

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM,
AURANGABAD.

Case No. CGRF/AZ/AUR/U/400/2012/33.

Date of Filing 29.08.2012

Date of Decision 11.09.2012

Mr. KB.. Agrawal, Complainant.
Plot No. 844, N-5, CIDCO,
Aurangabad.

VERSUS.

The Nodal Officer, Respondents.
MSEDCL, Urban Circle,
Aurangabad.

M/s GTL Limited,
Franchise of MSDCL.
CIDCO, Aurangabad.

CORAM:

Shri. V.B.Mantri.	Chairperson.
Shri Narwade	Tech. Member.
Shri V.S. Kabra,	Membaer.

ORDER.

1. The complainant is aggrieved by the electricity Bill issued by the respondent No. 2 on 9.3.2012 for the sum of Rs. 102990/- u/s 126 of the Electricity Act 2003. He moved the IGRC for redress of his grievance, but could not get any relief. Hence he presented his compliant in this forum for redress of his grievance with further claim of Rs. 15000/ towards his harassment mental agony and costs.

2. The case of the complainant in brief is that, the complainant is the consumer bearing consumer O. 490010571631. He has taken three phase supply for floor mill situated at N-5, CIDCO, Aurangabad.
3. On 28.2.2012, one Hayatkhan from the Respondent No. 2 visited the premises of the complainant and replaced the meter bearing No. 520982 with new meter. No reason was given for replacement of meter. The complainant was asked to remain present for meter testing of old meter on 1.3.2012. Nothing abnormal was found during such meter testing. No attempt of theft was found. The respondent No. 2 in order to harass the complainant however put one endorsement regarding display and meter body damaged. The respondent has then issued Bill for the sum of Rs. 102990 u/s 126 of the Act. The said Bill is erroneous; therefore the complainant filed his grievance before IGRC of the respondent on 10.7.2012. The IGRC dismissed the complaint on the ground of jurisdiction. The said order of IGRC is required to be quashed. There is no misuse of power or theft of Electricity. Therefore the Bill issued u/s 126 of the Act may be set aside. The respondent No. 2 could not find any technical reason to justify the action.
4. In response to the notice issued to the respondents, both the respondents have submitted their respective reply to the grievance petition.
5. The respondent No.1 MSEDCL has submitted reply and thereby submitted that the bill has been issued by GTL and thereby the Nodal officer has nothing to say as no relief has been claimed as against the Nodal officer.
6. The respondent GTL Co. in its reply raised preliminary objection regarding subject matter jurisdiction of this Forum to enquire the grievance. It is submitted that the test report clearly established that meter seals were broken. The meter body was damaged with rupture marks on left , right and on joining edge. The meter was also found damaged internally and mechanically scrolling display was not found attached to the meter body. The support points for display were not found attached to the meter. The recorded consumption was not reflected on display for meter reading purpose. The complainant used the power by tampering the meter. The present case is governed u/s 126 of the Act. Hence jurisdiction of this Forum is excluded by virtue of 6.8 Regulation of MERC Regulation 2006.
7. In view of the basic objection raised by the respondent regarding jurisdiction of this Forum, it was found necessary to decide the said objection prior to other points in controversies. This Forum thereby proceeded to hear submissions of the parties on the point of jurisdiction as a preliminary point, keeping rest of points for arguments open.

8. We heard the arguments of Mr. Kapadiya, the representative of the complainant. Mr. Borde argued for the GTL. The Nodal officer Mr. Deshpande represented the MSDCL.
9. Mr. Borde submitted that meter sealing was found tampered, Meter body was found damaged. The meter was not found O.K. in condition.
10. Mr. Kapadiya, placing reliance upon the same report dated 1.3.12, it is pointed that as per the said report itself, it has been noted in the report that the percentage of error was -0.08 %. The MSEB seals were found to be OK. It is therefore submitted that it is not the case of 126 of the Act. This Forum as such has jurisdiction to enquire the grievance.
11. In view of the submissions so made on behalf of the parties, the following questions in controversy arise for our determination.

POINTS.

FINDINGS.

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| i. Whether this Forum has jurisdiction to enquire with the grievance of the complainant ? | NO. |
| ii. What redress if any or order. | This Forum has no jurisdiction to enquire the grievance under Regulation 6.8 Of THE MERC Regulations 2006. |

REASONS.

12. It has been submitted on behalf of the complainant that there was no theft or unauthorized use of electricity even as per the report of the vigilant team. Mr. Kapadiya, has pointed out the remarks passed by the vigilant team in its report dated 1.3.2012 to the effect that that the percentage of error was -0.08 %. The MSEB seals were found to be OK. Therefore according to him section 126 of the Act can not be attracted. He pointed out the remark of vigilant team recorded in last line of the report to the effect that meter display may or may not have been intentionally tampered. He therefore submitted that regulation 6.8 of the Regulation 2006 are not applicable. This Forum as such is having jurisdiction to enquire the compliant.
13. Mr. Borde on the other hand has submitted that meter body was tampered. Meter was tampered and damaged. He submitted that recorded consumption was not reflected on display of meter reading purposes.

14. Mr. Deshpande for MSEDCL did not make any submissions.
15. As per Regulation 6.8 of MERC Regulation 2006, if the Forum prima facie of the view that any grievance falls on any of the provisions i.) unauthorized use of Electricity as provided under section 126 of the Act, ii.) Offences and penalties u/s 135 to 139 of the Act, then the same shall be excluded from the jurisdiction of the Forum.
16. In the present case admittedly the vigilance team had visited the premises on 1.3.12 . As per the report of the vigilance team, the meter was not in OK condition. The meter body was damaged. Rupture marks were noticed on left and right side on the joining edges. There is no explanation on behalf of the complainant as to how these remarks of the vigilant team came to be recorded. It further reveals that the assessing officer has served provisional assessment on the consumer. The consumer had filed an objection on such assessment u/s 126(3) of the Act. The respondent has followed the required procedure. The consumer has remedy of preferring an appeal u/s 127 of the Act. The IGRC has thereby rightly held that the cell has no jurisdiction to enquire the grievance. This Forum prima facie is of the view that, the grievance fall under the caption of unauthorized use of Electricity and such prima facie section 126 of the Act is attracted to this case. Hence in the result, this Forum is of the opinion that this Forum has no jurisdiction to enquire the grievance of the complainant. The complaint as such is required to be dismissed for want of jurisdiction. This Forum therefore proceeds to pass following order.

ORDER.

1. The complaint of the complainant is hereby dismissed for want
Jurisdiction.

Dated ; 12.9.2012
Aurangabad

Sd/-
(V.B. Mantri)
Chairperson

Sd/-
(S.K. Narwade)
Tech. Member.

Sd/-
(V.S. Kabra.)
Member.