

**CONSUMER GRIEVANCE REDRESSAL FORUM,
AMRAVATI ZONE, AKOLA.**

*“ Vidyut Bhavan”
Ratanlal Plots,
Akola : 444001
Tel No.2434476*

Dt.16/06/2014

Complaint NO.98 / 2014

In the matter of grievance of abnormal reading, refund of excess amount as well as compensation alongwith the cost and interest, etc.

Quorum :

Shri T.M.Mantri, Chairman
Shri P.B.Pawar, Secretary
Shri A.S.Gade, Member

Shri Satish Jaikisan Sikhchi, Akola.

..... Complainant

...vrs....

The Executive Engineer Urban Dn. Akola

..... Respondent

Appearances :

Complainant Representative : Shri D.M.Deshpande,

Respondent Representative : Shri P.R.Ghorude, Incharge Executive Engineer

1. The complainant has approached this forum alleging that in view of purchase of Flat from Shri Kamlesh P. Rathi, the complainant is consumer of N.A. from 4.12.2007. In any case being occupier of the said Flat the complainant is consumer as per the provisions. Reference has been made to Sale Deed in favour of the complainant.

2. It has been the case of the Complainant that firstly he has approached District Forum vide Complaint No.56/2013 wherein order has been passed on 11.4.2014 giving liberty to the complainant to approach CGRF, MSEDCL, Akola for redressal of grievance. Reference has been made to the copy of said order.

3. According to the complainant, till October 2012, regular payment of electricity bills have been made and average consumption was of 150 to 200 units. The bill of November and December 2012 were not received, upon approaching, the duplicate bill for Rs.32410/- of December 2012 came to be issued on 31.12.2012, which was exorbitant. The Complainant has alleged that in view of the endorsement made by the concerned Officer, the amount of Rs.4000/- has been paid by the complainant as per the provisional and revised bill.

4. It is alleged that upon the complaint of the Complainant, N.A. has replaced the defective meter on 17.1.2013 by charging Rs.150 as Testing Fees as per the advice dated 3.1.2013. Then allegation has been made about the contravention of Regulation 2005, so also not giving replacement report, final reading as well as condition of the meter in presence of the complainant. It is alleged that meter ought to have been tested by acucheck on spot, but it was not done. The meter was behaving abnormally due to non-availability of neutral and in that event circuit is completed through earth, resulting in abnormal behavior of the meter. No intimation about the meter testing was given to the Complainant earlier & it was not tested in his presence and it was not sealed in presence of the complainant. The complainant's request is that he should be billed by average consumption for October 2012 to January 2013. It has been further alleged, no report of meter was given to the complainant, on the contrary Bill for January and February 2013 were not received. The, electric connection was dis-connected illegally, without giving mandatory notice and the complainant approached for bill,

provisional bill for the amount of Rs.10,000/- was issued on 22.3.2013, which has been paid on 22.3.2013 itself. Even illegally Rs.50/- has been recovered by way of re-connection charges, hence the Complainant has sought the reliefs as prayed for, including that of interim relief. Alongwith the complaint, copies of documents came to be filed.

5. Even after receipt of notice, reply was not filed from the side of the N.A. in time, but later on it was filed stating that electric connection is in the name of Shri K.P.Rathi but the user is being done by the complainant. The connection for 1.50 KW is provided since 12.11.1994 to the said Flat. Through the Complaint has purchased the Flat and using electric supply but as per the Rules, he has not got transferred the said meter in his name. After receipt of the complainant for excessive bill for November and December 2012, the meter was replaced and during testing it was found that the said meter was fast by 0.83% which means it is within the approved limit. The maximum demand of 14 KV was noticed, thereby it is clear that without taking prior approval of additional load, there is consumption of higher load. In view thereof, the reading of consumption in the relevant period was correct and appropriate bills were issued, hence the complaint is liable to be dismissed, giving direction to the complainant to deposit the amount. Alongwith the reply, copies of the documents, CPL, Meter Testing Report, Meter Replacement report, Inspection Report etc. came to be filed.

6. Herd Shri D.M.Deshpande, Learned Representative for the complainant and Shri Gorude, Incharge Executive Engineer, Learned Representative for the N.A.

Admittedly the complainant is occupying the premises in question and is occupier apart from the fact that he has purchased the flat from Shri Kamlesh P. Rathi. As per the Provisions and Regulation "occupier" is also a consumer. Here it

is pertinent to note that the complainant earlier approached to wrong forum i.e. District Consumer Forum and the complaint was returned back for approaching to the proper forum. It is clear clear that interim order was passed. Upon filing of the complaint before this Forum, on being satisfied about *prima-facie* case interim order was passed.

7. As is clear from the record that there is no dispute in respect of the electric bills and promptly payment have been continuously made for sufficient long time. As per the averment made in the complaint, the bills for November and December 2012 were not received, requiring the complainant to approach the concerned officer who has issued the duplicate bill. Here it is further to be noted that in the complaint dated 31.12.2012, Annexure-A5, it has been specifically mentioned “मिटर लोड नसतांनाही फिरते, मिटर बदलवुन पाहिजे. ” so also the grievance was made about excessive bills. Admittedly the concerned officer has endorsed on the said disputed bill revising it for Rs.4000/- and immediately on the same day, amount has been deposited. The receipt of which is on record.

8. From the record it is further clear that Rs.150/- has been paid by the complainant towards the Meter Testing Charges, as admitted by the N.A. and the meter has been replaced on 17.1.13. The submission made by the complainant that without intimation and without giving copy of the Meter Replacement Report, so also without taking reading thereon in presence of the complainant have been controverted from the side of the N.A. Though the N.A. tried to defend correctness of the meter as well as its Testing Report by producing certain documents, however, it is pertinent to note that in hand-written report dated 31.3.2013 for the pulses of 200 and 400 % of error varies from +15.417% to +49.53%. There is a hand written note in the said report which reads as under:

टीप:- मिटरचे टर्मिनल बॉक्स तुटलेले आहे. मिटरच्या इनकमींग मध्ये स्पार्कींग होते”

Whereas the other Test Report filed by the N.A. on record dated 5.2.2013 clearly shows that the Testing was done by taking 50 pulse and percent of error shown 083% whereas in dial test the error percentage shown as 0.21%. So apparently there is variance in the reports of the N.A. itself. At this stage if one considers the readings shown in these reports of different dates with the endorsement in the CPL, it is clear that they are not in consonance with the entries in CPL. There is a great variance. The contents in CPL has to be given more weightage. In any case, when as per the above referred note in report dated 21.3.2013, terminal box of the meter was in broken condition. The Learned Representative of the complainant has submitted that apart from the broken condition of the box of the meter, there was a sparking also as mentioned therein. His submission that the burnt meter cannot be tested unless opened or given outside earthing, has not been disputed or controverted from the side of the N.A. It has been admitted position that no checking of the meter was carried out on the spot. As per the MERC (Electricity Supply Code and other Conditions of Supply) Regulation, 2005, Clause 14.4 it is clear that it is the responsibility of the Licensee to carry out periodical testing and maintenance of the meters. The Regulation also mentions about providing copy of meter testing report to the consumer within the prescribed time. The record clearly shows that there is a contravention of the provisions of the Regulation. The factual position appears about the abnormal behavior of meter after October 2012. As already observed above, in the complaint dated 13.12.2013, it was specifically mentioned by the Complainant that the meter is moving fast, even if there is no load. The fact that the meter terminal box was in broken condition and that there was a sparking in incoming, the N.A. could not justify or explain about 2 Test Reports which are brought on record. In any case the recitals of those reports are contradictory in itself so also with entries in the CPL.

9. The submission made on behalf of the complainant because of defect in the meter, as mentioned in the report there were direct earthing so the meter behaved abnormally, has not been disputed from the side of the N.A. The record further clearly shows that after replacement of the meter in question, the meter-readings are usual and near to the average consumption of the complainant. So upon considering the available documentary evidence coupled with the provisions under the Regulation, it is clear that there was defect in the earlier meter, resulting in excessive meter reading from November 2012 till February 2013, till replacement of the meter. From the Bill of Feb.2013, it is clear that there was addition of 781 units of the earlier meter, apart from the consumption of 158 unit of new meter, thereby the total reading shown as 935 units. As per the endorsement made by the authority concerned, the complainant has deposited Rs.10,000/- During the course of submission, it has been pointed out by the complainant that all subsequent monthly bills have been remitted by the complainant as per the endorsement made by the concerned authority. The record clearly shows that the bills of November and December were not issued to the complainant and upon demand made by him, the duplicate bill of December 2012 for 2156 units came to be issued as per Annexure A-4. The available material on record clearly shows about abnormal behavior of the meter during the disputed period from November 2012 till its replacement. Consequently, there appears to be substance in the grievance made by the complainant. Had the acuchecking of the meter on spot was carried out by the N.A. things would have been clear that time itself. Issue of exorbitant bills on account of fault in the meter, the complainant has been put to inconvenience and harassment . Immediately after change of the meter, record clearly shows that there is a normal average consumption of the complainant. So in view thereof it will be just and necessary to set aside the excessive bills of November 2012 to February 2013 and

in its place, N.A. to issue bill of average consumption of 250 units per month on the basis of 12 months' consumption prior to November 2012. Needless to say that the complainant has deposited Rs.14,000/- towards disputed bills and the excess amount if any needs to be adjusted in the forthcoming bills of the complainant.

10. That the Complainant's contention is that the connection was dis-connected and after making payment of Rs.50/- towards re-connection charges, it was reconnected. Though the complainant has claimed compensation, however, it could not justify the exact alleged period of disconnection but the amount of Rs.50/- has been recovered from him by way of reconnection charges, the same needs to be refunded, alongwith Rs.150/- for Meter Testing Charges as the meter itself was defective.

11. The complainant has also claimed costs of Rs.5000/- for expenses incurred in consultation & conveyance charges, typing etc. It is suffice to note that the complainant had initially approached the wrong forum i.e. District Consumer Forum and lateron approached the correct Forum. The expenses incurred by the complainant in pursuing the matter with the wrong forum cannot be justified hence complainant's claim for cost therof cannot be considered for the mistakes committed by the complainant. He cannot claim reliefs for the same. However, it will be just and proper to award reasonable cost of the present matter to the complainant with refund of reconnection charges and meter testing charges which needs to be recovered from the erring officer/staff of the N.A. in view of the lethargy /negligent attitude on their part and N.A. to act accordingly. This is in pursuance to the direction of the Supreme Court in the matter of M.K.Gupta versus

Lukhnow Development Authority. With such observations, the Forum proceeds to pass the following unanimous order:-

ORDER

1. The Complaint No.98 / 2014 is hereby partly allowed.
2. The incorrect Bills of November 2012 to February 2013 issued by the N.A. are hereby set aside and in its place N.A. to change on the basis of average consumption of monthly 250 units on the basis of last 12 months consumption prior to Nov.2012 and to adjust the remaining amount if any from Rs.14000/- which the complainant has paid, in the forthcoming bills of the complainant.
3. The N.A. to refund Rs.150/- recovered towards meter testing charges and Rs.50/- towards Reconnection charges paid by the complainant apart from payment of Rs.500 towards the costs of present litigation.
4. The N.A. to recover the amount, which it requires to pay to the Complainant in pursuance of this order, from the concerned staff /officer, because of whose negligent / lethargic attitude monetary liability has arisen against the N.A. as per the direction of the Hon. Supreme Court in the matter of M.K.Gupta versus Lukhnow Development Authority – 1994 (i) SSC Page – 294.
5. That the compliance report be submitted within a period of one month from the date of this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman

To
The Nodal Officer / Executive Engineer,
MSEDCL,
Urban Division,
Akola

For information & necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Amravati Zone, Akola.

Copy To:

Handover to Authorised consumer Representative Mr D.M Deshpande of Shri Satish Jaikisan Sikhchi, Akola.

Copy s.w.r.to:-

The Superintending Engineer, O & M Circle Office Akola.