



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. K/E/1308/1549 of 2017-18

Date of registration : 16/03/2018

Date of order : 27/06/2018

Total days : 42

IN THE MATTER OF GRIEVANCE NO. K/E/1308/1549 OF 2017-18 OF M/S SOLITAIRE CO.OP.HOUSING SOCIETY, AT-OPP GOLDAN PARK, NEXT TO MOHAN HEIGHT, BHIWANDI, MURBAD ROAD, KALYAN (W), PIN CODE-421 301 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.

M/s Solitaire Co.Op.Housing Society,
At-Opp Goldan Park,
Next to Mohan Height, Bhiwandi,
Murbad Road, Kalyan (W),
Pin Code-421 301.

(Consumer no. 020028984601)

... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited,
Through it's Nodal Officer,
Kalyan Circle-I, Kalyan

... (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.C.G.Meshran, AEE, Kalyan (W) S/dn.-II

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 M/s Solitaire Co.Op. Housing Society having Consumer no. 020028984601. Grievance is that Distribution Licensee issued supplementary bill as meter was faulty from May-2015 to Dec-2017 Consumer submits Distribution Licensee has to issue the same as per MERC Regulation 15.4.1 for three months only. Consumer prayed for reissue of both accordingly and Interim stay on the impugned bill.

3) Distribution Licensee in reply contends that on 12/12/2017 testing team of the respondent visited the premises of the complainant for routine testing. During the checking it was found that the current Y phase on the meter display was recorded as O.OA. But while taking the current by tong tester there was load on 'Y' phase, but meter was not recording it. Test report indicated that meter was recording less by 33%. Analysis of meter MRI data indicates that abnormality in the metering was started from 28/04/2015. Hence the assessment for the exact period from 28/04/2015 to Dec-2017 billing for Rs.12339011, for unrecorded consumed energy units 79,499 was charged in the energy bill for the month of Dec-2017 under the head "Debit bill adjustment". Distribution Licensee produce copy of the spot inspection report.

4) It is further the contention of the Distribution Licensee that the actual consumption of the complainant can be analyzed from MRI data which indicates that abnormality in the metering started from 28/04/2015 as such assessment made by Distribution Licensee is correct and no revision as per Regulation 15.4.1 is needed.

5) It is further the contention that although the definition of meter includes whole current meter and metering equipment's such as current, transformers, capacitor, voltage, transformer, or potential transformer with necessary wiring and accessories, in this case the metering Kiosk is working properly, PTs are not defective even the reading of 2 phases of CT "R" & "B" are satisfactory, only the 'Y' phase is not showing consumption although there was load on it. MRI data retrieves the consumption, hence under such circumstances meter can not be said to be defective. In these premises if bill is revised as per Regulation 15.4.1 then it will cause hardship on other consumers for no fault on their part, as the same will be reflected in ARR.

6) Meter reading Instrument (MRI) is the only technology which retrieves data already saved in the energy meter of the Consumer on the basis of which actual

consumption can be ascertained. It is a portable equipment for transferring data to or from ac static electrical energy meters from or to the base computer station. It does not retrieve data from some other meter. i.e. Check meter or additional meter. It is only a meter reading instrument with necessary accessories which is capable of interrogating with various makes of ac static electrical energy meter when loaded with the corresponding meter specific software. Hence MRI data is nothing but information of measurement of cumulative meter energy utilized by the Consumer.

7) In Central Electricity Authority (Installation and Operation of Meters) Regulation 2006, the Central authority has made provision for adoption of new technology by the distribution Licensee at Regulation 20. Further as per Regulation 3.4 of Supply Code Regulations, the Distribution Licensee is authorized to recover charges for electricity supplied in accordance to tariff.

8) It is further the contention that Hon'ble Ombudsman vide order dt.22/07/2014 in Representation no.29/2014 allowed such recovery Distribution Licensee has produced copy of the order. Relevant portion in the order is at **para19**.

9) It is further the contention that the judgment of the Hon'ble High Court in writ petition no.3614/2013 referred by the complaint is not applicable to facts and circumstance of this case.

10) We have heard both the parties and have pursued the judgments cited. Complainant has produced several judgment seeking to counter the Hon'ble Ombudsman's order relied on by Distribution Licensee which we have gone through. Meter was got tested through NABL during pendency of the grievance.

11) We prefer to deal with the judgments chronologically as they are seen on the record to avoid any slip, of course at the cost of logical chronology. The first one is in the matter of "Amendment" "Supplementary" bills case no.19 of 2004 dt.23 Feb.2005. Complainant laid stress on para no.45 & 46. Which we find to be mere application of the principal as laid down by Regulation 15.4.1 in case of defective meter and liability to pay testing fees in such matters. There is no quarrel about the said proportion.

12) In writ petition no.3614 of 2013 a similar question of slow meter came up before her lady ship Smt Vasanti A. Naik J. of the Bombay High Court. Her Ladyship did not quash the bill. Therein commission was appointed to see how far the meter was slow. The commission's report came to the effect that the meter was not slow by 34% as alleged by Distribution Licensee therein but only 16.10% Distribution Licensee was directed to issue bill afresh considering slowness of the meter by 16.10%. We do not see how the judgment supports the contention of the complainant. Some statement in the judgment in the nature of obtuse is of no avail to consumer.

13) Case no.15/2012 is decided by CGRF Ratnagiri in which a slow meter is considered as faulty one Regulation 15.4.1 was applied. So also case no.980 in a similar decision by CGRF, Kalyan passed on 25/08/2014 no.06/2016 of CGRF, Pune, case no.42/2015 Nasik zone, CGRF, Nagpur case no.106/2017 etc. These are all judgments of fora of coordinate jurisdiction.

14) Complaint further cited judgment of Rajasthan High Court is S.B.Civil writ petition no.1439/2015. In this case meter was held to be not defective and the Hon'ble High Court allowed the petition of Distribution Licensee therein facts a little different though. Here again we fail to understand how this judgment is helpful to the complainant.

15) Then there is the judgment of Hon'ble Ombudsman in Regulation no.29 of 2014. Hon'ble Ombudsman has held in similar facts that 15.4.1 is not applicable. This judgment favours the case of Distribution Licensee.in fact this judgment is relied on by Distribution Licensee and rightly. If complaint also relies on it as well the matter ends.

16) In the case of Vinod Kumar Vs. SES Rajasthan Power Ltd the fact that meter was defective was not in dispute. The only issue before the court was whether 19 (1) (a) or 20 (i) (c) of Delhi Electricity Regulatory Commission (Performance Standards Metering and Billing) Regulations 2002 would apply. Before us there is a dispute whether on the facts of this case the meter can be said to be defective. As such facts differ.

17) In first appeal no.11 of 2002 the matter was of the year 1993 prior to coming into force of IE Act 2003. Issue therein was that Consumer had disputed the assessment on the ground of decision being unilateral and without giving any opportunity of being heard to the Consumer. Further Consumer having applied to the Electrical Inspector to stay the action of disconnection of power supply whether disconnection could be done. The Hon'ble High Court injuncted the board as it then was, from disconnecting supply. The issue was totally different and based on the provisions of previous Act.

18) Writ petition no.5102 of 2008 with writ petition no.3650 of 2010 of Jharkhand High court was simply about application of the relevant provision of 11.3 in case of defective meter under the Rules prevailing in Jharkhand.

19) Having gone through and discussed all the judgments, what we find is Hon'ble Ombudsman has clearly and elaborately dealt with the similar issue in Regulation no 29 of 2014 which is relied on by Consumer also. Further Judgment in writ petition no.3614 of 2013 relied on by the Consumer operates against him. Therein Distribution Licensee

was allowed to raise fresh bill for slowness, though only to the extent as found by the commission appointed by the Forum. Other judgments cited are not applicable to the facts and circumstances of this case.

20) In the above view, Grievance fails.

Hence the order.

ORDER

Grievance is dismissed

Dated :. 27/06/2018

(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.*

