

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redresses Forum
Nagpur Zone, Nagpur**

Case No. CGRF (NZ)/90 /2017

Applicant : Dilip J. Benjamin
At. Vg. Piti – Chuaa,
Dist Nagpur.

Non-applicant : Nodal Officer,
The Executive Engineer,
Division no. 1, Ganeshpeth,
MSEDCL. Nagpur.

Applicant: - Shri Sunil Jacob Applicant's Representative,

Non- applicant: - 1) Shri P.N.Lande, MSEDCL, Executive Engineer Rural Division.

Quorum Present: - 1) Mrs. V.N.Parihar,
Member, Secretary & I/C.Chairman.

2) Shri N.V.Bansod,
Member

ORDER PASSED ON 13.12.2017.

1. The applicant filed present grievance application before this Forum on 11.10.2017 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressed Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 07.11.2017
3. Forum heard arguments of both the sides and perused record

4. Shri Dilip J. Benjamin, At Vg. Piti- Chuaa, Dist- Nagpur (hereinafter referred to as, the applicant) having consumer no.11900055787 had lodged complaint with the Non-applicant for excessive bills issued to him & disconnection of Supply without issuing notice under 56/1 for his residence. Therefore requested forum to direct to take action as per section 43 of EA Act 2003,against the Non-applicant for harassment caused to him by non-applicant along with compensation of Rs 20000/- for harassment & natural justice.

5. Applicant filed grievance with IGRC on dt.14.02.2017,which initially was wrongly addressed and then resolved BY IGRC NRC vide complaint no.36 of 2017-18.Accordingly matter was heard and IGRC by its order dt.12.09.2017,stated that *“DYEE O&M Sub-division is directed to verify the connected load and meter testing report and to revise the bills if necessary.”*

6. Aggrieved by this decision of IGRC, Applicant filed his grievance application with this forum for necessary relief.

7. Non-applicant contended as per their written reply that, Meter having Sr.No. 4620898 for Consumer No. 419000557871 in r/o Shri Dilip John Benjamin was permanently disconnected on 17.11.2015 due to arrears not paid by consumers. Shri Dilip John Benjamin complained on 15.06.2016 about excessive bill for the month of May-2015 expressing doubts about accuracy of meter. Spot was inspected on 15.06.2016, meter having Sr..No. 3278923 was tested on 07.07.2016 and found faulty.

Therefore Bill for applicant is revised for month of May-2015 on 06.10.2016 and corrected bill issued to complainant. Shri Dilip John Benjamin paid electricity bill vide Money Receipt no.42781 on dt.23.03.2017.Hence Electricity supply for applicant was reconnected on 27.04.2017.Hence Non-applicant has submitted the Pledge as follows:-

- As per consumers grievance, date for cause of action is 17.11.2015. The applicant had lodged complaint for his claim in IGRC on 11.07.2017 i.e. after more than 19 months hence filed late, Therefore case should be barred by time limitations as per Sec 12.2 of MERC SOP regulation 2014 and regulation 6.7(CGRF and EO) Regulations 2006.
- As per section 7.5 of MERC SOP regulation 2014 'The Distribution Licensee shall resolve consumer complaints with regard to non receipt of a bill for payment or inadequate time being made available for payment thereof or otherwise, within 24 hours of the receipt. In other case, the complaint shall be resolved during subsequent billing cycle'.
- In all the above events MSDCL has acted as per procedure laid down in MERC electricity supply code and consumer has been billed with actual, accurate units consumed by the consumer. Hence prayed to the forum that consumer request for compensation should be dismissed.

8. The case was fixed for personal hearing on 03.11.2017 and 10.11.2017. Shri Sunil Jacob (Applicant's representative) was present during the hearing. Shri P.N.Lande Ex. Engineer O&M Rural. Division, Shri.R. S. Dy.Executive Engineer O&M Rural. Division, Umred represented the Non-applicant.

9. During hearing, Non-applicant stated that, applicant has not paid his Energy bills amounting Rs.60484/- since 29.04.2015. Nevertheless till 17.11.2015 there was no complaint regarding the amount or the meter. On dt.15.06.2016 applicant lodged complaint for bill revision of the month May 2015. Accordingly the disputed meter was tested on dt.07.07.2016 and found faulty. Therefore disputed bill for May 2015 was revised on dt. 06.10.2016 and on payment of the bill by applicant on dt. on dt.23.03.2017, supply was reconnected on dt 27.04.2017. He further stated that applicant has registered grievance with IGRC about the bill for the month of March-15 bill. As per CPL he has been issued bill for only 29 units in the month of March-15 which is not excessive, hence same complaint is redressed. He further contended that, the applicant has registered grievance for revision of Energy bill for March-2015 with IGRC and for revision of Energy bill for MAY-2015 with forum, which is not tenable as per law. The disconnection notice was issued but since no one was residing in the premises, acknowledgment could not be obtained. The supply is rarely used by the applicant who is actually residing in the adjacent premises. This fact can be seen from the consumption trend recorded in CPL of the applicant. Hence there is no harassment caused to the applicant due to the disconnection of supply, in fact supply was disconnected after issue of notice. As per the provisions of proviso to Regulation 12.2 applicant should have claimed compensation within 60 days i.e. on or before 17.01.2016 from the cause of action i.e. 17.01.2015. As applicant has not complied with the provisions of proviso to Regulation 12.2 as he approached the IGRC NRC on 11-07-2017 after 19 months from the cause of

action i.e.17.11.2015. Hence is not entitled for any compensation and his case may be dismissed.

10. Due to the expiry of term of Chairperson of the Forum on dt 30.06.2017, consequent to which the matter was heard by the two remaining Members. At the time of hearing Quorum present was

1) Member Secretary & I/C. Chairman.2) Member (CPO).

As per in clause 4.1(c) of MERC (CGRF & EO) Regulation2006 which reads as under,4.1(c)*“Provided also that where the Chairperson is absent from a sitting of the Forum,the technical member, who fulfills the eligibility criteria of sub-clause (b) above, shall be the Chairperson for such sitting.* Needless to say that, in absence of Hon’bleChairman,Member Secretary is In-Charge Chairman. There is difference of opinion amongst the two. Since I/Charge Chairman has one additional casting vote, therefore as per provision given in clause 8.4 of MERC (CGRF & EO) Regulation2006 which reads as under,

8.4 *“Provided that where the members differ on any point or points the opinion of the majority shall be the order of the Forum. The opinion of the minority shall however be recorded and shall form part of the order”.*

Hence, the Judgment is based on majority view of I/C chairman and Member Secretary. However the separate dissenting note of Hon’ble Member (CPO) is noted in the judgment and it is part and parcel of the judgment. But the judgment is based on majority view and reasoning thereof is as under:

11. We have perused the record. We have heard the arguments of both the parties. On going through the application of the applicant, it has been observed that the applicant is a Residential consumer of MSEDCL having consumer no. 419000557871. The applicant has received the energy bill in month May 15, which in his opinion was incorrect and excessive. Applicant was not ready to pay the excess bill. The same has been informed verbally to the section office but his problem was not resolved. Further, the applicant has lodged the complaint application and demanded IR, FR & CPL on dt. 15.06.2016, 15.10.2016 for the m/o March 15 and till 25.05.16 along with testing report. The applicant also says that the connection is disconnected without issuing notice under 56/1. However he has been issued the revised bill which has been paid on dt 23.03.17 and supply was reconnected on dt. May-2017.

12. During hearing it was admitted by Applicant and clearly seen from consumption trend of the applicant as per CPL filed on record that supply is not in regular use. The premise is not occupied. Hence we hold contention of NA that, the disconnection notice was issued but since no one was residing in the premises, acknowledgment could not be obtained. Hence supply was disconnected without notice incorrect. Also tendency of non-payment of bills is seen as he has not paid Energy bills of from the month May-15 onward till 23.03.17. Also applicant filed complaint of excessive Bill of May-15 in the month of June 16, after one year. Forum can see this pertinent fact that If as per applicant's contention supply was disconnected on 17.11.2015 then why did applicant lodged complaint so late. How could anybody tolerate inconvenience of not having electricity for so long? Hence Non-applicant's contention that there is no harassment to the applicant is acceptable to the forum.

