

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

Case No. CGRF(NUZ)/0124/2006

- Applicant : Dr. Devendra R. Kaikade,
At village Raipur, Tq. Hingna,
Dist. Nagpur.
- Non-Applicant : The Nodal Officer-
Assistant Engineer,
O&M Division- II,
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.
- 3) Shri M.S. Shrisat
Exe. Engr. & Member Secretary,
Consumer Grievance Redressal Forum,
NUZ, MSEDCL, Nagpur.

ORDER (Passed on 22.05.2006)

The present grievance application has been filed before this Forum on 21.04.2006 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 billing against his faulty meter, being meter no. 59381 since December 2004 upto 05.01.2006 against consumer no. 410240013197 meant for commercial use in the name of one Shri Atmaram Walde. His grievance is also that his meter no. 59381 was removed by the non-applicant on 19.01.2006 without any notice to him resulting into loss of business and also causing avoidable hardship to him. He has also demanded compensation of Rs. 40,000/- in this regard.

He has also requested for immediate restoration of his power supply for commercial use.

Before filing the present grievance application, the applicant had approached the Superintending Engineer, NRC, Nagpur by filing his complaint application dated 14.02.2006 raising there in the present grievance and also his grievance about the improper and unjust theft assessment of Rs.67,300/- against the consumer no. 410240013103 which is meant for domestic purposes standing in the name of one Shri Krishna A. Walde, Ex-owner of the premises and now charged against the applicant.

Since no remedy was provided to the applicant's grievance within the prescribed period of two months by the Superintending Engineer, the applicant filed the present grievance application for redressal of his grievance under the said Regulations.

The facts of the case, in brief, are as under :-

House no. 459 at village Raipur Tahasil Hingna, District Nagpur was purchased by the present applicant by a

registered sale-deed on 02.09.2003 from one Shri Krishna A. Walde. There were two electric meters in the said house. One of the two meters namely meter no. 8010059381 having consumer no. 410240013197 was meant for commercial use while the second meter, being meter no. 2625508 having consumer no. 410240013103, was meant for domestic use. Both these meters are still standing in the name of the Ex-owner Shri Krishna A. Walde although the present applicant purchased the premises in question on 02.09.2003 from Shri Walde. The applicant did not take any steps for change of name so far as these two meters were concerned.

The present applicant was the de-facto user of electricity since August 2005 receiving electricity through the aforementioned two electric meters.

The commercial meter, being meter no. 8010059381, is shown as faulty in the billing month of December-2004 and also in the billing months of October 2005, December 2005 and January 2006. This commercial meter came to the inspected by an Inspector of the non-applicant Company on 05.01.2006 and he reported in his inspection report that this meter has stopped recording consumption. This commercial meter was subsequently removed in the month of January 2006. No new meter was installed in place of this commercial meter while it was removed. The Flying Squad of the non-applicant Company inspected the premises of the applicant on 24.01.2006 and 25.01.2006 and theft of electricity was detected through the meter, being meter no. 2625508 meant for domestic use. It was observed by the Flying

Squad that the present applicant was making use of the domestic meter for commercial purposes. The Flying Squad found that the current coil of right side limb is cut and that only left side current coil is found connected, thus bypassing the right side in the current coil resulting into slow running of the meter. It was concluded by the Flying Squad that Sections 135 and 138 of the Electricity Act, 2003 are applicable. Thereupon, joint inspection report was drawn by the team of Flying Squad on 25.01.2006. A provisional assessment of Rs.67,297/- towards theft of electricity was worked out and the same has been charged to the present applicant.

Being aggrieved by this action of the non-applicant Company, the applicant filed his complaint application dated 14.02.2006 before the Superintending Engineer, NRC complaining therein about erroneous billing since December 2004 against the aforementioned commercial meter and also against the theft assessment of Rs. 67,300/-. Since no remedy was provided to the applicant, he filed the present grievance application under the said Regulations for redressal of his grievance.

The matter was heard by us on 11.05.2006.

A copy of the non-applicant's parawise report dated 09.05.2006 submitted by him under the said Regulations was given to the applicant on 09.05.2006 and the applicant was given opportunity to offer his say on this parawise report also.

The applicant's case was presented before us by the applicant's nominated representative one Shri D.D. Dave.

The applicant's representative contended that the applicant is the consumer of non-applicant Company in terms of Section 2 (15) of the Electricity Act, 2003 and that he has been using the two electric meters namely meter no. 80010059381 meant for commercial use and other meter having meter no. 2625508 meant for domestic use since August 2005. The applicant has purchased the premises in question by a registered sale-deed on 02.09.2003 from the Ex-owner Shri Atmaram N. Walde. He admitted that the two meters are still standing in the name of the Ex-owner although he was using both these meters for his hospital and for his residence since August 2005.

The applicant's representative further contended that his commercial meter, being meter no. 80010059381, was faulty since December 2004.

He relied upon inspection report dated 05.01.2006 drawn by the Inspector of the non-applicant Company and contended that the Inspector found his commercial meter in a stopped condition.

According to him, his commercial meter, being meter no. 59381 against consumer no. 410240013197, was removed all of a sudden on 19.01.2006 stating that the meter was stopped. However, a new meter was not installed in its place on 19.01.2006 or even thereafter. He vehemently argued that the non-applicant ought to have installed a new meter for commercial use on 19.01.2006 when his old meter was removed. Since this was not done, he has been suffering a monetary loss of business. He added that no notice was served

upon the applicant before his commercial meter was removed. The domestic meter, being meter no. 2625508, was intact on 19.01.2006. This meter and the applicant's premises came to be inspected by the Flying Squad on 24.01.2006 and 25.01.2006 and theft assessment of Rs. 67,300/- was charged to the applicant against his domestic meter. His power supply was disconnected on 25.01.2006 and since then the applicant had to incur heavy expenditure for hiring generator / inverter for running the applicant's business. According to him, the applicant has suffered a loss of Rs. 40,000/-. The applicant's representative has claimed compensation of Rs. 40,000/- towards loss of applicant's business as well as towards the applicant's harassment.

The applicant's representative added that his commercial meter, being meter no. 59381, was defective since December 2004. He was charged for 72 units in the month of December 2004. His energy bills for the months of February 2005 and April 2005 were showing consumption of 400 and 1125 units respectively. His energy bill for June 2005 was showing consumption of 569 units. His commercial meter was shown as faulty in his energy bill in the months of October 2004 in which he was charged for 590 units. Quoting these details, the applicant's representative argued that the billing done by the non-applicant was absurd, unjust and improper since his commercial meter was continuously faulty since December 2004.

He invited our attention to Regulation 15.4.1 of the MERC (Electricity Supply Code and Other Conditions of

Supply) Regulations, 2005 hereinafter referred-to-as the Supply Code Regulations and submitted that the non-applicant ought to have followed this legal provision and in that, the applicant ought to have been charged only for a maximum period of three months.

He has also challenged the dates of temporary disconnection and permanent disconnection of his power supply as shown by the non-applicant. According to him, his power supply was stopped on 19.01.2006 by removing his commercial meter and that since then he is using the generator / inverter for running his business.

He further submitted that no prior notice for disconnection of his power supply was served on the applicant as laid down in Section 56 and Section 171 of the Electricity Act, 2003. The non-applicant has ignored the legal provisions resulting into loss of business to the applicant and also resulting into avoidable harassment of the applicant.

He has also disputed the theft assessment of Rs.67,300/- charged to the applicant. In that, he submitted that his domestic meter, being meter no. 2625508, was removed on 25.01.2006 by showing un-authorized use of electricity. The applicant was not given any documents i.e. panchnama etc. and assessment bill of Rs. 67,297/- was served on the applicant which is not legal.

He has produced copies of the disputed energy bills issued against his commercial meter in support of his contentions.

He lastly prayed that the applicant's grievances may be removed and compensation of Rs. 40,000/- awarded to him.

The non-applicant has stated in his parawise report that the present applicant is not his consumer in as much as he did not so far incorporate his name as consumer in respect of the two meters referred to above in place of the Ex-owner Shri Atmaram Walde. According to him, Shri Atmaram Walde and not the applicant, is the non-applicant's consumer and as such the present applicant cannot be accepted as the non-applicant's consumer. According to him, the present applicant has no locus-standi to present the grievance in question. He added that the power supply to the premises in question was temporarily disconnected on 06.01.2006 and that it was permanently disconnected on 10.01.2006 so far as commercial meter, being meter no. 8010059381 against consumer no. 410240013197, is concerned. He also added that no complaint, whatsoever, has been filed before the non-applicant by the real consumer Shri Atmaram Walde.

On the point of the Flying Squad's inspection, the Nodal Officer submitted that the premises in question and the domestic meter, being meter no. 2625508, came to be inspected by the squad on 24.01.2006 and 25.01.2006 and that theft of electricity was detected. The domestic meter was found to be used for commercial purposes by the present applicant thus committing un-authorized use of electricity. The domestic meter was also found running slow by 74% and that this was

done deliberately by the present applicant. Thereupon, a bill of Rs. 67,297/- towards theft assessment was served on the Ex-owner Shri Walde who, on receipt thereof, informed that he has already sold his house to the present applicant in the long past. Hence, the name of the present applicant was mentioned in the F.I.R. lodged on 03.02.2006 with the police by the Flying Squad for commission of theft of electricity.

The non-applicant further submitted that the applicant's power supply from his domestic meter has been cut off because of the theft of the electricity and that the same cannot be restored unless the applicant pays the assessment amount of Rs. 67,297/-. He further stated that the applicant did not file any appeal under Section 127 of the Electricity Act, 2003.

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

- 1) CPL in respect of Shri Atmaram Walde from April 1997 to February 2006 in respect of consumer no. 410240013197.
- 2) The Flying Squad's spot inspection reports dated 24.01.2006 and 25.01.2006.
- 3) Joint Inspection report dated 25.01.2006 drawn by the Flying Squad.
- 4) F.I.R. dated 03.02.2006 lodged by the Flying Squad with the Police Inspector, Police Station, Hingna.

He further submitted that copies of all the relevant documents pertaining to the theft were handed over to the applicant's representative on 06.02.2006.

He lastly submitted that there is no substance in the grievance application and that same may be dismissed.

Following points arise for consideration and decision in the present case.

- 1) Whether the present applicant is a consumer of electricity;
- 2) Whether the billing done by the non-applicant since December 2004 against meter no. 8010059381 meant for commercial use till this meter was removed in January 2006 was proper and legal;
- 3) Whether removal of the commercial meter, being meter no. 8010059381, without notice and without installation of a new meter was correct;
- 4) Whether it is prima-facie proved by the non-applicant that there has been a theft of electricity or un-authorized use of electricity through domestic meter, being meter no. 2625508.
- 5) Whether the applicant's request for award of compensation can be entertained.

As regards the first point, the applicant's representative's contention is that he is the consumer of electricity while the non-applicant has stated that the applicant cannot be accepted as his consumer since change of name was not effected by him in the non-applicant's record by following the prescribed procedure.

Section 2 (15) of the Electricity Act, 2003 defines the word "consumer". Mere perusal of the text of this definition reveals that any person whose premises are for the time-being

connected for the purpose of receiving is an electricity consumer. It is an un-disputed position that the present applicant is the recipient of electricity to the premises in question, which he has legally purchased from the erstwhile owner Shri Atmaram Walde. Hence, merely because the applicant has not taken steps to record his name a consumer in place of the erstwhile owner in the non-applicant's record it cannot by any means take away his rights of consumer of electricity. The non-applicant's contention that the applicant has not incorporated his name as a consumer in place of the erstwhile owner of the premises and as such the present applicant is not his consumer does not draw any legal support. Change of name is a formality to be completed by the concerned person using electricity and only because no steps have been taken to effect change of name it does not mean that the person using electricity is not the consumer. Hence, it follows that the present applicant is a consumer of electricity in terms of Section 2 (15) of the Electricity Act, 2003.

The first point is, therefore, answered in the affirmative.

As regards the second point, entries in the CPL in respect of Shri Atmaram Walde consumer no. 41002411397, commercial meter no. 8010059381, go to show that the commercial meter was faulty since December 2004.

It is pertinent to note that the report dated 05.01.2006 of the non-applicant's Inspector a copy of which is brought on record by the applicant, clearly mentions that the commercial meter, being meter no. 59381, was found to be

stopped on 05.01.2006. Evidently this meter was removed by the non-applicant because it has stopped recording consumption. This fact goes to show this meter was un-doubtedly defective or faulty.

Moreover, interestingly, there is no submission from the non-applicant's side on the erroneous billing generated by this defective meter since December 2004. There is not even an iota of any submission on this point in the non-applicant's parawise report. This parawise report dated 09.05.2006 is totally silent on the point of various energy bills generated by the commercial meter since December 2004. It is also not known whether the commercial meter was tested for its accuracy in the testing laboratory after it was removed from the applicant's premises in the month of January 2006.

The inspection report dated 05.01.2006 also clearly mentions that the meter body seal and terminal cover seal were intact. There is, therefore, a strong reason to believe that the commercial meter in question had developed inherent defect since December, 2004 resulting into erroneous billing. This is further substantiated by the fact that this commercial meter was showing the same previous and current readings in the billing months of October 2005, December 2005 and January 2006. Moreover, there is a clear indication shown in the CPL that this meter was faulty. The applicant's contention that the commercial meter in question was defective, therefore, has to be accepted.

It, therefore, follows that the non-applicant ought to have charged the applicant for a maximum period of three

months prior to the date on which the commercial meter was removed in the month of January 2006 consequent upon receiving the Inspection report dated 05.01.2006. The legal provision contained in Regulation 15.4.1 of Supply Code Regulations meant for billing in case of a defective meter totally supports the applicant's claim in this regard.

The second point is, thus, answered in the negative.

The non-applicant shall now issue a revised bill to the applicant keeping in view the above observations.

As regards the third point, it is a matter of record that the applicant's commercial meter had stopped recording consumption necessitating its removal. The omission on the part of the non-applicant was that a new meter ought to have been installed in the place of the defective commercial meter, which was removed in the month of January 2006. The non-applicant, on his part, has not given any plausible explanation as to why a new commercial meter was not installed while the old one was being removed. There is no submission at all on this point. The non-applicant's action of non-installation of a new commercial meter in place of the old one was, therefore, totally unjustified. The applicant, on his part, has also contended that no notice, whatsoever, was served upon him before removal of his commercial meter on 19.01.2006. This seems to be true as no record is produced by the non-applicant to prove that 15 days' clear notice as contemplated in Section 56 (1) of the Electricity Act, 2003 was served on the applicant before disconnecting his power supply.

There has been a clear-cut miscarriage of justice in this respect.

The third point, thus, goes against the non-applicant.

As regards the fourth point, the documents produced by the non-applicant go to show that there is a prima-facie case of theft of electricity / un-authorized use of electricity. The non-applicant has filed F.I.R. with Police Inspector, Police Station, Hingna on 03.02.2006 requesting for action against the applicant under Sections 135 and 138 of Electricity Act, 2003. The spot inspection reports dated 24.01.2006 and 25.01.2006 clearly make a mention that theft of electricity was committed in the applicant's domestic meter, being meter no. 2625508. The Flying Squad had drawn a joint inspection report on 25.01.2006 and this report has been signed by one Shri Arun Ramkrishana Kaikade. The spot inspection report dated 24.01.2006 drawn by the Flying Squad is also seen to have been signed by one Surekha Kaikade. Moreover, the inspection report dated 25.01.2006 is also seen to have been signed by one Shri Arun Ramkrishan Kaikade on behalf of the applicant. It is also pertinent to note that all the relevant documents in respect of the alleged theft has duly been received by one Shri Arun Kaikade on 06.02.2006 on behalf the applicant. In that, it is a matter of record that one Shri Devendra Kaikade had addressed an application dated 06.02.2006 to the Assistant Engineer, Hingna S/Dn., MSEDCL requesting for handing over copies of relevant documents in this respect. There is as also endorsement on this application

itself of Shri Arun Kaikade dated 06.02.2006 to the effect that he has received all these documents.

Even the applicant's representative has stated in his written submission dated 10.05.2006 that this being a separate matter, the decision of the Court will be binding upon both the parties.

In the light of above, we are inclined to hold and do hold accordingly that a prime-facie case has been made out by the non-applicant in respect of theft of electricity against the present applicant.

Regulation 6.4 of the said Regulations lays down that grievances falling within the purview of offences under Sections 135 to 139 of the Act and un-authorized use of electricity as provided in Section 126 of the Act are excluded from the jurisdiction of this Forum.

In view of above, the matter pertaining to the theft assessment of Rs. 67,297/- does not fall within this Forum's jurisdiction. The grievance raised by the applicant in respect of the theft assessment cannot therefore be entertained by this Forum.

The fourth point is, thus, answered in the affirmative.

The fifth and last point is regarding the request of the applicant for award of compensation. In that, the applicant had demanded compensation of Rs. 40,000/- towards loss of business. The applicant's representative has produced a manuscript copy of one bill having bill no. 17 in favour of Dr. Kaikade in which an amount of Rs. 31,800/- is shown to

have been received by Shri Bichayat & Decoration and Catering Kendra, Shrikushna Nagar, Mahajan wadi (Wanadongri), Taluka, Hingna, Dist. Nagpur towards the hiring charges of a generator for a period of 106 days from 26.01.2006 to 11.05.2006. However, there is no indication in this bill as to who paid this amount. There is a column about the customer's signature in this bill and no signature is seen in this column. It is also seen that the date of issue of bill is not indicated. Moreover, actual date of receipt of payment is also not mentioned. Whether the hire charges of Rs. 300/- per day are reasonable or not has also not been justified by the applicant. Hence, the applicant's claim for award of Rs. 40,000/- as compensation is not fully justified.

It is also pertinent to note that theft of electricity was detected on 24.01.2006 and 25.01.2006 and the applicant's power supply was disconnected immediately thereafter. In view of this position, it will not be proper to award any compensation.

The fifth point is thus answered in the negative.

In the result, the applicant's claim for compensation is rejected.

Since the non-applicant's power supply against commercial meter was disconnected without giving 15 clear days' mandatory notice, we hold that this action of the non-applicant was ab-initio illegal. We, therefore, direct the non-applicant to restore the applicant's power supply by installing a new commercial phase meter within a period of thirty days, that too, free of charges.

In the result, the applicant's grievance application stands disposed off accordingly in terms of observations made by us in this order.

The non-applicant shall report compliance of this order to this Forum on the points of relief granted in terms of this order on or before 30.06.2006.

Sd/-	Sd/-	Sd/-
(M.S. Shrisat)	(Smt. Gouri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	Member	CHAIRMAN

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