



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax - 2210707, E-mail : cgrfkalyan@mahadiscom.in

NO. K/E/1307/1548 OF 2017-18

Date of registration : 14/03/2018

Date of order : 10/10/2018

Total days : 210

IN THE MATTER OF GRIEVANCE NO. K/E/1307/1548 OF 2017-18 OF M/S GOPAL KRISHAN FABRICS PVT.LTD., PLOT NO.C-9, MIDC, VADOL GAON, AMBERNATH, DIST – THANE, PIN CODE- 421 501 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.

M/s Gopal Krishan Fabrics Pvt.Ltd.,
Plot No.C-9, MIDC, Vadol gaon,
Ambernath, Dist – Thane,
Pin Code- 421 501.

(Consumer no. 021529021980)

... (Hereinafter referred as Consumer)

V/s.

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

... (Hereinafter referred as Licensee)

Appearance : For Licensee - 1) Shri.N.T.Kale, EE (Adm), Kalyan Circle-II
2) Shri. R.S. Shinde, Sr.Manger (F&A), KC-II
3) Smt.Kishori Talele, Dy.Law, KC-II

For Consumer - Shri.J.S.Rajput (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 Gopal Krishan Fabrics Pvt.Ltd. having Consumer no. 021529021980. Grievance is that Permanent Disconnection was made. But the security deposit of Rs. 5,67,000/- plus interest subsidy benefit of Rs.1,96,000/- was not paid along with interest. As per the SOP regulation the amount was to be paid within 30 days.

3) Consumer gave an application dated 06/07/2017 requesting to pay the said amount along with interest. Consumer prays for refund of the said amount along with interest plus SOP compensation from the salary of defaulting official.

4) MSEDCL in reply contends that *That, the consumer has filed the grievance for refund of Security Deposit amount of Rs.5,67,000/-*

5) *That, M/s Gopal Krishan Fabrics Pvt.Ltd., is power loom consumer and MSEDCL has given the benefit of power loom subsidy to the said consumer time to time after receipt of the subsidy from the State Government.*

6) *That, as per section 65 of Indian Electricity Act, 2003 which governs the provision relating to subsidy by the State Government stipulates as :- if the State Government requires the grant of any subsidy to any consumer or class of consumer in the tariff determined by the State Commission under section 62, the State Government shall notwithstanding which may be given under section 108 pay in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct as a condition for the Licensee or any other person concerned to implement the subsidy provided for by the State Government.*

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by the State Commission shall be applicable from the date of issue of orders by the commission in this regard.

7) *The wording of section 65 clearly indicates that, the State Government has to pay the subsidy amount in advance so that the Distribution Licensee is in position to pass on the benefit to all the eligible consumers.*

This section also mandates that, the directions of the State Government regarding giving subsidy shall be operative only if payment made as per mode laid down in section 65 of E.A.2003.

8) *That, there for the Distribution Licensee actually passes the benefit of subsidy to eligible consumers after receipt of the subsidy amount from State Government and accordingly also effect Credit/Debit adjustment in the bill of eligible consumer.*

9) *That, the subsidy amount of the said consumer is of Rs.742808.06 is not received from State Government and therefore appearing as arrears amount against the said consumer. As the consumer is permanently disconnected the account of the consumer is settled by adjusting Security Deposit amount against arrears amount.*

10) We have heard both sides. The entire issue narrows down to one question, whether the Government had paid the subsidy amount in respect of the consumer in this case. MSEDCL has produced correspondence documents indicating that in fact no such subsidy amount has been paid by the Government. Here the fact to be proved by the Distribution Licensee is a negative fact viz that Government has not paid the subsidy. To our mind the documents produced and statement of the Distribution Licensee are sufficient to shift the burden on the consumer to show that in fact the amount has been paid by Government to Distribution Licensee. The basic responsibility to pay the bills is of the Consumer. If consumer claims any grant from the Government and if Distribution Licensee contends that they have not received it from Government the burden shift to consumer to get proper documents from Government to contradict the contention of the Distribution Licensee. It is in this view of the matter Grievance fails.

11) The delay is due to the documents to be produced regarding non-payment of subsidy from government. As the matter related to head office of Licensee. Licensee asked more time to produce the record hence the delay.

Hence the order.

ORDER

Grievance is dismissed.

Dated :. 10/10/2018

(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.*