13. Secondly applicant has lodged complaint of March-15 Bill with IGRC and with Forum regarding May-15 Bill which is not tenable as per law, The forum being appeal court, cannot be approached directly bypassing IGRC hence since as per section 6.7, the forum shall not entertain a grievance unless the consumer has complied with the procedure under Regulation 6.2.

14. Thirdly, Regulation 12 of the MERC SOP 2014 Regulation discuss about, the determination of compensation. Proviso to Regulation 12 reads as follows,

*“Provided that any person who is affected by the failure of the Distribution Licensee to meet the standards of performance specified under these Regulation and who seeks to claim compensation shall file his claim with such a Distribution Licensee within a maximum period of sixty (60) days **from the time such a person is affected by such failure** of the Distribution Licensee to meet the standards of performance.*

15. The applicant claimed that the Distribution Licensee failed to redress his complaint within the stipulated time limit and disconnected supply without notice on dt.17.11.2015 But as discussed in the forgoing para ,as per the provisions contained in proviso of Regulation 12.2 he should have claimed compensation within a period of 60 days from 17-11-2015.In other words he should have claimed compensation for illegal disconnection on or before 19.01.2016 since as per proviso of clause 2 for restoration of supply of Appendix “A” of SOP regulation 2014 time period for restoration of supply is within 18 hours in Rural area. But in this case he claimed compensation initially from Non-applicant on dt.15.10.2016 and lastly from IGRC on dt.14.02.2017. We are of the considered opinion that the applicant utterly failed to comply the provision of Regulation

12.2. Hon'ble Electricity Ombudsman has clearly stated in representation no.34/2016 at Para 7 as follows:

"It may be noted that Clause 12.2 of SOP Regulations is applicable only when the consumer files his claim with the Distribution Licensee. We refer this judgment and hold that as the grievance is not filed within 60 days from the cause of action i.e.on or before 17.01.2016. Hence grievance is time barred as per Clause 12.2 of SOP Regulations, 2014 of MERC.As such he is not entitled for any compensation.

Separate note by Member (CPO) Naresh Bansod in Case No. 90/2017 on 13-12-2017

(1) The date of filing of complaint is 11-10-2017. Arguments heard on 10-11-2017.

The case file is sent to me for writing separate note on 13-12-2017 at 11.30 A.M. without concurrence of Reg. 8.4 provisio of MERC (CGRF & EO) Regulations 2006 i.e. discussing the point or points of difference amount members on dias.

(2) Applicant is the Residential consumer with consumer No. 419000557871/5 of Non Applicant. The grivence of the applicant is that without notice disconnected supply of his residence and sending exhorbitant bills in March 2015 and to take penal action against Non Applicant and pay compensation. Residential power supply was not restored even after payment of energy bill and claimed compensation for mental physical & economical harassment to the tune of Rs.20000/-

Applicant paid the amount of exhorbitant bill even though not agreeable still supply was not restored and letters were not replied by Non Applicant. Non Applicant

before IGRC did not file reply or submitted the record and IGRC order is also not received. Applicant submitted application for IR,FR & CPL on 25-6-2016 for the month March 2015 to 25-5-16 but no reply was received. Applicant paid revised bill on 23-3-2017 but connection was not made alive & restored in last week of August 2017.

(3) IGRC on 8-9-2017 ordered that Dy.Ex.Engineer O&M Sub.Division Umred is directed to verify the connected load and meter testing report ec. & revise the bill if necessary.

(4) Non applicant like reply before IGRC, stated that bill has been revised as per meter testing report in the month of March-2017.

(5) Non applicant permanently disconnected supply on 17-11-2015 due to arrears not paid by consumers but Applicant complained of excess billing in the month of May 2015 on 15-6-2016 expressing doubt about accuracy of meter.

Non applicant admitted during inspection on 15-6-2016, that bill of May 2015 with consumption 693 Unit was high with connected load of .06 KW. Non applicant said on insistence of Applicant meter No. 3278923 was tested on 7-7-2016 & found faulty and bill for May 2015 was revised on 6-10-2016 and paid by consumer on 23-3-2017 and supply was connected on 27-4-2017. Non Applicant before IGRC stated that the disconnection is carried out as the bill itself has mentioned the notice.

(6) Non applicant stated that cause of action is on 17-11-2015 and complaint before IGRC on 11-7-2017 i.e. more than 19 months late and case should be barred by limitation as per Sec. 12.2 of MERC SOP regulations 2014 & Reg. 6.7 (a) of the MERC (CGRF & EO) Regulations 2006 Non Applicant also raised the issue of Section 7.5 of MERC SOP regulation 2014 and stressed that MSEDCL has acted as per procedure laid down in MERC(ESC) and complaint be dismissed as bills

(7) Issued with actual & accurate units.

(8) Non applicant in pledge as in Para 7 above raised issue regarding the case is barred by limitation as per Sec. 12.2 of MERC (SOP) Reg. 2014 & Reg. 6.7(a) of MERC (CGRF & EO) Reg. 2006 as well as 7.5 of MERC(SOP) Reg. 2014.

(A) So far clause 7.5 of MERC (SOP) Reg. 2014 is more procedural in nature and regarding non receipt of bills and of no use, as no allegation of non receipt of energy bills in May 2015 which was excessive.

(B) 6.7(a) of MERC (CGRF & EO) 2006 reads as under.

The forum shall not entertain a grievance.

(a) Unless the consumer has complied with the procedure under Reg.6.2 and has submitted his grievance in the specified forum, to the forum.

As per IGRC order dated 8-9-2017 it is clear that consumer complied the procedure under Reg. 6.2 & has submitted his grievance in the specified form “अनुसूची” “अ” and hence contention of Non applicant is baseless & deserves to be rejected.

Non applicant invited our attention to provision SOP Reg. 12.2 that applicant should have register the complaint within 60 days i.e. up to 5.3-2017 and concluded that application is bar on limitation.

To clarify the misperception about the SOP 12.2 and cause of action in the mind of Non applicant. I refer the order of Electricity Ombudsman Nagpur dated 4-8-2017 in Representation No. 17/2017 Smt. Varsha Lalwani V/S The Executive Engineer O&M division MSEDCL Gondia and rep. No. 34/2016 order dated 19-08-2016 Mr. Sunil S. Chambhare v/s The Executive Engineer O&M, Hinganghat(case of this forum).

Causion of Action – Para 7 of Rep. No. 17/2017 reads as under.

“I rely on the Judgement dated 18-7-2017 of the Bombay High Court in Writ Petition No. 3997/2016 where in the Hon’ble court has up held the view that”
“grievance of respondent No. 1 was well within limitation as cause of Action has arisen from the date of rejection of grievance of IGRC”. Also the Division Bench of the Principal Bench of the Bombay High Court in M/s. Hindustan Petroleum Corp. Ltd. Vs MSEDCL and others Writ petition No. 9455/2011 had accepted that”
cause of action for submitting the grievance should arise when the IGRC rejects a grievance of a complaint”.

SOP Reg. 12.2 – Para 7 of Rep. No. 34/2016 reads as under.

“It may be noted that Clause 12.2 of SOP Regulations is applicable only when the consumer files his claim with the Distribution licensee. The said limitation of 60

days does not apply when the consumer files his claim for compensation with the forum”.

Hence the submission & arguments of Non applicant are deserves to be baseless and against the principles of law, deserves to be dismissed.

It was the grievance of the Applicant that he received high consumption of 693 Units in May-2015 and for which applicant visited frequently to Non Applicant but grievance was not redressed by Non Applicant.

Non applicant in reply dated 7-11-2017 replied as under 2 to 5. It

is evident that meter was recording excessive as meter was faulty in the month of May-2015 & the consumption was 693 Units for connected load @ .06 KW and it is a case of Billing in the event of Defective meters. The Section 55(1) of the Electricity Act. 2003

“55 Use etc. of meter :- (1) No licensee shall supply electricity, after the expiry of two years from the appointed date, except though installation of a correct meter in accordance with regulatins to be made in this behalf by the authority.

MERC (ESC & OCS) Regulation 2005

14.4.1 → The distribution licensee shall be responsible for the periodic testing and maintenance of all consumer meters.

