

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

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

Date:

Case No. 205

Hearing Dt. 01/08/2008

In the matter of wrong recovery under 126 of E.A. 2003

M/s. Saibaba Construction Co.

- Applicant

Vs.

MSEDCL- Mulund Division

- Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup.
- 2) Shri S.B. Wahane, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri G.B. Singh, Consumer representative
- 2) Shri Pravin Thakkar, Consumer representative

C - On behalf of Respondent

- 1) Shri Shirke, Dy. Ex. Engr., Mulund Division.

Preamble :

Consumer registered his grievance with this Forum on 08/08/2008 vide case No. 205. He was aggrieved with the decision of ICGRU by Ref. SE/TUC/ICGR/4139. ICGRU dismissed the case as it falls under section 126 of E.A. 2003 for unauthorized use of electricity, which does not have jurisdiction to entertain the case.

Consumer say :

- 1) M/s. Saibaba Construction Co. Ltd. is having two nos. of electrical connection at Saidham Building, Sarvodaya Nagar, Mulund (W). These connections were released for commercial purpose for their Super Market at ground floor and office at Basement having consumer No. 700000852165 and 000091082373 respectively with 120 kw and 0.08 kw as sanctioned load. Tariff applied for both the connections is same and consumer was paying the bills regularly.
- 2) The above said connections were checked by Flying Squad of utility on 26/06/2007. During the inspection it was observed that the consumer was extracting the excess load from basement meter for their Super Market. Hence flying squad reported the case under section 126 of E.A. 2003 and imposed recovery on the consumer for Rs. 295180/-
- 3) It is also observed that consumption recorded by meter No. 373 (last three digits) was more than the meter No. 165 (last three digits). Thus consumption pattern indicates that sanction load of consumer no. 373 is more than the sanctioned load of consumer no. 165 which was having 12.6 kw.
- 4) As per CPL the SD amount collected for consumer no. 373 was 76000/-. Hence the load of this meter should be more than 20 kw. As meter is three phase, the load should be more than 7.5 kw or above. Hence utility should provide documentary evidences before arriving to any conclusion to penalize the consumer under 126 of E.A. 2003.

- 5) Both the meters are owned by one person only. During the flying squad inspection it was found that both the meters were in healthy conditions and recording energy correctly.
- 6) As per Flying Squad report, it is observed that load taken on each meter was within permissible limits of sanctioned load to each consumer.
- 7) Flying Squad report did not show exact load on the each meter but considered as mixed load by which flying squad could not come to the conclusion for unauthorized use of load. It can be shown separately by switching off the meter alternatively. Also total load connected was not declared in kw in Inspection report.
- 8) The matter was represented with concerned officials and rechecking was carried out but no copy of report was given to my representative whose signature was taken. Then final assessment after reduction of some amount was Rs. 207459/-, which was recovered under threat of disconnection.
- 9) While charging the consumer under section 126 of E.A. 2003 vide 126 (b)(v) i.e. unauthorized use of electricity means uses of electricity for the premises or the arrears other than those for which supply of electricity was authorized.
 - a) Sanctioned load of each connections and connected load against sanctioned load
 - b) The detail of machinery or appliances sanctioned for super market but it is connected on basement meter no. 373.
 - c) Documents like spot panchnama and consumer's statement for confirmation of sanctioned load of super market was connected to basement meter.

Hence it is observed that flying squad was not transparent while applying 126 B (v) to the consumer, which leads to severe harassment to the consumer mentally, physically and financially.

Prayer of the consumer

- 1) I am charged by applying section 126 of E.A.-2003 and forced to pay Rs. 207459.94 though the said section is not applicable as stated above and there is no fault from my side is proved. Hence, bill of Rs. 207459.94 as final bill recovered from me forcibly should be squashed and be refunded immediately with interest at the rate of 6%.
- 2) Interest on SD amount paid on each connection should be paid from the date claimed through my grievances stated above.
- 3) Excess amount of SD paid should be refunded.
- 4) Accumulated unit should be split over the whole period and bill to be revised.
- 5) As both the connections are three phase connections its meter should be calibrated annually but not done for ascertaining accuracy of the meter, hence concerned officials should be proposed for stern punishment so as to avoid the loss of Board revenue and inconvenience of the consumer.
- 6) Compensation for non read of meter for both the connections should be awarded for Rs. 1200/- and Rs. 400/- respectively as per S.O.P. provisions vide its section applicable.
- 7) I should be awarded compensation of Rs. 15000/- for physical torture, and agony, for no fault from my side I was forced to run from pillar to post and post to pillar for no reason.

Utility say :

- 1) M/s. Saibaba construction company is having consumer no. 70000085216 for super market and 000091082373 for basement office purpose. The above consumer were inspected by utility flying squad Bhandup on 26/07/2007, while checking it was observed that consumer no. 165 using for the purpose of commercial use of super market, he was using supply through other consumer no. 373 which is for basement office purpose. As per the inspection report dtd.

26/07/2007 supplementary bill of 479 units amounting to Rs. 295180/- was raised under the section 126 of E.A. 2003. After getting the above assessed bill from utility, consumer took an objection and requested for hearing. Accordingly hearing was held in Mulund division office on 27/08/2007 in the presence of utility officials and consumer's representative. During the hearing they represented that they were innocent as there are no theft of energy and both the meters and premises belongs to same person. They only requested to utility not to charge penalty on entire consumption of concerned connection at basement office. Further one more representation was held at Chief Engineer's office, Bhandup in 30/08/2007. During the hearing consumer again stated that they were not aware of new provision of act and also there was no intension of doing illegal act. Consumer further requested not to levy penalty on entire consumption recorded by the meter but it should be levied only on authorized load. On that request utility again inspected the premises on 30/08/2007 and on that basis (inspection) ascertain that total actual connected load for consumer no.373 was 5.7 kw. On that basis assessed bill was revised and given a final bill of 33790 units. From the above fact, as per section 126 of E.A. 2003 the above assessment was given for unauthorized used of electricity means uses of electricity for the premises or the arrears other than those for which supply of electricity was authorized. Consumer paid assessed amount of Rs. 207460/- and being a case under section 126 of E.A. 2003 consumer can approach to Chief Engineer, PWD being an appealing authority.

Utility also submitted one more submission in 29/09/2008 stating that M/s. Saibaba Construction Company paid Rs. 3000/- as a security deposit against consumer no. 373 with sanctioned load of 8 kw. The security deposit as Rs. 76000 and connected load/sanction load as 0.8 kw is wrongly entered which was confirmed from their record.

Observations :

1) The consumer is having two commercial connections having consumer no. 700000852165 with 12.6 kw for super market and consumer no. 000091082373 with 0.8 kw sanctioned load for office purpose at basement respectively.

- 2) Utilities flying squad, Bhandup visited the above premises for inspection and found that the actual use of the consumer was being drawn from basement meter to the upper locates super market which is clearly in violation of section 126 of E.A. 2003.
- 3) The consumer vide his letters 23/08/2007 & 13/09/2007 informed utility that the irregularities has committed by him purely by his ignorance of rules and there is absolutely no evasion of utilities revenue.
- 4) After taking the cognigence of theses above letters utility at the level of Zonal Chief Engineer held a meeting with the consumer alongwith his representative, local MLA, it was decided in the same meeting to recheck the quantum of load being actually utilised by the consumer. It was noticed on 30/08/2007 inspection on consumer no. 000091082373 was having connected load 5.7 kw and actual recording of M.D. on meter was 21.7 KVA as against sanctioned load 0.8 kw on regular bills. Thus there is clearly unauthorized use of power on consumer no. 000091082373.
- 5) It was also observed from the inspection done by Flying Squad, Bhandup i.e. on 26/07/2007 that the actual load of super market connected to consumer no. 000091082373 is not properly mentioned by mentioning simply load is mixed.
- 6) The utility also submitted their record regarding actual sanctioned of the load and security deposit taken against consumer no. 000091082373 and it was wrongly punched 0.8 kw instead of 8 kw and also security deposit Rs. 76000/- instead of actual to be taken Rs. 3000/-. The consumer were asked to produce the receipts of security deposit of Rs. 76000/- if all paid by the consumer. He however could not produce the same in the course of hearing though repeatedly asked for the same. The Forum therefore relied upon the record of receipt of security deposit taken from consumer with them.
- 7) In conclusion both utility and consumer have erred at one stage or the other.
- 8) On the perusal of all the case papers the Forum feels the case being under section 126 (B) (V) of E.A. 2003 for unauthorized use of power and as per provision of MERC (CGRF & Ombudsman) regulation 2006, section 6.8 Forum has no jurisdiction to entertain the case under section 126 of E.A. 2003.

ORDER

With the above observation, the case is dismissed and closed at the level of the Forum. No order as to cost.

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

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.

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

S.B. WAHANE
MEMBER SECRETARY
CGRF, BHANDUP