

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

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

Dt-05/03/2013

Complaint No.02,03,04/2013

In the matter of Head Master, Sitabai Sangai High School, Anjangaon Surji for excessive electric bill and tariff.

Quorum :

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

Head Master, Sitabai Sangai Kanyashada, Con no. 359710009102 Anjangaon Surji.

... Complainant (Case no.2)

Head Master, Sitabai Sangai High School, Con no. 359710036002 Anjangaon Surji.

... Complainant (Case no.3)

Head Master, Sitabai Sangai High School, Con no. 359710009129 Anjangaon Surji.

... Complainant (Case no.4)

...VS...

MSEDCL Urban Dn. Achalpur

... Respondent

1 These are the complaints having same and identical nature of Grievance as well as defence, hence they are taken together for decision by this common order. The complainant which is a school being represented by the Head Master, has filed the present complaint in respect of grievance of excessive electric bill and change of category. In substance the complainant's case is that since no. of years there is a electric connection in school and since then the bills have been paid as per meter reading. It is further alleged that since 2003-04 there is no Govt. aid provided, however the complainant is providing facilities to the students. Reference has been made to inspection made by Flying Squad, Amravati on 14/2/2012 and issuing bill of Rs.24,670/-

,9,150/- and 12,860 respectively by the complaints from the N.A.licensee on 18/2/12. It is alleged that the complainant immediately approached the A.E.by making application on the dates mentioned and again thereafter on time to time. In spite approaches made time and again, finally the assessment sheet was issued and on going through the same it is clear that the tariff has been changed from DL to CL and on that basis bill of difference of 29 months has been issued. The said assessment made is not only incorrect but contrary to the factual situation on the spot. Without giving any prior intimation and by contravening the provisions, the difference bill of tariff has been issued to which the complainant is opposing, similarly it is illegal and liable to be set aside. Reference has been made to section 56(ii) of electricity act 2003 under which the complainant is not liable for bill for alleged 29 months. It is alleged that it is a mistake/latches on the part of the administration/commercial department of the N.A.licensee in respect of change of tariff and for that the complainant cannot be held responsible. It is their liability. Not only this much even since Sept.12 though the monthly consumption is less than 300 units, however by contravening the tariff fixed by licensee with effect from 1st August,12 bills have been issued on commercial tariff instead of residential tariff.

2 It is further alleged that other schools in the taluka as well as district are being issued bills under DL category only and therefore it is totally discrimination at the hands of N.A.licensee. In spite making grievances time and again no heed is being paid hence under compulsion the complainant has to approach the forum and sought reliefs of non-disconnection of the electric supply till decision of the complaint, cancellation of bills for the amount as mentioned in para (1) above, issuing of bills of residential tariff as per new tariff fixed from Sept.12 so also imposing of fine/compensation for pressurizing the complainant of illegal disconnection which required the complainant to remit Rs 5000/- by each of the complainant, provisionally, on 26/9/12. The complainant has filed copies documents with the complaint.

3 Notice as per regulations was issued to the office of the N.A.licensee for its comments to the complaint. The reply came to be filed on behalf of said office stating that during the visit on 14/2/12 by the Flying Squad Amravati it was noticed that the connection is in LT-1 tariff and as per letter dt. 14/2/12 assessment was made under LT-II for 29 months for the amounts of each of the complainant as mentioned in respective complaint without levying any interest or penalty. It is stated that as per prevailing order of that time the said bill was correctly issued and it was so communicated by

letter dt. 20/10/12. Further it is stated that as per CPL the total consumption for the period April,11 to March,12 being of less than 3600 units the bills as per residential tariff have been issued for January to August 12. Inadvertently the bills for Sept-12-Dec-12 have been issued at commercial tariff, correction of which is made in the bill of Jan-13 and the difference thereof will be shown in bill of Feb-13. Action will be taken against the concerned as per rules and lastly stated that the complainant has to remit the bill amount at the earliest. Along-with reply copy of assessment sheet of flying squad, CPL etc. is enclosed.

4 The matter was then posted for arguments that time rejoinder came to filed on behalf of complainant raising pleas including that of claiming compensation with other reliefs whereas on behalf of N.A.licensee additional reply came to be filed stating that rates as per LT-II was required to be levied against the complainant. The Flying squad has issued the difference bill and the same is required to be remitted. Further, it is stated that for the period 14 Feb. to 31st August,12 the billing ought to have been done at LT-II rate but it was done at residential tariff rate. The residential tariff has been made applicable instead of LT-II. Now tariff order of 19 of 2012 is made applicable from 1/8/12 to Dec.12 are being corrected as per LT-X and the amount be accordingly remitted. Alongwith the said additional reply copy of Jan.13 bill for Rs.54,390/-, Rs.13,260/- and Rs.35,890/- respectively filed and in the said bills there are hand written entries of +Rs.1779.02/-, -Rs.2575.35/-, totalling to Rs.53590.70/-, +Rs.1531.71/-, -Rs.101.219/-, totaling to Rs.14690.42/-, +Rs.3289.98/-, +Rs.802.29/- totaling to Rs. 39982.27/- respectively. The learned representative for the complainant has raised objections for such bill and in filing of additional reply. He has categorically submitted that no such bill as alleged has been sent to the complainant and it has not been received. The representative of the N.A.licensee has submitted that it is being offered here. Heard Mr.Anand Sanghai the learned representative for the complainant and Shri V.D.Ingle, AE, the learned representative for the N.A.licensee. Gone through the record more particularly documents. If one peruses the entries in the CPL maintained in the office of the N.A. licensee it is clear that office entries do not tally with the copies of the bills produced on record. Though the complainant had asked for details of the alleged claim by making written correspondence such as 21/1/12, 6/3/12 etc. but none of them have been replied and no details have been issued on the contrary threats have been given for remittance of the bills else face disconnection. The submissions made on behalf of the complainant that never any intimation was given about change of rate tariff, has not been disputed from side of the N.A.licensee. In fact as per regulations, it is

for the N.A.licensee to classify/re-classify upon change of tariff and if it is not done so, the consumer/complainant would be asked to suffer for negligence/latches on the part of concerned officer/staff of the N.A.licensee. Here it is pertinent to note that the flying squad had visited the school on 14/2/12 and the bills for as referred to above came to be issued wherein last date for payment is mentioned as in respective bills. No details in the said bill have been given. Though the complainant has asked details thereof the same have not been supplied. The assessment sheet clearly shows that the said assessment is for 29 months, so it is clear that the alleged bill is for with retrospective effect and admittedly during that period the complainant has paid the amounts of bills issued to it from time to time. It is even not the case of N.A.licensee that complainant had in arrears at any time. On going through the regulations as well as order of MERC in 24/11 it is clear that no such retrospective recovery is permissible, for ready reference para 23, 24 of the said order is reproduced below.

23" No retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by the Auditor. Any reclassification must be follow a definite process of natural justice and the recovery, if any, would be prospective only as the earlier classification was done with a distinct application of mind by the competent people. The same cannot be categorized as an escaped billing in the strict sense of the term to be recovered retrospectively. With the setting up of the MERC, order of the Commission will have to be sought as any reclassification of consumers directly affects the Revenue collection etc. as projected in its Tariff Order. The same could be done either at the time of the tariff revision or through a special petition by the utility or through a petition filed by the affected consumer. In all these cases, recovery, if any, would be prospective from the date of order or when the matter was raised either by the utility or consumer and not retrospective.

24. According, the bill issued to the MIDC should be corrected to ensure prospective recovery of dues from the date of communication about the reclassification."

6 Apart from the above it is worthwhile to note that the entries in CPL which is record of the N.A.licensee, will clearly show that the current reading as mentioned therein as of 14.2.12 has not reached till entries made for Dec.12 in CPL . The entries in CPL differs even for Dec.12. The learned representative for the complainant has readily pointed out from the CPL that incorrect entries have been made therein and on many

occasions the endorsement is “RNA” (reading not accessible) and sometimes “INACCE” (In accessible). It has been rightly pointed out by the representative of the complainant that it is a school and there cannot be such contingencies, as mentioned in CPL. There appears to be much substance in the submissions made on behalf of the complainant. On going through the entries of the CPL It is apparent that the entries of consumption units are incorrect on the face of record itself. Reliance placed on such documents by the N.A.licensee cannot be accepted. From the record it was further clear that the meters of the complainant in compliant 02/2013 and 03/2013 have been immediately changed. No reasons therefor have been brought on record. When the complainant are making grievance in respect of impugned bills, it was necessary for the N.A.Licensee to explain the reason for change of meters. It has not been done so. The submissions made by the learned representative of the complainant that without taking reading from the meter, the bills have been issued on assumption units. There is variance in the entries in CPL so also the reading at the time of spot inspection by the flying squad. In any case it has to be accepted on the basis of material and record that there is apparent mistake in the entries. Though the complainant had been making demands for rectification and details, the same have not been given, on the contrary it has been asked to deposit the amount. The learned representative submit that the payment has been made under threat of disconnection.

7 Considering the above observations from the record the forum has no other alternative but to conclude that there is utter failure in discharge of duties and negligence/laches on the part of the concerned office/staff, resulting in issuing of totally incorrect bills. Keeping in mind the ruling of MERC in 24/11 as referred to above no retrospective recovery is possible. As per regulations it was for the concerned office of N.A.licensee to reclassify the consumer for applying changed Tariff and the consumer/complainant can not be blamed. In such circumstances the impugned bills sent by the concerned office of the N.A.licensee needs to be set aside with direction to it to issue correct bill as per actual consumed units per month. Needless to say that in the reply of N.A., it has been admitted issuing of bills by applying wrong tariff. However in additional reply different stand is taken. From 14/02/12 to July,12 the bills are required to be issued at commercial tariff and from August,12 onwards the same should be as per tariff order 19/12, on the basis of limit of monthly/annual consumption of units fixed therein and if it exceeds those limits then the commercial tariff would be applicable otherwise it will have LT-X tariff.

8 From the record and submissions it is clear that the complainant has made payment on account of threat of disconnection. The same has to be adjusted while making the bills payable by the complainant in terms of this order. There is substance in the submissions made on behalf of the complainant that it is a school being run by trust/institution, it has to undergo the procedure of Audit and if such bills are issued and payments are required to be made, it will have to face the consequences of such exorbitant payments. In the like manner the threat of disconnection for non-payment of the alleged dues also affects its reputation. This is nothing but on account of negligent attitude of the concerned staff of the N.A.licensee further issuing of the bills of huge amount for Jan.2013 of as detailed above, clearly supports the submission made on behalf of the complainant that there could not have been such consumption of electricity in a month, even if all the lights are put on considering the past consumption. Further as already referred to above there is addition of entries in hand, in the said bills totaling to as detailed above. This is clear cut example of irresponsible attitude. The learned representative for the N.A.licensee has submitted that apparently there seems to be mistake in taking reading and action will be taken against agency which has performed the said act. That even after the visit of flying squad in Feb.12, the entries in CPL clearly show that no corrective steps have been taken and the position allowed to be continued for long period. If due care had taken this could have been avoided. That because of negligence/latitude on the part of the concerned staff/officer of the concerned office, the complainant has to face such situation and the N.A.licensee has to face the litigation, so their liability arises including that of action as per rules. Needless to say that the amount paid by the complainant has to be adjusted. In terms of the above observations and conclusion the impugned bill of Rs.24,670/-, Rs.9,150,-and Rs.12,860/- respectively, including that of bills of January 13 are to be set aside, the forum proceeds to pass following order, unanimously.

ORDER

- 1) Complaint 02/2013, 03/2013 and 04/2013 is hereby allowed. The impugned bills issued by the concerned office of the N.A.licensee for Rs.24,670/-, Rs.9,150,-and Rs.12,860/- respectively and bills of Jan-13 are hereby set aside.
- 2) The N.A.licensee is directed to issue correct bills of actual consumed units from the 14th of Feb. to July,12 at commercial rates and thereafter from August,12 onwards

as per tariff order 19/12 issued by Hon.ble MERC, by making adjustment of Rs. 5000/- which each of the complainant has deposited for the intervening period. It is further directed to issue correct bill on the basis of consumed units by each of the complainant, per month.

3) The N.A.licensee is directed to pay cost of Rs. 1000/- to each of the complainant and the same can be very well recovered from the concerned officer/staff of the concerned office of the N.A.licensee, apart from taking appropriate action, as per the rules.

4) Compliance report to be submitted within a period of three months from the date of receipt of this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman