

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

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

Date:

Case No. 52

Hearing Dt. 10/04/2006,

M/s. Kishor Stone, a stone-crushing unit from village Powane in Navi Mumbai (There in after referred to as petitioner) has filed his petition in this Forum on 01/10/2005. It could be taken up for hearing soon after joining the new Chairman and new member of the Forum.

The hearing is conducted on 10/04/2006 in the presence of Chairman, member & member secretary. Following representatives were present.

Consumer's side

Utility side

1. Kiran Bhoir, Consumer
2. Eknath Bhoir, Consumer,
3. M.B. Tripathi, representative of consumer

Mrs. S. R. Pillay Dy. E.E..
Shri B.N. Ratnaparkhe, Sub/Engr.
Shri B.N. Bhujbal, LDC, Billing
from MSEDCL, Washi Ltd.

The consumer's petitioner stated as under :

- 1) The unit was provided with L.T. supply for 65 HP Ind. Load + 15 KW lighting load in the month of March 1996 after payment of Rs. 142100/- as SLC and other necessary charges for U.G. system S.L.C. amount charged was in excess which is confirmed by comparing total amount of S.L.C. paid with the amount to be collected as per S.L.C. paid with the amount to be collected as per S.L.C. rule of Rs. 1200/- HP x 65 for U.G. system Thus extra amount paid should be refunded/or adjusted against the amount of S.L.C. & other charges demanded at the time of reconnection of P.D. connection which was made P.D. for more than three years. The points are to be considered.
- 2) System on which supply given is OH system but SLC is being demanded for U.G. system.
- 3) H.O. permission for waiver of fixed charges was conveyed nearly after 9 months period.
- 4) Supply was disconnected on 20/12/2005 through we were in appeal with Forum.

Forum to consumer & its representative : At the time of new connection in the year 1996, whether you were aware of excess amount paid or otherwise & was there any representation for refund of excess amount paid at the initial stage?

Consumer : I was not aware of it, hence there is not question of demand for refund of excess amount paid.

Forum : What documents were submitted at the time of new connection in 1996?

Consumer : N.O.C. from CIDCO with permission along with lease deed for business of stone crushing up to 31/03/9, A-1 etc. required for new connection.

Forum : What was the reason for disconnection of supply & date of disconnection and amount of arrears?

Consumer : There was restriction from CIDCO and permission was limited up to 31/05/98 in place of permission granted up to 31/03/99. Supply was made T.D. in June 99 due to non-payment of arrears & made PD in the month of July 99.

Forum : Did you intimate MSEB regarding restriction of permission upto 31/05/98 from 31/3/99 & what was the situation regarding use of power?

Consumer : No, we did not intimate & power supply was in sue till date of TD & PD was made in July 99 due to non payment of undisputed arrears of Rs. 144200/-.

Utility :- It was intimated through his submission by the respondent, that in the early stage the particular Pawane area sr.no. 163 TTC MIDC where in supply was demanded by the applicants, infrastructure for HT, LT & DTC was not available & a large distance was required to lay HT & LT line to release the supply to prospective consumers with a huge amount of expenditure required to be incurred which was not possible for any individual LT consumer, hence group estimate was sanctioned and ORC amount was distributed to all the applicants to make it economical for them. In the year 1993 an estimate for 21 Nos. stone crusher units applicants was sanctioned under ORC vide letter No.12/248, dtd. 20/01/94 for an amount of Rs. 18,35,500/- for extending HT line for 20 poles & 42 Nos. L.T. lines with 3 nos. DTCs each of 315 KVA matching capacity of DTC's with demand & each applicant paid Rs. 86,585/- as an ORC not a SLC but an quotation being printed form, it was mentioned as SLC instead of ORC & estimate nos. are also not mentioned on it.

Similarly, several estimates were sanctioned after this estimate, which are mentioned below :

1) Estimate no. Vashi/T/ORC/94-95/67/4061, dtd. 06/12/94, for amount of Rs. 4,78,400/- in survey no. 163/387 for three applicants, each applicant paid Rs. 159470/- as an ORC amount.

2) Estimate no. Vashi/T/ORC/94-95/69/4062, dtd. 08/12/94 was sanctioned for two applicants, each paid Rs. 146050/- as an ORC amount.

3) Estimate no. Vashi/T/ORC/94-95/68/4060, dtd. 08/12/94 was sanctioned for an amount of Rs. 312600/- to release supply to M/s. Swaraj Construction & total amount is paid by him as an ORC amount.

M/s. Kishor Stone applied for new connection for 65 HP Ind. Load + 1.5 KW for factory lighting. During Survey, it was noticed that there was no capacity available to release supply to Existing DTC of 315 KVA, hence an estimate for augmentation of DTC from 315 KVA, hence an estimate for augmentation of DTC from 315 KVA to 500 KVA with up gradation of infrastructure was sanctioned by sanction no. vide letter no. EE/Vashi/T/31/ORC95-96/1228, dtd. 07/02/96 for Rs. 142000/- (DTC NO. 4217137 Tirupati Transformer) but he expressed his inability to produce the estimate copy as it is not traceable to their either offices.

To ascertain the sanction no. and amount, it is produced by utility on demand of WCR of the scheme during hearing on 10/04/06 which is submitted on 20/04/06 vide letter no. 2723, the copy of official letter wrote by Ex. Engr., Vashi to Dy. Ex. Engr., Vashi for submission of work completion report for number of estimates vide letter no. Vashi/Acctt/10/1709, dtd. 25/09/07 referring the earlier correspondences made in this respect in which at sr.no.10, the said estimate number is mentioned.

The amount is paid by the consumer as ORC not a SLC but it was mentioned on quotation as SLC in place of ORC through oversight in FQ No. 2627 dtd. 01/01/1996, hence question does not arise regarding recovery of excess SLC, refund of Excess SLC paid by the consumer/or adjust against the new SLC demanded while reconnecting PD connection being PD for more than three year. Also express that this petition in which cause of action i.e of 1996 is more than two years from the date of grievance registered is not maintainable.

Hence, this petition should be squashed.

2) Representative of the utility explained that Vashi division comes under the jurisdiction of Bhandup Urban Zone, which is covered under underground system. All the prospective consumers are sanctioned for US system & they are required to pay SLC for UG system wherever infrastructure is ready as their service connection cables are paid underground with UG system material or actual cost of infrastructure required to be laid, if it is more that SLC amount recovered as ORC.

As the service cable of LT consumer M/s. Kishor Stone is laid for underground for nearly 40 to 50 meters, new SLC for UG system is demanded, hence this point should be squashed.

3) The consumer was in appeal with the Chief Engineer (Commercial), H.O. Mumbai for waiver of charges vide his letter dtd. 15/03/04 & its decision was communicated by H.O. vide letter No. 5087, this office intimated the consumer regarding decision & suggested to pay the eligible charges as per its terms and conditions vide this office letter no. 2450, dtd. 28/03/05. Instead of paying the

charges, he put up his grievance with ICGRU to prolong the payment. We do agree with delay due to official procedures & work load.

4) The supply was disconnected on 20/12/05 as a routine work due to non payment of arrears which was a huge amount. There was no any order not to disconnect the supply either from higher authority or from any Forum/Court/arbitrator etc.

Observations of the Forum :

As per the consumer's demand for 65 HP Ind. Load and 1.5 KW lighting load, an estimate was sanctioned for augmentation of 315 KVA to 500 KVA DTC vide sanction no. EE/W/T/ORC/31/95-96/1228, dtd. 07/02/96 for Rs. 142000/- under ORC scheme and FQ was issued vide FQ No. 2627 by Ex. Engr., Vashi which is as follows :

1) SCC	55-100-7	9855.00
2) SLC	55-102-3	142100.00
3) Stamp charges	62-990-1	40.00
4) Additional S.D.	48-100-9	<u>10000.00</u>
	Total	167995.00

It seems that there is human error while utilizing printed form of F.Q. by not mentioning estimate no. ORC in place of SLC additional S.D. though it is fresh S.D. Hence, the same error was continued everywhere. The said amount was paid by the consumer as mentioned below:

Fixed charges	Rs. 9855/-	092781	dtd. 19/02/96
SLC	Rs. 142100/-	0952782	dtd. 19/02/96
Agreement	Rs. 40/-	0952783	dtd. 19/02/98
S.D. charges	Rs. 10000/-	0952784	dtd. 19/02/98

The same FQ printed form is utilized for the ORC estimates by mentioning SLC in place of ORC amount under SLC & no estimate numbers on it.

The load sanctioned letter was issued by the Executive Engineer, Vashi vide letter No. 1579, dtd. 20/02/96 with details of payment for 65 HP industrial load & 105 kw factory lighting for stone crusher purpose.

After completing all the formalities by the consumer, the supply was released on dated 02/03/96 and there was no dispute regarding payment of all the above charges as he was convinced with MSEB's claims of charges. The consumers was paying his bill regularly till Dec.-98. As the consumer failed to pay bills, supply was made T.D. and later on made P.D. in the month of July 99 due to non payment of arrears.

Initially, the permission for stone crushing purpose was upto 31/03/99 but due to ban on it, it was restricted upto 31/05/98 which was intimated to the consumer by the concerned department vide letter No. CIDCO/S/Thane/98, dtd. 05/01/98 but the

consumer neither intimated to the MSEB and nor use of electricity was stopped. Thus consumer disobeyed the order of CIDCO & kept MSEB in dark and increased the arrears. Later on, the consumer approached CIDCO authority for renewal of permission for stone crushing activity. It was granted vide letter No. CIDCO/Survey/Thane/2001, dtd. 15/05/2001 subject to payment of Rs. (243000 + 66000) total of Rs. 323190/- payable within one month which was paid by the consumer in 2003 as per his convenience. After availing permission & effecting payment of the charges, he approached to MSEB on 30/06/03 to reconnect the P.D. connection made in July 99, the consumer was asked to pay the following amount vide office note dtd. 27/06/03.

Where as, as per departmental circular (comm.) No. 507, dtd. 20/08/92 of clause no. 5, the consumer will have to pay full SLC if PD period is more than one year. In this case consumer is P.D. for more than 3 years, but he was not asked for payment of fresh SLC following the above said circular & consumer's supply was reconnected after accepting part payment, only leaving ways to the consumer to create the grievance and to prolong the payments of eligible dues.

In case, if consumer was asked to pay the full S.L.C. for fresh connection before reconnecting supply, this grievance could not have been raised by the consumer. From the above, it is evident that this grievance is caused due to mere negligence of concerned employees of MSEB.

- 1) From the documents submitted by utility, it is clear that any SLC & O.R.C. amount once paid for any scheme & which is executed and supply is released, it is non refundable. In this case consumer paid ORC amount against work involved to release his connection & did not pay any amount extra, hence question does not arise to refund any amount paid at the time of new connection. Consumer paid ORC charges against the expenditure incurred while augmenting 315 KVA DTC to 500 KVA not a SLC.
- 2) During visit by team of Forum on dated 20/04/06 to the consumer's premises it is found that service connection cable from distribution point to metering equipment is laid underground for a distance from 40 to 50 meter approx.
- 3) From the correspondence, it is evident that there is delay in correspondence while demanding additional charges for compliance of H.O. order, which should be noted by the utility in future, but in this case, consumer is not sufferer except utility.
- 4) Consumer's supply was disconnected due to non payment of huge arrears though it was in appeal in Forum against ICGRU's order no stay order from any authority/Forum/Court/Arbitrator was produced before the utility.
- 5) Cause of action from the date of Grievance registered is more than two years, hence time barred.

- 6) The said P.D. connection is already made live in 2003 after accepting the part payment and treated as fresh connection. The consumer should pay all the necessary charges as per provisions of Electricity Act 2003 as applicable to new connection.
- 7) In case of failure to pay, utility is entitled to disconnect the supply after observing the legal obligation if any in this case.

ORDER

Although, the case of action was of more than two years old duration, this Forum decided to take up the case to deal for justice to the consumer on merit.

- 1) Consumer paid 142100/- in 1996 for the cost of infrastructure to be provided to release the new connection against ORC estimate, no in SLC. The work already completed & connection was released in 1996. Excess SLC was not paid. Hence nothing is refundable.
- 2) Service connection for the said L.T. consumer is underground new SLC be paid for U.G. system only.
- 3) Though utility communicated to the petitioner regarding H.O. order no. 5087, dt. 25/05/04 nine months later, its validity starts from the date of its communication to the consumer. While demanding the arrears from the consumer the said order of H.O. should be followed scrupulously (specially the waiving of fixed charges and interest thereon).
- 4) There was no stay order from any competent authority; hence supply was disconnected due to non payment of arrears by the utility.
- 5) The consumer's supply was P.D. for more than three years; it should be treated as fresh connection as per the provision of Electricity Act 2003 while making it live. The consumer should pay all the charges for the fresh connection.
- 6) In case of failure to pay the eligible charges by the consumer, utility is entitled to recover the dues as per rule observing the legal obligation if any, in this case

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 April 2006.

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

G. B. SINGH
MEMBER SECRETARY
CGRF, BHANDUP