



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.2902 of 2018
Decided on: 18.11.2025

Raj Industries	... Petitioner
Versus	
Himachal Pradesh State Electricity Board & others	... Respondents

Coram
Hon’ble Mr. Justice Ajay Mohan Goel, Judge.
Whether approved for reporting?¹Yes

For the petitioner	:	Mr. Rahul Mahajan, Advocate.
For the respondents	:	Ms. Sunita Sharma, Senior Advocate, with Ms. Meenakshi Katoch, Advocate.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*,
prayed for the following reliefs:-

- “a). A writ in the nature of certiorari be passed quashing and setting aside the order dated 25.6.2018 (Annexure P-1), passed by the Electricity Ombudsman, Khalini; demand notice dated 03.03.2017 issued by the Additional Superintending Engineer (Annexure P-6) and demand notice dated 31.03.2018, respondents/HPSEB Limited. (Annexure P-12) issued by the respondents/HPSEB Limited.
- b) A writ in the nature of certiorari be passed quashing and setting aside the orders dated 8.3.2018 (Annexure P-3) passed by the Consumer Grievance Redressal Forum of HPSEBL.

¹ Whether reporters of the local papers may be allowed to see the judgment?

c). To Allow the complaint filed by the petitioner firm before the Consumer Grievances Redressal Forum of HPSEBL at Kasumpti Shimla Kasumpti as well as representation/review petition filed before the Ld. Electricity Ombudsman Khalini, Shimla.”

2. Brief facts necessary for the adjudication of the present petition are that feeling aggrieved by a demand raised by the respondent-Board, amounting to Rs.34,50,000/- for 1200 KVA contract demand, the petitioner filed a complaint before the Consumer Grievances Redressal Forum, i.e. Complaint No.1432/2/17/025. This complaint was partly allowed by the Forum in terms of order dated 08.03.2018 (Annexure P-3). Not being satisfied with the order passed by the Form, the petitioner filed a Representation under Regulations 16 to 18 of the HPERC Consumers Grievances Redressal (Consumer Grievances Redressal Forum and Ombudsman) Regulation before the Himachal Pradesh Electricity Ombudsman, vide order dated 25.06.2018 (Annexure P-1), The Ombudsman disposed of the representation of the petitioner by returning the following findings:-

“In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and arguments, it comes out that appellant has represented against the CGRF order dated 08.03.2018 passed in complaint No.1432/2/17/25. In pursuance to the CGRF above order the respondent Board (Sr. Executive Engineer)

issued a revised notice on account of IDC. However, respondent Board did not furnish the complete break-up of expenditure occurred for creation of Infrastructure for giving power to appellant. The Respondent Board is directed to render the applicant/complainant the complete break-up of expenditure on account of IDC amount and the methodology to arrive at a figure of 2875/KVA alongwith any additional information required by the complainant within a month and overhaul the account of complainant accordingly as per mechanism final order issued by HPERO for suo moto case no.25 of 2016 on dated 05-10-2016 and further endorsed by Chief Engineer commercial HPSEBL order No. HPSEBL/CE(Comm.)/APTEL/VOL-1/2016-10021-10135 dated 1-11-2016. The appellant/complaint is also directed to take up the matter with the Respondent Board to have complete records of expenditure occurred and IDC by respondent for creation of Infrastructure.”

3. Still not being satisfied with the said findings returned by the Ombudsman, the petitioner preferred a Review petition in terms of Regulation 37(8). The Review filed by the petitioner was disposed of by the Ombudsman on 08.08.2018, vide Annexure P-2, by passing the following order:-

“ORDER

Reader to Registrar

(08.08.2018)

Taking the to consideration the application filed by the applicant i.e. M/s Raj Industries, Village Belideyore,

Baddi Road, Nalagarh, Distt. Solan (H.P.) through its authorised representative Sh. Rakesh Barisal & Rahul Mahajan, Advotates Versus HPSEB Ltd. and others on 08.08.2018 in context of the order dated 25.06.2018 passed by the Electricity Ombudsman. Since no new facts, material and evidence has been put forth the by the applicant, hence, the review petition filed by the applicant M/s Raj Industries, Village Belideyore, Baddi Road, Nalagarh, Distt. Solan (H.P.) is dismissed. The order dated 26.6.2018 passed in the above matter is re-produced, inserting some left out portion which was omitted earlier inadvertently.

Electricity Ombudsman findings and Order:

In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and arguments, it comes out that appellant has represented against the CGRF order dated 08.03.2018 passed in complaint No. 1432/2/17/25. In pursuance to the CGRF above order the respondent Board (Br. Executive Engineer) issued a revised notice on account of IDC. The appellant also submitted an affidavit/undertaking duly solemnized affidavit before Class- Executive Magistrate stating" that we shall pay the Infrastructure Development Charges as per decision of the HPERC and HPSEB as and when required to do so." in view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and arguments, it comes out that the appellant is liable to pay the IDC charges as demanded by the respondent Board vide notice dated 31.3.2018

issued by the respondent Board in pursuance to CORF order dated 08.03.2018.

However, respondent Board did not furnish the complete break-up of expenditure occurred for creation of Infrastructure for giving power to appellant. The Respondent Board is directed to render the applicant/complainant the complete break-up of expenditure on account of IDC amount and the methodology to arrive at a figure of 2875/ kVA alongwith any additional information required by the complainant within a month and overhaul the account of complainant accordingly as per mechanism final order issued by HPERC for suo moto case no.25 of 2016 on dated 05-10-2016 and further endorsed by Chief Engineer commercial HPSEBL order No. HPSEBL/CE(Comm.)/APTEL/VOL-1/2016-10021-10135 dated 1-11-2016. The appellant/complaint is also directed to take up the matter with the Respondent Board to have complete records of expenditure occurred and IDC by respondent for creation of Infrastructure.

The compliance be reported within a month from the issue of this order.”

4. Feeling aggrieved, the petitioner has approached this Court.

5. Learned Counsel for the petitioner *inter alia* argued that the Order passed by the Ombudsman in Review preferred by the petitioner was *per se* bad in law, as on one hand the petitioner was not afforded an opportunity of being heard before passing the

impugned order, further the Authority in the review filed by the petitioner ventured to add insertions in the earlier order passed by it, which was not the prayer of the petitioner in the review petition. Thus, he submitted that as grave illegality was committed by the Ombudsman while passing Annexure P-2, the same be quashed and set aside.

6. On the other hand, learned Senior Counsel for the respondent-Board submitted that a perusal of the record would demonstrate that the petitioner was not present either at the time of decision of the complaint or at the time of decision of the review and therefore, there is no merit in the petition. No other point was urged.

7. I have heard learned Counsel for the parties and have also carefully gone through the record.

8. It is not in dispute that the review petition was decided by the Ombudsman in the absence of the petitioner. In fact, in terms of Annexure P-2, none were present either on behalf of the applicant, i.e. present petitioner or on behalf of the respondent, i.e. the respondent-Board. The contention of learned Senior Counsel for the respondent-Board that the petitioner did not present itself before the Ombudsman when the review was heard, is not borne out from the record, because the order passed by the Ombudsman in review does not speak that despite being intimated of the date of hearing in the

review proceedings, the review applicant failed to appear before the Ombudsman.

9. Regulation 37(8) provides that the Ombudsman at any time after affording an opportunity of being heard can review his orders either on his own motion or on an application of any of the party of the proceedings. Thus, the provision itself envisages in itself the principle of *audi alteram partem*.

10. In light of this express provision being present in Regulation 37 (8), the Ombudsman was duty bound to have afforded an opportunity to both the parties of being heard before deciding the review petition. The Court can give this much liberty to the Ombudsman that if it was not agreeing with the review petition, then it could have disposed of the review petition after hearing the applicant only, but by no stretch of imagination, the Ombudsman could have decided the review in the absence of the applicant. This is neither the letter nor the spirit of Regulation 37 (8). Therefore, on this count, the review order passed by the Authority is bad.

11. Further, the impugned order demonstrates that while dismissing the review petition it inserted certain portions in the earlier order passed by it on the ground that the same was omitted earlier inadvertently.

12. This Court is of the considered view that this also could

not have been done by it in the absence of the parties. Regulation 37(8) provides that the Ombudsman can exercise the power of review even on his own motion. This confers the power upon the Ombudsman to review its order if there is some omission therein, but obviously the insertions, if any, in the order on account of omission can be done only after providing an opportunity of being heard to both the parties and could not have been done in the mode and manner in which it has been done in the present case.

13. Accordingly, in light of the above observations, this petition is allowed to the extent that order 08.08.2018 (Annexure P-2), passed by the Ombudsman is quashed and set aside and the matter is remanded back to the Ombudsman with the direction that the review be decided afresh after hearing both the parties.

14. The petition stands disposed of. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 18, 2025
(Rishi)