

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

**Case No. CGRF/AZ/AUR/U/661/2017/01
Registration No. 2018010001**

Date of Admission : 02.01.2018

Date of Decision : 06.03.2018

Sow Dr. Jyoti Deepak Gayal, : COMPLAINANT
Vishwabharti Colony,
Aurangabad 431001.
(Consumer No. 490011140693)

VERSUS

The Executive Engineer (Admn) : RESPONDENT
Nodal Officer, MSEDCL, Urban Circle,
Aurangabad.

Complainant Representative : Shri HA Kapadia
Respondent : Shri BM Kumawat, Addl. EE,
Garkheda, Sub Division.

CORAM

Smt. Shobha B. Varma, Chairman
Shri Laxman M. Kakade, Member Secretary
Shri Vilaschandra S. Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant Sow Dr. Jyoti Deepak Gayal, Vishwabharti Colony, Aurangabad is a consumer of Mahavitaran having (Consumer No. 490011140693). The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 02.01.2018.

Brief History of the case :-

The complainant has raised grievance as under :-

2) That the complainant is medical practitioner and is residing at first floor of plot No. 41, Jay Viswa Bharati Colony, Aurangabad . The complainant has set up her clinic on ground floor of said plot and is sourcing electricity supply from Respondent company for her clinic as well as for her residence. The complainant is therefore consumer of Respondent.

3) Respondent is responsible officer of Maharashtra Electricity Distribution Company (hereinafter referred to as MSEDCL for sake of brevity) and is providing electricity supply to the complainants premises

4) The complainant submits that she has taken electricity connection for her residence situated at plot No. 41, Jai Viswa Bharati Colony ,Aurangabad in the year Sept.1995 . The consumer No. allotted by MSEDCL bears No. **490011140693** . The complainant has also taken electricity connection for her clinic in the year March 1998. The consumer No. allotted bears No. **490011306044**. The complainant is regular payer of all electricity bills issued by Respondent and there

was no dispute regarding services provide by the Respondent till May 2017. The average consumption of the complainant is @ 250-300 units per month.

The complainant submits her grievance in brief as under.

1. The complainant submits that in response to promotion policy declared by Govt. of India , the complainant decided to install 5 Kw Roof Top Solar PV system at her residence and accordingly submitted application on 15.3.2017 for grant of permission for installation Solar Roof Top system.
2. That ,Respondent , after inspecting the premises and after receipt of requisite payment , issued sanction letter for installation of 5 Kw Roof Top Solar system.
3. That, after completion of all formalities , the complainant entered into agreement with Respondent for Net metering. However, as the Net meter, which is required to be provided by MSEDCL for recording solar electricity generation was not available, therefore Respondent has asked the complainant to procure the same.
4. That , as per directives of concerned officer of Respondent company , the complainant procured a three phase Solar Net meter and the same was installed after its testing by the Respondent in the month of May 2017. The old meter bearing Sr.No.**5500305186** was replaced by New solar Net meter bearing No. **0D284026** The complainant was required to pay cost of meter as well as testing charges of Net meter which is required to be provided by the Respondent.

5. That, at the time of installation of Net meter , no meter replacement report was handed over by the Respondent to the complainant and therefore the complainant is not aware of the final reading of old meter bearing Sr.No. 5500305186.
6. That, after installation of solar Net meter, the complainant was expecting to bill as per Net meter installed at her premises i.e. after deduction of solar electricity exported by Roof Top Solar system.
7. It is submitted that Respondent failed to issue monthly bills as per reading shown by the Net meter installed in the month of May 2017. . The bills for the month of May-17 to August -17 were issued on average basis i.e. 282 units per month.
8. It is further submitted that since the complainant did not receive bills as per actual meter reading , she submitted application on 21.07.2017 and requested Respondent to issue correct bill as per reading on Net meter.
9. The complainant submits that in spite of submitting complaint on 21.7.17, Respondent issued bill for the month of August 2017 on average basis i.e. for 282 units .The complainant therefore was required to once again filed her complaint on dt. 5.10.2017.
10. That, in spite of issuing correct bill as per Net meter , the Respondent issued a bill of Rs.1,61,530/ for the month of Sept.2017, showing consumption of 9071 units. Copy of bill is annexed with the complaint. That, the Respondent did not pay attention to the complaints filed by the complainant.

11. That, the electricity supply of the complainant was disconnected at 14.00 hrs. on 22.12.2017 without giving any intimation/ Notice which is required to be given as per provision of section 56 of Electricity Act 2003. The copy of photo showing disconnection at electricity supply is annexed.
 12. The complainant submits that, it is after payment of total disputed bill amount of Rs. 1,35,330/ the supply of the complainant was reconnected on 22.12.2017 at 17.00 hrs. Copy of payment receipt is filed.
 13. The complainant submits that since Respondent has disconnected electricity supply and forcefully collected excess amount, the complainant is compelled to file the grievance.
 14. That, in order to ascertain the final reading of previous meter, meter replacement report, MRI report, CPL data etc. are important documents required to redress this present grievance. The Respondent is therefore required to be directed to submit all such relevant documents for early redressal of this present grievance.
- 5) Hence it is prayed that :-
1. Respondent may be directed to produce CPL for period April 15 till date.
 2. Respondent may be directed to produce copy of meter replacement report.
 3. Respondent may be directed to produce old meter before Hon'ble Forum to confirm the abnormal reading shown on bill.
 4. Respondent may be directed to issue revised bill as per meter reading shown on Net Meter.

5. Respondent may be directed to refund excess amount paid by the complainant along with interest at the rate of 18 % p.a.
6. Respondent may be directed to pay compensation of Rs.15000/ towards harassment and mental agony.
7. Respondent may be directed to pay Rs. 10000/ towards disconnection of power supply and violation of provision of section 56 of EA 2003.
8. Respondent may be directed to refund cost of Net meter, Generation meter and testing charges paid towards testing of meter.

The respondent has submitted say as under :

6) Jyoti Deepak Gayal, Con. No. 490011140693 installed Roof Top System i.e. Solar Connection in month of May -17. Consumer got effect of Solar System in the months of Sep-17. Mean while consumer got average bill during the month i.e. June -17 to Aug-17 as solar tag was not feeded in system so consumer got the bill of 1669 units i.e. of new meter while feeding change of meter in system. The consumer used 9098 units of old meter hence consumer got slab benefit i.e. bifurcation of total 10740 units in 4 months. But the slab benefit to be given by consumer from Jan-16 to Sept. -17. So Garkheda Sub Division feed (B-80) through system to consumer and gave slab benefit to consumer of Rs. 29,636.19 in the month of Nov-17. The consumer last reading up to May-17 – 40876 and at the time of replacement Old meter final reading is 49974 and the total units 9098 are found unbilled from replaced meter. The said consumer having 3 phase connection and having load 5 KW and the trend of use of consumer i.e. 650 to 750 per month, so bill is correct as per meter reading.

7) The Garkheda Sub Division has taken cognizance of the consumer's complaint and resolved it as per meter reading, the consumer Arrears bill Rs.

1,35,350/- is not paid by consumer since June-17. Also notice was issued to consumer as per Indian Electricity Act 2003 under Section 56(1) on dated 02.12.2017 but consumer refused to take the notice, therefore supply was disconnected after completion of notice period. When consumer has paid arrears of bill Rs. 1,35,330/- on dated 22.12.2017, Supply was restored on same day. So to dismiss the complaint.

8) In addition say (Page No. 40) the Respondent has raised contention about suppression of material facts by the complaint, it is also submitted that the petition is without cause of action. The fact of payment of all dues by the complainant are denied by the Respondent.

9) As regards testing of old meter, it is explained that the section officer has credited scrap material & old six month above meter to Major Store. It is contended that demand notice was refused by the complainant.

10) The complainant in the rejoinder (Page No. 48) submitted that after releasing Net metering connection bills for the period June 2017 to August 2017 were issued without considering units exported by solar. That, the reason for giving slab benefit to the complainant is not given by the Respondent. That, the complainant is having three phase connection & 5 KW load & trend of use of electricity is 650 to 750 units per month. That, testing of old meter as per order of the Forum was not made & it is submitted that old meter was scrapped & credited to the Store. If the meter would have been brought, reading of the same could have been confirmed. Before installation of Solar Net Meter, consumption of one year was 3663 units i.e. 305 average units per month. After installation of solar meter consumption for June to August 2017 was 0 and for September 2017 was 10740 i.e. 2685 units per month. This much units were not consumed by the complainant, which is clear from CPL. That bill of January 2018 shows that still

1449 units (export) are still kept in bank. Quantum of export units are more as compared to import units. If these units were taken in to account, payable amount would have been different.

11) That, the electric supply of the complainant was disconnected without considering complaint on dtd. 21.07.2017 & 05.10.2017 issued by the complainant, so the complainant was compelled to pay total amount of disputed bill Rs. 1,35,330/- on 22.12.2017. It may be refunded with interest & by charge. The name of the person, who refused the notice, is not written on the notice. It could have been sent by post or could have been pasted. Standard procedure for service of notice was not followed.

12) We have gone through the complete record, we have heard consumer representative Shri Kapadia for the complainant & Shri Kumavat , Addl. Executive Engineer for the Respondent. Following points arise for our determination with our findings thereon for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether bills for September 2017 requires to be revised ?	Yes
2)	Whether the excess amount paid by the complainant is required to be refunded to the complainant with interest rate of 18% per annum?	The bill of 9098 units be refunded to the consumer out of Rs. 1,35,330/- & rest of the amount be adjusted in Net Meter Bill.

Sr. No.	POINTS	FINDINGS
3)	Whether compensation Rs. 15,000/- for harassment and mental agonies & Rs. 10,000/- for illegal disconnection is payable to complainant?	Partly yes, On both counts total Rs. 5000/-
4)	Whether cost of Net meter, Generation meter & testing charges are required to be refunded to the complainant?	Yes
5)	What order & costs?	As per final order

REASONS

13) **Point No. 1** :- It is not disputed that after sanction by Respondent 5 KW Roof Top Solar PV System was installed at the residence of the complainant. That in May 2017 three phase solar Net meter was procured by the complainant & it was installed after testing by Respondent at her residence. The old meter No. 5500305186 was replaced by New Solar Net meter bearing No. 00284026. That from May 2017 to August 2017, the bills issued to complainant were on average basis i.e. 282 units per month. Those bills are produced at Page Nos. 19 to 22. That, on dtd 21.07.2017 (Page No. 23) & 05.10.2017 (Page No. 24) the complainant has submitted complaint to the Respondent claims to issue correct bills as Solar Net Meter. That, the Respondent has issued disputed bill (Page No. 26) of Rs. 1,61,530/- for September 2017 to the Respondent showing consumption of 9098 units of old meter balance units & 1669 units consumption on new meter i.e. total 10740 units for 4 months.

14) The reason assigned by the Respondent in their say (Page No. 31) about average billing for May 2017 to August 2017 is Solar tag was not feeded in the system. So consumer got the bill of 1669 units of new meter and according to Respondent while taking final reading of old meter, it was 49974, where as in the month of May it way 40876, so units 9098 was found unbilled of old meter i.e. total 10740 units for four months in the month of September 2017. On perusal of CPL, it is transpired that at the time of replacement of old meter, its status was normal & bill for 392 units are shown & also paid by consumer & thereafter average units 282 billed & paid. It is observed from CPL that in the month of November 2017 B-80 Rs. 29,636/- amount taken & deducted from arrears & in the month of November 2017 total arrears is Rs. 1,34,210/-. It is important to note that final reading of old meter was neither shown to consumer, nor her signature was taken. No meter replacement report was produced. In this respect, the spot inspection report appears to be prepared subsequently i.e. on 31.10.2017, which appears as not reliable document. That apart on 23.01.2018 order was passed by this Forum for production of old meter in the office of Respondent to test it in presence of consumer representative & to submit report of testing before this Forum. However, it is submitted by the Respondent that, the said old meter was scrapped & credited to store, not available for testing. Considering the present dispute & constant follow up taken by the consumer, they ought to have preserved it, which circumstances proved against the Respondent. Further, the Respondent has not produced photos taken by the Respondent at the time of noting the reading of the old meter. So also the Respondent failed to record import & export units correctly. Admittedly the quantum at export units are 1449 in January 2018 and more than import units. Considering these circumstances, the final reading of old meter as shown by the

Respondent is not supported with cogent evidence. Mere statement of the Respondent is not sufficient. CPL also does not show consumption 2685 per month. (Considering 10740 units for four months) by the complainant. Hence the final reading of old meter 9098 units claimed by the Respondent is incorrect. Hence the disputed bill of September 2017 considering old meter consumption 9098 units for the amount of Rs. 1,35,330/- appears to be incorrect & abnormal & without any basis, therefore requires to be quashed. We answer point No. 1 in the affirmative.

15) **Point No. 2** :- Since, it is found that amount of Rs. 1,35,330/- is recovered from the complainant out of it, the bill of 9098 units requires to be refunded to the complainant with interest at the rate of prevailing RBI rate from the date of its deposit i.e. 22.12.2017 till realization of the entire amount. Rest of the amount be adjusted towards Net meter bill. We answer this point in affirmative.

16) **Point No. 3** :- That, first complaint dtd. 27.07.2017 (Page No. 23) was made by the complainant requesting for issuance of bill with net solar meter. Second complaint was made on 05.10.2017 (Page No. 24). Challenging disputed bill, however the Respondent did not take any action. That, instead of replying the complaints or correcting the bill, the Respondent has abruptly issued notice (Page No. 39) dtd. 02.12.2017 to the complainant. Firstly the notice claiming arrears of Rs. 1,35,330/- is illegal & without any basis. Secondly, the notice dtd. 02.12.2017 was not personally served to the complainant. Endorsement made on it is that consumer has refused to accept the notice. It is signed by S.B. Nachan, however his designation or seal is not appearing & the date & time is also not appearing. In the backdrop of the fact that the complainant is doctor by profession having her clinic on ground floor & residence at first floor, so it is improbable that she was absent at the material time. The notice does not enlight

with whom the Respondent is Representative met. So also even if it is presumed that complainant was absent still her staff remains present on the spot. All these contingencies went unexplained by the Respondent. So the notice was not personally served on the complainant as the endorsement made on it appears to be not reliable. Regulation 171 (1) of Electricity Act 2003 provides that in case the addressee / consumer is not available then the notice has to be affixed on some conspicuous part of the premises & in that case, it would be deemed to be proper service. Nothing of this sort has been done by the Respondent. On the contrary the endorsement of refusal which is found unworthy of credit is made. This can't be deemed to be proper service. So, in absence of proper & legal notice disconnection of electric supply of the complainant was made. So also the complaints made by the complainant were not attended by the Respondent & arrears shown in it are also illegal. So, the disconnection of electric supply made by Respondent on 22.12.2017 is found illegal. Considering illegal disconnection, & on account of it, the complainant suffered harassment & mental agonies as her entire work of clinic was withheld for about three hrs. without fault on her part. So also electric supply of her residence was withheld. So, considering these total circumstance on both counts, we feel it just & proper to grant compensation of Rs. 5000/- to the complainant by the Respondent & it be recovered from erring employees of the Respondent Point NO. 3, therefore answered in the affirmative.

17) **Point No. 4** :- It is admitted fact between the parties that cost of Net Meter, Generation Meter & testing charges Rs. 900/- (Rs. Nine hundred only), receipt (Page No. 18) are paid. Commercial Circular No. 258 dtd. 25.01.2016 issued by the Respondent Solar PV Project / systems Rule 7.3 speaks that :-

“7.3. The Net Meter in the premises of the Eligible Consumer shall be procured and installed by MSEDCL at its own cost and in accordance with the provision of the Electricity Supply Code :

If the eligible consumer is within the ambit of Time of Day (‘ToD’) Tariff, the Net Meter installed shall be capable of recording ToD consumption and generation. MSEDCL shall replace the meter of an existing Eligible Consumer with a Net Meter.

The Eligible Consumer may opt to procure, at his cost, the Net Meter for testing and installation by the MSEDCL.

7.4. MSEDCL shall be responsible for the supply, installation, testing and maintenance of the metering equipment, and its adherence to the applicable standards and specifications.”

18) So, considering the rule, it is just & proper to refund cost of Net Meter, Generation Meter & Testing charges Rs. 900/- (Rs. Nine hundred only) to the complainant. We answer point No. 5 in the affirmative.

Considering above discussion, we proceed to pass following order in reply to Point No. 5.

ORDER

The complaint is hereby allowed in the following terms :-

- 1) The disputed bill of September 2017 (Page No. 26) about 9098 unit consumption of old meter is hereby set aside and quashed.
- 2) Out of deposited amount of the consumer i.e. Rs. 1,35,330/-, the bill of aforesaid 9098 units be refunded to the consumer by cheque and within one month from the receipt of this order and with interest prevailing of RBI interest from 22.02.2017 till the date of payment of said amount. Rest of amount be adjusted towards Net meter bill.

- 3) The Respondent is directed to pay compensation of Rs. 5000/- (Rs. Five Thousand only) to the complainant for harassment & mental agony due to illegal disconnection of electric supply & it be recovered from erring employees.
- 4) Respondent is directed to refund cost of Net Meter, Generation Meter & Testing Charges Rs. 900/- (Rs. Nine hundred only) to the complainant within one month from the receipt of this order.
- 5) Cost of the complainant Rs. 500/- be paid by the Respondent to the complainant.
- 6) Compliance be reported within 30 days.

Sd/-
Shobha B. Varma
Chairman

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member