

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

Case No. CGRF / AZ / AUR / R-1 / 591 / 2016 / 22

Registration No.-2016070011

Date of Admission 05.07.2016

Date of Decision 03.09.2016

M/s. B.G. Shirke Constn. Tech. Pvt. Ltd. COMPLAINANT
C/o. Gut No. 74-P, Village Deolai,
Dist. Aurangabad 431 001.
(Consumer No. 491000043111)

VERSUS

1) The Executive Engineer(Admn), RESPONDENT
Nodal Officer,
O/O Superintending Engineer,
MSEDCL, Rural Circle,
Aurangabad

2) The Addl. Executive Engineer,
Flying Squad, MSEDCL, Aurangabad(R)

CORAM

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

CONSUMER GRIEVANCES REDRESSAL DECISION

The Complainant , Shri B.G. Shirke Construction Technology Pvt. Ltd.,
C/o. Gut No. 74-P, Village Deolai, Dist. Aurangabad 431 001 (Consumer No.
491000043111) has filed a complaint against Executive Engineer(Admn),

Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Electricity Ombudsman) Regulation 2006 in Schedule 'A' on 05.07.2016

The brief details of the complaint are as under.

The Complainant's representative Shri H.A Kapadia submitted that the complainant has received a provisional bill of Rs. 4693591/- under Section 126 of the electricity act 2003 for his connection No. 491000043111. The complainant has submitted grievance on 17.03.2015 regarding non acceptance of the provisional bill. In spite of constant follow up no cognizance was taken by the respondent (2). The respondent (2) did not conduct hearing as per provisions in Section 126 of Electricity Act 2003. The respondent (2) has not followed the legal provisions of Section 126 of Electricity Act 2003.

Therefore the complainant has prayed as under.

- 1) To admit and to allow the grievance of the complainant.
- 2) To declare that the present grievance does not fall under purview of Section 126 of Electricity Act 2003.
- 3) To direct the respondent to withdraw the wrongly issued assessment bill under Section 126 of Electricity Act 2003.
- 4) To direct the respondent to carryout infrastructure development work of LIG & MIG Tenaments of MHADA.

Say of Executive Engineer(Admn), Nodal Officer, O&M Rural Circle, M.S.E.D.C.L. Aurangabad - Respondent

Shri N.R. Gandhale, Executive Engineer, Rural Division I, Aurangabad, in his letter dated 19.07.2016 has stated that the Consumer No. 491000043111 was granted for industrial purpose on 10.11.2012 for 100 HP load. However on 13.01.2015 Additional Executive Engineer, flying squad, Aurangabad(R) found that the electricity is being used for construction i.e. commercial purpose. Therefore the consumer was given

provisional assessment bill under section 126 of Electricity Act 2003 for Rs. 4693591/- on 09.03.2015. Consumer was requested to pay the bill several times. The complainant did not appeal under Section 126 of the Electricity Act 2003. Therefore the consumer was given a 15 days' notice to pay the bill on 09.10.2015. Therefore electricity was disconnected on 28.01.2016.

The respondent therefore has requested to reject the complaint and order the consumer to pay Rs. 4693591/- to MSEDCL, Aurangabad.

Observations of the Consumer Grievance Redressal Forum.

- 1) The complainant is carrying out the business of construction & development of LIG 404 tenements of MHADA at Gut No. 74 (P), Deolai, Aurangabad, where there is no any industrial activity.
- 2) The connection No. 491000043111 having connected load of 100 HP for industrial purpose is released on 10.11.2012 & consumer No. 491000053591 on 06.06.2013 for commercial purpose at the same premises and in the name of same owner.
- 3) On 13.01.2015, Additional Executive Engineer, Flying Squad, Aurangabad(R) carried out a spot inspection of consumer No. 491000043111. It was pointed out that electricity was used for construction purpose, instead of industrial purpose. The spot inspection report , Panchanama and further related documents are not handed over to the complainant and not provided in the proceeding also.
- 4) The Additional Executive Engineer Flying Squad (assessing officer) has issued a provisional bill of Rs. 4603591/- of dated 09.03.2015 on 16.03.2015 under Section 126 of the Electricity Act 2003. The bill was later made final without giving opportunity of hearing as per provisions under section 126 of Electricity Act 2003.

- 5) Moreover the Assessing Officer issued provisional bill on dtd. 16.03.2015 i.e. after 2 months from the date of inspection which is a violation of condition No. 24.3.3 of MSEDCL's conditions of supply. This should have been done within seven days from the date of inspection.
- 6) The provisional bill challenged by the complainant on 17.03.2015, 01.04.2015, 17.04.2015 but no final hearing was taken by Assessing Officer.
- 7) Addl. Executive Engineer, Flying Squad had issued order of final assessment Annexure K-2, with having no date and timing of hearing and prepared a fabricated document of final Order, without official seal and Date.
- 8) Complainant not preferred for second appeal to the appellate authority as per provision under section 126 of EA 2003.
- 9) The complainant not paid the assessment bill; hence 15 days notice issued on 09.10.2015 and the connection No. 491000043111 is permanently disconnected on 28.01.2016 due to the nonpayment of outstanding arrears, after delay of about 3 months which causes the financial loss to the MSEDCL.
- 10) As said both the connections are of the same owner and at the same premises, due to nonpayment of outstanding arrears of Consumer No. 491000043111, it is adjusted to the existing connection No. 491000053591.
- 11) The complainant has not paid the above mentioned bill and therefore 15 days disconnection notice was issued for consumer No. 491000053591 on 23.06.2016.
- 12) 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.

- 13) It is observed that the complainant has dishonestly taken the connection No. 491000043111 for industrial purpose, even though there was not any industrial activity and used electricity for the construction purpose which is commercial activity.**
- 14) This dishonest use of electricity for the purpose other than that which was authorized, clearly establish the theft of electricity as per Section 135 (1) (e) of Electricity Act 2003 amendment 2007.**

From the above findings and observations this Forum passes the following order.

ORDER

- 1) The grievance of the complainant is rejected.
- 2) The present grievance fall under purview of section 135 (1) (e) of Electricity Act 2003, amendment 2007.
- 3) The MSEDCL shall take appropriate action as per Section 135 (1) (e) of the Electricity Act 2003 as amended by Electricity (Amendment) Act -2007.
- 4) The disciplinary action shall be taken against officials of MSEDCL concerned with this matter.
- 5) No order as to cost.
- 6) The compliance of the order shall be reported within 30 days.

Sd/-
Dr.Bhaskar G. Palwe
Chairman

Sd/-
Uttam M. Urkude
Member / Secretary

Sd/-
Vilaschandra S.Kabra
Member