

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD

Case No. CGRF/AZ/AUR/U/2006/ 01

Nitesh V.Janbandhu

**- The Consumer
Complainant.**

V/s

**MAHARASHTRA STATE ELECTRICITY
DISTRIBUTION COMPANY LTD. (MSEDCL)**

INTERIM ORDER

The consumer complainant Shri Nitesh V. Janbandhu has filed his grievance before the Forum on 7.2.06. The grievance is about inclusion of unnecessary excess units in the bill which resulted in excess amount of the bill . The copy of the grievance was forwarded to Nodal officer on 7.2.06 with request to send his response within 15 days and hearing in the matter was fixed on 24.2.06.

The Nodal officer and the consumer were present on the date of first hearing i.e. on 24.2.06. The Nodal officer filed his response dt.24.2.06 at the time of hearing i.e. on 24.2.06. The response did not answer all the points raised in the grievance by the consumer. In para 9 of the response the Nodal officer has stated “ **It is very clear that consumer tampered the seal of old meter and hence consumption not recorded correctly and hence assessment is charged to the consumer as per section 135 & 138 of the Energy Act 2003, that means it is the case of theft of energy and does not come in the jurisdiction of CGR Forum and is liable for rejection**”

Since all the points in the grievance were not answered by the Nodal officer in his response and contention of theft of energy etc. was made in response , the case was kept for hearing on the point of tenability of the grievance and case was adjourned to 1.3.06. In the hearing dt.24.2.06, copy of the response was directed to be given to the consumer for his reply to be filed on next date of hearing. The NO was also directed to file copies some document

especially copy of any communication /document / bill in which contention of theft of energy is communicated to consumer.

On 1.3.06 the consumer was present, however none was present on behalf of Distribution Licensee though the hearing was taken after waiting for Nodal officer for half an hour. The consumer filed his answer to the response of Nodal officer dt .24.2.06 .

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The Nodal officer did not file any of the documents directed to be filed at the time of hearing on 24.2.06. Similarly no copy of any communication /document / bill in which contention of theft of energy was communicated to consumer was, filed. A copy of the answer filed by the consumer was directed to be given to the Nodal officer for his remark/response ,if any, to be filed before the next date of hearing. Some additional documents were also directed to be filed by the Distribution Licensee and hearing in the matter was adjourned to 7.3.06. The Nodal officer, since was not present at the time of hearing on 1.3.06, a letter asking him to file the documents etc as directed in the hearing, was given to the Nodal officer on 2.3.06 and the same was served on the very same date.

On 7.3.06 after waiting for half an hour case was taken up for hearing. The consumer was present however no body was present on behalf of Distribution licensee. No response or reply was received from the Nodal officer on the answer given by the consumer on response dt. 24.2.06 by the Nodal officer. Similarly no copy of any document directed to be filed at the time of hearing on 24.2.06 & 1.3.06 was filed by the Nodal officer. Therefore the case is taken up for order on the point of tenability of the grievance before the Forum .

The Maharashtra Electricity Regulatory Commission (The Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003) excludes the jurisdiction of the Forum in respect of cases falling under section 126, 135 –139 and two other contingencies as mentioned in the regulation. The Nodal officer

irrespective of specific direction to file copy of any document / communication/bill in which theft of energy was communicated to the consumer did not file the same . However from the documents filed we observe that the old meter of the consumer was replaced on 16.2.05 by the concerned Jr.Engineer. The Jr.Engineer in his replacement report has mentioned following remarks.

“Meter No. mentioned in electricity bill is 9004395126 not tally with actual installed meter.

RCC building with connected load up to 2 Kw, the consumer has broken body seal. He may be charged 100 units /month with effect from last three bills.

New meter cost also be recovered from the consumer .energy bills in four installments”.

It is this meter replacement report which appears to be the cause of grievance.

The consumer in his grievance has stated that he has applied for electricity connection in Oct.2002 and connection was released in his favor in Nov.2002.and he received the first bill on 8.4.03. The bill and the subsequent bills disclosed meter number as 9004395126, however the meter that was installed in the premises of the consumer disclosed its number as 900224646. The consumer also applied to the concerned office about this, however no action was taken for correction of meter number. It is also contended by the consumer that on 16.2.05 the Jr.Engineer Shri Shaikh came to the premises of the consumer, in absence of the consumer, and told his mother & Minor brother that the meter is of street light and removed the old meter and installed a new meter bearing No. 9001009748. It is also contended that signature of his minor brother was taken on the report. The Nodal officer in his response has not stated anything about this contention of the consumer in

the grievance filed. The meter replacement report however confirms the contentions of the consumer that meter number as mentioned on the bill and actual meter number were different. As a matter of fact nothing has been stated or filed on behalf of Distribution licensee as to what necessitated replacement of the meter. Assuming the contention of Jr.Engineer as mentioned in the report about meter having been tampered with, to be true, the meter was not tested as required by the MERC (supply code & other conditions of supply) regulations 2005. The consumer requested for testing of his old meter but however his request was not accepted. At the time of hearing on 24.2.06, the Nodal officer on query, replied that no case of theft of energy has been filed with the police. The report of the JE to charge 100 units per month for first three bills appears to have been accepted and accordingly bill appears to have been raised to the consumer. As a matter of fact the JE in his report should have mentioned the electric appliances or equipments which are connected and thereafter should have arrived at the connected load of the consumer. The Jr.Engineer has done nothing of the sort and has arbitrarily recommended charging of 100 units for last three bills. If the meter was tampered by damaging or breaking meter seal the meter was required to be tested for extent of defectiveness or tampering as required by Rule 15.4.1 of the supply code and assessment was required to be carried out as per section 126 or section 135 of the Act depending on the circumstance of the case. The meter was not tested for extent of defectiveness due to tampering. No case of theft of energy has been filed against the consumer. The Nodal officer in his report has stated that the consumer is charged as per section 135 & 138 of the energy act. Section 135 deals with cases of theft of electricity and provides for the punishment therefor and section 138 deals with interference with meter and provides penalty therefor.

The penalty mentioned in section 135 & 138 are penalties consequent to conviction for the offence.. Part XV of the Electricity Act 2003 deals with establishment of special courts for

trying offences referred to in section 135 to 139 and needless to say the penalties provided for in section 135 & 138 are penalties which can be inflicted by the court . Here the concerned officers of the Distribution Licensee has assumed himself arbitrary powers and charged excess bills to the consumer. It is neither the case of Distribution licensee. that the consumer has agreed for compounding of the so called offence allegedly committed by the consumer. Therefore we are of the view that the action of the concerned officers of the Distribution licensee is highhanded ,arbitrary , and without any legal sanction therefor. Therefore we are inclined to reject the contention of the Nodal officer, that this is a case of theft of energy. Had the concerned officer filed a FIR with the police , undoubtedly our jurisdiction was barred. But without having recourse to the proper action , making contention of theft of electricity without any base can not be accepted. The Nodal officer barring first hearing of 24.2.06 has not cared to be present on subsequent hearings. Not only that he did not file copy of any document /documents directed to be filed at the time of hearing.

For the reasons stated above we reject the contention of the Nodal officer about Forum not having jurisdiction. In view of the above facts of the case and above observations , we hold that the grievance is tenable before the Forum.

The next date of hearing is fixed on 17.3.06 at 11.00 hrs.

Inform both the parties

(H.A.KAPADIA) (V.G.JOSHI) (R.K.PINGLE)
MEMBER MEMBER SECRETARY CHAIRMAN