

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

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

Dt- 16/09/2013

Complaint No.69/2013

**Grievance in respect of excessive bill so also in respect of notice of
disconnection with other reliefs**

Quorum :

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

M/s Poshak Agrivets, Amravati (Con.No.364339004790) ... Complainant

...VS...

The Superintending Engineer, O&M Circle, Amravati ... Respondent

Appearances:

Complainant Representative: Mr. Ashish S. Chandrana

Respondent Representative : Shri S.P. Upadhye, Asstt. Law Officer &
Shri Shrirao Assisstant Engineer.

1 The complainant has approached this forum alleging that after receipt of the incorrect bill for Rs. 4,69,290/- of June,2013, representation was made for issuing correct bill, however without giving any reply, notice of disconnection has been slapped u/s 56(A) of the Electricity Act,2003. It is alleged that when query was made with regard to the adjustment of units shown as 61,644, the concerned Asstt. Engineer provided documents Annexure A-2 with the grievance which indicates that on R phase C.T. of meter was faulty from January, 2013 to June, 2013. Hence the assessment for six months period of units 61644 is reflected. Having not been satisfied with the said assessment on account of faulty C.T., even then the N.A. licensee is not

legally entitled to raise the bill for more than 3 months period by referring to the regulation 15.4 of Supply Code, 2005.

2 It is alleged that by letter dated 22/7/2013 the complainant disputed the said adjustment praying for issuing correct bill. Instead of making compliance or giving reply, notice of disconnection u/s 56(1) has been issued as referred to in the Annexure-4 with the complaint. The complainant then alleged that even the said notice is illegal by reproducing the section 56 of the Act.

3. It is further alleged that under protest, through RTGS an amount of Rs. 2,15,000/- has been deposited on 1/8/2013, though the N.A. has not issued such bill. Therefore also the said notice has no substance and need to be set aside.

4. The complainant has also requested for setting aside the bill in question seeking direction to issue correct bill. The complainant has also claimed costs with other reliefs. Along with the complaint, copies of certain documents came to be filed.

5. After receipt of notice as per the regulation, reply came to be filed on behalf of the N.A. stating that the contents in the complaint are not true, hence denied. It has justified the bill issued to the complainant stating that, it has a proven technical base and is as per rule. The fact was well explained to the consumer complainant during replacement of meter. The bill is just difference of the amount which is supposed to be billed than what was billed. 1/3rd units of the total consumption are assessed from 3/12/2012 to 17/6/2013 with consumption recorded in old meter plus new meter consumption from 17/6/2013 to 30/6/2013 totaling to 70316 units. All necessary documents were provided to the complainant, but instead of

making payment of the bill, a letter was sent just to avoid the payment, hence legal notice was issued.

6. It is stated that because of problem developed in R phase Circuit in the meter which was showing Zero current in the said phase after testing of the meter by the testing division on 17/6/2013, in presence of the representative of the consumer, this calculation was wrong. It is stated that MRI data taken from the said meter clearly shows the date of occurrence of the zero current in the R phase continuously absent from 2/12/2012 at 10.17. Therefore the meter did not record the consumption of R phase till 17/6/2013, the date of replacement. It is further stated that as per the well accepted technical base, in case of absence of any one phase current, there will be recording of 33% less consumption in the meter.

7. It is stated that the regulation 15.4 of the supply code 2005 is not at all applicable in this case. The said regulation deals with defective meter and not faulty meter. The complainant's case has no ground and hence it is liable to be dismissed. Reference has been made to particular provision under those regulations stating that, in broad sense the said provision is applicable when the period is uncertain. The N.A. licensee with a view to provide prompt and accurate services to the consumer, installed highly precise and long term data storing memory meter, to high tension consumers. Here in the present case it is possible to obtain exact period of assessment from the data downloaded through the meter reading instrument. The meter is neither defective nor stopped recording of the consumption of electricity. Therefore section 15.4 of the regulation is not applicable. Reference has been made to the definition under Electricity Rules 1956 and MERC Regulations 2005 in respect of meter alongwith its interpretation. In the present case, it is stated that the meter is

not defective but fault has arisen due to non-recording of current by R phase. The N.A. has then given the description of the components of the meter so also made reference of Section 55 of the Electricity Act alongwith the provisions for Central Electricity Authority (Installation and operation of meters) 2006. It is stated that in the past, the complainant had no grievance about the correctness of the meter since its installation. Therefore it cannot be said to be defective hence the reliance of the complainant on regulation is not applicable.

