



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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No. K/E/899/1098 of 2015-16.

Date of Grievance : 26/06/2015

Date of Order : 04/01/2017

Total Days : 599

**IN THE MATTER OF GRIEVANCE NO. K/E/899/1098 of 2015-16, NEELAM BHARAT JAIN, GALA NO.20, RAJPRABHA, MINAXI IND. EST. 3, NAIKPADA, SATIVALI, VASAI ( E ), DIST. PALGHAR-401 208 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.**

Neelam Bharat Jain,  
Gala No.20, Rajprabha,  
Minaxi Ind. Est.3,  
Naikpada, Sativali,  
Vasai ( E ),  
Dist. Palghar-401 208.  
(Con.No.001840889323)

.... (Hereinafter referred as consumer)

V/s

Maharashtra State Electricity Distribution  
Company Limited  
through its Nodal Officer,  
MSEDCL, Vasai Circle-Vasai ( E ) S/dn

.... (Hereinafter referred as Licensee)

Appearance : - For Licensee : Shri K.S.Giri- AEE  
For Consumer- : Shri Harshad Sheth- CR

[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and  
Mrs.S.A.Jamdar- Member (CPO)].

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per

the notification issued by MERC i.e. “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

2] Case in brief is that, this consumer, bearing No. 001840889323 with billing units 4359. Dy Executive Engineer Vasai ( East) Sub/Dvn. , closed production in September 2011. Till that time they paid all the bills. In February 2012, MSEDCL added one month consumption of 95309 units and gave a wrong bill for Rs.7,20,970/-. Consumer did not pay the bill and asked MSEDCL to regularize the mistake. There was no meter replacement nor MRI report was given.

3] It is the case further that instead of receiving the bill, MSEDCL made PD of supply and adjusted security deposit against wrong dues. No justification was given for consumption of 95,309 units in one month. Consumer demanded testing from NABL approved test laboratory.

4] Consumer prayed, i] to check and test the meter from NABL test Laboratory, ii] revise the bill after verifying data , iii] due to wrong billing DPC interest and other charges are not applicable, iv] 15.4.1 of MERC supply Code be invoked, v] MERC Regulation 2014 ( SOP ) for compensation may be allowed.

5] In reply MSEDCL contended that the grievance put forth in more than two years old as such liable to be rejected in view of the provision of MERC (CGRF & Electricity Ombudsman) Regulations, 2006. It is contended further that since the date of supply sanction till disconnection in April 2012, bills were issued as per meter reading. In same month, due to non-availability of meter reading due to the lock , RNA etc the consume was issued with bills on average basis. But in the following months, when the reading was available consumer was billed on actual meter reading and ensuing relevant credit adjustment for last bill generated on average basis.

6] It is further the contention that disconnection was made in April 2012, on account of arrears of Rs.7,35,536.76 . In view of the progressive reading of the consumer on CPL , the grievance of fictitious billing is not tenable.

7] The Licensee further informs that in the month of June 2012, the S.D. of Rs.72,000/- was adjusted against the arrears of Rs.7,35,536.76 and Rs.6,49,116.96 remain outstanding which consumer is liable to pay with interest @ 18% per annum.

8] We have heard both sides. There are rejoinders and sur-rejoinders filed which we have gone through.

9] At the outset, the common case is that the disputed bill pertains to February 2012. Disconnection was done on 7/3/12. Complaint was made to IGRC after three years. No objection raised for three years. There is passing reference made in the IGRC, complainant that consumer had asked MSEDCL to revise the bill. But no details are given as to date of the representation much less any document produced.

10] Mr. Harshad Sheth- the CR tried to submit that MSEDCL has been till lately i.e. November 2016of arrears of bill by the consumer, as such the

grievance cannot be said to be belatedly filed. This argument, I am a—cannot sustain, as declaration of such amnesty scheme does not save limitation for consumer to challenge the bills. CR also does not substantiate his contention in that regard on the basis of any legal provision.

11] Then Mr. Sheth the CR further argued that his grievance before the CGRF was still within limitation, he sought to make another point. He pointed out that the consumer had approached to IGRC on 22/4/15 and thereafter within two years filed the grievance before this Forum. He pointed out also from the Regulation that there is no bar of limitation to file grievance before the IGRC as such filling grievance before the IGRC after three years cannot be said to be beyond limitation. Hence the grievance filed before this Forum within two years from the decision of IGRC is within limitation. Mr. Sheth in support of his legal proposition sought to rely on the judgment in the case of M/s. Hindustan Petroleum Corporation Ltd. V/s. MSEDCL ( W.P. No. 9455 of 2011).

12] We have gone through the judgment cited. It is to be noted however that 6.6 of MERC ( CGRF and Electricity Ombudsman ) Regulations 2006 makes a provision for limitation for taking cognizance of a grievance by the CGRF in which it is clearly mentioned that the Forum shall not take cognizance of any grievance beyond the period of two years from the date when the cause of action arises. The grievance is to be filed with the Forum within two years of the arising of cause of action. There is provision of IGRC made as per the Act by the Licensee to which a consumer has to have recourse and then moved the CGRF, but ultimately, the period of limitation for taking cognizance of a grievance by the Forum remains the same as two years. The consumer has to only wait for two months to get the grievance redressed by the IGRC. It is true that there is no period of limitation provided for moving the IGRC but than it is a settled principle

of Law that in such a situation the complaint or grievance should be made within reasonable time. In the present case, the consumer moved the IGRC after three years of the date when cause of action arose. Thus, when the period of limitation for moving the CGRF itself is two years, the period of three years after which in the present case, the consumer has moved IGRC cannot be by any stretch of imagination be said to be reasonable. The other proposition that the two years period of limitation starts from the date of decision of the IGRC cannot also sustain for want of any such provision. 6.6 of the Regulations above referred are very clear that cognizance cannot be taken after two years from the date on which the cause of action arose. Decision of IGRC cannot be said to be a cause of action. The said view finds support in the Judgment in the case of MSEDCL, and another v/s. Electricity Ombudsman and another (WP No.1650 of 2012) in which case His Lordships AV Nurgude J, interalia reproduced the entire , list of articles 72 to 91 of Indian Limitation Act 1963, to rule as to when the cause of action arises. His Lordships went on to hold that cause of action does not arise on the date of decision of IGRC.

13] The above being the situation, it can be seen in the present case the consumer has approached the IGRC after three years of disputed bill of February 2012 as has now been demanding of meter tests, NABL testing etc. It is very difficult to consider such a belated grievance. The grievance is hopelessly is time barred.

This matter could not be decided within time as the Hon'ble Chairperson took charge on 20/09/2016 of this Forum and the matter was reheard.

In the result, the grievance application is liable to be dismissed.

Hence the order.

**ORDER**

Grievance application of consumer is hereby dismissed.

Date: 04/01/2017.

(Mrs.S.A.Jamdar)  
Member  
CGRF, Kalyan

(L.N.Bade)  
Member Secretary  
CGRF, Kalyan.

(A.M.Garde)  
Chairperson  
CGRF, Kalyan.

**NOTE**

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

*"Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51".*

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003" at the following address:-

*"Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05"*

- d) *It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.*

Both the parties present. Today the CR has filed withdrawal application, contending that the consumer has paid the amount and there are no dues left.

3] Read the application. CR has submitted “No Dues Certificate for Amnesty Scheme for PD consumer 2016-17”. Now consumer has no grievance and he withdraws the grievance. Matter disposed off as withdrawn.

Hence the order.

**ORDER**

The grievance stands disposed off as withdrawn.

Date: 21/12/2016.

(Mrs.S.A.Jamdar)  
Member  
CGRF, Kalyan

(L.N.Bade)  
Member Secretary  
CGRF, Kalyan.

(A.M.Garde)  
Chairperson  
CGRF, Kalyan.

**NOTE**

e) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

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f) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

g) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

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h) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

**Reply pertaining to above queries**



**Query No.1:-**

Both sides were made aware of the first query and they clarified that towards 10.5 Regulation. Previously liability for six months worked out to Rs.70570/- and after the order of IGRC in ----2014. Refund of liability is worked out which is to the tune of Rs.38,700/-. Accordingly, consumers had paid Rs.70570/- and by deducting revised liability of Rs.38700/- balance amount to be refunded is of Rs.31870/-. This figure is confirmed by CR.

**Second query** was pertaining to how many persons paid this amount. CR has represented before Licencee his letter, there is reference of refunding the said amount to the applicants. In other words there is 15 are the applicants, seeking supply, hence refund of Rs.31870/- is to be allowed for those persons who paid it. However, CR submitted that only these applicants borne expense. Liberty is given to the CR to place on record the no objection of remaining persons so that it can be equally distributed to the present applicants otherwise refund will be equally to the 15 persons. In spite of mode of refund, it is clear that whenever amount is deposited it is under protest in seeking its refund by issuing cheque and DD. Hence though Officers of Licencee contended that refund is adjusted in the bills to claim of these applicants is to be considered.

**Query No.III**, when we heard to both sides and CR heard on it, he submitted that as there is provision of MERC he demanded it and he claimed it. However, he is made aware of Sections 142 to 145. All these sections are clearly speaking about the jurisdiction of MERC to take up the matter allotted to one of its member who is **itself** as to whether the directions laid down by Government. Further jurisdiction of this Forum even of Civil

Court is barred . Hence, this Forum cannot entertain and decide the claim of penalty u/s. 43(3) of Electricity Act.

Note:

- i) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

*“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”*

- j) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity

- k) Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

*“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”*

- l) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

*Clarification in Para No.8\**