

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

Case No. CGRF (NZ)/86 /2017

Applicant : Shri. Harish Krushnarao Wadekar
Sambhaji Kasar Mandir
Maskasath, Itwari,
Dist. Nagpur - 440008

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

Applicant: - Shri. Harish Krushnarao Wadekar Applicant
Non- applicant: - 1) Shri Vairagade EE, Nodal Office, Nagpur
2) Shri. Dahashatre, SNDL, Nagpur

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

ORDER PASSED ON 24.11.2017.

1. The applicant filed present grievance application before this Forum on 22.09.2017 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 27.10.2017
3. Forum heard arguments of both the sides and perused record

4. Facts of the case:-Shri. Harish Krushnarao Wadekar, an Applicant, has been given electric supply since dt.15.05.2015for commercial usage. But On dt.24.06.2017 during the inspection of Flying squad, it was observed that Electricity bill has not been issued electricity Bill since the date of connection. Accordingly they were issued the net bill of Rs.19507.07 for 26.3 months on dt.24.06.2017, which was paid by him but in their opinion the same was excessive. Moreover his supply was disconnected without any notice, hence demanded compensation of Rs.20000/- to 22000/- for the loss he has incurred in his business of milk and Ice-cream due to disconnection of electric supply.

5. Applicant filed grievance with IGRC on dt.25.07.2017 wherein, he demanded for revision of this Net bill and compensation of Rs.22000/-due to illegal disconnection of his supply. IGRC justified the said bill amount contending that it was issued for only 50 units per month. Secondly further stated in their order that, as applicant has enjoyed electricity without making any payment for running his Business for two years, and did not approached Non Applicant for the said bills for the period since dt of connection till inspection of Flying squad, applicant is not liable for any compensation.

6. Aggrieved by order of IGRC, applicant filed grievance with this forum.

7. In their reply Non-applicant contended that, connection was released on dt.15.05.2015, since then the applicant has not lodged any complaint for non-receipt of the Energy Bills. The Flying squad detected this fact on dt.24.06.2017 and therefore the total bill amounting RS.9200/- was issued as per reading taken in the month of July2017 for 1229 units, The payment of Rs4600/-was made by applicant on dt.09.08.2017, Again he paid Rs.2300/-on dt.21.08.2017, Rs.2300/-on dt.30.08.2017. Moreover the Applicant's

supply was never disconnected by them. Therefore, prayed that as applicant neither lodged complaint about non-receipt of bill since the date of connection nor lodged any complaint regarding reconnection of his meter after six months, his claim for compensation may be rejected.

8. The case was fixed for personal hearing on 24.10.2017, 27.10.2017 and finally on dt.03.11.2017. Both the parties were heard.

9. During the hearing, applicant stated that, his supply was disconnected without any legal notice and meter was taken out from his premises by SNDL on dt.24.07.2017. Hence he paid Rs.4600/- on dt.09.08.2017, but supply was not reconnected. Again he paid 2300/- on dt.21.08.2017 and 2300/- on dt 30.08.2017. His supply was restored on dt.02.09.2017. During this period he was asked to run from Pillar to post. During hearing he filed the copy of the Energy bill issued to him for the month of Aug-2017, depicting the missing meter photo. Hence he said he has no complaint as far as amount of bill is concerned but he requested for requisite compensation for illegal disconnection of his supply without legal notice, mental and physical harassment caused to him as per above narration.

10. Non-applicant reiterated the facts already submitted in their written submission dt, 23.10.2017.

11. 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'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:

12. The forum has perused the record submitted by both the party. During the hearing forum has carefully examined the energy bill submitted on record for the month of Aug-2017, the photo taken for reading clearly shows that there is no meter .Even

Below the Current reading column, it is written NO-MET. But CPL record of the said applicant shows presence of meter bearing no.NS119767.which is contradictory and hence forum hold that the contention of Non-applicant that the supply was not disconnected without notice is false and incorrect.

13. It is also clear that, the non-applicant has not given notice before disconnection, which is in contravention to section 56(1) of Electricity act 2003, where in it is clearly stated that in case consumer neglects to pay any charges of Electricity due from him, the licensee after giving not less than fifteen clear days notice in writing to such person can cutoff the supply to recover this charges.

14. The non-applicant denied both in their written reply and verbal statement having disconnected supply of the applicant without notice .But applicant proved this fact by way of filing the evidence in the form of Energy bill for the month of August-2017wherein from the photo as well as meter reading, meter is clearly seen as missing. This is a clear evidence to justify the applicant's claim that he was without electric supply since 24.07.2017 till 02.09.2017.

15. The consumption of electricity will certainly create a liability to pay but the amount will become due and payable only after a bill or demand is raised by the licensee for consumption of electricity by the consumer in accordance with Tariff Order. The amount of charges would become due and payable only with the submission of the bill not earlier. Therefore Till after the issue and receipt of the bill the licensee has no power or jurisdiction to threaten disconnection of Electricity which has already been consumed but for which no bill has been sent.

In the instant case supply was released on dt.15.05.2015.Flying squad inspection was carried out on dt 24.06.2017.The notice of demand i.e. Bill is raised was raised in the month of July2017.for a sum of Rs.19507.07/- .Though the liability may have been created on 15.05.2015,the amount became payable only in the month of July-2017 ,the month when the notice of demand i.e. Energy Bill is raised. section 56(2), reads as under:-

“56(2): Not withstanding anything contained in any other law for the time being in force, no sum due from any customer, under this section is recoverable after the period of two years from the date, when sum became first due unless sum has been shown continuously as recoverable as arrears of charges for electricity supplied and licensee shall not cut off the supply of electricity. In the instant case the recovery of the amount started running only in July2017.Forum regretfully recognize that it is serious lapse on the part of the non-applicant for having sent bill to the applicant after more than 2 years of date of supply and indulging in coercive action of disconnection without notice.

Hence Applicant is entitled for compensation as per MERC's SOP regulation 2014.

Dissent Note by Member (CPO) Mr. Naresh Bansod dated 23-11-2017 in Case No. 86/2017 Mr. Harish Krushnarao Wadekar.

(1) The Arguments heard on 30-10-2017 and case file is sent to me on 23-11-2017 for note.

(2) It is an admitted fact that applicant deposited Rs.1090/- on 8-12-2014 and

- (3) supply was given on 1-6-2015 late by 6 months. Applicant prayed for interest for late supply on deposited amount and legal action against SNDL as well as due to disconnection of supply without notice, applicant suffered loss of Rs.20000/- to Rs.22000/- as Milk & Ice-cream spoiled and asked for compensation from S.N.D.L.
- (4) As per applicant besides visits to Non Applicant, it was told that bill will be issued but timely bills were not given, Non applicant issued bill for unbilled meter after inspection of flying squad on 24-6-2017 and bill for 1288 Units amounting Rs.19507.07 Ps. was given after giving slab benefit. Non applicant also admitted that on an average consumption is 50 Units as per use.
- (5) Non applicant issued bill since beginning for 1229 Units Rs.9200/- which was paid on 9-8-2017, 21-8-2017 & 30-8-2017 Rs.4600/-, Rs.2300/-, Rs.2300/- respectively.
- (6) Non applicant denied the disconnection of supply and also denied that Applicant has raised any grievance about late supply. Issue of late supply is out of limitation.
- (7) It is pertinent to note that in the main order above it is proved that the supply was illegally disconnected on 24-7-2017 and restored on 2-9-2017 and for which applicant has to move from Piller to post for 30 to 40 times which has resulted in loss of milk and icecream amount Rs.20000/- to 22000/- to the 75% disabled person.
- (8) Applicant in his application in tip has mentioned as under.

टिप :- मी एक अपंग-अंध - ७५% व्यक्ती असुन मी माझा व माझ्या परिवारातील लोकांचा उदरनिर्वाह कसा बसा करतो पण **SNDL** कंपनीने माझ्या जिजनाचं वाटोळं केले कृपया माझ्या इले. बिलातील युनिटची योग्य तपासणी करुन मला योग्य बिल देण्यात यावे हि विनंती.

(9) On verification medical disability certificate issued by Govt. Medical College, Nagpur on 29-10-2014, it is proved that Applicant is 75% Disabled (Visual Impairment – Both Eyes – high myopia with advanced degeneration – 75% disabled.

(10) **In an identical case No. 27/2017 order dated 22-3-2017 of this forum, full quorum including the present Member/Secretary and Chairman and Member (CPO) awarded compensation for illegal disconnection and Restoration of supply according to MERC's SOP Regulations Appendix 'A', 2(i) @ Rs.50/- per hour from date of disconnection till Restoration of supply because he was deprived of use of electricity.**

Applicant's entire business of Icecream parlour was stopped as milk & icecream got spoiled due to illegal disconnection for no fault of Applicant causing serious physical, mental torture & financial loss and therefore Applicant is entitle for compensation according to Regulations 8(2)(c)(d)(e) of MERC (CGRF & DO) Regulations 2006.

(11) It is pertinent to note that in socalled majority order above, compensation for illegal disconnection is awarded as per Appendix 'A' (5) which is applicable in

a case when supply is disconnected for nonpayment as per Section 56(i) of The Electricity Act. 2003 as a case of disconnection and late reconnection than prescribed period and same is not applicable.(Reference to clause 6.10 of SOP Regulation 2014).

The present case is totally different because bills were not issued to the applicant and paid in installments by Applicant on receipt of bills as per consent of Non Applicant. Hence in the above cited case of this Forums compensation was awarded as per Appendix 'A' 2(i) Restoration of supply, of MERC (SOP) Regulation 2014. Hence Applicant is entitle as per Appendix 'A' 2(i) & not Appendix 'A'(5).(Reference to clause 6,6.1 SOP Regulation 2014).

Therefore application is deserves to allowed and Applicant is entitle for compensation as per MERC's SOP Regulations 2014, Appendix 'A' 2,(i) @ Rs.50/- per hour from 24-7-2017 to 2-9-2017 and compensation of Rs.10000/- for serious physical, mental torture & financial loss as per Regulations 8(2)(c)(d)(e) of MERC (CGRF & EO) Regulations 2006.

Hence the following order.

(1)Grievance application is allowed (2) Non applicant is directed to pay compensation to the applicant @ Rs.50/- per hour since date of illegal disconnection from 24-7-2017 to 2-9-2017 for late restoration of supply according to Appendix 'A', 2(i) of MERC's SOP Regulations within 30 days from the date of order. (3) Non applicant is directed to pay compensation (75% disabled person)

Rs.10000/- (Ten thousand) to the applicant for physical, mental and economical torture, loss of business according to Regulations 8(2)(c)(d)(e) of MERC (CGRF & EO) Regulations 2006 within 30 days from the date of order.

As per 4.1 (C) proviso of above said regulation. Secondly on perusal case No.

CGRF (NUZ) 031/2009, order dated 26-6-2009 where so called member secretary

i.e. present technical member was representative of non applicant and is well aware that Mrs. Langewar acted as member secretary and Smt. Gouri Chandrayan as member as per regulation 5.2 of above said regulation and same practice was observed to have followed earlier whenever the post of chairperson was vacant.

This means that when chairperson is appointed in the CGRF & Joined and he is absent from sitting of the forum, then technical member, shall be the chairperson for such sitting (during leave, sick leave etc) but presently the Chairperson's post is vacant in the forum on date of sitting, so the technical member and member (CPO) can continue to run sitting and decides the cases as per regulation 5.2 of said regulation but technical member does not get position of Chairperson and second & casting vote, which is done in earlier cases after 16/5/2017. In entire MERC (CGRF & EO) regulations 2006 post of only Technical Member is notified but no post of Member Secretary is notified and hence self designating as Member Secretary is against provisions of above regulation. Hence order of the Technical person or so called member secretary cannot be a Majority 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 22-09-2017. Therefore it was necessary to dispose of the application on or before 22-11-2017. Term of Chairperson In charge of the Forum expired on dt.30 June 2017. Forum

heard argument on 30-10-2017 due to adjournment on 24.10.2017 and 27.10.2017 due to incomplete forum. The separate dissenting note of Hon'ble Member (CPO) is given on dt.24.11.2017 due to both these reasons, there is delay in deciding the matter

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

Order

1. The application is partly allowed.
2. The IGRC order is set aside.
3. To pay compensation as per Appendix "A", 2(i) of MERC's SOP Regulation 2014 at the @50 per hour for the period 24.07.2017 to 02.09.2017, duration during which supply of the applicant was disconnected by the applicant without notice.
4. In absence of cogent evidence for the loss applicant has incurred, compensation of Rs.20, 000/- is not allowed and rejected.
5. No order as to cost.

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

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

