

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

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

Dt- 04/03/2014

Complaint No.112/2013

In the matter of grievance about the provisional bill dated 10/9/2013

Quorum :

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

Future Generli India Life Insurance Co.Ltd.Amravati. Complainant

...vrs....

The Executive Engineer (Urban) Dn. Amravati. Respondent

Appearances :

Complainant Representative : Shri Nitin Kamat.

Respondent Representative : Shri J.P.Bhagat, Dy. Executive Engineer.

1. That the complainant has approached this Forum in respect of grievance about the bill dated 10.9.2013, alleged to be provisional bill. The complainant's case in brief is that it has 70 kw Electric Connection and has been regularly paying the bills as per the consumption. It is alleged that on 13.8.2013 Spot Inspection was conducted by the Dy. Executive Engineer Mr Bhagat, Amravati and without giving opportunity to the complainant, he has concluded that Multipling Factor of the connection as Factor-2 (two) instead of 1 (one). On the basis of the Inspection of the Jr.Engineer, the

Licensee has raised the Provisional Bill for Rs.14,38,490/- with due date of payment as 10.9.2013. Being aggrieved by the Provisional Bill, the Consumer has approached ICRG vide letter dated 10.9.2013.

2. According to the Complainant, even under the provision of Section-56(2) of Electricity Act, 2003, the Licensee does not have any legal authority to recover any amount which exceeds two years from the date which alleged to have fallen due. The complainant alleged that though the opportunity of hearing was given by the IGRC, it has passed order which was received by the complainant, copy of which is annexed. It is alleged that the said order is illegal, inappropriate and against the provisions of law, compelling the complainant to approach this Forum and prayed the of reliefs be given to the Complainant as amount which is alleged to have fallen due for the period of more than 2 years, cannot be claimed by the Licensee, so also the other relief has been claimed and alleged that the Complainant in any case is liable to pay on the basis of Multiplying factor of 2, prospectively.

3. As per the regulations, notice was issued to NA for submitting its para-wise reply to Complaint. The reply came to be filed, belatedly, on 20.1.2014, stating therein about the Joint Inspection on 7.8.2013 and what has been found, it has been mentioned that instead of Multiplying Factor-2, it was MF-1 only, on the record. The Joint Inspection was carried out on 13.8.2013 alongwith Shri Ujwal Jogi of the Complainant, the details of which has been annexed. In view thereof it was confirmed that recorded consumption was applied with 50% from the date of supply and this was brought to the notice of Mr Ujwal Jogi that time and it was acknowledged by him. Accordingly, the provisional assessment bill for actual 50% consumption from the date of connection till July 2013 was issued on 26.8.2013 to be payable till 10.9.2013 for Rs.14,48,490/- The provisional

assessment bill was for the actually recorded consumption considering the earlier Energy Bills. The order of IGRC Amravati as well as the order of MERC, in respect of Kolhapur Zone is enclosed for reference.

4. The matter was kept for arguments and heard Mr Nitin Kamat, Learned Representative of the Complainant and Shri J.P.Bhagat, Dy.E.E., Learned Representative of N.A. Certain factual positions are clear from the record. That the Complainant is consumer of the N.A. since 2008 with 70 kw connection. It is also admitted position that on 13.8.2013 the Spot was inspected and the copy of the Spot Inspection Report is placed on record, which bears the signature of the concerned Officers of the Licensee as well as Mr. Ujwal Jogi on behalf of the complainant. In the said Spot Inspection Report the details of appliances and apparatus available in the premises of the Complainant was also shown and it is mentioned that "During the Spot Inspection it is found that Multiplying Factor of this C.T. Meter on billing shows one and actually, connected Multiplying Factor found 2. This means Consumer got half/billed unit from the date of Connection." As mentioned above the Complainant's representative Mr. Jogi has signed the same. In the said Spot Inspection Report, how MF-2 has been taken, is mentioned. From the side of the Complainant it is not disputed that the bills of MF-1 have been received throughout and the Complainant has deposited the amount of bills received from time to time and there is no dispute on this count. According to the N.A. because of the mistake instead of MF-2, MF-1 has been mentioned resulting in only 50% charge of the Bills. This mistake according to the N.A. has been brought to the notice at the time of Joint Spot Inspection on 13.8.2013. When the said mistake has been corrected, applying the correct Multiplying Factor-2, it has resulted in issuing of the bill in question.

5. As far as the Complainant is concerned, it has been tried to submit that the payment of the bills has been made as and when received. In any case, if there is any mistake, the MF-2 should be made applicable prospectively from the date of Inspection. It has been further submitted that it is not the case as per the provisions of Section-56 of Electricity Act, 2003 as the dues which exceeds two years. No amount which is alleged to have been fallen due for the period of two years can be claimed by the Licensee, reference has been made of the orders of IGRC Kalyan. Whereas while Opposing the submissions of the complainant the Learned Representative of NA as relied upon the judgement of Hon.Bombay High Court in the matter of U.A.Thadani –vrs-BEST, reported in 2000(3)Bombay Civil Report Page 79. The Learned Representative of the Complainant has referred the order in Writ PetitionNo.10764/2011 However when queried, replied that it is not known wheather the matter has been decided after reference to large bench. Inspite granting time to make further submission, if any, in that regard, till date nothing has been brought on record. So the said order is of no help to the complainant. Upon giving considerable thought to the submissions of the parties, so also upon considering available material alongwith the judgments referred to above, this Forum is passing the order:

6. As far as the applicability of MF-2, the same is not in dispute so admittedly the earlier bills to the Complainant have been issued by applying MF-1 which means the bills of 50% of actual billing came to be issued. No doubt the Complainant has remitted the payment of bills regularly. So one thing is clear that because of the mistake / negligence on the part of the concerned Officer / staff of N.A. the wrong Multiplying Factor has been applied. It is further to be noted this has been continued for sufficient long

time. Had it been rectified earlier, it could have avoided litigation and sufferance to the complainant but the fact remains that the complainant was and is liable for billing by applying MF-2. By wrong application of MF-1, the Complainant has been issued bills of lesser amount. The complainant's submission was that the issue of Provisional bills on the basis of MF-2 is not correct and it has been tried to submit that this MF-2 be made applicable prospectively from the date of Inspection and no arrears be claimed from the complainant. The second line of argument was that as per the Section 56(2) of Electricity Act, the Licensee cannot claim the amount which is alleged to be due for the more than 2 years. The Learned Representative of the complainant has submitted that the Company is ready to pay two years arrears due on that basis. Reference has been made to order of Kalyan Zone. Suffice to say that the said order is not at all helpful to the complainant. Firstly, it is pertinent to note that proper working of the Meter as it was then recorded. The controversy therein is altogether different. Hon. Bombay High Court in the matter of U.A.Thadani – vrs- BEST, referred to above has dealt with similar type of grievance of bills of applying wrong M.F. The facts therein shows that it was also the case of applicability of wrong MF. The Petitioner therein (U.A.Thadani) has challenged the issuing of supplementary bills for difference of amount of bills issued by applying of Correct MF. The Hon. High Court has dismissed the Writ Petition of the Petitioner and upheld that by wrong applicability of MF the bills have been issued and the said grievance of the petitioner in that respect was not upheld. On the basis of the facts, Hon. High Court found that there was no bonafide dispute of the Petitioner. The order of CGRF Kolhapur also clearly shows that it was pertaining to the applicability of the wrong MF. This also supported the stand of the N.A Licensee.

7. From the above reasoning, it is clear that the Complainant has failed to point out as to how Section-56(2) of Electricity Act is applicable. In fact, it is the case of applicability of wrong MF and as laid down by the Hon. Bombay High Court, the Licensee is entitle for electricity dues on that basis. In view thereof the submission made on behalf of the complainant for making applicable prospectively or in any case readiness to pay arrears of 2 years payments cannot be accepted. At the most it can be said that because of the human errors on the part of concerned officer / staff of N..A Licensee, wrong MF was made applicable. This forum think it will be just and proper that the N.A. Licensee to take proper steps against such erring Officer / staff as per the Service Regulations so that in future no such mistake is committed.

8. As far as the complaint is concerned, the provisional bill issued by applying MF-2 being correct, the Complainant is liable to pay the same. Considering the facts of the matter and the Complainant had been regularly paid the bills, this Forum thinks it is proper to grant some reasonable installments for payment of dues under the provisional bill and the NA to grant 4 installments to the complainant for payment of the said bills. As already observed the Complainant has no grievance for the consumption of the Units and future bills. In the circumstances this Forum proceeds to pass unanimous orders:

ORDER

1. The Complaint No.112/2013 is hereby disposed of with the observations that the NA to grant 4 equal installments to the complainant for making payment of the provisional bill dated 26.8.2013, in question.

2. The N.A. licensee to take action against the erring Officer/staff of the concerned office of the N.A. for their mistake and for committing errors in calculating and continued wrong multiplying factor in the bills of the Complainant, for sufficient long period.
3. In the circumstances the parties to bear their own costs.
4. The compliance report be submitted within the 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