

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, IIInd flr. Pune-11

Case No. 25/2013

Date: 31/01/2014

In the matter of

Shri.Bhalchandra P.Bhapkar,
(Piyush L.Makhariya),
Shop No.1, Raturaj Apartment,
S.No.273/1/1+2, Baner Road,
Pune-07

- Complainant

V/S

The Executive Engineer,
M.S.E.D.C.L.,
Shivajinagar Division, Pune.

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.N.S.Prasad
Member	Shri.Suryakant Pathak

- 1) Mr.Piyush L.Makhariya filed the complaint as per Section 42(5) of the Electricity Act 2003 being aggrieved by the decision of Internal Grievance Redressal Cell dated 23.12.13. The consumer is Mr.Bhalchandra P.Bhapkar having Consumer No.160220881170. Initially the connection was released in Feb.2007 with a load of 5 KW. The electricity load was enhanced to 25 KW on the request of consumer on dt.25.3.2008. Mr.Piyush L. Makhariya is using the electricity for hotel business in the premises of Shri.Bhapkar.
- 2) According to Mr.Makhariya, M.S.E.D.C.L. has issued bill on 16.9.2012 on the basis of meter reading taken on 12.9.12. He submitted that he was

regular in payment of bills on time without any fault. The M.S.E.D.C.L. issued bill of Rs.20,07,890/- as mentioned in 'A' Form.

- 3) Mr. Piyush Makharia filed Spl. Civil Suit No. 1486/2012 against M.S.E.D.C.L. before Civil Judge Sr.Division, Pune. He filed application in the said suit for direction to restore electricity supply on 26.11.2012. The court initially directed M.S.E.D.C.L. to restore the electricity supply on depositing amount of Rs.1,00,000/- (Rs. One Lakh only). Accordingly the electricity supply was resumed. Thereafter the application for Temporary Injunction Ex .5 was decided on 18.10.2013 and the court rejected application Ex.5 against M.S.E.D.C.L.
- 4) As the application for Temporary Injunction Ex.5 was rejected by Civil Court, the electricity supply was disconnected by M.S.E.D.C.L. as the consumed electricity bill was not paid.
- 5) Mr. Piyush Makharia filed application before IGRC on 30.10.13. IGRC decided the application and directed M.S.E.D.C.L. to recover electricity charges in 54 monthly installments for period between April-2008 to Aug.2012.
- 6) The consumer moved application before this Forum being aggrieved by the order of IGRC dated 24.12.2013.
- 7) The main prayer made in the application is that M.S.E.D.C.L. issued bill of Rs.20,07,890/- on 16.9.12 without legal authority on the basis of meter reading taken on 12.9.12. There is no dispute that total units consumed by consumer is 196572 (One lakh ninety six thousand five hundred and seventy two). The consumer relied on section 56(2) of Electricity Act-2003. The said section is reproduced below.

“Not with standing anything contained in any other law for the time being in force, no sum due from any consumer under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of electricity”

- 8) The present case is filed on 26.12.2013 when the special Civil Suit No.1486/12 was pending before the Civil Court. The suit was withdrawn on 3.1.14 by consumer. As per Clause 6.7(d) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation-2006.
“The Forum shall not entertain a grievance (d) where a representation by the consumer, in respect of the same grievance is pending in any proceeding before any Court tribunal or arbitrator or any other authority or a decree in award or a final order has already been passed by any such court tribunal, arbitrator or authority”.
- 9) As the consumer has withdrawn the civil suit with permission of the court the present complaint is filed u/s 42(5) of the Electricity Act-2003.
- 10) Admittedly the Electricity bills were issued without actual meter reading. The main issue is that M.S.E.D.C.L. contends that consumer had kept the said meter which was not accessible for taking meter reading on the other hand consumer contended that there was failure on the part of M.S.E.D.C.L. to take meter reading for long time. It is an admitted fact that Electricity bills were issued without meter reading for a period between 2008 to 2012. The reasons for not taking meter reading for unduly long period are not satisfactory. Due to misfeasance of officials of M.S.E.D.C.L. wrongful loss is caused to M.S.E.D.C.L. It is necessary to make inquiry of the persons responsible for loss of public money. It is also necessary to take effective steps to avoid such incidents in future. It is pertinent to note that consumer also did not inform to M.S.E.D.C.L. for receiving of low consumption.
- 11) As per law M.S.E.D.C.L. has statutory right to make demand of the amount of energy consumed by consumer. The consumer has not denied that the electricity consumed was not correctly assessed by M.S.E.D.C.L. The main argument of the consumer is that, the liability is for a period of two years only as per Section 56(2) of the electricity Act-2003. Consumer is prepared to pay actual consumption bill of two years within twelve installments.

- 12) In view of the legal position, no sum due from any consumer under Section 56 shall be recoverable after two years from the date when such sum becomes first due i.e. 13 Nov.2012. The M.S.E.D.C.L. may recover the remaining of electricity bill amount by filing a Civil Suit.
- 13) In the result we pass the following order.

ORDER

1. M.S.E.D.C.L. is directed to recover an amount for two years preceding to 13.11.12.
2. Consumer be permitted to pay the bill in twelve installments as prayed.
3. No order as to cost.

N.S.Prasad,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date:- 31/01/2014