

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

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**Case No. CGRF(NUZ)/009/2008**

Applicant : Shri Satish Murlilal Goel  
Shrikrishna Apartment,  
10, Daga Layout,  
North Ambazari Road,  
Nagpur.

Non-applicant : MSEDCL represented by  
the Nodal Officer-  
Executive Engineer,  
Civil Lines Division NUZ,  
Nagpur.

Quorum Present : 1) Shri S.D. Jahagirdar,  
Chairman,  
Consumer Grievance Redressal  
Forum,  
Nagpur Urban Zone,  
Nagpur.

2) Smt. Gouri Chandrayan,  
Member,  
Consumer Grievance Redressal  
Forum,  
Nagpur Urban Zone,  
Nagpur.

3) Shri S.J. Bhargawa  
Executive Engineer &  
Member Secretary,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone,  
Nagpur.

**ORDER (Passed on 22.02.2008)**

This grievance application has been filed on 28.01.2008 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of allegedly arbitrary and unlawful assessment bill of Rs.12,49,639/- towards unauthorized use of electricity and in respect of inapplicability of provisions of Section 126 of the Electricity Act, 2003 to his case. His grievance is also in respect of notice of disconnection of electricity supply issued by the non-applicant on 01.01.2008 under Section 56 (1) of the Act.

The applicant has requested to quash the assessment bill of Rs.12,49,639/- and the bill of Rs.50,000/- towards security deposit and also to revoke the disconnection notice.

Before approaching this Forum, the applicant had filed his grievance on the same subject matter before the Internal Grievance Redressal Cell ( in short, the Cell) under the said Regulations on 21.01.2008. The Cell, upon inquiry and hearing, informed the applicant by its letter, being letter no. 520 dated 24.01.2008, that the applicant's grievance does not fall within the purview of the Cell. Being aggrieved by this decision of the Cell, the applicant has filed this grievance application.

The matter was heard on 14.02.2008.

The applicant's case was presented by his nominated representative one Shri S.P. Banait while the Executive Engineer, Civil

Lines Division, MSEDCL, Nagpur represented the non-applicant Company.

It is the contention of the applicant's representative that change in usage of electricity from residential to commercial is already permitted by the non-applicant since October 2006 when the applicant started construction work of apartments and commercial complexes on the site. The fact of using supply of electricity for this purpose was brought to the notice of the Jr. Engineer of the area who, in turn, converted the tariff category of the applicant from residential to commercial from October 2006. He added that the MSEDCL officials also inspected the applicant's premises number of times from October 2006 onwards. But none of inspecting officials has pointed out any irregularity whatsoever. Energy bills are also being paid by the applicant regularly as per commercial tariff applicable to him. Against this background, according to him, the observation of the Flying Squad which inspected the applicant's meter on 26.12.2007 that the applicant is indulging himself in unauthorized use of electricity in terms of Section 126 of the Electricity Act 2003 is unjust, improper and illegal. Based on the spot inspection report dated 26.12.2007 of the Flying Squad which, in itself, is illegal, the non-applicant issued an erroneous and illegal assessment bill of Rs.12,49,639/- on 26.12.2007 towards unauthorized use of electricity under Section 126 of the Electricity Act, 2003. Likewise, an erroneous bill of Rs.50,000/- towards additional security deposit also came to be issued on 26.12.2007.

He strongly argued that there was no element of unauthorized use of electricity involved in this case and, therefore, both

the above bills are improper and illegal. He, therefore, requested that both these bills may be quashed.

The applicant's representative has further stated that if there is any revision in the tariff meant for construction activities, the applicant is ready to pay difference thereof from the effective date but without any penalty.

On receiving the disputed bill in question, the applicant raised this grievance before the Executive Engineer, Civil Lines Division, NUC, Nagpur by his letter dated 08.01.2008 requesting him to withdraw the illegal bill of Rs.12,49,639/- and also to withdraw the illegal notice dated 01.01.2008 of disconnection of supply. However, no action was taken by the Executive Engineer with the result that he had to approach the Cell under the said Regulations for redressal of his grievance. However, the Cell also rejected his request and hence the present grievance.

He also stated that he had to pay amount of Rs.6,49,639/- as part payment in order to avoid disconnection of supply.

He lastly prayed that the relief's sought for by him in this grievance application may be granted.

The non-applicant has submitted his parawise report dated 12.02.2008 which is on record. A copy of this report was given to the applicant and he was given opportunity to offer his say on this parawise report.

The non-applicant has stated that the assessment bills in question are proper and legal since the applicant was found using supply of electricity for the purpose of construction activities when the meter was initially provided for residential purposes. According to him,

this matter squarely falls within the purview of Section 126 of the Electricity Act, 2003 and hence, this Forum has no jurisdiction to take cognizance of the applicant's grievance. He added that the Flying Squad in its inspection report dated 26.12.2007 has rightly observed that the applicant has indulged himself in unauthorized use of electricity in as much as he is using supply for construction activities which was not authorized. The applicant ought to have approached the appellate authority under the Section 127 of the Electricity Act 2003 in appeal against the order of assessment and the assessed bill. However, instead of approaching this appellate authority the applicant wrongly approached this Forum which cannot entertain such a grievance. He also elaborated that the provisional assessment bill in question was duly served upon the applicant on 26.12.2007 asking him to file his objection, if any, within a period of 7 days as provided in Section 126. However, the applicant did not raise any objection within the period aforesaid with the result that the provisional assessment of Rs.12,49,636/- has become final. The assessment bill in question was issued accordingly on 26.12.2007. Likewise, the bill for Rs.50,000/- towards additional security deposit was also issued correctly.

The non-applicant further stated that since the applicant did not pay the assessment bills amounting to a total of Rs.12,99,639/-, a notice under Section 56 (1) was issued on 01.01.2008 asking the applicant to pay this amount within 15 days failing which his supply would be disconnected. Thereupon, the applicant deposited an amount of Rs.6,49,639/- as part payment on 22.01.2008. According to him, this amount has also been deposited by him without raising any protest. Hence, there is no deficiency of service on the part of MSEDCL.

He lastly prayed that the grievance application may be rejected.

The main point to be decided by this Forum is whether the present grievance can be entertained in terms of clause (a) of Regulation 6.8 of the said Regulations. This is necessary because any grievance falling within the purview of unauthorized use of electricity as provided under Section 126 of the Electricity Act, 2003 is excluded from the jurisdiction of Forum as laid down in this Regulation.

In this respect, the spot inspection report dated 26.12.2007 of the Flying Squad makes it abundantly clear that the applicant had used his residential tariff meter for construction activities up to October 2006 unauthorisedly.

The record shows that the tariff category of the applicant was changed from residential to commercial w.e.f. October 2006. However, prior to October 2006, the applicant was charged tariff meant for residential purposes. This is also evidently clear from the entries recorded in the applicant's CPL. The non-applicant was not able to explain before this Forum as to what was the exact nature of commercial usage of electricity that was allowed to the applicant w.e.f. October 2006. No papers were submitted by the non-applicant in this respect. We, at this Forum, insisted upon the Executive Engineer representing the non-applicant company to show us the relevant documents prepared at the time of permitting commercial usage of electricity w.e.f. October 2006. However, the Executive Engineer failed to submit these documents. May that the case be, the fact remains that the applicant has used electricity for the purpose other than for which the usage of electricity was authorized in as much as he has used

supply of electricity for construction purposes even prior to October 2006 when the actual usages permitted that time was for residential purposes only. This means that the construction activities on the site of the applicant's premises had started much before October 2006 and the applicant was using electricity for construction purposes even prior to October 2006 without any authority. Thus, the element of unauthorized use of electricity did exist prior to October 2006. The perusal of the applicant's CPL also discloses the fact that the applicant's consumption has suddenly increased from January 2006 and onwards. Vide his consumption of 1002 units in January 2006, 3648 units in May 2006, 1872 units in June, 2006 and also his consumption much above 3400 units w.e.f. July, 2006 onwards till October 2006.

There is also a change of meter in this case from January, 2006. The non-applicant could not explain the reasons for this change in meter. However, it is observed that with the change in meter, the applicant's consumption shot up in January, 2006 & again from May, 2006 onwards.

This goes to show that construction activities had already started much prior to October, 2006 and the applicant was using power supply for construction activities particularly when he was permitted to use it only for residential purposes.

Hence, the facts and circumstances of the case prima-facie go to show that this grievance falls within the purview of unauthorized use of electricity provided under Section 126 of the Act and as such, this Forum holds that the grievance in question cannot be entertained in terms of clause (a) of Regulation 6.8 of the said Regulations.

It is also not understood as to why the applicant did not file any appeal under Section 127 before the prescribed appellate authority. This remedy was very much available to him. However, he did not choose to avail of this legal remedy for reasons best known to him.

In the circumstances of the case the other points do not survive.

In the result, we hold that the grievance application cannot be entertained by this Forum. Question of going into the merits or demerits of the case, therefore does not arise.

The applicant's application stands disposed of accordingly.

Sd/-	Sd/-	Sd/-
(S.J. Bhargawa)	(Smt. Gauri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	MEMBER	CHAIRMAN
<b>CONSUMER GRIEVANCE REDRESSAL FORUM</b>		
<b>MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's</b>		
<b>NAGPUR URBAN ZONE, NAGPUR.</b>		

Member-Secretary  
Consumer Grievance Redressal Forum,  
Maharashtra State Electricity Distribution Co.Ltd.,  
Nagpur Urban Zone, NAGPUR.