

CONSUMER GRIEVANCE REDRESAL FOURM

Maharashtra State Electricity Board

**In the Consumer Grievance Redressal Forum at M.S.E.B., Bhandup U
Zone,**

Vidyut, Gr. Floor, L.B.S. Marg, Bhandup (W), Mumbai - 78

Case No. 18-04/

Date : 21/02/2005

Complainant :

Shri Nandkishor S. Sawant,
Prabhadevi Niwas, Sai Vihar,
Tembipada, Bhandup.
Represented by Mr. U.M. Joshi
Bhandup.
Consumer No. K - 40610/5

Utility :

Represented by
Shri V.M. Gattewar
Executive Engineer,
O&M. Divn.,MSEB,

The hearing of Grievance No. 18/04 of consumer No. K-40610/5 held on 19th January 2005 at 11.30 a.m. All the members of Forum were present. On the consumer side Mr. U.M. Joshi, representative of the complainant as well as N.S. Sawant, on utility side Shri V.M. Gattewar, Executive Engineer, O&M Divn., M.S.E.B., Bhandup & his Assistant were present.

2. In the say on behalf of consumer, Mr. Joshi informed that Mr. Sawant had given the application to MSEB, Bhandup in October 2002 and injustice has been done to him and the dispute is that even though he has paid the amount, the electric supply has been disconnected inspite of part payment has been made under protest. Shri U.M. Joshi further stated that points raised by Mr. Sawant were not replied at all by the MSEB . The following points raised by Mr. Joshi on behalf of Sawant.

1. Upto May 2000 the bill has been duly paid.
2. From June 2000 he started getting average bills.
3. His factory is closed from July 2000 & same was informed to MSEB
4. The supply is disconnected (declared Permanent Disconnected) for last 5 - 6 months.
5. Rs. 35,000/- has been paid in two installments of Rs. 15,000/- & Rs. 20,000/- .
6. He applied for residential connection six months ago, but such connection was denied to him on the basis that he should clear all the bills upto date. This stand of MSEB is not right because the dispute was going on.

7. It is not understood since no reply has been received by the consumer (satisfactory or unsatisfactory reply) the consumer has to come to the Forum. It is the right of the consumer to know the reason as to why the complaints have not been complied by MSEB officials. I feel that the MSEB should be penalised for this act. It is not clear to the consumer as to where this amount is credited. The MSEB has carried out the inspection earlier, but there was no tampering of the meter or no misuse of supply by the consumer and hence this action of the MSEB appears to be rather unjustified.

Question from to the representative of consumer:

Q. Prior to May 2000 whether you were getting bill properly?

A. Yes. When the factory was closed somewhere in June 2000 naturally production was stopped and there was no use of supply i.e. why there is no reading.

Q. What is the amount of the disputed bill and it is since when?

A. The Total amount of disputed bills was the tune of Rs. 5,00,000/- and the dispute was pertaining for the period from May 2000 onwards. The problem started when the consumer started getting average bill since June 2000.

Q. It is mentioned in your letter that from the beginning you are getting the average bills, is it correct?

A. No.

Q. Whether your complaint is regarding meter reading or otherwise.

A. It is regarding the service provided by the MSEB.

Q. Whether it is regarding the average charged or otherwise.

A. a. Even after taking action by MSEB the average bill is received.

b. The consumer has given an application that there is no excess load being used still he has been charged for excess load.

c. The bill is not issued properly by the MSEB & hence MSEB should be penalised for this.

As per the report dated 11/05/2002, the 16 HP calculations were shown while prior to that though the factory was closed, the load shown by the MSEB was 33 HP & consumer was penalised for excess load. Hence the complaints were for average billing, wrong excess load, and unlawfull disruption in supply, refusing the domestic connection. Their own report is not yet received & forcing to the consumer to go to the Court of Law.

3. Say of The Executive Engineer representative of utility is as under :

1. The bill upto March 2002 has been issued to the Consumer and not upto May 2000 as stated by the consumer.

2. They have paid the bill on dated 03.05.2000 amounting to Rs. 32,383/- that was the bill of March 2000.

3. From June 2000 to July 2001, the factory was locked that is why the average bill has been issued to the factory. In the month of February 2001, the Meter Reader has brought the reading as 24572.

