

**CONSUMER GRIEVANCE REDRESSAL FORUM,
AMRAVATI ZONE, AKOLA.**

“ Vidyut Bhavan” Ratanlal Plots, Akola : 444001 Tel No 0724 .2434476

Dt.11/05/2015

Complaint No.135 / 2014

In the matter of grievance about incorrect billing, dis-connection of energy supply, etc.

Quorum :

Shri T.M.Mantri, Chairman

Shri Ravi Girdharilal Sharma	Complaint No.135/2014
Tar Fail, Akola		Complainant

.....Vrs.....

The Executive Engineer (Urban) Dn. Akola Respondent

Appearances :

Complainant Representative : Complainant in person

Respondent Representative : Shri .S.P.Upadhyay, Asstt.Law Officer with
Shri G.S.Rahate, Addnl.Executive Engineer

1. The Complainant in the matter had approached the Forum in respect of his grievance about addition of Rs,45200/- in the October 2013 bill and inspite making grievance, nothing has been done resulting in disconnection of supply. It is alleged that payment of Rs.30,000/- was made, even thereafter bills with disputed amount continued to be received, hence the complaint was lodged to IGRC but supply was again disconnected on 21-3-2014, requiring the complainant to make payment of Rs.4000/- in cash, so also gave cheque of

Rs.20000/- and supply was reconnected again. It is alleged that the said cheque of Rs.20,000/- was realized on 26-3-14 with further allegation that nothing was done after order of IGRC. On the contrary, the concerned Dy. Executive Engineer has given threats of dis-connection, compelling the complainant to pay the amount. In spite making pursuance with the said Officer, nothing was done, on the contrary he misbehaved arrogantly. According to the complainant excess amount has been paid from October 2013 to August 2014 and the said floor mill is the only means of livelihood of the family. The complainant has sought reliefs as prayed in the Prayer Clause of the complaint.

2. The claim has been opposed from the side of N.A. by filing reply stating as per the Inspection Report of Jr. Engineer the said amount has been debited, as per the guidelines dated 6-7-2013 for recovery of arrears of PD consumers. According to the N.A. apart from paying part payment of Rs.30,000/- by the complainant, he has issued cheque of Rs.20,000/- however the said cheque was dis-honoured, requiring the N.A. to intimate and instruct to pay the amount within 15 days by serving notice. In view of the non payment, electric supply was temporarily dis-connected as per the Rules on 30-8-2014. Averments have also been made about the habit of the complainant in not paying electric bills and the cheque was dis-honoured for want of sufficient funds. In addition to electric bills, the amount was in arrears in view of the dis-honour of cheque. That objection also has been raised about the tenability of complaint, alleging that the complainant is not "Consumer". After hearing the parties order was passed on 11-9-2014. The N.A. being dis-satisfied with the said order, approached Hon. High Court vide Writ Petition No.6658/2014 and the Hon. High Court vide order dated 13th March 2015 has directed to

reconsider the complaint No.135/2014 with further directions to decide the complaint within 2 months from appearance of the parties. The parties undertook to appear before this Forum on 23-3-2015 as per the directions of the Hon. High Court. Accordingly, parties have attended before this Forum on 23-3-2015. In view of the submissions made, the matter was adjourned and opportunity was granted to both the parties to file submissions and documents as observed by the Hon. High Court. That the parties have accordingly filed further additional documents as well as submissions.

3. Heard the complainant in person and Shri S.P.Upadhyay, Assistant Law Officer with Shri G.S.Rahate, Addnl. Executive Engineer on behalf of the N.A. The Parties thereafter have also produced certain documents copies of which have been tendered to each other. As is clear from the record, as well as submissions of the parties, and the additional documents and submissions made, it is clear that there are two industrial connections in the premises, one in the name of Smt. Godavaribai (Consumer NO.3120070125586) and other one in the name of Shri Biharilal Sharma (Consumer NO.310070125578). Admittedly Smt Godavaribai, Girdharilal and Biharilal Sharma are not alive. As far as the objection of the N.A. about tenability of the complaint filed by the present complainant, it was dealt in details in the earlier order and the same has not been reiterated by the N.A. So this complaint filed by the complainant is tenable. Admittedly, so also from the documents filed by the N.A. on record after remanding by the Hon. High Court, it has come on record that deceased Godavaribai Sharma and Girdharilal Sharma were parents of the present complainant so also from the documents produced and submissions made after remand it has been brought on record that deceased Biharilal Sharma was grand father of the present complainant. The N.A. has also produced certain documents : Death Certificate so also documents of MHADA Office,

Amravati as well as copies of additional affidavit of Additional Executive Engineer, filed in the Writ Petition No.6658/2014 so also written submission of the Respondent No.1 (Present Complainant) in the said Writ Petition. In the said written submission of the present complaint, before the Hon. High Court, it has been categorically stated that Biharilal Sharma, grand father of the present complainant was having meter bearing Consumer No.310070125578, which was permanently dis-connected with dues outstanding of Rs.45200/- thereon. The said outstanding amount has been transferred to other meter having Consumer NO.310070125586 in the name of Smt Godavaribai, who is also not alive. The complainant is using the said meter without seeking any change of name. Admittedly the complainant is using same connection for running the Floor Mill since last number of years. This factual aspect brought on record for the first time clearly establishes that the present complainant Ravi Sharma, being the grand son of Late Biharilal Sharma is legal successor / heir of deceased Biharilal Sharma. In the earlier litigation, this factual position was not clarified, on the contrary the then record clearly shows that there was submission on the part of the complainant that illegally amount has been transferred and tried to be recovered from the other live connection having no nexus with the connection having dues.

