BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

CMA No.:	**99 of 2026**
Instituted on:	02.03.2026
Heard on:	04.05.2026
Decided on:	**03.06.2026**

CORAM:

YASHWANT SINGH CHOGAL
MEMBER (Law)-cum- CHAIRMAN.

SHASHI KANT JOSHI
MEMBER.

<u>In the matter of:-</u>

M/s P.K. Constructions,
Village Diarighat, Vaknaghat,
Tehsil Kandaghat, Distt. Solan, through
Sh. Parmod Kumar Sood, Managing Director. **……..Petitioner**

Versus

The HP State Electricity Board Limited, through its,
Executive Director (Personnel),
Vidyut Bhawan, Shimla-171004. **…….Respondent No. 1.**

The Assistant Engineer, Electrical Sub-Division,
HPSEBL, Tehsil Kandaghat, Distt. Solan, H.P.
…….Respondent No. 2.

Petition under Section 86 (1) (i) of the Electricity Act, 2003 read with the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024, as amended from time to time, for deciding the issue of category of tariff for Hot Mix Plants.

Present:-

Sh. Bimal Gupta, Ld. Sr. Advocate duly assisted by Sh. Trigun Singh Negi, Ld. Advocate for the Petitioner.
Sh. Kamlesh Saklani, Authorised Representative for the Respondents.

ORDER

This Petition has been filed by M/s PK Constructions (Applicant/ Petitioner for short) under Section 86 (1) (i) of the Electricity Act, 2003

(Act for short) read with the Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2024 for change in category of the Petitioner's Project from Medium Industry Power Supply to Temporary Meter Supply category and consequent disconnection of the power supply of the Petitioner's Project without following the proper procedure in accordance with law.

2. The Petitioner, a company registered under the Companies Act, 1956 is engaged in construction of buildings, roads etc. on turnkey/ BOT as well as contract basis with the Central Government, State Government, National Highway, other Central or State Government Authorities, Municipal Bodies and Corporations etc. The Petitioner, obtained a piece of land at Dhiari Ghat, Tehsil Kandaghat, Distt. Solan from National Highway Division of PWD on lease for a period of 30 years w.e.f. 21.09.2000 to 20.09.2030 for establishing a Hot Mix Plant. A copy of lease deed has been annexed as Annexure P-2.

3. As per the Petitioner, after the lease deed, it established a Hot Mix Plant by installing heavy electrical machinery which operates only on power and the main function of the Plant is processing of raw material into commercial products i.e. mixing aggregate and bitumen with the use of power based upon Contract Demand and Contract Load for processing raw materials into commercial products and the activity involved is industrial in nature and is classified as Industrial Consumer

for the purpose of tariff and is not a temporary consumer even if the setup is shiftable from one site to another and simply because the Hot Mix Plant is project based does not make it temporary for the purpose of tariff under the Act.

4. After establishing the Plant, the Petitioner applied for obtaining permanent electricity connection with Connected Load of 49 kW and Contract Demand of 49.00 kVA to the Himachal Pradesh State Electricity Board Limited (HPSEBL/ Respondent No. 1 for short) and on obtaining the power connection, the Petitioner, completed all the formalities in terms of HP Electricity Supply Code and the provisions of Sales Manual and deposited all the requisite amount(s) as demanded by the Respondents. The Respondents sanctioned the power connection under Medium Industry Power Supply (MIPS for short) after considering all pros and cons.

5. Since the grant of connection till 04.01.2025, the Petitioner was utilizing the power as per sanctioned contract demand and contract load and was regularly paying the electricity bills to the Respondent as and when raised without any default and at no point of time any violation was pointed out to the Petitioner in the use of power by the Petitioner.

6. However, to the utter surprise of the Petitioner, it was served with a notice dated 04.01.2025 (Annexure P-3) by the Respondents calling upon it to deposit a sum of Rs.9,89,425/-. The bare perusal of Annexure

P-3 communication dated 04.01.2025 would show that the same has been issued on the basis of some audit observations of PrAG (Audit) Himachal Pradesh who allegedly audited the records from 2017 to 2024 and on the basis of such report, the power connection sanctioned and allowed to the Petitioner in the year 2001 under MIPS category was changed to Temporary Meter Supply category and on the basis of such change in classification of category, the Respondents have claimed a sum of Rs. 9,89,425/- from the Petitioner.

7. According to the Petitioner, the change of category/classification of Petitioners Hot Mix Plant from MIPS category to Temporary Metered supply category is totally wrong, illegal and cannot sustain in the eyes of law in as much as before changing the category, no opportunity of being heard or show cause notice for changing the category/ classification of Petitioner's Hot Mix Plant was given to the Petitioner. Therefore, the action of the Respondents in issuance of communication dated 04.01.2025 (Annexure P-3) cannot sustain in the eyes of law and is liable to be struck down.

8. As per the Petitioner, the Respondent No.2 on the basis of the alleged query raised by the audit and without looking into the records pertaining to the sanction of the load and connection to the Petitioner’s Hot Mix Plant, issued the communication dated 04.01.2025 in a mechanical manner has informing the Petitioner regarding change of

category from MIPS to Temporary Metered Supply(TMS) and calling upon the Petitioner to deposit Rs.9,89,425/- on the basis of applicable charges w.e.f. August 2018 to July 2025. Not only this, the Petitioner was called upon to submit complete case file to the HPSEBL for the change of the category from MIPS to Temporary.

9. Not only this, the Respondent No.2 thereafter included the said amount of Rs. 9,89,425/- in the energy bill dated 03.03.2025 by showing the same at Rs. 10,09,347.48/-, as arrears, pertaining to the Petitioner's Hot Mix Plant. A copy of energy bill has been annexed as **Annexure P-4** alongwith the Petition. Still further, the Respondent No. 2 on the same dated i.e. 03.03.2025, issued another notice (Annexure P-5) calling upon to deposit the energy bill within 15 days with a threat of disconnection in the event of failure to deposit the amount.

10. The Petitioner after receiving the illegal demand and notice filed a complaint being Complaint No. 1414/2025/03/05 before the Consumer Grievances Redressal Forum (CGRF for short) constituted under the provisions of the Electricity Act 2003, challenging the action of Respondent's in changing the tariff category of the Petitioner illegally and demand of Rs.9,89,425/-. Alongwith the said complaint, the Petitioner also filed an application for interim directions. However, on 12.03.2025, the CGRF directed the Petitioner to deposit 1/3rd of the disputed amount by quantifying the same to Rs.3,29,808/- and further

observed that on deposit of 1/3rd amount of Rs.3,29,808/-, the notices dated 04.01.2025 (Annexure P-3) and 03.03.2025 (Annexure P-5) shall remain stayed and no coercive action shall be taken till the disposal of complaint .The Petitioner was also directed to place on record the proof of deposit on record. It was further observed by the CGRF that in case of non-payment of Rs. 3,29,808/- by 26.03.2025, the Respondents were given liberty to take action after 26.03.2025 in accordance with law. A copy of interim order dated 12.03.2025 has been annexed as Annexure P-6.

11. As per the Petition, in compliance of the order passed by the CGRF, the Petitioner deposited the amount of Rs.3,29,808/- and proof of deposit of said amount was also filed with the CGRF.

12. The CGRF, after taking the reply of the Respondents, in Complaint No. 1414/2025/03/05 vide order dated 22.07.2025 (Annexure P-7) disposed of the complaint holding that the interpretation of tariff order by the HPERC is not in its domain and thus, the complaint cannot be adjudicated by the CGRF but a liberty was given to the complainant to approach the HPERC. A bare perusal of order dated 22.07.2025 would show that the CGRF has meticulously examined the pleadings and arguments of the parties and has come to a conclusion that supply connection of Hot Mix Plant of the Petitioner is that of permanent nature right from 2001 onwards and cannot be made temporary in nature from

August 2018 onwards and also observed that there is no express provision in the tariff orders in respect of Hot Mix Plants.

13. As per the Petitioner, after passing of order dated 22.07.2025, the Respondents has disconnected the power supply of Hot Mix Plant on 16.10.2025 all of a sudden without giving any further notice to the Petitioner. Further, after the connection of the Petitioner was disconnected, the Petitioner filed a Writ Petition being CWP No. 1994 of 2026 before the Hon'ble High Court of Himachal Pradesh. However, the same was withdrawn with liberty to file a Petition before the Commission as Hon'ble High Court observed that the category of Hot Mix Plant can only be determined by the HPERC. A copy of order dated 24.02.2026 passed by the Hon’ble High Court has been annexed as **Annexure P-8.**

14. According to the Petitioner, the act of Respondents in issuance of communication/ notice dated 04.01.2025 (Annexure P-3) and notice dated 03.03.2025 (Annexure P-5) and disconnection of electricity supply on 16.10.2025 is illegal and wrong as the category of the Hot Mix Plant based upon the approved connected load and contract demand falls within the category of small or medium power supply category and not as temporary metered supply for the reasons that the Hot Mix Plant has been established way back in 2001 after obtaining a piece of land on lease for 30 years from the National Highway Division

of HPPWD for establishing the Hot Mix Plant and heavy electrical machinery has been installed and by no stretch of imagination it can be categorized in Temporary Metered Supply category of the tariff order. Further, the basic reason for changing the classification/ category of Petitioners Hot Mix Plant is on the basis of some audit report of Pr. AG (Audit) Himachal Pradesh wherein it has been observed by the audit party that the Petitioner operates the plant only when they could get the contract to carry out tarring of roads maintained by HPPWD and they utilize the connection in a small interval only and suggested for change of classification/category to temporary meter service instead of MIPS. The copy of audit observation of audit has been annexed as Annexure P-9. According to the Petitioner, it is regularly operating the Plant for producing the commercial product by mixing the raw material specially during the summer season and autumn season and this hot mix plant is not only used for maintaining and tarring of roads of HPPWD but also of NHAI and other authorities like Municipal Corporation, Municipal Council, Nagar Panchayats and in some cases Panchayats, round the year. The Temporary Metered Supply is only for those works which are for temporary period of few days only. Thus, the notices dated 04.01.2025 (Annexure P-3) and 03.03.2025 (Annexure P-5) are not sustainable in the eyes of law. Further, merely because during the rainy and snow seasons, the hot mix plant is not operated or is kept ideal in the absence or want of requisite work will not change the industrial nature/ category of the plant to temporary category. Further, the Respondents have failed to appreciate the fact that while passing the tariff orders, the Commission has categorized the consumers on the basis of contract demand and contract load applied by the consumer and sanctioned by the Respondents which is 49kW and 49 kVA respectively, are for the purpose of tariff, the Petitioner should have been categorized for Small Industrial Power Supply but despite the Respondents on their own have categorized/classified the Petitioners unit of Hot Mix Plant under the Medium Industrial Power Supply right from the time of its establishment and commissioning and such a categorization of the Petitioner's unit for the purpose of tariff cannot be changed all of a sudden without following the principles of natural justice and giving an opportunity to the petitioner to be heard before passing any order regarding change of classification/category from MIPS to TMS. The action of the Respondents is illegal because the Commission in the tariff order has categorized the seasonal industries by virtue of nature of production, work during the part of year continuously and intermittently upto a maximum period of 7.5 months in a year such as Exhibitions, Touring Talkies, Circus, Marriages etc., temporary supply for construction purposes and other temporary needs as Temporary Metered Supply connection whereas, for tarring of roads etc., Hot Mix Plant is most essential establishment and is required to operate almost whole of the year except during rains and snow. Therefore, the power supply to Hot Mix Plant cannot be termed as supply for temporary period in terms of the tariff orders issued by the Commission from time to time.

REPLY OF THE RESPONDENTS

15. The Petition has been resisted by the Respondents/ HPSEBL by filing reply that the Petitioner is a consumer of electricity bearing Consumer Id No. 100011001344 and has established a Hot Mix Plant. The load applied for by the Petitioner for running the Hot Mix Plant is 49 KW which was sanctioned way back in the year of 2001 and the Petitioner was being billed on the basis of tariff applicable for Medium Industrial Power Supply (MIPS) category determined from time to time by the Commission.

16. As per the Respondent, during the month of August 2024, the audit of the office of Respondent No. 2 i.e. Electrical Sub-Division, HPSEB Ltd. Kandaghat was conducted by the Resident Audit Officer in the office of Principal Accountant General (Audit) Himachal Pradesh, who vide its Audit Memo dated 28.8.2024 (Annexure-RA-1), has pointed out that the Petitioner (Consumer) should have been categorised/ classified and charged under Temporary Metered Supply instead of Medium Industrial Power Supply (MIPS) and hence, pointed

out a recovery of Rs. 9,89,425/- on account of less demand charges in its report submitted during 12/2024. Accordingly, the Petitioner/Consumer was served with a notice dated 04.01.2025 **(Annexure-RA-2)** to deposit a sum of Rs. 9,89,425/- on account of less demand/energy charges for the period on and w.e.f. August, 2018 to July, 2024 on the basis of observations/ audit para.

17. As per the Respondent, the Petitioner failed to deposit the amount of demand, therefore, the said amount was raised through sundry in the Bill for the month of February 2025, a copy whereof has been annexed as Annexure-RA-3. Further, on default in payment, the Petitioner firm was served with a Notice of disconnection on 03.03.2025 (Annexure-RA-4).

18. It is averred that the Petitioner firm instead of depositing the demand raised, filed a complaint being Complaint No. 1414/2025/03/05 before the CGRF, Kasumpti, Shimla, praying therein for the following reliefs:-

> "i) That the demand notices dated 04.01.2025 and 03.03.2025 and demand raised in electricity bill dated 03.03.2025 i.e. Annexure-C/1, Annexure-C/2 and Annexure-C/3 respectively may kindly be quashed and set aside.
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> ii) That the power connection issued in favour of the complainant vide consumer Id No. 100011001344 may kindly

be ordered to be restored/ classified as Medium Industry Power Supply (MIPS) as it was originally sanctioned etc."

19. The aforesaid complaint came up for hearing before the Ld. CGRF Kasumpti, Shimla on 12.03.2025 and in MA No. 202503/05/01 in Complaint No. 1414/2025/03/05, the Complainant/ Petitioner was directed to deposit 1/3rd amount of the demand i.e. a sum of Rs. 3,29,808/- as per the provisions of the Regulations within a period of two weeks and the matter was adjourned for filing of reply on 28.3.2025. The Petitioner accordingly deposited a sum of Rs.3,29,808/- as per the interim orders/directions passed by the CGRF. Further, on taking the reply of the Respondent, the matter was finally heard and disposed off by the CGRF on 22.07.2025 observing that there is issue of interpretation of the tariff order involved in the matter which can only be adjudicated upon and decided by the Commission and hence, a liberty was granted to the Petitioner to approach this Commission. The operative portion of the order dated 22.07.2025 (**Annexure-RA-5)** passed by the Ld. CGRF is as follows:-

"(17) Forum holds in the instant matter, that once issue of interpretation of Tariff Orders passed by the Id. HPERC has arisen, it cannot adjudicate upon the instant complaint because such interpretation falls within the sole domain of the Ld. HPERC.
(18) Accordingly Forum grants liberty Complainant to approach the Ld. HPERC in the matter.
On the aforesaid terms the complaint is disposed."

20. As per the Respondent, the Petitioner neither approached the Commission nor preferred any representation against the order dated 22.07.2025 before the Ld. Ombudsman, being the next Authority under the Himachal Pradesh Electricity Regulatory Commission (CGRF and Ombudsman) Regulations, 2013. Therefore, the Respondents were compelled to issue disconnection order of the electric supply on 08.10.2025 (Annexure-RA-6) and the electric supply pursuant thereto was disconnected at site on 13.10.2025.

21. It is averred that the Petitioner instead of approaching this Commission as per the liberty granted by the Ld. CGRF, filed a Writ Petition bearing CWP No. 1994 of 2026 before the Hon'ble High Court. However, the same was withdrawn by the Petitioner in view of the observations made in the order by the Ld. CGRF on 22.07.2025 in Complaint No. 1414/2025/03/05 for availing appropriate remedy for the redressal of its grievances and accordingly, the petition was disposed off. A copy of the order dated 24.02.2026 passed by the Hon'ble High Court has been annexed as **Annexure-RA-7**.

22. It is averred that there is huge delay and latches in approaching the Commission as per the directions dated 22.07.2025 passed by the CGRF and hence the present Petition deserves rejection on this count. Further, the Petition is not maintainable and deserves dismissal particularly when the action of the Respondents/ HPSEBL is legal and

bonafide as the Petitioner was served with a notice of demand as back on 04.01.2025 and since the petitioner did not deposit the demand raised, the same was raised in the bill for the month of Feb, 2025 through Sundry. Also that the Petition discloses no enforceable cause of action in favour of the Petitioner particularly when the Hot Mix Plant is carrying out the job/ works of mixing bitumen and aggregate stone which is temporary in nature and hence as per audit, it should have been categorized and charged under the tariff applicable for the Temporary Metered Supply. Further, pursuant to the orders dated 10.03.2026 passed by the Commission, the electric connection of the Petitioner firm has since been restored on 12.03.2026.

23. On merits, contents have been denied reiterating the averments made by of the preliminarily submissions.

24. It is denied that the category of the Petitioner firm i.e. Medium Industrial Power Supply has been wrongly and illegally changed to the Temporary Metered Supply. It is reiterated that the Petitioner firm was duly served notice on 04.01.2025, on the basis of audit observations that the electric supply to the Hot Mix Plant of the Petitioner firm is to be charged under the Temporary Metered Supply instead of MIPS and hence, the demand was raised and on default of payment, the notice for disconnection of supply of the Petitioner was issued on 03.03.2025. Thus, the category to temporary was changed after due notice.

25. As per the Respondent, a bare perusal of condition No.4 of the licence deed shows that the HPPWD has only allowed the Petitioner firm to erect a temporary structure on the land leased out to the Petitioner firm as the machinery of Hot Mix Plant is movable from place to place in view of the work requirement and the contracts of the Petitioner firm. Therefore, it is not performing the work which is perennial in nature, rather, it is only performing the work which is temporary in nature and hence, the Hot Mix Plant deserves to be-charged on the basis Temporary Metered Supply as also pointed out by the audit.

26. It is submitted that the electric connection has been released to the Petitioner as per the provisions of the Regulations applicable at the relevant time but denied that the petitioner has completed all the formalities in terms of HP Electricity Supply Code at the time of release of electric connection as the HP. Electricity Supply Code was not in existence at the time.

27. It is submitted that since the audit of the Electrical Sub-Division, HPSEBL, Kandaghat, was conducted by the Resident Audit Officer of the O/o of the Pr. Accountant General, HP, Shimla-3, for the period from August 2018 onwards, it was pointed out that the Hot Mix Piants are to be classified and covered under Temporary Metered Supply instead of MIPS, as per the tariff orders and MYT order for the Fifth

Control Period (2025-29) and FY2004-05 to FY2025-29 (Annexure RA-8 Colly), issued by this Commission from time to time.

28. It is submitted that the replying respondents have been charging for the electric connection of the Petitioner firm on the basis of tariff applicable to Medium Industrial Power Supply but the audit has pointed out that the Hot Mix Plants cannot be treated under the category of MIPS and rather, they are to be treated and classified under the Temporary Metered Supply in view of the nature of work performed by it which is seasonal in nature and not perennial. Moreover, the structure of the Hot Mix Plant is movable from one place to another as per the requirement of the work of the Petitioner's firm.

29. It is denied that an opportunity of being heard was not granted.

30. It is reiterated that the works to the Petitioner are not available round the year and are only undertaken during three four months in a year that too when a contract is awarded to the Petitioner firm and not otherwise. Therefore, the Họt Mix Plant is put to use only when the contracts are available to the Petitioner that too during certain months of the year and it is not an industrial unit the work of which is perennial in nature.

31. It is submitted that the distribution licensee has sufficient powers to recover electricity dues and other charges if detected during the course of audit as short assessment. It is submitted that the HPSEBL

being regulated entity is mandated under the provisions of the Electricity Act, 2003, as a distribution licensee, to recover electricity dues and other charges from the Petitioner strictly in consonance with the tariff order issued by this Commission under Section 62 of the Act. It is submitted that the electricity dues are statutory in nature and the consumer cannot evade payment of the same and once the bonafide mistake was detected by the Respondents, the supplementary demand has been raised in terms of the consumption pattern and as per actual demand. Further, the distribution licensee has every right to recover past electricity dues from its consumers and the law on this point has already been settled by the **Hon'ble Apex Court in Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Limited v. Rahamutullah @ Rahamujullah, (2020) 4 SCC 650, followed in M/s Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Limited & Ors., Civil Appeal No. 7235 of 2009, decided on October 5, 2021. The Hon'ble Court in Prem Cottex held as under:-**

> *"25. In other words, the negligence on the part of licensee which led to short billing in the first instance and rectification of the same after the mistake is detected, is not covered by sub-section (1) of Section 56. Consequently, any claim so made by a licensee after the detection of their mistake, may not fall within the mischief namely, 'no sum due from any consumer under this section', appearing in subsection (2). The matter can be examined from another angle as well. Sub-section (1) of Section 56, as discussed above. deals with disconnection of electricity supply if any person 'neglects to pay any charge for electricity The question of neglect to pay would arise: only after demand is raised by the licensee. if the demand is not raised, there is*

no occasion for a consumer to neglect to pay any charge for electricity. Sub-section (2) of Section 56 has a non-obstante clause with respect to what is contained in any other law, regarding the right to recover including right to disconnect. Therefore, if the licensee has not raised any bill, there can be no negligence on the part of the consumer to pay the bill and consequently the period of limitation prescribed under sub-section (2) will not start running. So long as limitation has not started running, the bar of recovery and disconnection will not come into effect. Hence, the decision in Rahamtullah Khan and Section 56(2) will not go to the rescue of the appellant."

32. It is submitted that it is a well-settled proposition of law that the wrong, once detected, cannot be allowed to be perpetuated any longer and mere non-execution of the agreement for the proper tariff category does not preclude the licensee from applying the correct tariff category as per the mandate of the tariff order and regulations. Further, it is a settled principle of law, as held by the Hon'ble Apex Court, that regulations override existing contracts. Since the Hot Mix Plant squarely falls under the expression "temporary supply for construction purposes including civil works by Government departments," it falls under the TMS category and the MIPS category was wrongly applied to the Petitioner which constitutes a 'bonafide mistake'. It is further submitted that the Respondents crave leave to substantiate their action in terms of the ratio laid down by the Constitution Bench of the Hon'ble Supreme Court in PTC India Ltd. v. Central Electricity Regulatory Commission (2010) 4 SCC 603, wherein it was held that the regulations framed by this Hon'ble Commission override existing contracts. It is the duty of the

Respondents to give full effect to the regulations framed by the HPERC in letter and spirit. Thus, the action of the replying Respondents is perfectly legal, intra vires, bona fide, and hence, the petition is not maintainable and deserves outright rejection.

SUBMISSIONS OF THE PARTIES

33. We have heard Sh. Bimal Gupta, Ld. Sr. Advocate duly assisted by Sh. Trigun Singh Negi, Ld. Advocate for the Petitioner and Sh. Kamlesh Saklani, Authorised Representative for the Respondents.

34. Sh. Bimal Gupta, Ld. Sr. Advocate for the Petitioner has submitted that the Hot Mix Plant of the Petitioner having been established in the year 2001 on a piece of land on lease for 30 years cannot by any stretch of imagination be categorized as temporary metered supply connection under the temporary meter category but the Respondents have wrongly treated the Hot Mix Plant of the Petitioner under Temporary Metered Supply category on the basis of audit report and based on the same, the connection of the Petitioner was illegally disconnected. According to him, the tariff order of the Commission clearly defines the nature of the Projects to be considered as Temporary, Large, Medium and Small and no other category than approved by the Commission in various tariff orders can be applied by the Respondents. Further submitted that the Commission has categorized the Consumers as Large, Medium and Small Metered

Supply consumers based on contract demand and connected load in the various tariff orders and thus, the action of the Respondents is arbitrary and illegal. According to him, no proper notice has been issued to the Petitioner for change of category from Medium Industrial Power Supply to Temporary Metered Power Supply and no opportunity was given to raise the objections against the change of classification/ categorization and as a result thereof, the Petitioner has suffered huge loss as the business of the Petitioner was adversely affected on account of illegal disconnection.

35. Sh. Kamlesh Saklani, Authorized Representative for the Respondents on the other hand has submitted that the Hot Mix Plant of the Petitioner is not stationed at one place and is moving from one place to another on the National Highway and, therefore, the connection of the Petitioner is temporary in nature and the Audit has rightly pointed out the irregularity. According to him, the Petitioner was duly served notice on 04.01.2025 for changing the category of connection of the Petitioner and for depositing the amount of Rs. 9,89,425/- but the Petitioner neither complied with the terms and conditions of the notice nor responded to the same. Thus, the Respondents had no option but to resort to disconnect the connection of the Petitioner and change the same to the Temporary Metered Supply connection.

POINTS FOR DETERMINATION

36. We have carefully gone through the submissions of Sh. Bimal Gupta, Ld. Sr. Counsel for the Petitioner and Sh. Kamlesh Saklani, Authorised Representative for the Respondents and have also carefully gone through the record. The following points arise for determination in the Petition:-

Point No. 1: Whether the Hot Mix Plant of the Petitioner was wrongly categorized as temporary metered supply connection and illegally disconnected?

Point No. 2: **Final Order**

37. For the reasons to be recorded hereinafter in writing, our point wise findings are as under:-

Point No. 1: Yes.

Point No. 2: The Petition allowed and the Petitioner directed to approach the CGRF, Shimla for redressal of its grievances per operative part of the Order.

REASONS FOR FINDINGS

Point No. 1:

38. The Petitioner is engaged in construction of Buildings, roads etc. on turnkey/ BOT as well as on contract basis with the Central Government, State Government Authorities, Municipal Bodies, Corporations etc. It is evident from the Petition that the Petitioner in

order to accomplish the works assigned/ awarded to it, obtained a piece of land at Diarighat, Tehsil Kandaghat, Distt. Solan from National Highway Division of HPPWD on license basis as evident from copy of license deed (Annexure P-2) for a period of 30 years and installed a Hot Mix Plant thereon on Khasra No. 648/614 on 21.09.2000. The license is valid for a period of 30 years uptill 29.09.2030. There is also no record placed by the HPSEBL that the Plant of the Petitioner has been shifted to another location or any fresh license deed has been signed by the Petitioner for another period or a period less than 30 years as mentioned above.

39. It is none of the case of the Respondents that the license deed has been terminated meaning thereby that the validity of the license is upto 29.09.2030.

40. Having installed the Hot Mix Plant on Khasra No. 648/614 at Dhiaraighat, Distt. Solan, the Petitioner uses the same for processing the raw material into a commercial product i.e. mixing aggregate and bitumen with the use of power having been supplied to the Plant by the Respondents. The Petitioner also provides processed material for construction of the road for the NHAI and other Government instrumentalities at various roads construction sites of the National Highway/ other instrumentalities of the Government, based on the requirement. For running the Hot Mix Plant, the power connection has

been released by the Respondents under the medium industrial power supply based on the contract demand and connected load for MIPS at the relevant time.

41. However, the Respondents have changed the nature of the connection of the Petitioner to Temporary Metered Supply connection based on the observations made in the Audit. The Temporary Metered Supply is applicable to all loads of temporary nature including exhibitions, touring talkies, circuses, fairs, melas, marriages, festivals, for construction purposes including civil works by Government departments and other similar purposes for temporary needs only. It is mentioned in the Petition that the Project of the Petitioner is clearly out of the purview of the Temporary Metered Supply connection.

42. It is evident from the record that the Respondents served a notice on 04.01.2025 calling upon the Petitioner to deposit a sum of Rs. 9,89,425/- being deficit amount as the Petitioner was wrongly billed for MIPS failing which the amount will be debited in the next energy bill. Having not deposited the amount, the second notice dated 03.03.2025 was issued calling upon the Petitioner to deposit the sum of Rs. 9,89,425/- within 15 days. Having not complied with the same, the Respondents resorted to disconnect the power supply of the Petitioner without taking his version as to whether his connection was MIPS or not.

43. Accordingly, feeling aggrieved by the action of the Respondents, the Petitioner approached the CGRF by filing a complaint being Complaint No. 1414/2025/03/05, wherein, it was held in paras 17 and 18 as under:-

> *(17) Forum holds in the instant matter, that once issue of interpretation of Tariff Orders passed by the Ld. HEPRC has arisen, it cannot adjudicate upon the instant complaint because such interpretation falls within the sole domain of the Ld. HPERC.*
>
> *(18) Accordingly, Forum grants liberty to the Complainant to approach the Ld. HEPRC in the matter.*

44. However, instead of approaching the Commission, as directed by the CGRF, the Petitioner filed a Writ Petition being CWP No. 1994 of 2026 before the Hon'ble High Court of Himachal Pradesh, wherein it was held vide order dated 24.02.2026 as under:-

> *3. Evidently, Petitioner has been granted liberty by the CGRF to approach the Respondent No. 3, since in terms of the order passed by the CGRF, the matter involved interpretation of Tariff orders passed by the HPERC which fell within the sole domain of the HPERC, hence it is for the Petitioner to raise its grievance before the competent Forum.*
>
> *4. At this stage, learned Senior Counsel for the Petitioner seeks permission to withdraw the present writ Petition in view of the observation already made in the order passed by the CGRF on 22.07.2025 for availing appropriate remedy for the redressal of its grievances. Granting such permission, present writ petition to stand disposed of as withdrawn.*

45. In the circumstances, the present Petition has been filed by the Petitioner before this Commission seeking the following relief:-

> *"It is, therefore, respectfully prayed that the category of Hot Mix Plant of the Petitioner be declared under the category of tariff applicable to Small*

> *or Medium Industrial Power Supply. And consequently the notice dated 04.01.2025 and 03.03.2025 be set aside and the Respondents be directed to restore the power supply of the Petitioner immediately."*

46. Since, the connection had been disconnected pending interpretation by the Commission as directed by the CGRF, the Commission vide order dated 10.03.2026 directed the Respondents to restore the power supply to the Hot Mix Plant of the Petitioner located at Diarighat, Tehsil Kandaghat within two days on deposit of Rs. 1,64,905/- which will be 50% of the amount as demanded vide notice dated 04.01.2025 as the Petitioner has already deposited Rs. 3,21,808/- in pursuance to the CGRF interim order dated 12.03.2025 in Complaint No. 1414/2025/03/05. It has been submitted by the Respondents that in compliance of order dated 10.03.2026 of the Commission, the connection of the Petitioner has been restored.

47. Therefore, the short question involved in the present controversy is whether the HPSEBL could have changed the category of the Hot Mix Plant to Temporary Metered Supply connection instead of Medium Industrial Power Supply connection.

48. The Temporary Metered Supply Connection is clearly defined in para 11.13.36 of the tariff order dated 25.03.2026 in Petition No. 239 of 2025 which is reproduced as under:-

> *"11.13.36 This Schedule is applicable to all loads of temporary nature including exhibitions, touring talkies, circuses, fairs, melas, marriages, festivals, temporary supply for construction*

purposes including civil works by Government departments and other similar purposes for temporary needs only. This Schedule shall also be applicable for Consumers not having sanction/ completion plan for their premises from the appropriate authority. However, this Tariff is not applicable to wheat threshers and paddy threshers which shall be covered under Irrigation and Drinking Water Pumping (IDWP) even for temporary connection."

49. The Medium Industrial Power Supply has also been defined in the tariff order dated 25.03.2026 in Petition No. 239 of 2025 in para 11.13.18 as under:-

> *"11.13.18 This Schedule is applicable to Industrial Consumers with Contracted Demand above 50kVA and not exceeding 100 kVA including Pumps (other than irrigation pumping), Atta Chakkis, and also for supply to Information Technology Industry, limited only to IT Parks recognised by the State/Central Government. The Industrial type of Agricultural loads with connected load falling in the abovementioned range and not covered by Schedule "IDWPS" shall also be charged under this Schedule."*

50. Likewise, the Small Industrial Power supply connection has been defined in para 11.13.12 of tariff order dated 25.03.2026 in Petition No. 239 of 2025 as under:-

> *11.13.12 This Schedule is applicable to Industrial Consumers with Contracted Demand not exceeding 50 kVA including Pumps (other than irrigation pumping), Atta Chakkis, and also for supply to Information Technology Industry, limited only to IT Parks recognised by the State/Central Government. The Industrial type of Agricultural loads with connected load falling in the above-mentioned range and not covered by Schedule "IDWPS" shall also be charged under this Schedule.*

51. As evident from the aforesaid, the electricity connections are provided/ installed on the basis of Contract Demand and when the

contract demand is less than 50 kVA, the connection is considered as Small Industrial Power Supply but if the contract demand exceeds 50 kVA but does not exceed 100 kVA, the same is categorized under Medium Industrial Power Supply. The Contract demand of the Petitioner was 49 kVA and the Petitioner was categorized under Medium Industrial Power Supply in the year 2001, based on the connected load and the tariff structure at apposite time when the connection was released.

52. As evident from the License Deed dated 23.05.2003 (Annexure P-2), the License of the Petitioner has been granted for a period of 30 years w.e.f. 21.09.2000 to 20.09.2030 and the Petitioner will continuously supply the processed material at various sites of the construction of road of the NHAI. The work of the Petitioner as per license deed is not temporary nature of work and rather, the License is for a period of 30 years. Hence, the Hot Mix Plant does not fall in the category of temporary metered connection, by any stretch of imagination and for said reason, the Medium Industrial Power Supply connection was provided to the Petitioner in the year 2000 when the Hot Mix Plant was set up.

53. The Commission has the powers under Section 61 of the Electricity Act, 2003 to determine the tariff of various categories of consumers and thereby categorizes the connections based on the

contract demand and connected load whether it is Small, Medium or Large Metered Supply Connection or the Temporary Metered Connection. The work of roads runs throughout the year except during rains etc. Hence, the work of the Petitioner's Hot Mix Plant cannot be said to be temporary in nature. It appears that the HPSBEL has jumped to a wrong conclusion that the Petitioner falls under the Temporary Metered Supply Connection.

54. The categorization of the nature of electricity connection falls under the exclusive domain of the Commission and any issue regarding the same may be looked into only at the time of determination of tariff and not before. As per Section 64 (6) of the Electricity Act, 2003, a tariff order unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. Since categorization has been made by the Commission based on the contract demand and connected load in the tariff order dated 25.03.2026 in Petition No. 239 of 2025, the tariff order is valid form 01.04.2026 to 31.03.2027 but the Respondents have tried to alter the category of the connection of the Petitioner. In case, the Distribution Licensee intends to change the nature of category of the Hot Mix Plant to Temporary Metered Supply connection, it may make the appropriate submissions in the tariff Petition to be filed for the ensuing year which will be dealt with as per

the provisions of the Electricity Act, 2003 after inviting objections/ suggestions from all the stakeholders.

55. In the circumstances, the Petitioner has established that the Hot Mix Plant was wrongly categorized as temporary metered supply connection and illegally disconnected. Thus, Point No. 1 is accordingly, decided in favour of the Petitioner.

Final Order

56. In view of the aforesaid discussions and findings, the Petition succeeds and allowed.

57. The Petitioner is directed to appear before the Ld. CGRF, Shimla by filing a complaint for redressal of its grievances and the Ld. CGRF based on the interpretation as given above, is directed to dispose of the complaint within a period of three (3) months from filing of the same.

58. The amount already deposited by the Petitioner for getting the connection restored is ordered to be adjusted in the energy bills to be raised by the Respondents in future.

59. The Petitioner is also accorded liberty to approach the Distribution Licensee to categorize him in the Medium Industrial Power Supply or Small Industrial Power Supply category based on the current tariff order as per contract demand and connected load of the Hot Mix Plant.

60. The Petition disposed off accordingly. The pending applications, if any, are also deemed to have been disposed off.

61. Let a copy of this order be supplied to the CGRF, Shimla.

62. A copy of this order be supplied to the parties forthwith as per the HPERC (Conduct of Business) Regulations, 2024.

The file after needful be consigned to record.

<u>Announced</u>
03.06.2026

-Sd-	-Sd-
(Shashi Kant Joshi)	**(Yashwant Singh Chogal)**
Member	**Member (Law)-cum-Chairman**