Hence in this case Non applicant totally failed and neglected to have proper & periodic maintance of meter & failed to notice the exhorbitant billing of 693 on connected load of 0.06 KW.

In spot inspection report dated 15-6-2016 in remarks column it is mentioned as “Wrong reading Punch”.

In report of 7-7-2016 in Remark Column it is noted as "No Load Pulse".

In bill Revision Report dated 6-10-2016 – it noted as Wrong Consumption and in reply dated 7-11-2017 meter is faulty. Hence as a case of defective meter, Non Applicant should have acted promptly as per Clause 15.4.1 of defective meter but Non Applicant delayed redressal of allegations on Applicant.

It is evident that besides inspection on 15-6-2016 & illegal disconnection for small wrong bill amount of Rs.1280/- when security deposit is Rs.1000/-. Hence the action of disconnection on17-11-2015 due to arrears is totally illegal secondly even after payment of illegal amount i.e. P.D. Charges on 23-3-2017 the supply was restored on 27-4-2017 i.e. after 34 days hence Non Applicant is liable to pay compensation of Rs.50/- per hour or past there of delay after 18 hours from 17-11-2015 till 27-4-2017 as per "Appendix A" 2 (i) of SOP Regulation 2014 and same is followed in all cases of illegal disconnection of supply decided by this forum & E.O. Nagpur.

(9) On the point of disconnection.

It is noted in IGRC order i.e. "The disconnection is carried out as the bill itself has mentoned about the notice". Which is totally illegal.

Non applicant is directed to read clear provision & meaning of Section 56(i) (a)(b) as well as section 171. Services of notices, Orders of documents The Electricity Act. 2003, which will throw light on interntional & illegal act of disconnection of supply of Applicant and contention that on bill itself has mentioned about the notice is baseless & deserves to be discarded because contention does not

stand to Judicial scrutiny.

It is a proved case of faulty meter and As per Reg. 15.4.1 MERC (ESC) Reg. 2005, Non applicant is liable to revise the bill for 3 months preceding 17-11-2015 on an average of last 12 months as per provision and give the necessary credit in his bill as it appears that more amount is recovered.

In view of the above observations the entire act of Non Applicant as well as its officials is totally wrong, illegal against the provisions of The Electricity Act. 2003 & other Regulations of MERC and applicant poor villegger was deprived from the use of Electricity from 17-11-2015 to 27-04-2017 and further to suffer physical, mental and economical harassment. Hence the following order as application deserves to be allowed.

ORDER

- (1) Non applicant is directed to revise the bill of applicant as per Reg. 15.4.1 of MERC (ESC) 2005 and give necessary credit in his bill.
- (2) Non applicant is directed to pay compensation for illegal disconnection @ Rs.50/- per hour after 18 hours from 17-11-2015 to 27-4-2017 as per "Appendix A" 2 (i)
- (3) Non applicant is directed to pay Rs.5000/- as compensation for physical, mental & economical harassment as per Reg.8.2 (c)(d)(e) of MERC (CGRF & EO) Regulations 2006.
- (4) IGRC order is quash & set aside.

(5) Compliance of this order shall be done within 30 days from the date of this Order.

**Naresh Bansod
Member (CPO)**

16. Before reaching to the final order, it is necessary to decide the matter within two months from the date of filing of the application. Applicant filed application on 11-10-2017. Therefore it was necessary to dispose of the application on or before 11-12-2017. Term of Chairperson In charge of the Forum expired on dt.30 June 2017. Forum heard argument on 03-11-2017 and 10.11.2017. The separate dissenting note of Hon'ble Member (CPO) is given on dt.13.12.2017 due to this; there is delay in deciding the matter

17. The grievance application with IGRC and forum is different. As such applicant has not complied with the procedure under Regulation 6.2 of MERC (CGRF &EO) Regulation, 2006, hence as per section 6.7 of the same regulation, the forum cannot entertain the grievance .In view of this fact, and aforesaid other facts we proceed to pass the following order.

ORDER

Grievance application is Dismissed.

Sd/-
(Shri.N.V.Bansod)
MEMBER

Sd/-
(Mrs.V.N.Parihar),
MEMBER SECRETARY & I/C. CHAIRMA