4. Here, it is pertinent to be noted that after transfer of said arrears, the complainant has paid Rs.30,000/- Though it has been tried on behalf of the complaint by making oral submission that the said payment was made under protest, however, there is nothing on record to establish this submission about making of the said payment under protest. It is further to be noted that even according to the complainant, he has paid Rs.4000/- in cash, thereafter also issued cheque of Rs.20,000/- The N.A. filed on record the copies of the

cheque with Bank Memo of Akola Urban Cooperative Bank, Akola giving reasons for dis-honour of cheque on account of "*funds insufficient*". The said memo is dated 6th Nov. 2012. As per the N.A. thereafter the notice was sent to the complainant, the same is returned unclaimed. The complainant has gone to the extent of making contentions in the complaint that the said cheque of Rs.20,000/- was realized on 26-3-2014. Not only this much, even while giving details of the amount due and the details of payment made by the complainant, he has categorically mentioned about the payment of Rs.20,000/- by cheque. So it is apparently clear that the complainant's averment in the complaint about the realization of the said cheque of Rs.20,000/-. That attention has been drawn to the letter dated 21-3-2014 of the complainant while issuing the said cheque of Rs.20000/- mentioning therein that he will be responsible if the cheque is bounced and will be liable for action, as per the Rules and Regulations. Though the complainant had knowledge about the dishonour of the said cheque, has made incorrect / false averment in the complaint, for which during the course of argument it is submitted that it was mistake in making averment in that respect in the complaint. That reference has been made to the guidelines / Circular dated 6-7-2013 of MSEDCL-Licensee for recovery of arrears from PD consumers. Clauses 4,5 & 6 are relevant as far as the present controversy is concerned, which are reproduced hereunder for ready reference :

Clause No.4 : In the premises of any PD consumer in arrears, if there is other live connection of the same PD consumer or of his legal successor found, then entire PD arrears with interest & DPC should be diverted on such live connection.

Clause No.5 : In premises of any PD consumer in arrears, if there is any live connection of any other person found, who is not legal successor of PD consumer, then the last six months arrears (before PD) of such PD consumer should be diverted on said live connection as per Reg.No.10.5 of MERC (ESC & OCS) Regulations – 2005.

Clause No.6 : If any PD consumer in arrears is having any live electricity connection in same or other sub-division, division, circle or Zone, then the entire PD arrears with interest and DPC should be diverted on said live connection of same PD consumer.

5. That upon considering the factual position brought on record after remand so also rival submissions of the parties, it is clear that the complainant being the legal successor / heir of the deceased and utilizing the live connection in the name of deceased (Smt. Godavaribai) as per Clause – 4 above, the entire PD arrears of Rs.45,200/- of grand father of the complainant Biharilal Sharma has been diverted on the live connection in the premises. Consequently Clause-4 of the said guidelines is rightly made applicable by the N.A. and the said amount of arrears was included in other bill of legal successor who is utilizing the said live connection. Here, it is pertinent to note that the complainant initially made part payment of Rs.30,000/- However, further issued cheque of Rs.20,000/- also apart from making cash payment of Rs.4000/- and subsequently raised the dispute about the transferring of dues of other connection without giving any intimation. The facts and circumstances as now brought on record does not support the said stand of the complainant. On the contrary, it can be very well said that he was very well aware of the arrears of PD connection outstanding in the name of his grand

father Biharilal. That has been so narrated by him in the written submissions made before the Hon. High Court in the Writ Petition.

6. That the complainant has made submissions during the course of arguments that there are other connection also in the name of deceased Biharilal Sharma (his grandfather), hence the arrears of Rs.45,200/- be diverted and recovered from the other connection, suffice to say that that the said argument of the complainant is by way of after thought. As per the above referred guidelines, the N.A. is at liberty to make applicable appropriate direction in making recovery. The complainant cannot be permitted to say that irrespective of he is legal successor / heir, the arrears be diverted on any other consumer No. Consequently this Forum has to hold that action on the part of N.A. cannot be said to be illegal / out of malice, resulting in non-entitlement of any reliefs to the complainant in the present proceeding as prayed for. That it would have been just and proper on the part of officers of the N.A. to give intimation in writing about transferring / diverting of the dues outstanding of the said PD connection on the other connection. The same would have avoided the unwanted litigation giving chance to the complainant to raise grounds of the nature raised in the present complaint. The complaint is liable to be dismissed, hence this Forum proceeds to pass the following order:

ORDER

1. That in view of the documents and circumstances the Complaint No.135/2014 is hereby dismissed.
2. In the circumstances, no order as to cost.

Sd/-

Date: 11-5-2015

(T.M.Mantri)
Chairman

No.CGRF / AMZ/ Akola/ 725

Dt. 11 /05/2015

To
The Nodal Officer / Executive Engineer,
MSEDCL,
Urban Division,
Akola

The order passed on 11-05-2015 in the Complaint No. 135/2014, is enclosed herewith for further compliance and necessary action.

L.D.C.
Consumer Grievance Redressal Forum,
MSEDCL, Amravati Zone, Akola

Copy to:

Shri Ravi Girdharilal Sharma, Tar Fail, Akola Dist : Akola for information.

Copy s.w.r.to:-

The Superintending Engineer, O & M Circle Office Akola.