

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

Case No. CGRF(NZ)/75/2017

Applicant : Shri Nandkishor Tulshiram Hajare,
Plot No. 104, Annapurna Co. Op. Society,
Navin Nagar, Nagpur

Non-applicant : Nodal Officer,
The Superintending Engineer,
(D/F) NUC, MSEDCL, Nagpur.

Applicant: - Shri. Nandkishor Tulshiram Hajare, Applicant

Non- applicant:- 1) Shri. Vairagade , EE, Nodal Office, MSEDCL
2) Shri. Alhad Bindu, SNDL Nagpur
3) Shri Dahasahastra, SNDL Nagpur.
4) S.K. Dharwade Dy. Manager, Nodal Office MSEDCL.
5) P.D. Panase Technician, Nodal Office MSEDCL

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

2) Shri N.V. Bansod,
Member

ORDER PASSED ON 13.09.2017.

1. The applicant filed present grievance application before this Forum on 17.07.2017 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 22.08.2017
3. Forum heard arguments of both the sides and perused record.

4. As per grievance application filed by the applicant, brief history of the case is Applicant, Shri. Nandkishor Tulshiram Hajare, having consumer no.41002261057 has been given three phase LT connection for his business at Plot No. 104, Annapurna Co. Op. Society, Navin Nagar, Nagpur for 15 KW connected load and billed as per LTII commercial tariff since 29/12/2016. But he did not receive any energy bill since the date of connection .On enquiry, SNDL authority told him that he will not get initial bills up to 2 months. In the month of February-17, he received Energy bill of Rs.1, 08,060/-which in his opinion is excessive. He made enquiry with SNDL authority and asked for revision. As per their instruction he paid Rs.500/- towards Testing Fee. On dt. 01/05/2017, Mr. Nawalkar and other 3 employees of SNDL disconnected his supply and meter. Since then his company is without supply. On dt. 10.06.2017, his meter is tested in SNDL laboratory and found OK. SNDL insisted for payment of dues. Since energy bills issued to them were excessive in his opinion, he did not paid the same and approached IGRC on dt 13.06.2017. But IGRC rejected his claim of revision of excessive bills and issued him order that since the meter is in order, bills issued to him are as per metered consumption only .Therefore bills issued to him cannot be revised.

5. Non-applicant submitted their written contention denying the contention of applicant and contented that, applicant Shri. Nandkishor Tulshiram Hajare, is their consumer having no.41002261057 given three phase LT connection for his business at Plot No. 104, Annapurna Co. Op. Society, Navin Nagar, Nagpur for 15 KW connected load and billed as per LTII commercial tariff since 29/12/2016. On dt. 10.06.2016 applicant's meter is tested in SNDL lab due to his complaint for excessive bill. But during testing, error of the meter was found within limit.

The applicant aggrieved by this approached IGRC on dt.13.06.2017 and requested to test his meter in MSEDCL Testing Lab.,IGRC rejected his claim as they do not have jurisdiction to test the meter in MSEDCL laboratory. But after IGRC order, on making payment of Testing fee, His meter was tested in MSEDCL Lab on dt.10.07.2017 and found to be o.k. But again applicant was not satisfied with the result of testing Lab of MSEDCL and insisted for revision of his bills. Hence they pleaded that, as energy bills issued are as per metered consumption, the same cannot be revised and prayed to the forum to direct applicant to make necessary payment and dismiss the application.

6. To enable the Applicant and Non-applicant to put forth their arguments in person, a hearing was conducted before the forum on dt.23.08.17.On dt 23.08.2017 During hearing ,Non-applicant sought adjournment till dt.24.08.2017, for submission of additional documents such as MRI data, spot inspection report ,letter to police station dt.03.06.2017 with the list of consumers to be disconnected by SNDL

7. On dt.24.08.17, Shri. Suhas khandekar applicant's representative argued before the forum, but, as per application submitted by him, since applicant was not allowing him to represent the case and not answering his queries, he filed withdrawal application.

8. Non-applicant also stated same facts as per written argument. They further submitted that notice of disconnection under section 56(1) of EA Act was served alongwith the energy Bill as per their general practice on dt 05.05.2017. But as alleged by applicant, the supply was not disconnected on 01.05.17.This can

Be ascertained from the MRI result i.e. from the MD reading on dt.01.06.2017 as 27.940 KVA and on dt.01.07.2017 as 29.480 KVA. The meter was taken out after dt.01.07.2017 for the Testing purpose, which was eventually tested on dt.10.07.2017 .The applicant did not produced SSI certificate along with A-1 format at the time of submission of NSC application. The Udyog aadhar certificate produced during the hearing was also not submitted,hence billed as per commercial tariff.

9. .At the hearing ,the Parties were informed of the expiry of term of Chairperson of the Forum on dt 30.06.2017, consequent to which the matter would now be 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'ble Chairman, 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:

10. During the argument and discussion, Applicant did not agree with the spot inspection report of his premises submitted by Non-applicant and claimed that said report is manipulated. Hence forum directs nodal officer of MSEDCL to visit the spot and verify the facts on the same day. And the case was adjourned till 28.08.2017.

11. During the course of argument, on perusal of the Spot Inspection Report dt.22/08/17 submitted by Non-applicant ,list of load connected load is Woh Machine-3 HP, Mixer machine-15 HP, Heating machine-3 HP, Bundle machine-12 HP, Rolliee Machine-10 HP, Total 43 HP along with load use for office such as, Fan-03, Cooler-01, Exhaust Fan-01, Tubelight-06, LED-light-05, which is in excess of the sanction load. The said report is not signed by applicant. On dt.28.08.2017, Nodal officer submitted Spot Inspection Report giving load details of the applicant as:-

Total connected Motor's HP-36.55 KW with Total connected load of Electric Heater as-15 KW, along-with other load as 700 W which includes Fan-4(240w), T.L-7(280W), Cooler-1(60w), LEDTV-1(20w), WT.Mt-1(100w). As such total connected load was found as 52.5 KW.

12. The Spot inspection report of both the Nodal officer MSEDCL dt.28.08.17 and Non-applicant dt.22.08.2017 reveals the same fact that, total connected load of the applicant is in excess of the sanction load with additional motors

and does not match with the electrical contractor's connected load Report. On perusal of The electrical contractors report it is seen from the list of connected load 15 Bulbs(40 W)-600 W,5 fans(60 W)-300 W,10 three pins(60W) -600 W,1 water pump2 HP-1500 W,5Heater(2000W)-10000W,1 AC(2000W) are connected .Thus Total connected Load is-15 KW. The P.D.Panse Technician of Nodal Officer MSEDCL discloses very important fact that all the motors installed are without name plate. Hence they have ascertained the HP of the motor from the size of motor. Even applicant could not specify the exact HP of each motor, since he has purchased second hand motors. Hence it crystal clear to the forum that, the additional motor's load found in the premises of applicant during the spot inspection installed by applicant without getting proper sanction is unauthorized, although the total connected load could not be ascertained by Nodal officer in absence of name plate details.

13. The A-1 form of the applicant reveals that, he has applied for Business, whereas he is running full fledged Rope Industry with unauthorized installation of motors. Hence, it is observed by the forum that the applicant has neither submitted correct load installation report at the time of connection nor applied for correct tariff.

14. As per application of applicant to 'UDYOG AAdhar submitted on dt.24.08.2017 to the forum, his major activity is stated as manufacturing new sai plastic sutali .Accordingly, He is entitled for Industrial tariff instead of commercial tariff. On comparison of both the tariff, it is observed as per circular no.275 dt.18.11.2016 which is as per MERC's tariff order dt.03.11.2016 in the case no.48 of

2016, the rate for tariff category applicable for electricity for commercial use as per tariff LTII 0-20 KW is 6.09 Rs./KWH and for above 20KW but less than 50 KW it is 9.99 Rs./KWH whereas rate for LT –Industry-general tariff category applicable for electricity for industrial use is LT-V(B) and rates are 4.80 Rs/Kwh for 0-20 KW and Above it is 6.50. Thus it is seen that, there is substantial difference in rates of both the tariff. Rates for commercial tariff are higher than Industrial tariff. Applicant is seen using power for industrial purpose and given choice for commercial tariff.

15. Hence forum is of the opinion, had the applicant correctly given connected load report with correct option regarding choice of tariff, he wouldn't have to run from pillar to post complaining about excessive bill. From MRI details produced on record by Non-applicant, it is also seen that metered consumption is charged to the applicant.

16. Also it is clear that, for getting connection, it is applicant's responsibility to submit relevant & correct application to the distribution Licensee required as per clause 5.8 of MERC (Electricity supply code and other conditions of supply) regulation 2005 which reads as:-

“Notwithstanding anything contained in these Regulations, an application shall be deemed to be received on the date of receipt of the duly completed application containing all the necessary information/ documents in accordance with Regulation 4 above, payment of all approved charges of the Distribution Licensee in accordance with Regulation 3 above, availability of suitable piece of land or room in accordance with Regulation 5.5 and Regulation 5.6 above and all consents/ permissions as may be required by the applicant and the Distribution Licensee under any law for the time

being in force" And section 43(1) of Electricity act 2003. In this case, hence forum reached to the conclusion that applicant failed to Understand and analyze the reason for higher bill amount which was actually due to his own mistake of installing excess load over and above sanctioned limit and choice of wrong tariff. He did not care to pay any amount for the electricity he has consumed. Since the date of connection, he has enjoyed free electricity at the cost of other consumers who are honest payers. Therefore on merit, applicant is not entitled for any compensation for the loss he has claimed.

Separate dissenting Note by Member (CPO) Mr. Naresh Bansod dated 11-09-2017 in Case No. 65/2017 is given as under.

Dissent Note by Member (CPO) Mr. Naresh Bansod dated 13-09-2017 in Case No. 75/2017 is given as under.

The arguments heard in this case on 23-8-2017 & 24-08-2017 and as per instruction load was verified on 24-08-2017 and report submitted on 28-08-2017. File is received on 13-09-2017 at 12.30 P.M. for concurrence on order dated 29-08-2017. Though agreeable to the order but vital & important aspect of illegal disconnection is totally overlooked in the order, hence the dissent note here below on limited point of disconnection.

It is the grievance of the applicant that since 29-12-2016, he did not receive any bill and on enquiry N.A. informed that initially bills did not come for 2 months and later on bill of Rs.108060/- was given to Applicant.

It is an admitted fact that on 01-05-2017, Mr. Newalkar and other 3 employees of SNDL disconnected his supply and meter and his industry of Plastic Sutali is without supply. It is also an undisputed fact that applicant is educated

unemployed and started the industry on bank loan of Rs.30 Lacs by mortgaging the house of his father. Since the industry stopped production due to disconnection, Applicant suffered financial loss, and labour payment & interest on bank loan etc.

On perusal of reply of Non Applicant dated 21-08-2017 para 3 is under.

“सदर ग्राहकाने विज देयके जास्त विज वापराचे येत आहे अशी तक्रार दि.....

.. नोंदविली असता सदर ग्राहकाने मिटर क्र. ७८२२१७१ बदलवून सदर मिटर ची चाचणी मिटर चाचणी कक्षात दि. १०.०६.२०१७ रोजी केली असता मिटर चाचणी अहवालाप्रमाणे मिटर बरोबर आहे आढळले.”

The above reply of Non Applicant is absolutely silent on the point of date of disconnection i.e. on 01-05-2017. In reply date of complaint is missing as well as details of changed meter is also missing which proves the deliberate act of Non Applicant against the applicant.

During arguments on 23-08-2017, on specific query regarding statutory service of Notice of disconnection of supply under Section 56(1) The Electricity Act 2003, the representative of Non Applicant Mr. Alhad Bindu stated that copy of disconnection notice is served on applicant which was denied by Applicant and on 28-08-2017 filed the copy of Notice of disconnection dated 05-05-2017, but failed to produce acknowledgement of the service of notice.

On 23-08-2017 Mr. Alhad Bindu representative of SNDL seek the adjournment, as some documents regarding case needs to be submitted in front of CGRF.

Non applicant failed to produce acknowledgement of Service of Notice of

disconnection dated 05-05-2017 under Section 56(1) of The Electricity Act 2003 and hence the action of non applicant is totally illegal and Applicant suffering the closure of Industry. It is very surprising that Mr. Darmendra Shrivastav, Manager, S.N.D.L. informed the Kalmana Police Station on 03-06-2017 which is neither recognized by The Electricity Act 2003 nor under MERC (Electricity Supply Code) Regulations 2005 which proves the act of threat & harassment to the applicant and which further needs to be condemned.

It is not worthy that there is no signature of consumer on Disconnection Notice dated 05-05-2017 (so called). The section 56(1) of the Electricity Act. 2003 is as under and service of 15 days notice is mandatory as per section 171 (service of notices, orders or documents).

56(1) Disconnection of supply in default of payment :- (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person

deposits, under protest, -

- (a) An amount equal to the sum claimed from him, or
- (b) The electricity charges due from him for each month calculated on the basis
- (c) of average charge for electricity paid by him during the preceding six months,

Whichever is less, pending disposal of any dispute between him and the licensee.

The proviso specifies that the supply of electricity shall not be cut off if such person deposits, under protest as per proviso, but Non Applicant totally failed to act as per spirit of law & providing opportunity.

Hence Applicant was deprived of the opportunity as per proviso and suffered disconnection of supply & meter also.

Hence the disconnection of supply is illegal and SNDL did not submit in their reply dated 21-08-2017 on what date supply was disconnected and date of disconnection is intentionally suppressed by SNDL. Therefore I believe the word of the applicant that there was disconnection on 01-05-2017 and therefore disconnection is illegal as well as so called notice is also illegal(Unserved).

Therefore applicant is entitled to reconnect electricity supply forthwith. Supply was illegally disconnected on 01-05-2017, therefore there is unnecessary harassment, inconvenience and trouble to the applicant as well as loss to earning of industry as well as burden of Bank loan's interest labour charges etc. and applicant claimed compensation of Rs.700000/-.

Considering the facts and circumstances on record, in my opinion applicant is entitle for compensation of Rs.45000/- (@ Rs.10000/- per month from

01-05-2017 till 13-09-2017) from SNDL for illegal disconnection, for harassment, economic loss and inconvenience. Therefore it is also necessary that the Business head of SNDL shall take disciplinary departmental action against responsible employee and take legal action in accordance to the law, for intentional violation of provisions of The Electricity Act, 2003,(Section 56(1) section 171) Reg. 8.3,8.4,15.2.5 of MERC (ESC) Regulation 2005.

The application is deserved to be allowed on the point of illegal disconnection. Hence the following order – (1) Disconnection notice dated 05-05-2017 is illegal, therefore set aside and cancelled and SNDL shall immediately reconnect supply of the applicant forthwith. SNDL is directed to pay compensation of Rs.45000/- to the applicant for negligence, inconvenience, harassment, economic loss under Regulation 8.2 (c) & d, & e of MERC (CGRF & EO) Regulation 2006 and compliance shall be done within 30 days from the date of order.

**Naresh Bansod
Member (CPO)**

17. In view of the majority, considering all the above, we proceed to pass the following order.

ORDER

- 1) Grievance application is partly allowed.
- 2) The order of IGRC dt.19.06.2017 is set aside.
- 3) Applicant is directed to submit revised application form stating Industrial option instead of existing commercial for the tariff category.

- 4) Accordingly SNDL is directed to restore supply immediately and revised all the bills since the date of connection on the basis of revised choice given by the applicant without DPC and Interest.
- 5) The SNDL may take suitable action for unauthorized extension of load.
- 6) The SNDL may sympathetically consider for giving suitable installments for payment of the revised bills.

sd/-
(Shri. **N.V.Bansod**)
MEMBER

sd/-
(**Mrs.V.N.Parihar**),
MEMBER/SECRETARY
& I/C. CHAIRMAN