4. Last three months average has been taken because the factory was locked and the Assistant Engineer had inspected the premises in May 2002 and as per the reading taken, the unit was shown as 32271 and the bill has been revised. The amount of Rs. 2,41,203/- is given as credit in the month of September 2002 after getting the approval from the Chief Engineer, Bhandup. Then again it was not possible for the MSEB staff to access the meter, since the factory was locked. As per the Computer programme, it was given on average basis.

5. On 17/02/2001, the Assistant Engineer has checked the connection and it was found that there is 13 HP excess load. Hence due to that, for last six months, the bill was revised regarding connected load amounting to Rs. 12,129/-. That was issued to the consumer as a penalty and it was informed vide letter No. 633 dated 01/03/2001. Again as the factory was closed, in the month of June 2004 the connection was checked by our Assistant Engineer on 20/05/2004. That time the reading was 35165 and again for revision of the bill, the same is sent to Zonal Office, Bhandup. Since the amount is more than Rs. 50,000/-, the same is sent to C.E. for approval. The bill for the amount of Rs. 1,67,000/- is still pending with Chief Engineer. Even after deducting this amount still the consumer is in arrears of Rs. 1,40,000/- that is why supply is permanently disconnected in the month of June 2004. Till the bill is finalised the entire amount is shown as arrears and interest is charged to this and the entire bill is to be revised once again and the final bill will be issued to the consumer. In the month of May 2004, the load is found to be 16 HP, which is less than the sanctioned load, and it was observed that consumer was using load for residential purposes.

Question from Forum to Executive Engineer :

1. While getting 30 HP load, whether the factory was working or non-working condition?

A) Consumer was using residential supply.

B) Whenever the Engineer gone for taking the reading, it was found that the factory is closed.

2. How did the person entered into the factory premises when the factory was closed and that too without any intimation?

A) As there was a dispute regarding the bill, the consumer approached the office, hence to rectify the dispute, our Engineers has gone to the premises and asked the consumer to open the premises because he stays near the premises.

3. As the Inspector reported 30 HP, how it is assumed.

A) The letter is only found and not the report. Executive Engineer replied that the report will be submitted within 2 to 3 days.

4. When the amount is disputed, can the disconnection be done by the Utility?

A) Yes. We can deduct the disputed amount and for remaining amount, we can disconnect the supply.

4. Again by the consumer's Representative

1. When the factory was closed or when the consumer was informed, MSEB did not take trouble to take the meter readings to avoid further complications.

Secondly, when MSEB found 30 HP load as they are in the process to take more load which appears to be more than 1 1/2 times and again reduced the load when MSEB found that no activities were going on and the consumer was utilised energy for the residential purpose. After proper application, they should have considered his case for residential supply and not to charge for Industrial use.

2. In case of disconnection when the matter comes in dispute, it is a one sided decision so far as consumer is concerned.

Question from Forum to Consumer:

Q. The bill, which is issued to you for the additional connected load is for what period, is from which month?

A. The exact date is not known. There was one Mr. Borle, who came from MSEB and he has checked everything, that time the factory was not working.

Immediately after receipt of the bill, I complained to MSEB. I do not have the copy of the bill, but I have the dates, which I have mentioned on the application (11/07/2000, 06/01/2002, 14/10/2002).

Q. When you received the bill for excess connected load, when did you apply for getting it corrected?

A. I do not know the exact date and did not have copy of the bill and the application. Xerox as the same were submitted to Utility officer when went for complaining about excess bill. The complaint was made approximately after two months after receiving the 1st bill of excess amount.

Q. Whether you have out of the bills sent to you being paid and accepted to MSEB and have you applied for that total 35,000/- has been paid against the disputed bill till date.

A. Mr. Sawant (the consumer) has given in writing to the MSEB of all the disputes vide letter dtd. 14/10/2003.

Q. Whether you know that in the letter you have stated that you are prepared to pay the correct amount to MSEB?

A. So far MSEB has not come out with correct bill and the amount MSEB asking is in lacks, which is out of the capacity of the consumer. To scrutinize the payment process, a total of Rs. 35,000/- have been paid and no action from MSEB side till date to sent the correct bills. However disconnection has been taken place.

Question to Executive Engineer, Bhandup by Member of Forum

Q. Whether after deducting the payment made by the consumer you have issued any revised bill to the consumer?

A. The consumer has paid Rs. 15,000/- in Sept. 2001 and Rs. 20,000/- in April 2001. In the month of September 2001 issued revised bill by deducting of Rs. 2,41,000/- excess bill to the consumer (which was earlier charged to the consumer). We have issued the revised bill of Rs. 2,41,000/- the revised bill of Rs. 1,16,824/- was issued to the consumer in September 2002.

5. The following are views of Shri S. Pasarkar, Member of Consumer Grievance Forum:

After going through the say of the consumer and the utility & the papers submitted by the both, it came to light that the consumer has submitted the documents on 19/01/2005 as promised at hearing. While the utility has not submitted the copy of inspection report where the 30 HP load has been calculated. The dispute has occurred because the utility Officers has not

taken the matter seriously. Because of following observations the meter reading was taken for the period of June 2000 to January 2001. Meter reading was taken in the month of February 2001 was 24572.

Utility failed to take reading for the period of 8 month and raised average bills " In the say Executive Engineer stated that this is due to closer of factory as intimated by the consumer to utility", hence the bills should have been raised at fixed charges or Executive Engineer should have used the provision of clause 20 C III of supply code which states that if the meter remain inaccessible in the succeeding month as well, the consumer will be served 24 hours notice (sec. 20, IEA 1910) to give the facilities for reading the meter by representative of the Board at fixed time and date. If consumer fails to comply with the notice as above, the supply premises shall be disconnected and consumer will be charged on the basis of average consumption during the preceding six months or such shorter period for which consumption figures are actually available however this would be subject to adjustment latte as per condition No. 20 (C) (IV) of supply of code. Not utilising the provision of act and supply code amounts to negligence of duty and causal approach.

2. It is true that consumer was not a regular paymaster of the bills but was irregular and he further became very irregular because of non-action of the utility. In parawise comments Executive Engineer has accepted amount was disputed twice (point 3 & 9) 1st period June 2000 to May 2002 (24 months period) which is corrected. 2ns period July 2002 to May 2004 (23 months period) bill Rs. 1,67,624/- under B-80 correction sent for approval & yet not corrected. This means amount is in accepted dispute from consumer's point of view. The utility has accepted the disputed amount but failed to correct the bill & did not provide remedy. As this disputed amount is appearing in bill its gets subjected to DPC & delayed payment interest and inflates and inflationism compounded. This has happened due to no care master attitude of the utility staff. Hence if consumer also takes the same approach utility cannot complain or take the action because utility has committed same mistake. Thus utility has not used the provisions of Law referred above and violated the provisions of Law available to consumer for his own protection (disconnection without notice & when amount is in under dispute).

Whether the corrections send for approval of C.E. is also corrected and acceptable to the consumer is not known as work sheet is not shown and explained to him (consumer). Therefore corrections need to be verified by consumer.

When an amount is under dispute and dispute is accepted by utility disconnection cannot be done because utility has accepted the dispute and is taking exorbitantly long time to do the correction and projecting negligent attitude.

Utility, as promised at hearing has not submitted the report that shows how at the inspection reached to conclusion that connected load is 33 HP i.e. 13 HP excess above the sanctioned load of 20 HP for which consumer is charged penalty of Rs. 12,129/- and asked for additional service charges of Rs. 15,600/- and security deposit of 6,500/- totaling to 22,100/-. The basic documents the inspection report of 17/02/2001 are missing/absent. Therefore claim of utility from consumer does not stand on strong footing. Just writing 33 HP connected load does not hold good for raising the bill and demanding the amount from consumer.

As the amount was disputed by consumer and dispute was accepted by utility and failed to rectify it speedily and disconnected the supply without notice sands wrongful disconnection and violation of section 56 (1) of I.E.A. 2003.

6. Observations of Member Secretary:

1. M/s. Deepa Plastic's connection is owned by Smt. Vibawari N. Sawant as per her application dated 18/07/2000 addressed to the Executive Engineer, Bhandup Division. Copy of the application is enclosed with grievance.
2. As per M.E.R.C. Regulation, the consumer himself shall intimate his grievance. In this case grievance is not intimated by the consumer.
3. Consumer has paid Rs. 15,000/- against energy bill. He has not put up any documents which can prove that the payment made under protest.
4. Executive Engineer, Bhandup vide his letter No. EE/BND/Load checking/407/438, dtd. 23/02/2001 served notice of disconnection about discrepancies observed during checking of installation i.e. connected load found 33 HP as against sanction of 20 HP and asked to pay Rs. 12,129/- against assessed bill for Sept. 2000 to Jan. 2001.
5. Executive Engineer, Bhandup vide his letter No. EE/BND/Billing/633, dtd. 01/03/2001 reminded to pay Rs. 12,129/- within fortnight against recovery otherwise connection will be disconnected.

6. Consumer has paid Rs. 20,000/- against energy bill on 17/04/2001. Consumer has not put up any document, which can prove that the payment made under protest.

7. After 17/04/2001, consumer has not paid any energy bill nor have applied to the Board @ having ready to pay part payment as he thinks due.

8. Shri Nandkishor Sawant on behalf of consumer put up the application with the M.S.E.B. stating as below :

- a. Factory is closed since 18/07/2000.
- b. He is using electricity for domestic connection.
- c. He desires to change the activities from Plastic Industry to Furniture & will inform to MSEB when he has to start the factory.
- d. He has denied to pay on Industrial Tariff and informed to charge as per residential.

All above observations are according to the documents enclosed alongwith the grievance.

9. Observations on documents put up by MSEB during hearing are as below:

- a. MSEB has revised the bills for June 2000 to May 2002 & revision effected in September 2002 energy bill after approval of competent authority
- b. Energy bill as on May 2004 after the revision will be Rs. 1,42,058.42 which is outstanding.
- c. Average bill issued as the premises was not made accessible.

Hence consumer should pay the revised bill due as on May 2004 amounting Rs. 1,42,058.42 and avail single phase residential supply by completing all formalities.

Conclusion

1. Grievance is not lodged by the consumer.
2. Consumer was assessed against unauthorised use of electricity for the period September 2000 to January 2001.

3. Consumer has received both the notices as he has put up alongwith grievance but not taken any objection. She has not given any reply to the notices thereby accepted the facts.
4. Bills were issued on average, as consumer has not kept the metering accessible. The meter reading was not available & consumer knows the fact.
5. Though MSEB has not issued 24 hours notice as per section 20 (C)(iii) of MSEB's condition of supply, it is not punishable & the same may be ignored.
6. Consumer was using the supply for residential purpose instead of Industrial which is unauthorised use of electricity land no legal action taken by MSEB.
7. Notice of disconnection in writing as part of energy bill was served to consumer & cognigence of the same not taken by the consumer. Connection was disconnected in June 2004 i.e. after 3 years & 2 months after consumer has paid last bill.

Hence consumer should pay the revised bill due as on May 2004 amounting Rs. 1,42,058.42 and avail single phase residential supply by completing all formalities.

ORDER

Both the Member and Member Secretary have given their separate views, which are given in para 5 & 6 respectively. After due consideration of the views by both of them and after careful consideration of the views expressed by the consumer and the utility the Forum has come to the following decision which is recorded below:

1. Forum feels justice will be done if the bill is issued as per actual consumption spread over the period as applicable with fix charges as per the sanctioned load without DPC and interest is to be given within 7 (seven) days from the issue of order and consumer pay's the same within 15 days from the presentation of bill and squashing all the previous bills issued during disputed period.
2. Point of supply should be suitably shifted so as all the time it is freely accessible for taking meter reading.
3. For violation of Section 56 (1) of I.E.A. 2003 & not availing the provision of supply conditions mentioned in observation indicating the negligent attitude of concerned staff. The staff should be penalised but no on maximum level but at Rs. 5,000/- & shall paid to consumer has he suffered within 60 days from the issue of order.

4. Residential connection should be released as a new connection with routine procedure with humanitarian consideration if consumer applied for the same or utility may ask him to apply for the same.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal within 60 days on receipt of this order to Ombudsman in attached "Form B".

Address of the Ombudsman

Ombudsman,
Maharashtra Electricity Regulatory Commission,
606-608, Keshav Building,
Bandra - Kurla Complex,
Mumbai - 400 051.

2) If utility is not satisfied with order, it may apply to MERC within 60 days from receipt of the order.

Sandip Pasarkar
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