

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/AUC/679/2018/19
Registration No. 2018050112**

Date of Admission : 29.05.2018
Date of Decision : 28.08.2018

Shri D.D. Mewani, : COMPLAINANT
H. No. 220, N-3,
CIDCO,
Aurangabad 431001.
(Consumer No. 490011113645)

VERSUS

The Executive Engineer (Admn) : RESPONDENT
Nodal Officer, MSEDCL, Urban Circle,
Aurangabad.

Complainant Representative : Shri Akhatar Ali,
Respondent : Shri. R.M. Jinde,
Addl. EE, Chikalhana SDn

CORAM

Smt. Shobha B. Varma, Chairperson
Shri Laxman M. Kakade, Tech. Member/Secretary
Shri Vilaschandra S. Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant Shri D.D. Mewani, H. No. 220, N-3, CIDCO, Aurangabad is a consumer of Mahavitaran having Consumer No. 490011113645. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 29.05.2018.

BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:

- 2) The applicant has filed the complaint raising following contentions:-
- 1) It is submitted that the complainant has paid all the bills on due date but MSEDCL has included Rs. 50,480/- as adjustment amount in the bill for the month of January 2018 without quoting any details on this bill.
 - 2) The consumer filed the case in IGRC on 15/03/2018 and lodge the complaint in detail with a request to revise the bill and direct concern not to disconnect the supply till the dispute is settled in IGRC.
 - 3) Consumer has paid further current bills up to April, 2018 keeping aside the dispute amount to be settled by IGRC.
 - 4) But even after a period of 60 days the IGRC has not settled complainants dispute till 25/05/2018. Even then, the complainant has paid the current bill for the month of April, 2018, Rs. 5260/- on 19/03/2018.
 - 5) Hence, it is prayed that,
 - a) The amount of 50,480/- included in the bill in the month of January 2018 as 'ADJUSTMENT' be set aside.
 - b) The use of the consumer is for residential purpose but MSEDCL, has change the category as commercial purpose suddenly. As the use of consumer is purely for residential purpose the category wrongly

change be revise and bill be issued as residential category from the date of change of category.

c) Interest charge till date be quashed.

d) Consumer has paid current bill for the month of April, 2018, keeping aside the dispute amount which is not settled by IGRC till date. Therefore, MSEDCL be directed not to disconnect the supply of the consumer till decision of dispute bill / amount by CGRF.

3) The Respondent has filed say (Page No. 10) & submitted that :

On 22.07.2017, Spot inspection of the complainant was made by Assistant Engineer (Quality Control), according to said report, it is found that the complainant has provided electricity supply from meter of consumer No. 49001111645 (residential) to another consumer for commercial purpose bearing consumer No. 490012427317. So action under section 126 of IE Act 2003 is proposed against the complainant. Accordingly the respondent has prepared provisional bill dtd. 28.08.2017 was sent by post to the complainant. The complainant though was called upon to file his objection within 30 days in the office of Sub Division, but he has failed to file such objection. Final bill under sec. 126 of IE Act is therefore served to the consumer on dtd. 05.12.2017.

It being complaint under 126 of IE Act 2003, as per Rule 6.8 of IGRC & Electrical Ombudsman, Regulations 2006, this Forum has no jurisdiction to try the dispute. Hence, it is prayed to dismiss the complaint.

4) The complainant has submitted rejoinder and denied the submissions made by the Respondent in their reply on the following points :

- A) Procedure under section 126 of IE Act 2003 is not followed.
- B) Spot inspection was prepared in absence of consumer. It does not bear signature of consumer.
- C) The remarks in the spot inspection are false. Consumer No. 490012427317 is not commercial but residential consumer on Plot No. 220/B, N-3- CIDCO.
- D) Address of both consumers is same. i.e. 220/B, N-3 – CIDCO. Both the connections were in the same house. Premise is also same then Section 126 is not attracted.
- E) Bill of Rs. 50,556/- is without any basis. There is no change in use as commercial at any time by the complainant at his residence. As section 126 of IE Act 2003 is not ousted. Hence reliefs on claimed may granted.
- 5) We have gone through the pleadings & documents submitted by both the parties, heard Shri Akhtar Ali, Consumer representative & Shri R.M. Jinde for Respondent.
- 6) Following points arise for our determination, and we have recorded our findings there on for the reasons to follow :

Sr. No.	POINTS	FINDINGS
1)	Whether this Forum has jurisdiction to try the dispute ?	Yes
2)	Whether the disputed bill of Rs. 50,480/- issued in month of January 2018 to the complainant requires to be set aside ?	It is set aside with directions given in the order.
3)	Whether interest charges are required to be quashed ?	Yes, subject to directions given in the order.
4)	What order?	As per final order

REASONS

- 5) **Point No. 1 to 3 :-** The consumer has challenged energy bill of January 2018 (Page No. 6) for Rs. 50840/- (Adjustment), complainant's supply connection admittedly is residential. The respondent has come out with a case that the said bill is issued under section 126 of IE Act 2003.
- 6) Now, let us see the occurrence of incidents in respect of assessment challenged by the complainant.
- 7) On dtd. 22.07.2017, Assistant Engineer(Quality Control), Chikalhana Sub Division of the Respondent has visited premises of the complainant & examined the electric meter of the complainant, at the address House No. 220, N-3, CIDCO & found following things which he has noted in the remark. Page No. 14 – Spot inspection – Para 9) Remark : ग्रा. क्र. 490011113645 (घरगुती) या ग्राहकाने 490012427317 (वाणिज्य) या ग्राहकाला विद्युत पूरवठा तात्पुरता खंडीत असतांना विद्युत पूरवठा अंदाजे माहे ऑक्टोबर 2016 चे दरम्यान पासून दिलेला आहे. सबब, 490011113645 या ग्राहकावर भारतीय विद्युत कायदा 2003 मधील कलम 126 नुसार वाणिज्यक दर संकेता प्रमाणे बील देण्यास पात्र.
- 8) This particular Spot inspection report carry following deficiencies.
- A) Time of spot inspection is not written.
- B) There is no sign of consumer or his representative. No reference about consumers absence. No panchnama drawn in this respect.
- 9) Considering the above remarks, now it is proper to find out as to who is consumer bearing No. 490012427317 & in which premises the said meter is installed. For that purpose, spot inspection report (Page No. 25) dtd. 22.07.2017 is important. It is drawn in respect of consumer No. 490012427317 namely Shri Rohit Dayal Mewani, N-3, Plot No. 220/B, CIDCO, Aurangabad bearing meter No. 12663768. It was found that, "Meter outgoing cut". The remarks passed by Assistant Engineer in para 9 of the report are as follows :-

(Page No. 25) – Para -9 Remarks : “Load is diverted on consumer No. 490011113645, Meter Sr. No. M. S. 303830 make secure, MR 33836 convert this 490011113645 consumer R to C from October 16 under section 126”.

10) This particular report carry following deficiencies.

A) Not referred about time of visiting & spot inspection.

B) No sign of consumer or his representative or no panchnama about their absence.

11) The respondent though has come out with a case of change of use as contemplated under section 126 (6) (iv) of the IE Act, i.e. change of use from residential to commercial & accordingly calculated the bill, however from both the reports (Page No. 14 & 25) & also from the bill and CPL (Page No. 32 & 41) produced on record, it is seen that both electric meters pertains to Residential use as such commercial use propounded by Respondent is incorrect. However, it is seen that, the complainant has provided electric supply from meter of consumer No. 490011113645 to consumer No. 490012427317 (Rohit Mewani). Admittedly Rohit is son of complainant.

12) It is important to note that on the basis at Spot inspection report of referred above, the Respondent has issued first notice on dtd. 28.08.2017 (Page No. 13) to the complainant communicating breach of Section 126 of IE Act 2003 by him and therefore calculated provisional bill of Rs. 50,556.00 for the period October 2016 to January 2017 for 5280 units & called upon him to file his written objections within 30 days. The copy of postal receipt though is pasted on this letter showing that, it was sent through post, however, its acknowledgement is not forthcoming. Further second notice was sent by Respondent Engineer dtd. 04.12.2017 & its pasted postal receipt goes to show, that it was sent to consumer

on 06.12.2017. However, its acknowledgement is not forthcoming. By this notice it was further directed to file objection within 15 days otherwise final bill will be issued. In consequence the claim of Rs. 50,480.23 is demanded for final bill under section 126 of IE Act 2003 by the Respondent from the claimant, which is under challenge.

13) It is important to note that, the above noted fact goes to show that since the date of spot inspection till to date opportunity was not afforded to the consumer to place his objections & to explain his case. It amount to breach of natural justice, proper procedure laid down under section 126 of IE Act 2003 is not followed & no any order is passed. For these reason the jurisdiction of this Forum is not ousted, as such, we answer point No. 1 accordingly.

14) Be the fact as if any however, on examining the allegations of the Respondent about disputed bill, it is located from all the documents produced on record that, complainant consumer No. 490011115645 has provided electric supply from his meter to consumer No. 490012427317 i.e. Rohit his son, This particular fact is corroborated from the document of CPL of both the aforesaid consumer Nos. on going through the CPL of consumer No. 490012427317 (Page No. 40 to 43) It is seen that since October 2016 to April 2018, the power connection of Rohit was temporarily disconnected, hence consumption is shown 0. On the other hand consumption of energy of complainant's meter is found increased from September 2016 to May 2018 for purpose of elucidation, the consumption units by complaint are reproduced as elicited from CPL (Page No. 31 to 34).

Month	Units
May 2016	193
June 2016	203
July 2016	146
August 2016	192
September 2016	591
October 2016	396
November 2016	429
December 2016	289

15) Such increase in consumption went unexplained by the complainant. Further in the rejoinder (Page No. 16), the complainant has come out with a case that, “the address of consumer No. 490012427317 is Plot No. 220/B, N-3, CIDCO, Aurangabad. Simultaneously the address of consumer No. 490011113645 is also Plot No. 220/B, N-3, CIDCO, Aurangabad. It is further submitted that when both the connections were in the same house No. i.e. Plot No. 220/B, N-3, CIDCO, Aurangabad & the premises is also the same, therefore, it can’t be a case of section 126.” These submissions made by the complainant appears to be not correct for the reasons that the energy bill & CPL of complainant goes to show that his address is “H. No. 220, N-3, CIDCO, where as address of Rohit, as could be gathered from his CPL (Page No. 40) is N-3, Plot No. 220/B, CIDCO, Aurangabad may be the plots are adjacent. However, even if it is presumed that there is only one house in the plot 220 and 220/B, still, there can’t be two meter for residential purpose in the same house. It is not the case at complainant that Rohit is residing

separately. Under Rule 2.2.5, conditions of Supply based on the MERC (Electric supply) Regulation, 2005, which prescribes as follows,

2.2 Verification of documents.

2.2.5 MSEDCL shall not permit any Applicant / Consumer to have two or more independent power supply connections for an identical purpose in one common premise. In case the Applicant / Consumer intends to use the power supply in a common premise for two different purposes, like Domestic along with Non – Domestic or General Motive Power along with Non – Domestic, etc.; the Applicant / Consumer may separately apply for independent power supply for each of such purposes, which the MSEDCL may permit provided release of such two connections to one common premise for different purposes is found technically feasible.

16) Considering the rule, it is for the complainant to explain fairly about the state of affairs. However, complainant has not come with fairness in this respect & hence, above statement is not acceptable version.

17) Be the fact as it may, in the given state of affairs, it is found that the complainant has provided energy supply from this meter of consumer No. 490011113645 to his son Rohit consumer No. 490012427317 even though it was from same house, it s not permissible. Under Section 126 (6) explanation (v). Which speaks that, Section 126 (6)". "The assessment under this section shall be made at a rate equal to (twice) the tariff applicable for the relevant category of services specified in sub Section (5)". "Explanation - for the purposes of this

Section (b) Unauthorised use of electricity means the usage of electricity. (v) for the premises of areas other than those for which the supply of electricity was authorized".

18) So, considering the aforesaid Rule, prima facie, it appears that, unauthorized use under section 126 (6) (v) of IE Act 2003, occurred, however, the Respondent has failed to take action under that Rule & further has not followed procedure laid down under section 126 of IE Act 2003.

19) The total facts & circumstances goes to show that both parties have not come with fairness. Version of both of them is not found correct. So considering these state affairs, we do feel it just & proper to send the dispute for further enquiry to the committee, which shall consists of two members i.e. Addl. Executive Engineer & one employee from Accounts Section & on such enquiry & report of the committee, further action be initiated. Till that time, the disputed bill is set aside. Accordingly we answer points Nos. 2 & 3 and proceed to pass following order in reply to point No. 4.

ORDER

The application is hereby allowed subject to following terms :

- 1) The dispute is sent for further enquiry to committee consisting of Addl. Executive Engineer & one employee from Account Section, who are directed to make detail enquiry & as per their report, to initiate further action against the complainant. Such enquiry be completed within one month from the date of receipt of the order by the Respondent.

- 2) In the light of further enquiry, the disputed energy bill for amount of Rs 50,480/-, January 2018 together with interest charges of energy bill is set aside. In its place action proposed by the committee be substituted.
- 3) Parties to bear their own costs.
- 4) Compliance to be reported within 30 days from the date of receipt of the order

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member