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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/59/442

Date: 17.04.2018

Hearing Date: 27.02.2018

CASE NO.59/2018

In the matter of refund of tariff difference amount with interest

Dr. Jasmin Ajayan,
1st floor, Plot No. 06, Sector 09,
Koperkhairane,
Navi Mumbai-400709.
(CONSUMER NO.000226392254)
..... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited
through its Nodal
Officer,
Vashi Circle,Vashi
..... (Hereinafter referred as Licensee)

Appearance : For Not present
Licensee
For Consumer – Mr. Pranav Shende - Consumer Representative.

[Coram- Shri A.M. Garde- Chairperson, Shri. R.S.Avhad -Member Secretary
and Vacant - 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 Redressal 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 Regulations 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity.

2. Consumer herein is Dr. Jasmin Ajayan, 1st floor, Plot No. 06, sector 9, Koperkhairne, Navi Mumbai-400709.
3. The date of above mentioned consumer connection is connected in the year 2006 on 18.01.2006. The Applicant/Consumer is since then a consumer of MSECL under (SDO 4753) Koperkhairne Sub Division office of MSEDCL.
4. The Applicant/Consumer is LT (Law Tension) consumer and The Applicant/Consumer Dr. Jasmin Ajayan's Multispecialty Hospital is running, operating Hospital at 1st floor, Plot No.06, sector 09, Koperkhairne -400709, Navi Mumbai for which the Municipal authorities who are authorized to issue necessary permission to operate the Hospital/ Nursing home same has been obtained, u/s.5 of the Maharashtra (Bombay), Nursing Act. 1949, from the Municipal Corporation/state authorise and the hospital/nursing home is providing Health Care Facilities.
5. The tariff is made applicable as per Tariff order's issued by the commission from time to time and as per section 62(3) Electricity Act,2003, tariff is applied based on purpose of use. The commission in Tariff order dtd. 16th August 2012 in case No.19 of 2012 as well as in successive tariff orders has categorized "Hospitals" in Public Services.
6. The distribution Licensee (respondent company) has issued various circulars after MERC tariff orders from time to time and it is the duty of

the concern officer's to implement change of tariff and categories applicable to the consumers.

7. The Applicant/ consumer has submitted request letter in the Month of Nov. 2016 with the sub division office for change of category and tariff along with refund of tariff difference Amount from the date of connection with interest. Photo copy of the letter is annexed and marked as Exhibit's" in the Petition/Grievance. The Applicant/ consumer has appointed and authorise consultant company M/s. Strom Lounger Pvt. Ltd., to deal and do liason work with MSEDCL office for change of category and further to claim of tariff difference refund amount from MSEDCL office, Authority letter is annexed and marked as Exhibit"G"
8. The MSEDCL office has corrected the tariff and category in the energy generated in the month of November 2016.
9. Moreover, it is on record that the Appellant representative approached Executive Engineer, Vashi Division of the respondent and sought the refund of excess amount, by making communication through email on 09.07.2017.
10. The Executive Engineer (Vashi Div.), should have either refunded the tariff difference amount, or if he was somehow unsure of genuinely or correctness of the Applicant's request, he should have sent the same to internal Grievance Redressal Cell. Refer provision under Regulation 6.2, the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations. 2006 stipules the procedure in this behalf. Intimation given to official who are not part of the cell, to whom consumers approaches due to lack of general awareness of the cell or the procedure for approaching it, it shall be deemed to be intimation for the purpose for this Regulation, unless such official forthwith directs the consumers to the cell. In this case. The Executive Engineer (Vashi Div.) neither refunded the tariff difference amount nor forwarded the grievance to the cell (IGRC)

11. Therefore, Applicant's Request/application letter dated 17.11.2016 has to be treated as the grievance filed before the cell.
12. The Applicant after submission of application with the respondent on 17.11.2016 for change of tariff and category along with tariff difference amount. The representative of the applicant approach to the Executive Engineer (Vashi Div.) by email on dtd. 09.07.2017 for refund of tariff difference amount, but no response was given and aggrieved to this consumer/ applicant is directly approaching the Forum for redressal of his grievance.
13. Till date tariff difference is not refunded to consumer account therefore this petition/application.
14. Considering that the grievance of the applicant is not resolved by respondent utility on approach to the Executive Engineer (Vashi Div.), this Forum should registered his grievance. There is no reply filed by D.L. in spite of the Forum waiting for long time.
15. We heard both sides. Representative of D.L. stated that he would send the reply earliest, but in spite of long wait no reply was received.
16. There is no dispute that Hospital have been classified in Public services category vide tariff orders issued by MERC. There is no dispute that consumer had been charged under commercial tariff. Consumer has produced certificate of registration to show that he has been running hospital. But the certificate dtd. 01.04.2012 is not of the consumer address. In particular the address mentioned therein is plot No.8 where as at present the consumer address is plot No. 6 rest being same. The registration certificate is from 01.04.2016 in which address is the same i.e. plot no.6.
1. The certificate merely shown registration of Ankur Maternity Home at consumer address. That does not ipso facto prove that maternity Home has been actually run since then. Even if it is presumed so, that alone is not sufficient. There is nothing on record to indicate that consumer had

obtained connection specifically for maternity home or that D.L. had the knowledge that maternity Home was being run there with the supply and in spite of that after 2012 change in category D.L. applied wrong tariff. In such facts tariff cannot be applied retrospectively just as D.L. officials could not monitor/supervise the user retrospectively. D.L. has changed tariff as applicable as per 3.14 (B) (SOP).

2. Delay is because a quarry arose subsequently that consumer had not moved IGRC before approaching CGRF. Arguments were heard on that point. Also there is additional charge for Chairperson.
3. In the above view of the matter Grievance fails.

ORDER

1. Grievance is dismissed.

The compliance should be report within 30 days week.

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

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, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and 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.

I Agree/Disagree

**ANANT M. GARDE
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**