
(2019) 11 SHI CK 0040

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 3704 Of 2012

H.P. State Electricity Board Ltd. & Another

APPELLANT

Vs

M/S Claridge Moulded Fibre Ltd. & Another

RESPONDENT

Date of Decision : 11-11-2019

Acts Referred:

Citation : (2019) 11 SHI CK 0040

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Tara Singh Chauhan, O.C. Sharma

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of present petition, petitioners have prayed for the following reliefs:-

"i) That the impugned order dated 30.08.2011 (Annexure P-3) may kindly be quashed and set aside.

ii) That this Hon'ble Court may kindly be pleased to call for the record of this case and pass appropriate orders in the facts and circumstances of the matter and issue appropriate directions.

iii) That the writ petition may kindly be allowed with cost".

2. Having perused the impugned order, this Court is of the view that impugned order (Annexure P-3) passed by the Forum for redressal of grievances of Himachal Pradesh State Electricity Board Consumers, Shimla-9 is not only cryptic, but is also an unreasoned and a non-speaking order. It is settled law that when a Quasi Judicial Authority or a Statutory Authority which is adjudicating upon the rights of the parties, is called upon to decide an issue, then the issue has to be decided by said Authority or Forum by passing a reasoned and speaking order. The Order should be self speaking as to why the conclusion which has

been arrived at by the Forum, has been so arrived at. The Order should spell out briefly the respective contentions of the parties, followed with the discussion viz-a-viz statutes, rules/ regulations and circular, if any, which have bearing on the said lis and thereafter, reasons have to be spelled out in the order as to why the view which has been taken by the Forum has been so taken. This is completely lacking in the impugned order.

3. A perusal of the impugned order i.e. Annexure P-3 will demonstrate that the same runs into 17 pages. Out of these 17 pages, 15 pages are devoted to the respective contentions of the parties. Last two pages deal with the observations and order. The findings which have been returned by the learned Tribunal upon the complaint of the present respondent are quoted hereinbelow:-

" The Forum has observed from the security of files and site inspection carried out by Sr. Executive Engineer commercial of Operation Circle Solan that both the units are existing on the same Khasra number, adjoining to each other under the same hanger just partitioned by a wall. the control room for both the units is same although metering is separate and the power from one unit can be delivered to another unit and vice versa. This shows that although both the units are separately cleared by the IPARA as per prevalent practice the officer's officials of HPSEBL should have followed directions/ instructions of Board prevalent at that point of time regarding sanction of load on connected load basis and in particular Sr. XEN concerned should have fore-seen with reference to installation of higher capacity transformer i.e. 1250 KVA for a load of 400 KW of unit 1 as to what are the future plans of the firm. It is a clear-cut case of violation of instructions of Board, its implementation at the field level.

The Forum in this case is of the considered view that clubbing of load with retrospective effect is against the natural justice since respondents at no point of time have shown any interest in pursuing consumer to club the load and prevail upon consumer firm to pay LS (Large Supply) Tariff. Thus, the case is decided in favour of the complainant and respondents are directed to refund Rs.75,2250/- on a/c of 25% of advance amount of Rs.30,09,000/- in the next monthly bill. As such the complaint is allowed. Copy of this order be sent to C.M.D. of the respondents so that suitable instructions be given to the field officials to remain vigilant in future and avoid loss to the HPSEB Ltd".

4. A perusal of the above findings demonstrates that there is no discussion worth its name on the respective contentions of the parties leading to the findings which have been so returned. To say the least, this demonstrates that there was no due application of judicial mind before passing of the impugned order and this in fact defeats the very purpose of the constitution of the said Forum, especially keeping in view the fact that the orders are so passed by the said Forum, have finality attached with them as they can only be assailed in the High Court by way of a writ petition, where the scope of judicial review is very limited.

5. At this stage, learned counsel for the parties submit that rather than setting

aside the order and leaving the matter at rest thereof, it will be in the interest of justice in case after setting aside the impugned order, the matter is remanded back to the Forum concerned, with the direction to decide the complaint afresh on the basis of the pleadings already on record, after affording opportunity of hearing to the stake holders. Ordered accordingly.

6. This Writ Petition is accordingly disposed of by setting aside Annexure P-3 i.e. order dated 30.08.2011, passed by the Forum for redressal of grievances of Himachal Pradesh State Electricity Board Consumers. The matter is remanded back to the said Forum with the direction to adjudicate upon the complaint filed before it by the private respondent afresh after hearing all the parties and by passing a reasoned and speaking order. The order shall be passed on the basis of the pleadings which are already on record before the learned Forum.

7. As prayed for, the amount which the respondent has already paid to the Electricity Board, shall abide by the final decision of the Forum. In other words, the petitioner- Board shall not force the respondent to pay any additional disputed sum during the pendency of the complaint before the learned Forum, nor the respondent shall press the petitioner- Board to release the money which it has paid to the petitioner during the pendency of the complaint. Pending miscellaneous applications, if any, stand dismissed. Interim order, if any, stands vacated.