

(A Govt. of Maharashtra Undertaking)

CIN : U40109MH2005SGC153645

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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg, Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/572/596

Date:29.03.2017

Case No.572/2015

Hearing Dt. 22.03.2017

In the matter of wrong vigilance case Recovery and refund of deposited amount with interest and interim order not to disconnect the supply.

Mr. Seema Agrawal

485/A,Gautam Compound ,Navi Wasti.,

Kalyan Road

Bhivandi

-

Applicant

Vs.

1.M.S.E.D.C.Ltd., Bhiwandi, MSEDCL.,

2.Torrent Power Limited

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Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri. Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Archana G. Sabnis, Member,CGRF,Bhandup.

B - On behalf of Appellant

1. Shri. Shakeel Ansari - Consumer Representative.

C - On behalf of Respondent No. 1

1. Mr. R.R. Beloskar Executive Engineer,MSEDCL,Bhivandi

D - On behalf of Respondent No. 2

1. Hemanigi Maykar

Consumer No. 013012537675

1. Above named consumer t had filed this complaint in against respondent utility stating that the consumer is using the said supply for the purpose of power loom on the given address the connection is 01.10.2010 sanction load 25.5KW Connected Load -25.96KW. Above said consumer received the bill Rs.1,99,892/- out of he paid amount 20% for amount Rs.40225/- by acknowledging receipt No.4595142 dated. 10.09.2004. It is submitted that criminal case No.322/2006 was filed against the consumer under section 135 and 138 of I.E.A. 2003. In this case as per exhibit 26 the judgment is pronounce and consumer was acquitted in this case copy of the said judgment is filed along with this complaint.

2. It is submitted by consumer that the bill amount is now which about Rs.7,00,000/- plus interest DPC and other charges accordingly the bill is issued by M/s TPL on 07.04.2011. The said consumer challenge the said bill on ground that 17.1.2013 initially complaint was made along with copy of judgment but no action is taken by respondent utility. As per direction of assistant Chief Engineer and as per SOP MERC direction the respondent utility official said their office staff for disconnection procedure. Consumer submitted that in view of judgment the action of criminal case was required to be considered and benefit should be given to the consumer accordingly, but no action was taken by official staff and therefore consumer approach directly to the forum informing that he already paid amount of Rs. 40,225/- and in view of the judgment of the court wrong recovery bill should be withdrawn and amount already paid refunded with the bill issued for amount Rs.4,20,196/- is wrong and exorbitant which is required to be withdrawn consumer attach copy of bill copy of judgment in case 322/2006. Copy of demand bill dated 27.08.2004 and all other relevant document. After complaint is filed notice was issued to consumer and respondent utility.

3. After service of notice representative of M/s TPL appeared and file compliance on date 29.01.2015 .M/s. TPL supply inform that the said connection to the premises of consumer was never disconnected and it was in continue. The grievance raised by consumer against bill 1,99,892/- was charge against the consumer in case under section 135 & 138 dated. 28.08.2004. From 26.01.2007 M/s. TPL company came in existence and taken over the business. Therefore no cause of action arise against TPL company and appropriate order should be pass .Reply filed by MSEDCL through Executive Engineer in 29.01.2015 it is inform that distribution franchise M/s TPL company come in existence in 26.01.2007 intention of the consumer for filing the case is not tenable as criminal case filed against the consumer bearing No.322 /2006 was already filed and allegation of illegal abstraction of electric energy charges was level against the consumer. Respondent utility MSEDCL further submitted that those the criminal case ended in acquittal so civil liability of payment of Electricity bill charge against the consumer is not waved off as civil liability exist and therefore special court is only empower to dealt civil liability and this Forum have no jurisdiction and the complaint of consumer. Respondent utility submitted that after depositing amount of 20% Rs 40225/- is against bill generated against the consumer is adjusted and there is no question of refund as it is liability against the consumer. Hence no interim order required to be part in favor of consumer. respondent utility pray for giving direction to consumer to pay the electricity bill or failure legal action against consumer may be taken and pray for dismissal of complaint with cost.

4. After rival contention following point arose to our consideration to which I have recorded finding to the point for the reason given below.

a) Whether bill generated to the consumer for amounting Rs.1,99,892/- is towards civil liability is legal valid and proper.

- b) Whether consumer is entitled for interim order not to disconnect on depositing 20% of amount Rs. 40225/-
- c) Whether consumer is entitled for any relief.

Reasoning

5. I have given opportunity to the consumer and his representative Shri. Shakeel Ansari who appear and made submission on given date. It appears that on the said premises this honest abstraction of electricity Energy charges case action taken against the consumer the case is filed against in special court 322/2006 exhibit 26 under section 135&138 of E.A. Act. Therefore the bill generated against the consumer appears towards civil liability. The respondent utility properly pointed out that jurisdiction to entertain the dispute enforcing civil liability is with special court moreover the grievance raised by the consumer taking advantage of 20% amount deposited towards bill generated in theft case amount 40225/- according to me cannot be a ground getting rid of liability by filing grievance before the Forum
6. In view of the provision if any criminal case is filed under section 135&138 of I.E.A. this forum not have jurisdiction to entertaining the complaint as per Regulation 6.6 of Ombudsman Regulation 2005. It further appears that the dispute which is raised liability of payment of bill and the said liability of beyond the period of 2 years and therefore grievance beyond the period of 2 years cannot be entertain by this Forum and it is barred by limitation. I minutely verified all the document filed by consumer the submission made by M/s. TPL only issued the bill to the consumer in the years 2011 and being aggravate the said bill the consumer filed complaint initially on 07.04.2011 before the authority. It also appeared to me that the complaint was initially signed by person Name Ibrahim. The relevancy of the criminal case appeared on record as the criminal action was taken place at that time for the premises No. 485/1 and this is premises occupied and use of connection by Seela Ashok Agrawal occupier no record of agreement leave and licenses and sell purchase of unit filed before this Forum. Therefore the

advantage of criminal case taken by the consumer also appeared not legal and proper.

As the grievance is squarely appears beyond the period of 2 years and cannot be entertain by this Forum for barr of limitation.

And even the litigation raised by the consumer involved criminal case under the 135 &138 of I.E.A. and therefore this Forum has no jurisdiction to try and entertain the complaint the consumer. I found the consumer is not entitled any benefit hence grievance of the consumer found no substance. Hence I proceed to pass following order.

ORDER

The consumer complaints 572/2015 stand dismissed with cost.

Both the parties should be informed accordingly.

Proceedings closed.

The compliance should be reported within 45 days.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

If Consumer is not satisfied with the decision, he may file representation within 60 days from the date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree)

(I Agree/Disagree)

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

SHRI. ANIL P. BHATHANKAR
CHAIRPERSON
CGRF, BHANDUP

SHRI. R.S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP