



CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE

Case No. 12/2017

Date of Grievance : 08.02.2017

Date of Order : 06.04.2017

In the matter of recovery of arrears of P.D. consumers from the present consumer.

Sainandan Sahakari Griha Sansatha Ltd., **Complainant**
S.No.15/2/3/8, Hingne Khurd, (Herein after referred to as Consumer)
Pune - 411051.

Versus

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

Respondent
(Herein after referred to as Licensee)

Quorum

Chairperson	Mr. S.N.Shelke
Member Secretary	Mrs. B.S.Savant
Member	Mr. S.S.Pathak

Appearance

For Consumer	Mr.Pushkaraj Ghatpande, (Representative) Mr.Girish Joshi, (Representative)
For Respondent	Mr.Kokne, Addl.Ex.Engr.,Wadgaon S/ dn. Mr.Dipak Jadhav, Dy.Manager(F&A) Parvati Dn. Mrs.Harshada Pandit, UDC, Wadgaon S/ dn.

- 1) The Consumer has filed present Grievance application under regulation No. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
- 2) Being aggrieved & dissatisfied by the impugned order dated 20.01.2017 passed by IGRC Rastapeth, the consumer above named presents the said grievance application on the following amongst other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the The Executive Engineer, M.S.E.D.C.L.,Parvati Division, Pune vide letter no. EE/CGRF/PZ/Notice/12 of 2017/60 dtd.10.02.2017. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 15.03.2017.
- 4) We heard both sides at length and gone through the contentions of the consumer and reply of the respondent and the documents placed on record by the parties.
- 5) Facts giving rise to the grievance may be stated as under :

The above named consumer having consumer no.170857769981 was connected on 4.11.1996 in the tariff category LT 1 domestic. The Licensee issued bill to the consumer of Rs.35,604/- showing arrears of Rs.34,728/- in the month of Nov.2016. The consumer challenged the said bill by filing complaint before IGRC Rastapeth on 24.11.2016 stating that the said arrears are transferred in their name from the previous consumer namely Asha R Lavhe having consumer no.170014852410 after 20 years. On the contrary they have regularly paid all the bills issued by the Licensee and therefore the above mentioned arrears be deducted from their bills. The IGRC rejected the grievance vide impugned order dated 20.1.2017 stating that the addressees of the P.D. consumer having no.170014852410 and present consumer having no.170857769981 are the same as per spot inspection report and therefore the said arrears are transferred in the name of present consumer as per company's rules.
- 6) The consumer representative Mr.Pushkaraj Ghatpande submitted that the consumer has paid all the bills regularly issued by the Licensee. The Licensee issued bill of Rs.35,604/- showing arrears of Rs.34,728/- in the month of Nov.2016. However the said arrears are belonging to other consumer namely Sou.Asha R. Lavhe having consumer no.170014852410. The said arrears are of 20 years back. The said consumer Sou.Lavhe has no any concern with the present society. Moreover the energy meter & the said connection is not in existence in the society's premises. The Licensee

abruptly issued bill to the present consumer transferring arrears of above mentioned P.D. consumers in the name of society without giving any prior notice. The IGRC erroneously held liable for the said arrears to the present consumer only on the ground that the address of the P.D. consumer & the present consumer is one & same. Therefore he lastly submitted that the said bill be set aside & grievance be allowed.

- 7) On the other hand, Mr.Kokane, A.E.E., Wadgaon Sub/dn. submitted that the list of arrears of P.D. consumers was sent by the Chief Engineer for recovery of said amount. In the said list, the P.D. consumer namely Sou.Asha R.Lavhe having consumer No.170014852410 was shown to be arrears of Rs. 33,349.58. Accordingly, the Asstt. Engineer, Sub/dn.Wadgaon made spot inspection on 11.2.2016 & found that the P.D. connection of the above mentioned consumer was not any existence in the said premises but the building named, " Sainandan " was situated in the premises. The address of the P.D. consumers Sou.Asha R.Lavhe is as under :

S.No.15/2/3/8, Vthalgwadi

Hingne Kh., Pune-411051.

Similarly address of present consumer namely Sainandan, Sah.Griha Sansatha Ltd., having consumer no. 170857769981 is as under :

S.No.15/2/3/8, Vthalgwadi

Hingne Kh., Pune-411051.

Therefore the Asstt.Engineer, Wadgaon Section submitted report that the arrears of P.D.consumer be transferred in the name of present consumer on its common meter. Thereafter the Licensee requested the present consumer to pay arrears of P.D. connection of Rs.33,349/- but the said consumer failed to pay the said arrears. Therefore as per regulation no.10.5 of MERC supply code Regulations,2005, the said arrears came to be transferred in the name of present consumer. Therefore Mr.Kokane submitted that the grievance of the consumer be dismissed.

- 8) It is seen from the record that the Licensee is trying to recover arrears of P.D. consumer from the present consumer. According to consumer, the said arrears are 20 years back. In this context it is necessary to take into consideration provisions of Section 56 (2) of the Electricity Act, 2003. It reads as under :

(2) Notwithstanding 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 the electricity.

- 9) Regulation No.10.5 of MERC (Electricity Supply Code & other conditions of supply) Regulations, 2005 reads as under:

10.5. Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives/ successors-in-law or transferred to the new owner/occupier of the premises, as the case may be and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner/occupier of the premises as the case may be :

Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.

- 10) The Licensee produced CPL of the P.D. consumer Sou.Asha R.Lavhe having consumer no.170014852410 from April-2003 to Feb.2017. The date of connection is shown as 1.2.1988, the arrears of said consumer in the month of April-2003, are shown as Rs.32,395.49 & connection tag as "P.D.". However the Licensee has not stated in their say that since when the said consumer was P.D. & in which year the said arrears against the said P.D. consumer have been

generated. The Licensee failed to produce CPL of the said P.D.consumer prior to April-2003. Therefore the Licensee failed to show the arrears against the P.D.consumer are outstanding continuously right from generating the said arrears amount as contemplated u/s 56 (2) of the Act. Similarly the present consumer is not legal heir of the P.D.consumer. In such case the Licensee cannot transfer the arrears of P.D.consumer for the period more than 6 months as per Reg.No.10.5 of supply code. Therefore the Licensee failed to establish its case under Section 56 (2) of the Act as well as under Regulation No.10.5 of MERC Supply Code Regulations, 2005. The Licensee cannot recover time barred arrears of the P.D.consumer from the present consumer. The IGRC under impugned order has erroneously held that the arrears of P.D. consumer can be recovered from the present consumer since the addresses of the both consumer are same. Therefore interference is warranted in the findings of IGRC.

Lastly we proceed to pass following order.

ORDER

1. Grievance of the consumer stands allowed.
2. The impugned bill issued by the Licensee to the consumer for the month of Nov.2016 showing arrears of Rs.34,728/- & total bill amount of Rs.35,604/- is hereby set aside.
3. Impugned order dated 20.01.2017 passed by IGRC, Rastapeth is hereby set aside.
4. The Licensee shall not recover time barred arrears of P.D. consumer amounting to Rs.34,728/- from the present consumer.

5. The Licensee to report compliance within one month from the date of this order.

Delivered on: - 06.04.2017

Sd/-
S.S.Pathak
Member
CGRF:PZ: PUNE

Sd/-
B.S.Savant
Member/Secretary
CGRF:PZ: PUNE

Sd/-
S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Note: - The consumer if not satisfied may filed representation against this order before the Hon'ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex, Bandra (E), Mumbai-51.