



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

Case No. 50/2017

Date of Grievance : 11.07.2017

Date of Order : .08.2017

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

Mr.Azizul Hoque,
27, M.G.Road,
Pune - 411001.

Complainant
(Herein after referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Bundgarden 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

Mrs.Swaliha Ajaz Hoque

Mr.Azizul Hoque

For Respondent

Mr.Satish Kulkarni, A.E.E.,Wadia S/dn.

Mr.Anand Jadhav, LDC, Wadia 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 13.04.2017 passed by IGRC Rastapeth, the consumer above named prefers the present grievance application on the following amongst other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the Executive Engineer, M.S.E.D.C.L., Bundgarden Division, Pune vide letter no. EE/CGRF/PZ/Notice/50 of 2017/231 dtd.13.07.2017. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 27.07.2017.
- 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.170011410688 with connected load 7.50 KW was connected on 1.1.1979 in the category LT II Commercial. The Licensee inspected the premises of the consumer in the month of July-2016 under the scheme, "recovery of P.D. consumers under top - 20 inspections". At that time the Assistant Engineer, J.J. Garden Section, Pune found that the present consumer namely Azizul Hoque, 27, M.G. Road, Pune-411001 having live connection bearing consumer No. 170011410688 at the said premises. The P.D. Consumer having no. 170011410441 namely M/s. Dawood & Co. , 27 Main Street ,Pune- 1 was in arrears of Rs.97,210/-. Therefore the Licensee issued notice dated 15.10.2016 to the present consumer for depositing of said arrears within 15 days. The consumer approached to IGRC, Rastapeth, for alleged recovery of arrears of P.D. consumer. The IGRC rejected the grievance of the consumer vide impugned order dated 13.4.2017 stating that the notice issued by the Licensee for recovery of arrears of P.D. consumers from the live consumers is proper & correct & therefore action be taken for recovery of the said arrears as per rules. Therefore the present consumer by filing grievance before the Forum requests that the said recovery being illegal be set aside.
- 6) The consumer representative Smt. Swaliha Hoque submits that the consumer is regularly paying bills & no any outstanding arrears against

the consumer. However the Licensee sent a notice dated 15.10.2016 & transferred arrears of Rs.97,210/- standing in the name of P.D. consumer - M/s. Dawood & Co. , having no. 170011410441 . Previously, the said consumer was residing as tenant but he handed over the premises unauthorized bill to the trespasser who was letter on legally evicted with due process of law. The alleged arrears are 39 years old of another person & therefore present consumer is not liable to pay the said arrears. The said notice is illegal & be set aside.

7) On the other hand Mr.Satish Kulkarni, Addl.Ex.Engineer, Wadia Sub/dn. submitted that they have received list of P.D. consumers having arrears standing against them. Therefore the Assistant Engineer, J.J. Garden inspected the premises & found that live consumer having no. 170011410688 was existing at the said premises. The P.D. consumer meter was not found. The shop named & styled as "*Lee*" was at the said premises. Therefore the sub-division office issued notice dated 15.10.2016 to the present consumer for payment of arrears of Rs.97,210/- standing in the name of consumer no. 170011410441 - M/s. Dawood & Co. ,. The present live consumer is liable to pay the arrears of the previous consumer who became P.D.

8) It is seen from the record that the P.D. consumer namely - M/s. Dawood & Co. , having consumer no.170011410441 was at the following address :

M/s. Dawood & Co.,
27, Main Street, Pune -411001

The CPL of the P.D. consumer shows that the said consumer having no. 170011410441 is P.D. from Oct.-2005 with arrears of Rs. 97,225/-.

The address of the present consumer is as under:

Mr. Azizul Hoque
27, M.G.Road, Pune - 411001.

9) Thus it is seen that the Licensee is trying to recover time barred arrears of P.D. consumer from present consumer. Both the said consumers are

different persons. 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.

10) 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.

11) The Licensee has not stated in their say that when the said previous consumer became P.D. & when the arrears became first due. The Licensee has not shown any provision as to how live consumer is liable to pay the arrears of P.D. consumer who is a different person. The present consumer is not a legal heir of the P.D. consumer. In such case the Licensee cannot transfer the arrears of P.D. consumer in the name of live consumer as per Reg. 10.5 of MERC supply code Regulations, 2005 nor recover the time barred arrears under section 56 (2) of the E.A., 2003. The impugned notice dated 15.10.2016 for recovery of arrears of P.D. consumer of Rs.97,210/- is

liable to be set aside. The IGRC under impugned order has erroneously held that the notice dated 15.10.2016 issued by Licensee is legal & proper. Therefore the impugned order is liable to be set aside. The grievance of the consumer is liable to be allowed.

Lastly we proceed to pass following order.

ORDER

1. Grievance of the consumer stands allowed.
2. The notice dated 15.10.2016 issued by the Licensee to the consumer for depositing arrears of Rs.97,210/- of P.D. consumer No. 170011410441 is hereby set aside.
3. Impugned order 13.04.2017 passed by IGRC, Rastapeth is hereby set aside.
4. The Licensee shall not recover time barred arrears of P.D. consumer No. 170011410441 amounting to Rs.97,210/- from the present consumer.
5. The Licensee to report compliance within one month from the date of this order.

Delivered on: - .08.2017

S.S.Pathak
Member
CGRF:PZ: PUNE

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

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.