8. The N.A. has referred to definition of defects under Consumer Protection Act, 1986 and stated that the complainant's case is not of defective meter but because of its fault due to failure of C.T. Reference has been made to the order in representation No.100 of 2010 with further averments that in the present case the recording of meter was not stopped but it recorded 1/3rd i.e. 33.3% less on which basis 100% can be calculated. Reference has been made to Manual of Central Board of Irrigation and Power publication NO. 221, a copy of which has been annexed. It is stated that the said manual has given details of metering connection and test results, in different contingencies. It is stated that in case of R phase in fact the C.T. terminal meter showing no current, even then the total consumption can be calculated, hence it cannot be said that the meter had stopped recording. It is stated that the complainant is litigating minded and inspite of providing information earlier to him, has sent a letter only to raise dispute under the regulation. Neither fine, D.P.C. nor any interest has been charged to the consumer complainant. On the contrary the complainant has got the benefit of making payment at later date. It has justified the notice issued stating that the last date of making payment of the bill was 22/7/2013 and only to avoid the disconnection for non-payment the

complainant has written letter dated 22/7/2013 seeking the information which was already provided.

9. It is stated that the complainant has deposited Rs. 2,15,000 on its own but has made misleading averments. The bill was for Rs. 4,69,290 and as it was paid partly, that too, belated. In fact, it ought to have paid fully before the due date. In fact the complainant had approached this Hon. Forum only to delay the payment and to reap the huge benefit of electricity consumption and lastly pressed for rejection of the complainant. Copies of bunch of documents came to be filed alongwith the reply.

10. Consequently, additional reply came to be filed from the side of the N.A. quoting the provisions of Section 3 of Central Electricity Authority Regulation, 2006 and the regulations.

11. The matter was then posted for arguments. Heard Shri Ashish Chandarana, learned representative for the complainant and Shri Upadhye, Asst. Law Officer, learned representative for N.A. alongwith Asstt. Engineer Shrirao.

12. During the course of arguments the learned representative of parties have referred to the documents on record as well as the provisions referred to relied upon respectively by them. Admittedly, the complainant is HT consumer and the meter reading of such consumers is to be taken by the responsible officer like Assistant Engineer and not below ranked official. Admittedly, the complainant is consumer since 2008 and prior to the matter in hand, there was never any dispute. In the bill of June-13, adjustment of alleged units of 61644 has been included resulting in high amount in the bill. The complainant has disputed the same. Here, it is, pertinent to note that after the flying squad

visit, the meter was replaced on 18/6/2013. The complainant's version that the meter testing report was not furnished to him, has remained uncontroverted. No doubt, the details of the parameters, of the new meter and that of old meter, have been placed on record and given to the complainant. As per the N.A. the problem was developed in R-phase circuit in the meter which was showing zero current in the said phase. Hence there was no proper billing, but it was for the less unit for about a period of six months from December, 2012 to June, 2013. According to the N.A., it is not a case of defective meter but the case of faulty meter, hence the complainant cannot take aid of Regulation 15.4.1, as tried to be claimed. Reference has been made to the definition of meter so also the definition of "Defect" under the Consumer Protection Act, 1986, Section 2(1) (f). The learned representative of the N.A. has tried to submit that, it is a case of faulty meter due to failure of CT, hence it cannot be said to be the case of defective meter. In support of his submission the learned representative has tried to give example of TV stating that, if it is not working properly after purchasing, it can falls under the category of defective, but if it is not working properly after the warranty period due to fault because of use or wear and tear of the parts, then it is a case of faulty TV and not case of defective. Suffice to say that, the said example given by the learned representative is of no importance and relevance. As against this, the learned representative of the complainant has relied upon the definition of "defective" under Oxford dictionary and submitted that according to the same, it includes "imperfect or faulty". As already observed above the complainant is consumer since 2008 and the record clearly shows that defect/fault/imperfection occurred after lapse of sufficient time, say after about four years.

13. According to the N.A. R-Phase of the meter was showing zero current, during the alleged period, which resulted in showing of less consumption of units. Here, it is pertinent to note that, as already observed above, the meter reading in such case is required to be taken by the competent officer of the rank not below Asst. Engineer. The record clearly shows that as per the N.A. the R-phase was showing zero current since 2 December, 2012 till the replacement of meter, so, practically, for morethan a period of six months. Admittedly, bills have been issued to the complainant on the basis of meter readings recorded by the competent officer and they have been paid by the complainant undisputedly.

14. On behalf of the N.A. the meter reading form for December, 2012 till May, 2013 have been filed on record. It is pertinent to note that on the basis of meter reading taken by the competent officer, the entries are recorded, the said officer signs it, so also other officers after checking and verification, including the concerned Executive Engineer. If one goes through one such said form of February, 2013, there is endorsement alleged to have been made by the concerned A.E. "There is no load of 1 PH. Hence the current is zero. As per the A.E. AMT (R)". So also there are hand written remarks at the bottom, above the signature of A.E. During the course of arguments this has been admitted that the said remark is totally wrong vis-à-vis the entries filled in the said proforma. In reply of the N.A., in Para No.10, there is specific averment that the complainant is trying to take the benefit due to the negligence of employee of the respondent. Even, during the course of arguments the learned representative of the N.A. has submitted that because of negligence of the officials of the N.A. the complainant cannot take advantage. As already observed above, monthly bills were and are being issued to the complainant

