

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF / AZ / AUR / U / 601 / 2016 / 32
Registration No. 201611021**

Date of Admission 31.08.2016
Date of Decision 03.01.2017

M/s. Rose Enterprises,
Plot No. 15/30, MIDC.,
Chikalthana,
Aurangabad 431210.

COMPLAINANT

VERSUS.

- 1) The Executive Engineer (Administration) RESPONDENT
Nodal Officer, O/O Superintending Engineer ,
O&M Urban Circle, M.S.E.D.C.L.,
Aurangabad.
- 2) The Additional Executive Engineer,
MSEDCL, Flying Squad Unit ,
Aurangabad Rural.

CORAM

Shri Dr.Bhaskar G. Palwe Chairman
Shri Uttam M. Urkude, Member/Secretary
Shri Vilaschandra S.Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

M/s. Rose Enterprises, Plot No. 15/30, MIDC., Chikalthana, Aurangabad (Consumer No. 490012049894) has filed a complaint against the Executive Engineer (Admn), MSEDCL, Urban Circle, Aurangabad in Annexure 'A' of the Maharashtra Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Electricity Ombudsman) Regulation 2006.

The brief details of the complaint are as under.

The complainant is an SSI registered unit for Engineering Workshop. The complainant has obtained a three phase 5 HP connection from the respondent that is MSEDCL. The connection is LT connection with a industrial category from August 2001. The consumer was regular in payment of electricity bills issued by MSEDCL till May 2016. The respondent No. 2, that is Dy. Executive Engineer, incharge of flying Squad of MSEDCL visited the premises of the consumer on Dt-24.05.2016 & orally told the complainant that as per new MERC tariff order, the activity of Engineering Workshop is classified into commercial & revised bill is required to be issued for difference in tariff rates of Industrial and Commercial category. However on inspection report, he put his remark as under :-

“Change the tariff form LT- Industrial to Commercial as per MERC tariff order and assessment proposed under Section 126 of IEA 2003”. The complainant received a letter dated 21.06.2016 by e-mail from respondent No. 2 asking him to attend a hearing on 23-06-2016 on provisional bill issued u/s 126 of EA 2003.

The complainant submitted a letter dated 23.06.2016 to the Respondent No. 2, that no provisional bill is received by him from any of the Respondent and since the issue is pertaining to tariff difference, Section 126 of EA 2003 does not attract. After observing ill intentions of Respondent No. 2 of extracting money, filed his grievance before Internal Grievance Redressal Cell (IGRC) of Urban Circle, Aurangabad on 25.06.2016 and requested to withdraw the

said assessment bill. The Complainant also submitted various references of order passed by the Hon. Appellate tribunal of electricity, MERC ,Electricity Ombudsman and other Forums.

Inspite of this submissions before IGRC the consumer was in receipt of bill dated 07.07.2016 for Rs. 306700/- in which Rs. 290279.92 was shown as debit bill adjustment amount. The complaint vide letter dated 12.07.2016 brought this fact to the notice of concerned office of MSEDCL.

The IGRC is required to pass, its order within stipulated time of 60 days as per MERC Regulations but inspite of various correspondence by the complainant IGRC has not passed any order .

The complaint therefore approached this Forum with a prayer as under.

- 1) The grievance may be admitted and allowed.
- 2) The assessment bill of Rs. 230279.20 issued u/s 126 may be quashed along with interest.
- 3) Respondent No. 2 may be directed to pay Rs. 25000/- towards harassment and intentional unlawful action taken against the complainant.
- 4) Respondent No. 1 may be directed not to disconnect electricity supply of the complainant till disposal of the grievance.
- 5) Any other relief as deemed fit by honorable Forum.

Moreover during the course of hearing the complainant requested to take the action against Respondent No.2 for deliberate absence during the hearing of the Forum.

Written Statement of the Respondent (the Say of Executive Engineer(Admn), Nodal Officer, MSEDCL O&M Urban Circle, Aurangabad

- 1) It is submitted that nothing herein shall be construed to mean to be any admission of either of the contentions of the complainant / appellant & that entire hostile contentions of the appellant are denied, though, for the sake of brevity not specifically dealt with.
- 2) The contents of paragraph No. 1, the SSI registration certificate attached herewith at exhibit No. A is for the period of 2001 to 2005. That is for five years only.
- 3) The contents para No. 2 are introductory in the business carried out by the complainant. The process for supply of electricity is admitted the industrial connection to the consumer was given in 2001 on the basis of document submitted.
- 4) The contents para No. 3 are denied to the extent that consumer was in use of industrial activity.
- 5) The contents para No. 5 are denied, the consumer was well aware of the action initiated by the respondent No. 2. The consumer representative Mr. Aniket Patil has acknowledged his signature to the spot inspection report & panchnama dtd 24.05.2016. Further, the action initiated u/s 126 of Electricity act 2003 by the respondent No. 2 was well within knowledge of the complainant.

- 6) The contents of para No. 6 are denied to the extent of contents of the letter attached with the complaint
- 7) The contents of para No. 7 are denied. Totally as the action initiated by respondent No. 2 is legal and proper.
- 8) The contents of para No. 8 are admitted as the respondent has issued energy bill along with the final assessment bill to the complainant.
- 9) The contents of para No. 9 are true and correct.
- 10) The contents of para No. 10 are denied to the extent that there was no communication made by the complainant to the present respondent No. 2. The respondent No. 2 has not received any notice of appearance before IGRC.
- 11) The contents of para No. 11 are denied.
- 12) The contents of para No. 12 (a) ii and vi are legal submissions need no reply by answering the respondent.
- 13) The consumer obtained electricity connection for the industrial purpose but the premises and the connection used for the transportation business and automobile repairing workshop which is not authorized and comes within the action liable to be initiated as per Section 126 of the Electricity Act 2003.
- 14) The consumer was having every opportunity of remedy to apply before the appellate authority provided in Section 127 of the act 2003 instead of approaching right authority, Consumer

has approached to CGRF, but as per rule 6.8 of MERC (CGRF) and Ombudsman regulation 2006. The CGRF is not having the jurisdiction to entertain the complaint.

- 15) The complainant has not approached to the appellate authority provided in Section 127 of the act 2003 only to save the 50% of assessment amount to be deposited as mentioned in Section 127 (2) with the authority.
- 16) The Accessing Officer is having its full jurisdiction to inspect and access the consumption of the Consumer. As in this present case, the consumer has used the electricity for the purpose other than for which the uses of the electricity was authorized, hence the accessing officer comes to the best of his judgment that the provision of the Section 126 are applicable to this case and it has performed his duties as per the provisions contained in the section 126 of the act.

Hence, the respondent has prayed that the complaint may kindly be dismissed. The directions may please be given to the complainant for payment of the assessment bill raised by the Respondent. The complainant may please be directed for the payment of outstanding amount with interest.

Observations of the Consumer Grievance Redressal Forum.

- 1) The Complainant had obtained a 3 phase 5HP connection for starting an Engineering Workshop in August 2001. The tariff applied was as per MERC tariff order i.e. industrial category.

- 2) The complainant in the year 2014, decided to add vehicle repairing activity at his premises which requires no separate equipments / tools for his new activity. The complainant informed M/s GTL Ltd., who was working as franchisee on Dt-14.03.2014 regarding new activity of vehicle repairing workshop, but no cognizance had been taken of the same and no tariff was changed .
- 3) The Respondent No. 2 visited the premises on 24.05.2016. It is clear that no provisional bill or any communication was received by the complainant till 21.06.2016. It is clear that no provisional bill was issued to the complainant within stipulated time limit. i.e. 7 days which is violation of condition No. 24.3.3 of MSEDCL condition of supply.
- 4) The present grievance is therefore nothing but a change of tariff category. The complainant has filed copies of orders passed by following authorities, in case of the recovery of arrears, wherever the grievance regarding the applicability of tariff arises.
 - a) Judgment dated 07.08.2014 passed by the appellate tribunal of the electricity (Case No. 131/2013)
 - b) MERC order dated 11.02.2003 (Case No. 24/2001)
 - c) Electricity Ombudsman order dated 23.12.2014 (Case No. 126/2014) In case of J. S. Auto Garage Vs MSEDCL.

- d) CGRF, Nashik order in the matter of M/s. Tough Cold Retreads Vs MSEDCL (Case No. CGRF/Nashik/471/2015) and M/s. Vighnagar Tyre Industries (Case No. CGRF/Nashik/ 474 /2015) .
 - e) MERC order dated 09.12.2016 (Case No. 04/2016)
- 5) As per commercial circulars Nos. 121 Dt-21.09.2010, 136 Dt-13.06.2011 and 200 Dt-05.07.2013, it is the duty and responsibility of the Addl. Executive Engineer, Flying Squad (Inspection and Assessing Officer) to follow the provisions under section 126 of Electricity Act 2003 amendments 2007, but Addl. Executive Engineer, Flying Squad (Respondent No.2) deliberately neither attended the hearings at CGRF nor submitted the say/arguments regarding the facts and violated the provisions under section 126 of EA 2003.

In view of the above submissions made by complainant, Respondent and observations, made by this Forum, The Forum has come to the conclusion that the Section 126 of Electricity Act 2003 does not attract. The debit bill amount of Rs. 290279.92 is therefore required to be quashed. The Respondent shall only recover arrears from the complainant from the date of changing the activity i.e. from the date of visit & observance without applying delayed payment charges and interest on the said arrears. The arrears already paid by the appellant should be adjusted and balance amount be recovered from the complainant. The forum therefore passes the following order.

ORDER

- 1) The grievance of the complainant is allowed.
- 2) The present grievance does not fall under the purview of section 126 of the Electricity Act 2003 amendment 2007.
- 3) The impugned final bill of Rs. 290279.92 along with interest issued without any application of mind under guise of section 126 of Electricity Act 2003 is therefore liable to be and is hereby quashed and set aside.
- 4) The respondent is directed to recover arrears from the complainant from Dt. 24.05.2016 without applying delayed payment charges and interest on the said arrears. The arrears already paid by the complainant should be adjusted and balance amount be recovered from the appellant.
- 5) The disciplinary action as per Service regulations of MSEDCL shall be taken against the Addl. Executive Engineer, Flying Squad for not following the provisions of the section 126 of EA 2003, violation of condition No. 24.3.3 of MSEDCL conditions of supply and not attending the hearings of the Forum.
- 6) No order as to cost.
- 7) Compliance to be reported within 30 days.

Sd/-
Dr. Bhaskar G. Palwe
Chairman

Sd/-
Uttam M. Urkude
Member / Secretary

Sd/-
Vilaschandra S. Kabra
Member