

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL
FORUM , AURANGABAD ZONE, AURANGABAD**

Case No. CGRF/AZ/AUR/U/2006/ 02

Date of Filing: 10.03.06.

Date of Decision: 05.04.06

Smt.Sarla V.Shevtekar

- The Consumer

Complainant.

Plot No. 24 , Rokdiya Hanuman Colony, Aurangabad

V/s

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

Sub: Grievance under the Maharashtra Electricity Regulatory
Commission,(Consumer Grievance Redressal Forum
and Ombudsman) Regulations 2003

1. The consumer complainant Smt Sarla V.Shevtekar.
(Con. No. 490010037236) has filed her grievance in
Annexure “ A “ before this Forum on **10..03.06** under regulation
No. 6.5 of The Regulations 2003. A copy of the grievance was
forwarded on **10.03.06** to the Nodal officer and Executive
Engineer (Adm) in the office of the Superintending Engineer,
Urban Aurangabad with a request to furnish his response on the
grievance within a period of fifteen days and hearing in the matter
was fixed on **28.03.06**.
2. The grievance of the consumer, in brief, as per consumer, is as
stated below.

The consumer is permanently residing at address given above since
last 34 years. In the electricity bill for the period 11.03.05 to
26.05.05 ,all of sudden arrears to the extent of Rs.6817.75 was
shown for the first time. On enquiry it was suggested that it is
previous arrears. Irrespective of correspondence no action was
taken and the amount of arrears was being shown in the bills. The
consumer, it is stated that, has clarified that she does not have any
business and on this back ground how the arrears are shown when
bill have been regularly paid for every two months. Thereafter she
was given to understand that her meter is commercial and the
report to that extent is there. On application of consumer copy of

meter replacement report dt.14.11.05 and internal audit report dt.11.03.2003 was given to her .The meter replacement report does not bear signature of consumer or anybody from her family. It is not known as to when the meter was replaced. Irrespective of her representation no action was taken by the concerned officials of the D.L.. She has also gone to the IGRC of the D.L.. The IGRC has rejected her application and directed her to pay the assessment charged. .It is against this order of the IGRC, the consumer has come before the Forum.

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On the date of hearing i.e. on .28.03.06 the consumer was present through representative. The Nodal officer and Shaikh Quadar, Divisional Accountant were present on behalf of Distribution Licensee.. The Nodal officer did not file his response to the grievance of the consumer at the time of hearing or even before that and requested for some time to file the same. Granting the request of the Nodal officer the case was adjourned to 04.04.06

On 04.04.06, the consumer was present through representative. The Nodal officer was present on behalf of Distribution Licensee. The Nodal officer filed his response at the time of hearing on 4.4.06.

The Nodal officer in his response dt.3.4.06 has stated that the consumer has availed power supply for residential purpose but as per report of Jr. Engineer, KrantiChowk, the consumer was using supply for fabrication purpose which is unauthorized use. As per report of the unit in charge the KrantiChowk sub division has charged an assessment of Rs. 6435/ in the month of Jan.2005 .It is also mentioned that as per circular No. 408 for change of purpose assessment is charged.. Since this is a case of unauthorized use of power the assessment charged is justified.

On going through the grievance of the consumer and documents filed by her , also on going through the response of the Nodal officer and the decision of the IGRC and papers filed by the Nodal officer , we find the position as explained below.

The grievance of the consumer is that for the first time arrears of Rs.6817/ were shown in her bill for the period 11.3.05 to 26.5.05.

On enquiry it transpired out that the Dy. Chief auditor (Internal audit) vide his inspection report dt.11.03.2003 of Urban Kranti Chowk sub division for the year 2000-2001 brought to the notice of the sub division that an amount of Rs.181876/ being the difference between the amount billed and to be billed suggested recovery of the same .The amount of Rs.181876/ is shown as recoverable from twelve consumers of which the present consumer is one and an amount of Rs.6435/ is shown recoverable from her for the period from Nov.2000 to Dec.2002.. The inspection report appears to be based on meter replacement report dt. 14.11.2000. In the meter replacement report the Jr. Engineer has mentioned following remarks.

“Proposed conversion from R to C (workshop, fabrication use to charge SLC Rs. 15000/ plus SAIII-Rs.2000/ plus M.C.Rs.1000/ plus provisional assessment of 500 units.” Though the Jr. Engineer has mentioned proposed conversion it appears to us, that the use from residential to commercial might have been seen at the time of replacement. When meter replacement is done on 14.11.2000, assessment ,if any, could have been leviable for period prior to 14.11.2000 and not after 14.11.2000 based on this meter replacement report.”

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The Accounts officer (Inspection) in statement “A” (para 1 of report) has mentioned that the difference amount to be recovered is related to Nov.2000 to December 2002. and the amount of difference is as sated above is Rs. 6435/. In the remark column of the statement , mention is made of MRII report dt.14..01.2000, consumer using the supply for commercial but not charged till day.(the MRII dt.14.01.2000 in the remark column perhaps may be typing mistake and instead of 14.11.2000 , 14.01.2000 is typed., as meter replacement report filed is of 14.11.2000 and not of 14.01.2000) The Nodal officer in his response also has stated the meter replacement report of dt.14.11.2000.) We are unable to understand when the use of electricity from residential was found on 14.11.2000 the accounts officer (internal audit wing) has recommended recovery of difference for the period Nov.2000 to Dec..2002. No explanation of the difference between the amount

proposed to be recovered by the Jr. Engineer in the meter replacement report of dt.14.11.2000 i.e. Rs.18000/ plus provisional assessment of 500 units and amount sought to be recovered on the basis of inspection report i.e. Rs.6435/ is brought before us. However it is a fact that the consumer for the first time was asked to pay the bill including the arrears in the bill for the period 03.01.2005 to 05.03.2005. and not in the bill for the period 15.3.05 to 26.05.05 as contended by her The arrears as explained by the D.L. are sought to be recovered because the inspection report brought this to the notice of the concerned. The inspection report as observed above suggests that the arrears relate to period Nov.2000 to Dec.2002. As per the meter replacement report dt.14.11.2000 wherein the alleged use from residential to commercial was found , the recovery proposed would relate to period prior to meter replacement report. i.e. prior to 14.11.2000. In either case the recovery relates to period before December 2002 and the consumer has been asked to pay the bill of the arrears for the first time in the month of March 2005.

Section 56 of the Electricity Act 2003 provides for disconnection of supply in default of payment .The section stipulates that the D.L. can disconnect the supply of the consumer who fails to pay any charge due to the licensee from him after following procedure prescribed therein. The section also provides that the action of disconnection is without prejudice to the right of the licensee to recover such sum by suit etc.. However sub section 2 of section 56 stipulates as below.

“ Notwithstanding any thing contained in any other law for the time being in force , no sum due from any consumer , under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears or charges for electricity supplied and the licensee shall not cut off the supply of electricity”

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As observed above the arrears now sought to be recovered as per meter replacement report relate to period prior to Nov.2000 or relate to period from Nov.2000 to Dec.2002 as per inspection report. of internal audit wing. Whatever may be the fact, the arrears

are sought to be recovered for the first time in the bill of Jan.2005 to march 2005 issued to the consumer. The bills from Nov.2000 till Decemeber.2004 do not show this amount as recoverable from the consumer. Not a single bill during this period shows the amount being recoverable from the consumer,. The Distribution licensee certainly is not prohibited from recovering the arrears even after a period of two years from the date when such sum became first due had such sum been shown continuously as recoverable in the bills. It is a fact that the arrears are sought to be recovered for the first time in March 2005 and no bill prior to that for a period of three years shows the amount being recoverable from the consumer. Therefore the amount of arrears is not recoverable from the consumer in light of the facts of the case and provisions of sub section 2 of section 56 of the Electricity Act 2003.

We are therefore of the opinion that the Distribution Licensee .is not empowered to recover the amount of arrears from the consumer.

Hence the following order.

ORDER

- 1) **The Distribution Licensee is restrained from recovering the amount of arrears shown in the bill for Jan.2005 to March 2005 along with interest and DPC on this amount**
- 2) **The Distribution Licensee shall not disconnect the supply of the consumer for failure to pay this amount of arrears .**
- 3) **The Distribution licensee. is directed to issue a revised bill to the consumer minus arrears, interest and DPC thereon and the consumer shall pay the same within a period of twenty one days from the date of receipt thereof.**
- 4) **Necessary action, after enquiry ,for fixing of responsibility regarding the loss caused to the Distribution licensee be initiated against the persons found to be responsible in the enquiry.**

The Distribution Licensee & the consumer shall comply with the above order and report compliance to the Forum.

Inform the parties and close the case.

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

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recovered on the basis of inspection report i.e. Rs.6435/, is brought before us. However it is a fact that the consumer for the first time asked to pay the bill including the arrears in the bill for the period 03.01.2005 to 05.03.2005. The arrears as explained by the D.L. are sought to be recovered because the inspection report brought this to the notice of the concern. The inspection report as observed above suggest that the arrears related to period Nov.2002 to dec.2002. Even if the meter replacement report dt.14.11.2000 wherein the alleged use from residential to commercial was found , the recovery proposed would relate to period prior to meter replacement report.

In either case the recovery relates to period before December 2002 and the consumer has been asked to pay the bill of the arrears for the first time in the month of March 2005.