and from December, 2012 till June, 2013 also the bills have been issued. If, according to N.A., there was negligence / latches on the part of its officer, it can be for a month and not for months together, and as already observed above, other officers are also required to sign the same. Not detecting such mistake/negligence for months together clearly spell out the manner in which the working is being done. Considering the over all position, this forum is not at all impressed with the submission made on behalf of the N.A. that it is not the case of billing in the event of defective meter. Even, according to the N.A. the meter became faulty because of failure of C.T. The N.A. itself has referred to the definition of Meter in Indian Electricity Rules and MERC Regulation, 2005 by which the meter means "A set of integrating instrument used to measure the amount of Electrical energy supplied."----- etc. During the course of arguments, it has been admitted that the C.T. is also a part of meter for recording the energy supplied and consumed. The reference of manual of consumer metering by the N.A. under Annexure R-4 clarify this position also.

15. Here it will be just and proper to refer to the order of Electricity Ombudsman in the representation NO. 100/2010. The said matter also deals with the similar type of controversy. Also, the facts of the said case also refers that R-phase PT was missing for considerable number of days, resulting in substantial drop in consumption of units. There was contention on the part of the licensee therein that it was found that the meter was 52.33% slow. In the said order the Hon. Ombudsman has considered the rival contention and on the basis of the facts emerging therein, has arrived at the conclusion that there was nothing to show that the said meter was slow, as alleged. However, because of defects in recording of R-phase it was held that, it is a case of defective meter and relying upon the provisions under the Regulation 15.4.1

has concluded that consumption recorded by the meter 33.33 % less, that too, for a maximum period of 3 months. In the said order the Electricity Ombudsman has explained the fact of failure of recording of R-phase and has given directions accordingly. This forum finds substance in the submissions made on behalf of the complainant that, on the same analogy, this case also covers under the billing in the event of defective meters i.e. Regulation 15.4 and as provided under regulation 15.4.1. Here can be adjustment for maximum period of 3 months, prior to the month in which the dispute has arisen. Consequently, the billing can be upto a maximum period of 3 months based on the average metered consumption for 12 months immediately preceding the 3 months prior to billing contemplated i.e. for June-2013. The said judgment of Electricity Ombudsman was also dealing with defect in recording of electricity consumption loss on account of problem in R phase i.e. one phase out of three and arrived at the conclusion of 33.33% less recording by referring to relevant data. The said judgment is helpful to the complainant. Here in the present case no cogent material has been brought on record to substantiate the submission of the N.A. This forum, in view of the provisions under the Regulations coupled with the order of Electricity Ombudsman in reference No. 100/2010, has to held that the impugned bill issued to the complainant for June-2013 needs to be set aside with the directions to the N.A. to issue the same in terms of the Regulation, more particularly, 15.4.1, for a maximum period of 3 months, as observed above. Needless to say, that the notice of disconnection, issued on the basis of the said bill is also required to be set aside. Even otherwise the same was not as per the rules. As per Ld. Representative of the N.A. the complainant ought to have deposited entire amount of Bill and there is no provision for making part payment under protest. This submission is not correct as per the rules.

16. As already observed above, even according to the reply of the N.A. as well as the submission made during the course of arguments, there was negligence on the part of the concerned employee/officer of the N.A. Had the concerned employee/officer been diligent and pointed out the mistake in recording of the consumption of the units in December-2012 or at the most January-2013, this eventuality could have been avoided and the N.A. licensee would not have been put to loss, and it would not have been required to face the litigation. But because of negligence / laches on their part, it required to suffer monetarily, as well as required to face the litigation. As laid down by the Hon. Apex Court in the matter of Lucknow Development Authority Vs. M.K.Gupta, which has been referred to by the Hon. Electricity Ombudsman in the order of representation No.55/2013 in respect of taking appropriate action against the erring officials in recovery of monetary liability being imposed upon the N.A. licensee. The said ruling is squarely applicable in this case also. The N.A. licensee to take appropriate action against the erring officials in the light of observations of the Hon. Apex Court. The complainants claim for costs needs to be answered in the negative as it has not been put to any loss. With such observations this forum proceeds to pass the following unanimous order:

ORDER

- 1) That complaint NO. 69/2013 is hereby partly allowed.

- 2) That the N.A. licensee directed to set aside the impugned bill in question of June-2013 and in its place issue the revised bill in terms of the order as per the regulation 15.4.1. Maharashtra State Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply) Regulation, 2005, for period of three months, immediately and the

complainant to deposit the amount under such revised bill, immediately within a week of receipt there of.

- 3) That the N.A. licensee to take appropriate action against the erring officials in the light of observations of Hon. Supreme Court in the matter of Lucknow Development Authority Vs. M.K.Gupta, reported in 1994 Sec (1) 243.
- 4) In the circumstances the parties to bear their own cost.
- 5) That the compliance report to be submitted within a period of one month.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman