

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

Case No. CGRF(NUZ)/0121/2006

- Applicant : Shri Vinod Biharilal Chourasia,
Plot No. 276,
Near SNG Basket Ball Ground,
Dharampeth Extn.,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Congressnagar Division,
Nagpur representing the MSEDCL.
- 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.

ORDER (Passed on 20.05.2006)

The present grievance application has been filed on 07.04.2006 by the present applicant under Regulation 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of erroneous assessment of Rs. 22,833=72 worked out by the non-applicant towards un-authorized use of electricity under Section 126 of the Electricity Act, 2003. The applicant is, in fact, making a grievance that there was no un authorized use of electricity as claimed by the non-applicant.

Before approaching this Forum, the applicant had filed his complaint dated 02.03.2006 under the said Regulations before the Internal Grievance Redressal Unit. The Unit, upon hearing, informed the applicant by its letter, being letter no. 139/2001 dated 24.03.2006, that assessment amount of Rs. 22,833=72 worked out under Section 126 of the Electricity Act, 2003 towards un-authorized use of electricity was rightly charged to the applicant. The present applicant is aggrieved on account of the Internal Grievance Redressal Unit's decision dated 24.03.2006.

The matter was heard by us on 02.05.2006.

It is the contention of the applicant that he is the consumer of the non-applicant Company vide consumer no. 410010795340, meter no. 9010164675. According to him, the billing was normal upto December 2005. He was making payments of his energy bills promptly from time to time. His consumption of electricity was of 477 units in April 2005, 527 units in June 2005, 303 units in August 2005, 516 units in October 2005 and 331 units in December 2005. On 7th January 2006, he had given an application at office of Shankarnagar S/Division of the non-applicant Company stating therein that his meter was faulty as told to him by the meter reader. On 19th January, 2006 a representative of the non-applicant's

office visited his residence and upon inspection some part inside the meter was found in burnt condition. An inspection report was accordingly given mentioning that his meter was running slow by 84%. He strongly contended that there was no abnormality noticed inside the meter. He further contended that the new meter installed by removing his old meter has rightly recorded consumption of 183 units from 19.01.2006 to 05.02.2006. He is challenging the assessment bill of Rs.22,833=72 served upon him since, according to him, the assessment worked out was excessive and illegal. He strongly contended that there was no un-authorized use of electricity and that his meter was not tampered. He requested for revising the assessment in question on the basis of actual consumption in the interest of justice. He also requested not to disconnect his power supply.

He has produced copies of the following documents in support of his contentions.

- 1) His energy bill dated 21.03.2006 for a gross amount of Rs.25,310/- showing inclusion of arrear amount of Rs. 23525=73.
- 2) His application dated 05.04.2006 addressed to the Executive Engineer (Adm) NUZ, MSEDCL, Nagpur contending there in that his meter was faulty.
- 3) The Non-applicant's quotation dated 15.04.1999 for Rs.2250/- towards security deposit.
- 4) His application dated 07.01.2006 addressed to Assistant Engineer, Shankarnagar S/Dn., MSEDCL, Nagpur informing that his meter was faulty.

- 5) Spot inspection report dated 19.01.2006 of the Flying Squad, MSEDCL, Nagpur in respect of the applicant's meter, being meter no. 9010164675.
- 6) His application dated 15.02.2006 addressed to the Assistant Engineer, MSEDCL, Nagpur on the subject of erroneous additional bill of Rs. 16,000/- issued to him.
- 7) The Internal Grievance Redressal Unit's reply dated 24.03.2006 addressed to the applicant in response to his complaint filed before the Unit.
- 8) His energy bill dated 29.04.2006 for a gross amount of Rs.25,810/- showing inclusion of arrear amount of Rs. 22,869/-.
- 9) The non-applicant's provisional bill dated 17.03.2006 for Rs. 2250/- towards energy bill for February 2006 and March 2006.
- 10) Payment receipt dated 17.03.2006 for Rs. 2250/-.
- 11) Provisional bill dated 15.04.2006 for Rs. 2730/- issued by the non-applicant.
- 12) Payment receipt dated 15.04.2006 for Rs. 2730/-.

Relying upon the aforementioned documents, the applicant prayed that his grievance in question may be removed.

The non-applicant, on his part, has stated in his parawise report that the assessment worked out towards un-authorized use of electricity based on the Flying Squad's inspection report dated 19.01.2006 was correct and legal.

He added that as per the Flying Squad's inspection

report the meter seals were tampered and the meter was running slow by 84%. He further stated that it cannot be a matter of coincidence that the meter seals were tampered and the meter was recording 84% slow consumption. As the units recorded were only 16%, the assessment for the balance 84% was rightly worked out. The units recorded in last 3 months before the date of inspection comes to 635 units. Hence, the balance 84% units comes to 3335. He further submitted that as per Section 126 (6) of the Electricity Act, 2003, the assessment shall be made at a rate equal to 1½ times the tariff applicable. Hence, the assessment worked out pertains to $3335 \times 1.5 = 5003$ units.

He submitted that the applicant's sanctioned load is of only 0.2 KW which was extended upto 6.435 KW i.e. approximately by 30 times.

He vehemently argued that at the time of inspection, the applicant was shown his tampered meter wherein both the meter seals were tampered.

He further referred to the Flying Squad's remarks in the report to the effect that the assessment should be worked out for the past period as per Section 126 of the Electricity Act, 2003. He also referred to the endorsement duly signed by the applicant to the effect that the applicant agrees with the details of inspection and irregularities noticed during the inspection.

Initially a provisional assessment of Rs. 26756/- towards un-authorized use of electricity was worked out and the same was finally reduced to Rs. 22833/- thereby giving relief of Rs. 3923/- to the applicant.

He further submitted that consumer's grievance in respect of un-authorized use of electricity under Section 126 is excluded from the jurisdiction of this Forum and as such, according to him, the present grievance application cannot be entertained by this Forum as laid down in Regulation 6.4 of the said Regulations.

He lastly prayed that the present grievance application may be dismissed.

The main point to be decided in this case is whether there was an un-authorized use of electricity as claimed by the applicant.

In this respect, explanation given in Section 126 (6) of the Electricity Act, 2003 defines the un-authorized use of electricity. It means the usage of electricity - - - - -

- (i) by any artificial means; or
- (ii) by a means not authorised by the concerned person or authority or licensee; or
- (iii) through a tampered meter; or
- (iv) for the purpose other than for which the usage of electricity was authorised.

In the instant case, the only point that needs to be decided is whether the applicant's meter was tampered or not.

It is pertinent to note that the applicant had filed his application, being application dated 07.01.2006 addressed to the Assistant Engineer, MSEDCL, Shankarnagar S/Dn., Nagpur bringing to his notice that the meter reader who visited his premises on 07.01.2006 told him that the applicant's meter has developed some fault. Filing of this application shows the bonafies of the applicant. Moreover, the spot inspection report dated 19.01.2006 does not doubtlessly

mentions that the applicant's meter was tampered from inside. It is true as revealed by the Flying Squad's report dated 19.01.2006 that the two lead seals affixed to the meter were found to be damaged. However, it was incumbent upon the non-applicant to have tested the applicant's meter for defectiveness or tampering. The laboratory testing of the meter is not on record. It is not known whether the applicant's meter was sent to testing laboratory for testing purposes.

As laid down in Regulation 15.4.1 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations 2005, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 and in case of tampering, as per Section 126 or section 135 of the Act depending on the circumstances of each case. Hence, only because the outer meter seals were found to be damaged, it can not be inferred that the meter was tampered from inside. Perusal the Flying Squad's inspection report dated 19.01.2006 nowhere categorically indicates that the applicant's meter was tampered from inside. The applicant's meter was also not tested on the spot with accu-check meter. This is clear from the fact that there is no indication shown in the inspection report against the column "if checked with accu-check".

Extension of load beyond sanctioned load does not amount to un-authorized use of electricity since mere extension of load is not covered by the definition of 'un-authorized use of electricity'.

It was important to see on the part of the non-applicant whether the applicant's meter was really tampered or not. Only because the applicant's meter recorded 84% less consumption does not mean that the meter was tampered.

The Flying Squad's inspection report is too inadequate to prove that the meter in question was tampered by the applicant.

There is, therefore, a reason to believe that the present case is a case of defective meter and not the case of un-authorized use of electricity under Section 126 of the Electricity Act, 2003 looking to the entire circumstances of the case.

The applicant has established beyond doubt his bonafides and there is no reason to attribute any fault to the applicant in the present case. The applicant has rightly challenged the aspect of un-authorized use of electricity and assessment worked out by the non-applicant in various written applications submitted by him from time to time before the appropriate authorities of the non-applicant Company. His written / oral submissions go to show that it was his meter which was faulty and defective and that the same was not tampered by him as claimed by the non-applicant.

In the result, the present grievance application is allowed and we direct the non-applicant to withdraw the assessment in question levied against the applicant and to issue a revised bill considering the applicant's meter to a defective meter in terms of Regulation 15.4.1 of the Supply Code Regulations of 2005.

The non-applicant shall report compliance of this order before this Forum on or before 15.06.2006.

Sd/-
(Smt. Gauri Chandrayan)
MEMBER

Sd/-
(S.D. Jahagirdar)
CHAIRMAN

CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.

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