

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 400

Hearing Dt. 22/09/2011

In the matter of bill dispute
Interim cum final order

Gurusharanam Complex, Panvel

- Appellant

Vs.

MSEDCL Vashi Division

- Respondent

Present during the hearing

A] - On behalf of CGRF, Bhandup

- 1) Shri S. D. Madake, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 2) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Appellant

- 1) Shri R.J. Gharat, consumer.
- 2) Shri Shrikan V. Chilekar, consumer.

C] - On behalf of Respondent

- 1) Shri S.B. Kachare, Ex. Engr. & Nodal Officer, Vashi Circle.
- 2) Shri V.G. Hanmawar, Jr. Law Officer.

ORDER

Ms/. Gurusharan Complex is the residential society at plot no. 285, T.P. skim no. 1, Vishrali Naka, Panvel. There are many electric connections for residential, lift and water pump. The Respondent utility failed to update the record of the following electric connection which leads to remain unbilled.

<u>Sr. No.</u>	<u>Consumer No.</u>	<u>Reason for unbilling</u>
1)	028510047186	Not fed N.S.C.
2)	028510082330	Not fed N.S.C.
3)	028510489545	Not Fed P.D. reconnection report
4)	028510519690	Not Fed P.D. reconnection report
5)	028510501014	Not Fed P.D. reconnection report
6)	028510048549	Not fed N.S.C.
7)	028510047208	Not fed N.S.C.

The Respondent utility made these connections live and started billing in Feb-2011. The connection nos. at sr. nos. 1,4,5,6 & 7 were used for common purpose like lift, water pump, stair case etc. During the special drive under the tile of Damini Squad the Respondent utility observed on 16/12/2010 that these connections are unbilled. According to the Respondents say these total connections were made live and the bill of an amount of ` 9,30,845/- against the electricity consumption of 188438 units were served to the consumer on 03/11/2011.

The bill raised to the tune of ` 12,59,400/- by the end of March 2011 due to non payment and hence utility served the notice of disconnection on 14/03/2011.

The Appellant consumer paid ` 2,00,000/- as a part payment vide cheque no. 251251. Dtd 30/03/2011 against the above five service connection used for common purpose.

The Appellant consumer approached the Internal Grievance Cell for correction of these bills on 21/05/2011. As per the IGRC order the Respondent utility verified the record whether all the connections are properly billed, in which the Respondent observed that one more service connection bearing no. 028510501014 was left to be made live after its reconnection of P.D. consumer and hence the amount of arrears of this connection ` 4,28,700/- is added to the balance amount which therefore comes to be ` 14,98,520/-. The Appellant was aggrieved of this decision of IGRC and preferred an appeal in this Forum which was registered vide case no. 400.

On behalf of consumer Appellant Shri R.J. Gharat & Shri Shrikan V. Chilekar, were present to represent the case. As per the contention of the Appellant this Gurusharan Complex is registered Housing society vide no. RGD/PWL/HSG/TC/1704, dtd. 01/10/2004. In this complex there are eight buildings & each is having its own lift facility, thus all lifts are operated by 3 phase energy metered supply. Out of these eight meters, the Respondent utility was not issuing energy bills to the five lifts and hence the Appellant could not pay the same.

It is the duty of the Respondent utility to read the meter properly and bill it at regular interval but utility failed to do.

The Appellant further added that considering the Electricity Act 2003 therein Section 56 (2) the Respondent utility can demand the utilised energy charges not more than 2 years from the first bill issue date.

The Appellant prayed to consider the provisions of electricity Act 2003 and direct the Respondent to rectify the bills which they are ready to pay.

On behalf of Respondent utility Shri Kachare, Ex. Engr., Vashi Circle and Shri Hannawar, the Jr. Law Officer were present to represent the utility.

They reiterated that, during the damini squad drive dtd. 22/12/2010, it was observed that in Gurusharan Complex the following consumers were found unbilled.

<u>S.No.</u>	<u>Name</u>	<u>Sr. No.</u>	<u>Amount</u>
1)	The Secretary, Gurusharan Complex	028510047186	` 6,41,630/-
2)	The Secretary, Gurusharan Complex	028510082330	` 1,58,550/-
3)	The Secretary, Gurusharan Complex	028510048549	` 1,63,490/-
4)	The Secretary, Gurusharan Complex	028510047208	` 59,580/-
5)	The Secretary, Gurusharan Complex	028510519690	` 2,24,150/-

The Respondent further stated that the bills are issued as per prevailing rate of tariff and the bills are only for the utilitised energy. There is no penalty charges included in the bill.

They further added that the Appellant consumer was utilizing 16 to 17 electric connections for the common purposes out of which the five connections given above were unbilled.

It was the moral duty of the Appellant consumer to bring it to the notice of utility about non-billing of the connections. The Appellant consumer never made any effort to get the billing started.

They further insisted that it is the common principle that one, who is consuming electricity, must pay the charges for the same. Therefore,

under the relation of utility and the consumer and under the principle of commercial honesty which has been defined by the Hon'ble Apex Court in the various cases the Appellant is also duty bound to bring to the notice of MSEDCL, about the escaped billing and make the payment against the electricity bills for the reason that he has actually and really utilized that electricity. But here, the Applicant has never brought the said fact to the notice of MSEDCL and has taken the malafide benefits by avoiding to pay the charges for the electricity consumed and has hidden the truth. Therefore, now at this stage it would cause miscarriage of justice if the Applicant would be set free from paying or partly paying the charges against the total electricity units which is admitted fact that same has been consumed by him.

As the Applicant consumer has contented that MSEDCL can recover the electricity bills for the preceding two years only under section 56 (2) of the Electricity Act, 2003:

56(2) Disconnection of supply is default of payment: "Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity".

The arguments placed by the utility is based on the morality and the decisions given by the Hon'ble High Court in different suit filed by the utilities.

On the point of limitation, the utility has submitted citations of Bombay High Court, Hon'ble National Commission & Hon'ble Apex Court. The Forum has gone through the contents of these citations & hold that there citations are not applicable in the present case.

From the above discussed citations, it is now clear that there is no limitation for issuing or recovery supplementary bills. But the point to be considered in this particular case is, whether the consumer can be served bills for the meter which had remained unbilled (due to deficiency on the part of utility) under the heading “supplementary”.

The Forum is of the opinion that the word supplementary is not inclusive of original amount, but it indicates the money due, other than original bill amount.

The Forum holds that this case falls under Section 56 (2) of E.A. where the Act has clearly set limitation period of 2 years for recovery of arrears. Therefore, now utility cannot demand arrears beyond 2 years from the consumer.

However, the Forum is of the opinion that this loss is to be taken seriously & the utility should take steps towards recovery this loss from its erring individuals.

The Respondent utility is therefore directed to correct the bills accordingly and compliance should be reported within month period.

As a interim relief; Forum had asked the Respondent to recover the part of bill ` 3,00,000/- and restore the supply immediately.

The Forum is therefore passing the following order

- 1) The utility should give fresh, corrected bills to the consumer including arrears for last two years i.e. prior to Feb-2011.
- 2) No order as to the cost.

Both the parties be formed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 28th of November 2011

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal within 60 days from 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 go in appeal before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

S. D. Madake
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP