

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

*“Vidyut Bhavan”,
Ratanlal Plots,
Akola: 444 001
Tel.No.2434476*

Dt- 07/11/2013

Complaint No.80/2013

**In the matter of grievance about arbitrary assessment from the electric bill,
revision therein so also for not disconnecting electric supply**

Quorum :

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

Shri Sant Gadge Baba Sahakari Soot Girni,Akola ... Complainant

...VS...

The Superintending Engineer, MSEDCL, Circle Office, Akola. ... Respondent

Appearances:

Complainant Representative: Shri D.M.Deshpande .

Respondent Representative : Shri M.S.Chitore,Executive Engineer, Rural Dn. Akola.

1. The complainant has sought reliefs in the form of setting aside alleged illegal and arbitrary assessment of Rs.28,55,510.26 for the period November,12 to July,2013 and sought revision in the said assessment for three months, as per supply code. The complainant has also sought relief of giving of three instalments after issuing of the revised bill and prayed that the electric connection be not disconnected till decision of the complaint. In substance the complainants case is that it is a HT consumer since 2008 connected on 11kv express feeder for industrial activity with HT-I C (tariff and it has paid the electric bills regularly up to June,13.

Reference has been made of bill of July 13 dt. 07/08/2013 (received on 12/8/13) showing current bill of Rs.10,47,574.40 and debit adjustment of Rs.28,55,510.26 totalling to Rs.38,49,950/-. It is alleged that on personal enquiry with Circle Office on 12/8/13 in respect of alleged arrears, letter dated 12/8/13 alongwith certain documents received. Copy of MRI is not given for the alleged period of Nov.12 to July,13 inspite requests. The complainant has deposited the said bill and paid the current bill of July,13 amounting to Rs.10,00000/- on 13/8/13 by RTGS.

2. Reference has been made to letter dt.19/8/13 to S.E. Akola and the said authority by letter dt. 20/8/13 asking the complainant to remain present for hearing on 21/8/13. During hearing inspite bringing to the notice the provision of supply code with regulations, demand made for MRI copy with test report so also for revision in the assessment but to no effect. Reference has been made to the order of S.E. and being aggrieved thereby, approached to this Forum for Redressal of grievance.

3. The complainant has also averred that copy of job sheet or work order was not given before inspection and nothing adverse was found during inspection except remarks “ B phase of CT secondary wire at CT secondary terminal found disconnected and same is connected”. It is alleged that during testing voltage and current harmonics found with permissible limit.

4. It is alleged that though alleged computation of assessment was not given to the complainant but from the assessment it can be gathered that the meter has recorded 66.6% from Nov.12 and as per N.A.licensee the meter was slow by 33.3%. It is alleged that basis for addition of 33.3% has not been given to the complainant, so also copy of MRI. By referring to provisions of supply regulations it is alleged that

in such case assessment can be done only for three months prior to the month in which dispute arises. It is alleged that automatic meter reading instrument programming was done on 29/9/12 but the copy of online data retrieved from 27/11/12 has not been given to the complainant. Directly debiting the alleged amount to CPL is contrary to the provisions of supply code and liable to be set aside. According to the complainant revised assessment for three months with meter/CT testing report will be acceptable by the complainant and for Redressal of the grievance the complaint is required to be filed. Copies of bunch of documents came to be filed with complaint.

6 Notice as per regulations issued to the N.A. for submitting its reply to the complaint. On behalf of the N.A., application for time for submitting reply was filed which was granted. Then reply came to be filed to the complainant. The complainant has filed re-joinder to the grievance in respect of making of payment of current bill of August,13 so also referred to order passed by Electricity Ombudsman, Mumbai in representation No.100/2010 alongwith order of Supreme Court in the matter of Lucknow Development Authority...versus.... Shri M.K.Gupta and sought the reliefs. Copy of which was also supplied to the N.A.

7 The N.A. opposed the complaint by filing reply stating that it is a government company and public utility service. As far as averments made in the complaint are alleged not to be true, hence denied including that of arbitrary and illegal debiting of arrears to CPL. It is stated that the fact was well explained to the consumers representative Mr.Subhash Fate, during inspection.

8 It is stated that "B-phase current was showing zero because of problem in B phase secondary wire at CT terminal being disconnected. That conclusion was drawn

after testing of meter by Testing Division on 17/7/13 in presence of complainant's representative Mr.Subhash Fate. The disconnection of wire were at CT secondary terminal was concluded from MRI reports called as snap shots. Such status was found from 27/11/12 at 06.46.40 hrs and it was restored while testing of meter on 17/7/13.

9 It is stated that the MRI data as taken of the meter clearly shows zero current in B-phase continuously from 27/11/12 and it did not record the consumption till restoration on 17/7/13. It is stated that in view of absence of one phase current the meter records 33.33% less. Reference has been made to difference of reading in consumers meter and check meter during the period 12/4/13 to 31/7/13 which is available with the N.A. and it clearly shows difference of reading up to 33.33%. It is stated that the consumers grievance is baseless, misleading. The provisions of regulations 15.4 of Supply Code is not at all applicable.

10 As the meter was defective and recording 33.33% less for the reasons mentioned, the complainant cannot escape from the liability of payment of consumed electricity. Though the complainant has consumed 100% electricity but had recorded only 66.66%. According to the N.A. 15.4(i) of Supply Code is applicable in broad sense "when the period is un-certain". However, in the present matter according the N.A., the period is certain and has been clearly quoted from MRI data. The bill issued to the complainant was legal and as per rules, but only the avoid payment thereof, false and baseless complaint has been filed . The complainant has deposited Rs.10/-lakhs on its own and payment is not admissible to the N.A.. Lastly prays for rejection of the complaint. Copies of certain documents came to be filed with reply.

11 When the matter was posted for hearing the complainant has filed additional say with documents and re-iterated the averments. Copy of which is also given to the other side.

Heard Mr.D.M.Deshpande, the learned representative for the complainant and Shri N.S.Chitore, E.E.(Rural) the learned representative of N.A.licensee, at length.

12 The learned representatives of parties have referred to the documents filed on record, so also the provisions referred to and relied upon, respectively by them. Upon giving considerable thought to the rival contentions alongwith provisions under regulations, this Forum is passing this order relating to the controversies in question. Admittedly the complainant being HT consumer, as per norms/settled provisions, meter reading of such consumers is to be taken by responsible officer like SDO (AE or otherwise), so it is clear that the responsibility of taking reading in case of such consumers is casted on responsible officer. Admittedly the complainant is consumer since about 2008 and till the dispute in question, there was no grievance and the complainant has made payments of the electricity bills of consumed electricity. In the impugned bill apart from current charges assessment of Rs. 28,55,500.26 has been made, thereby total bill amount is shown as Rs.38,49,950/-. The complainants averments in the complaint as well as during course of arguments that except issuing bill in question, nothing was explained and no documents sent alongwith it, have not been seriously disputed from the side of N.A. Some of the documents in question were issued to the complainant after persuasion from its side. From the record as well as submissions made, it is clear that according to the N.A.licensee B-phase of CT secondary wire at terminal found

to be disconnected, therefore, there was less reading shown in the meter, but actually the consumption was more.

13 It is pertinent to note that though the complainant has demanded MRI reports of the relevant period, orally, as well as in writing, the same has not been supplied. It seems that in the impugned bill there was addition of 33% for the period Nov.12 to March,13. However no details thereof have been furnished to the complainant. The record clearly shows that apart from oral persuasion/demand from complainant's side, even there was letter correspondence in that respect. According to the complainant some documents came to be issued after making correspondence. From the side of N.A. certain documents came to be filed however complainants demand and insistence for MRI copy/data has not been produced on record for the reasons best known to the concerned office of the N.A. Here it is to be noted that from the meter reading forms (MR9) filed on record from Nov.12 till July,13 it is clear from the said form that as far as two phases current reading have been recorded whereas for B-phase reading the entries are made in the range of 0.00 to 0.009 which means there was no exact reading of the current in the said phase. Further it is to be noted that in all such MR forms filed on record under "load data retrieved", "Yes" is mentioned. These forms have been signed by the concerned SDO and the submission is made that thereafter the competent authority including E.E. verified the same and on that basis the bill is prepared and issued to the consumer which is not disputed.

14 As already observed above the responsibility of taking reading in case of such consumer is on SDO ranked officer. From the documents and submissions it is clear that such competent officer (SDO or equal rank) was very well aware about position

of current in different phases and accordingly respective entries have been recorded and thereafter the said form has been signed. Not only this much it is also mentioned in all these forms that "load data retrieved". In view thereof there is substance in the submission made on behalf of the complainant that competent officer of the N.A.licensee had knowledge and if he had taken appropriate steps immediately at the time of first reading disclosing practically Zero current reading for one phase there could not have been chance for controversy. It is an admitted position that whatever bills have been issued to the complainant, prior to disputed one, the complainant has remitted the payment. In the bill of July,13 there is entry of debit of Rs.28,55,510.26 apart from the running energy bill of 10,47,000 and odd and according to the N.A. defense/stand and submissions it is for the period commencing from Nov. 12. The complainants version is that no details have been given alongwith the said bill of July,13. The complainants submission that after recording of meter reading entries by the competent officer, not only he signs it but also other officers sign it after checking it and verification up to E. E. is uncontraverted. The factum that since Nov.12 till July,13 one phase was showing practically zero reading and neither the competent officer taking meter reading nor other officers who are dealing with the work relating to preparation of bill, have any time raised any doubt/query etc. is very vital. As already observed above from the documents on record, the load data has been all through out retrieved. The demand made by the complainant for MRI data of the relevant period has not been fulfilled. On the contrary alongwith reply documents called as snap-shots has been produced on record. The learned representative of the N.A. could not give satisfactory/convincing answer for non production of MRI data. The complainant has asked for the same immediately after receipt of impugned bill by letter in

August,13 itself. The submission made by the learned representative of the complainant that even thereafter the retrieved data details could have been obtained from the records or from the manufacturing company of the meter, has not been contraverted from the side of N.A.licensee.

15 According to the complainant it is a case of billing in the event of defective meter though an attempt has been made to the dispute such contention from the side of the N.A. however the fact remains otherwise. In para-9 of reply itself, in the second sentence of the said para it has been categorically stated “Considering that the meter was defective and recording of 33.33% less due to ‘B’-phase CT secondary wire disconnected from the CT secondary terminal”. According to the defense of the N.A. as recording of 66.66% only was being done, hence the impugned bill with addition of remaining 33.33% of the relevant period has been made & issued.

16 During course of arguments the learned representative of the N.A. has fairly stated that the concerned SDO/competent officer must have noted/knowledge about the non recording of current in one phase. If the concerned officer/competent person had immediately pointed out this defect or could have made attempt to rectify such defect, the dispute in question could not have been arisen. The matter could have been corrected at initial stage itself however such contingency has been allowed for months together, with endorsement in meter reading form. The submissions made on behalf of the complainant that energy audit could have been done for the relevant period and in any case MRI data could have been availed for May and June, 2013 but that has also been not done. There is no convincing reply from the side of the N.A. to these submissions.

17 So apparently it can be said that there was lethargic attitude on the part of concerned officer in recording reading of the current. According to the complainant in such event, at the most the bill for maximum period of three months, on average basis of average metered consumption of 12 months could have been issued however the demand made is illegal arbitrary. This submission has been opposed from the side of the N.A. and according to it the complainant is required to pay all the consumed current. The complainant has referred to and relied upon Regulation 15.4.1 of MERC(Electricity Supply Code and other Conditions of supply) Regulations 2005. It deals with the contingency in case of defective meter. As already observed above even according to stand taken in defense reply, more particularly in para-9, as referred to above, even according to the N. A. the meter was defective and recording 33.33% less, Regulation 15.4.1 deals with such controversy.

18 Apart from that the complainant has referred to the order of Electricity Ombudsman in representation No.100 of 2010 wherein similar type of controversy was involved. In the said matter "R" phase was not showing the actual consumed current. The Hon.ble Electricity Ombudsman in view of such defect held that it is a case of defective meter and on the basis of Regulations 15.4.1 concluded that consumption recorded by the meter 33.33% less that too, have a maximum period of three months. There was no answer from the side of the N.A. in that behalf. So this forum finds substance in the submission of the complainant that on the similar analogy present case is also covered under billing on account of defective meter and as provided under Regulations 15.4.1 there can be adjustment for maximum period of three months prior to the month in which dispute has arisen. The said judgment of Hon.ble Ombudsman is very much helpful to the complainant. Considering such position this Forum is of the view that in view of above referred provisions of the

Regulations 2005 so also order of Hon.ble Electricity Ombudsman in reference No.100/2010, the bill of July 13 as prepared and sent to the complainant needs to be set aside. It is also necessary to give directions to the N.A. to issue bill in terms of Regulations, more particularly Regulations 15.4.1, for maximum period of three months as mentioned therein.

19 Upon considering the available material on record alongwith the provisions it is clear that it is a case of negligence/lethargic attitude on the part of concerned officer of the office of N.A. Had he acted diligently, the further mistake/latches could have been certainly avoided and the N.A.licensee would not have been put to loss and would not have been required to face litigation. The N.A.licensee is required to face not only litigation but also required to suffer monetarily. The Hon.ble Appex Court in the matter of Lucknow Development Authority versus M.K.Gupta has dealt with such type of event and passed order referring liability on the erring officer. Even the Hon.ble Electricity Ombudsman in representation No.55/2013 has observed in respect of taking appropriate action against the erring officer in recovering of monetary liability. Both these rulings are squarely applicable to the present case in hand. Consequently this Forum make observations that the N.A. to take appropriate action against the erring officials, in the light of observations of the Hon.ble Supreme Court as referred to above.

20. Though the complainant has claimed cost of the proceeding but could not justify the basis therefor. Here it is to be noted that the complainant has not been put to any loss, so upon considering the factual aspects and provisions of regulations, this Forum proceeds to pass following unanimous order.

ORDER

- 1) That complaint No. 80/2013 is hereby partly allowed that the N.A.licensee is directed to set aside impugned bill of July13 and further directed to issue revised bill in terms of the order as per Regulation 15.4.1 of MERC (Electricity Supply Code & Other Conditions of Supply) Regulations 2005 for a period of three months prior to the month in which dispute has arisen and the complainant to deposit the amount of such revised bill immediately upon receipt of the same.
- 2) In peculiar facts and circumstances parties to bear their own costs.
- 3) That the N.A.licensee to take appropriate action against erring officials in the light of observations of Hon.ble Supreme Court of India in the matter of Lucknow Development Authority versus M.K.Gupta reported in 1994 S.C.C.(i) Pages 243.
- 4) That compliance report to be submitted within a period of one month.

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(A.S.Gade)
Member

Sd/-
(T.M.Mantri)
Chairman