as the Presiding Officer is not fair, impartial and is highly prejudiced against the applicant. According to him, when he appeared before the ACGRF, Operation Circle Bilaspur and argued the matter the Presiding Officer shouted at him saying "I will throw you out of my office." Therefore, the behavior of the Presiding Officer is unbecoming of an officer and contemptuous and thus, there is no hope of justice in case the complaint is left for the decision before the Chairman, ACGRF, Bilaspur. It is also mentioned that the applicant had filed a representation before the Electricity Ombudsman against the order of the ACGRF, Bilaspur and the Ombudsman was pleased to remit back the matter i.e. Complaint No. 01/2022 to ACGRF, Bilaspur to decide the matter afresh.
4. The Chairman ACGRF, Bilaspur in its reply has submitted that the application filed by the applicant is misuse of process of law and sheer wastage of time and the material facts have been suppressed in order to tarnish the image of the

Respondent by filing a frivolous representation before the Commission. It is submitted that the Complaint No. 01 of 2022 was dismissed by the ACGRF, Bilaspur on 01.11.2022 but during the course of the hearing, the applicant had agreed to pay Rs. 9,820/- within a month but no such amount was deposited. It is also submitted that the Electricity Ombudsman while hearing the representation has set aside the order passed in Complaint No. 01 of 2022 dated 19.11.2022 being unsustainable and remitted the case back to the ACGRF, Bilaspur to decide the matter afresh but the Complaint No. 01 of 2022 was to be revived on moving the formal application by the applicant. Also submitted that the applicant is a chronic litigant and that the complaint had been decided in accordance with the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and after taking into consideration The material on record. Also that the allegations are false and baseless.

5. The HPSEBL in its reply has submitted that the ACGRFs are functioning with the best of their ability to redress the grievances and if the such complaints are entertained the same will affect the functioning of the ACGRFs. As per the HPSEBL, the allegations are vague and baseless as during the entire proceedings before the Ombudsman, not even a single word against the ACGRF was uttered by the Complainant. It is submitted that the Ld. Ombudsman has remanded the matter to the ACGRF of approaching the ACGRF, Bilaspur but instead the complainant has approached the Commission making baseless allegations. Not only this, after deciding the complaint by District Consumer Redressal Forum the applicant has also filed a civil suit before the Civil Judge, Ghumarwin.
6. We have heard Sh. Kamlesh Saklani, Authorised Representative for the HPSEBL and have perused the record carefully.
7. It is apparent from the file that the applicant has filed complaint No. 01 of 2022 before the ACGRF, Bilaspur titled as Dina Nath Sharma Vs. the Chairman, HPSEBL and others which was decided on 19.11.2022, as evident from the order of the

ombudsman dated 01.04.2023 which has been reproduced by the Chairman, ACGRF Operation Circle Bilaspur in his reply at Para 1 (c) as under:-

“the facts of the case are that the District Consumer Dispute Redressal Forum (DCDRF) Una camp at Ghumarwin had decided the case on 23/02/2022 against Respondent No.4, 5 & 6 as not maintainable whereas they had found the case meritless against the Respondent No. 1,2 & 3 i.e. Respondent Board. It is submitted with utter surprise that the complaint has even dragged in to litigation the respondent No.3 who is wireman and respondent No 6 who is Patwari and now presiding officer of the additional Forum has been unnecessarily dragged in the present controversy which is totally cooked. The Complaint had option to file appeal at appropriate court against the decision of the DCDRF Una camp at Gumarwin which dismissed his Complaint being meritless but instead he chose to approach the Additional Consumer Grievance Redressal Forum at Bilaspur,.

Clearly, the Additional Consumer Grievance Redressal Forum at Bilaspur entertained the Complaint without even adjudicating in to the question of maintainability of such Complaint and passed orders on merits of the case. The orders passed by Additional Consumer Grievance Redressal Forum at Bilaspur in Complaint No. 01/2022 on 19/11/2022 is not sustainable and is accordingly set aside and the matter is remitted back to Additional Consumer Grievance Redressal Forum at Bilaspur to decide the same afresh. It shall be open to parties to raise all objections, including the question of maintainability, before the Additional Consumer Grievance Redressal Forum at Bilaspur who shall not be influenced by the observation made hereinabove.

The Complainant shall make formal application for revival of the proceedings upon which the Respondent shall be put to notice and only thereafter the case be heard and decided in accordance with law.

Accordingly, 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-174027 is hereby disposed off.”

8. It is, thus, evident from the order of the Ld. Ombudsman that the order passed by the ACGRF, Bilaspur in Complaint No. 01 of 2022 has been set aside and the compliant has been remitted back to the ACGRF, Bilaspur to decide the matter afresh. The Ld. Ombudsman has permitted the parties to raise all objections including question of maintainability of complaint at the ACGRF, Bilaspur. It is also evident from the above order that applicant has to make a formal application for

revival of the complaint before the ACGRF, Bilaspur on which the Respondent shall be put to notice.

9. Though the ACGRF, Bilaspur has denied the allegations made in the application but a careful perusal of the application dated 10.04.2023 shows that the applicant was neither granted the opportunity of being heard nor fair and proper procedure has been adopted by the ACGRF, Bilaspur for deciding the complaint. The applicant has also mentioned that he does not expect a fair and impartial adjudication of his complaint by the ACGRF, Bilaspur.
10. Since, the applicant has no faith in the ACGRF which is utmost necessary in any Forum, it would be in the interest of justice and the parties that Complaint No. 01 of 2022 pending before the ACGRF, Bilaspur is transferred to some other Forum as prayed by the applicant. Accordingly, the application is allowed. The complaint No. 01 of 2022 titled as Dina Nath Sharma Vs. The Chairman, HPSEBL and others pending before the ACGRF, Bilaspur is ordered to be withdrawn from the file of ACGRF, Bilaspur and ordered to be transferred to the ACGRF, Operation Circle, Hamirpur one of the three ACGRFs mentioned by the applicant in his application.
11. The ACGRF, Hamirpur on receipt of Complaint No. 01 of 2022 shall register the same, issue notice to the parties and decide the same in accordance with the regulations framed by the Commission expeditiously.
12. The ACGRF, Bilaspur is directed to transfer the above complaint to the ACGRF, Hamirpur forthwith within a week from the date of this order. Copy of the order be sent to the applicant and the ACGRF Hamirpur.
- 13.** The Petition is accordingly disposed off.
The file after needful be consigned to records.

-Sd-
(Shashi Kant Joshi)
Member

-Sd-
(Yashwant Singh Chogal)
Member(Law)

-Sd-
(Devendra Kumar Sharma)
Chairman