



Consumer Grievance Redressal Forum, Kalyan Zone
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No. K/E/1304/1540 of 2017-18

Date of registration : 06/03/2018

Date of order : 09/05/2018

Total days : 64

IN THE MATTER OF GRIEVANCE NO. K/E/1304/1540 of 2017-18 OF M/S VIPRAS CASTING LTD., SURVEY NO.33/5, VILLAGE – NIPHAN, SAVROLI – KHARPADA ROAD, TAL – KHALAPUR, DIST. RAIGAD, PIN CODE – 410 203 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.

M/s Vipras Casting Ltd.,
Survey No.33/5, Village – Niphan,
Savroli – Kharpada Road,
Tal – Khalapur, Dist. Raigad,
Pin Code – 410 203.

(Consumer no. 031069019300)

... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited,
Through it's Nodal Officer,
Pen Circle, Pen

... (Hereinafter referred as Licensee)

Appearance : For Licensee - 1) Shri.R.B.Mane, Nodal Officer, Pen Circle
2) Shri.G.V.Satpute, Law Officer, Pen Circle

For Consumer - Shri.B.R.Mantri (C.R.)

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary
Mrs.S.A.Jamdar- Member (CPO)].

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressed Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has

been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Consumer herein is one M/s Vipras Casting Ltd. Having Consumer no.031069019300, Pen Circle Consumer has in this grievance petition called in question the letter dt.06/10/2017 issued by Superintending Engineer issued as per grievance no.SIC-2007 (1/07) Vdyog-1 dt. 29/03/2008 and Chief Engineer Commercial letter No.P-Com/Recovery Pen-no.19391 dtd.05/08/2017 calling upon Consumer to make certain payment. Grievance in that the demand made is not valid done with

3) Detail given are as below :

- i) MSEDCL has disconnected the supply on date 09/10/2003 due to arrears under section 56 (1).
- ii) Consumer is in BIFR, they have follow up with BIFR for relief for arrears.
- iii) Consumer applied to MSEDCL on date 09/02/2005, 25/02/2005, and 08/04/2005 for relief in payments of arrears and reconnection of power supply.
- iv) MSEDCL has approved our request and issued the package scheme with first condition of waiver of MD charges from TD to PD period by letter dated 12/05/2005.
- v) Consumer objected for SLC and addl. Security deposit as our request is for reconnection, as SLC is to be charged for new connection. MSEDCL has replied that your connection is PD for last two years, and as per MERC SoP Regulation 2005 your application is treated as fresh application. So, you have to pay the same and execute the fresh agreement.
- vi) Consumer has given the Post-dated cheques against the 60 nos. of installments and given the DD of Rs.2016000/- against the Addl. Security deposit. After completing the formalities which is required for fresh connection, executed the Fresh Agreement and thereafter our supply has released on date 26/05/2005.
- vii) BIFR court has granted the stay order for payment of past arrears on date 24/11/2005. After granting the stay order, MSEDCL has refunded Post-dated cheques.

- viii) As per the norms of Electricity Act 2003 and MERC Regulations; there is no differentiation between T.D. / P.D., there is word only "Disconnection". Disconnection means to remove the service line and meter. The agreement between consumer and Licensee has been terminated after disconnection. After disconnection there is no relation of consumer and Licensee.
- ix) As per section 56 of EA 2003; when a supply is disconnected the utility should stop the issue of bills and start the process for recovery of dues for which amount disconnection occurs.
- x) MERC has also clarified the same in SoP Regulation 2005 as well as 2014 and given the explanation that payments dues as per Section 56 (1) of EA 2003 that means arrears amount for which disconnected the supply.
- xi) Electricity act 2003 and MERC regulation has not allowed to licensee to Levey any charge (fix charges) when supply has disconnected under section 56(1).
- xii) In MERC regulation, within six-month supply can be reconnected after payment of dues/arrears for which supply has disconnected under section 56(1). There is no clause to pay the minimum charges or any charges for these periods of disconnection to reconnection.
- xiii) From the above it clears that MSEDCL has released the fresh connection with consideration of Electricity Act 2003 and MERC SoP Regulation, 2005 Section (7.2). So, MSEDCL cannot charged the minimum charges for the period of 09/10/2003 to 26/05/2005.
- xiv) As per the norms of MSEDCL / Electricity Act 2003; there is no differentiation between T.D. / P.D., there is word only "Disconnection". Disconnection means to remove the service line and meter. The agreement between consumer and Licensee has been terminated after disconnection. After disconnection there is no relation of consumer and Licensee. As per section 56 of EA 2003; when a supply is disconnected the utility should stop the issue of bills and start the process for recovery of dues for which amount disconnection occurs.
- xv) MERC has also clarified the same in SoP Regulation 2005 as well as 2014 and given the explanation that payments dues as per 56 (1) that means arrears amount for which disconnected the supply. Electricity act 2003 and MERC regulation has not allowed to licensee to charge the demand charges for not providing the supply. In MERC regulation, within six-month supply can be reconnected after payment of dues for which supply has disconnected. There is no clause to pay the minimum charges or any charges for the period of disconnection to reconnection.

MERC SOP Regulation 2005 Section 7.2 read as below:**7.2 Reconnection:**

Where the Distribution Licensee has disconnected supply to a consumer for a period of not more than six months, then if such consumer pays all amounts due and payable to the satisfaction of the Distribution Licensee or, in case of a dispute, pays such amounts under protest, the Distribution Licensee shall reconnect supply within - (i) twenty-four hours from payment of dues by the consumer in towns and cities; and (ii) within two days after the day upon which payment of dues has been made by the consumer in rural areas:

Provided that where the period of disconnection exceeds six months, an application for reconnection of supply shall, after either payment of amounts due or upon settlement of dispute, be treated as a fresh application for supply of electricity under the provisions of the Act.

Explanation – Payments made under protest in this Regulation shall be in accordance with the requirements of the proviso to sub-section (1) of section 56 of the Act.

- xvi) From the above it clears that MSEDCL has released the fresh connection with consideration of Electricity Act 2003 and MERC SOP Regulation, 2005 Section (7.2). So, MSEDCL cannot charged the minimum charges for the period of 09/10/2003 to 26/05/2005.
- xvii) Also, by way of the General policy of MSEDCL, MSEDCL has grant the waiver of minimum charges for the T.D. and P.D. period to various consumers. Electricity act section 45(4), MSEDCL shall not allow discriminations against any person or class of persons

4) Distribution Licensee is Reply contends that

- i) The contents para 1 to 7 of grievance filed by M/s Vipras Casting Ltd is matter of record. Contents of para 8 is not true and correct and the same is denied by opponent MSEDCL. As per the regulation 6.5 of MERC (Supply Code and other condition of supply) Regulation 2005, ***The agreement shall be deemed to be terminated upon permanent disconnection of the consumer or where the consumer remains disconnected for a period of more than six months : Provided that, the termination of agreement is without prejudice to the rights of the Distribution Licensee or under the Act for recovery of any amounts due under the agreement.***
- ii) The contents of para of para 9 to 17 are not true and correct and the same are denied by opponent MSEDCL. MD charges (Minimum Demand Charges) are

the charges levied on the consumer for maintaining his Contract Demand and they are levied as per MERC tariff order. In the present case consumers supply was disconnected on 09/10/2003, thereafter to avoid the minimum demand charges consumer had option to get his agreement terminated as per regulation 6.6 of MERC (Supply Code) Regulation 2005. Consumer not availed this option therefore consumer have to pay MD charges as MERC regulation.

- iii) Opponent submits that grievance of the consumer is time barred and not maintainable as per Regulation 6.6 of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006' The cause of action for the present grievance had arisen in the year 2003-2005 and therefore the same is not filed within the period 2 years from when the cause of action arisen'

5) We have heard both sides. It is borne out from record as well as a common fact that supply to the Consumer herein was disconnected on account of non payment of bills. Under section 56 (1) of the Indian Electricity Act. Claim of the Consumer has been that theirs is a sick unit. Consumer made request vide letters dt. 09/02/2005, 25/02/2005 and 06/04/2005 for some reliefs in the bills. Distribution Licensee thereupon vide letter dt.11/05/2005 granted package is the Consumer with several clauses

6) There are several other clause. But as per the said package granted Distribution Licensee has reconnected the supply. Consumer brought the order of the BIFR for reconnection which was already done by Distribution Licensee under the package meaning thereby that disconnection stood prohibited. Condition imposed was to pay current bill.

7) In course of event that happened further BIFR ceased to exist. Consumer move Govt. for reliefs in respect of the arrears of the Distribution Licensee and an order came to be passed for payments of 10% of the arrears. Distribution Licensee has accordingly prepared the bill in question and put up the demand thereof vide impugned letter dt.06/10/2017. Wherein they have claimed minimum charges from Oct 2003 to May 2005.

8) Now the package granted clearly says about waiver of minimum charges it is fallacious to say that the package was not complied or not acted upon. Consumer did move BIFR and brought orders not to disconnect. Thereafter he moved Govt. for relief of arrears after BIFR ceased to exist. It cannot be said that package was not acted upon. As such Consumer is not unable to pay MD charges from Oct-2003 to May-2005.

9) In view of above no other ground may be looked into. However academically considered it is clear that reconnection is after 6 months It is granted as a fresh connection That being so minimum charges can not be recovered for the duration of disconnection. The provision read out to us relevant to this question also indicate the said proposition

10) Thus was one more point of limitation raised on behalf of Distribution Licensee under regulation 6.6 of MERC (CGRF & Ombudsman) Regulation 2006. It is to be noted that the entire matter of arrears remained in abeyance from the date of package till the bill was issued by Distribution Licensee vide letter dt.06/10/2017.

11) As such cause of action starts from the date of said letter dt.06/10/2017. As such the grievance is in limitation. In the above view of the matter on consumer succeed.

Hence the order.

ORDER

- 1) The Grievance application of consumer is partly allowed.
- 2) Distribution Licensee to withdraw MD charges levied for the period from date T.D. to P.D.
- 3) Distribution Licensee also to levy prorata MD charge for actual no of days for which power is provided is the month of Oct-2003 and in the month of May-2005.
- 4) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Dated : 09/05/2015

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(A.P.Deshmukh)
MemberSecretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) *The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.*
- “Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.*
- b) *Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or*
- c) *delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-*
- “Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”*
- d) *It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.*

