

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

(Case No: CGRF/ AZ / R / 315 / 2010 / 42)

Date of Filing: 13. 12. 2010

Date of Decision: 09. 02. 2011

M/s Ganpati Moulders Pvt. Ltd.,
Gut No.937, Bidkin, Tq. Paithan,
Aurangabad
(Consumer No. 493029041160)

Consumer Complainant.

V/s

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO.
LTD. RURAL CIRCLE, AURANGABAD.

The Distribution Licensee.

Coram:

Shri V.B. Mantri,

President

Shri V.S .Kabra

Member

Shri P.A. Sagane

Member secretary

Sub:- Grievance under the Maharashtra Electricity Regulatory
Commission, (Consumer Grievance Redressal Forum
and Ombudsman) Regulations 2006.

The consumer complainant M/s Ganpati Moulders Pvt. Ltd.,
Gut No.937, Bidkin, Tq. Paithan, *Aurangabad* (Consumer No.
493029041160 Aurangabad has filed his grievance in Annexure "A" before
this Forum on 13.12.2010, under Regulation No. 6.10 of the Regulations
2006. The grievance of the consumer was forwarded to the Nodal Officer,
(Adm.) in the office of the Superintending Engineer, O&M Rural Circle,
Aurangabad and hearing in the matter was kept on 20.12.2010.

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The grievance of the consumer is as stated below: -

- 01) The consumer had taken 33kv HT supply for his factory situated at above-mentioned address from M.S.E.D.C.L., Distribution Licensee (hereinafter referred to as D.L.). during the year 2006. The consumer further stated that D.L. has sanctioned 800 KW load with contract demand 625 KVA on date 04.07.2006 after payment of Rs. 6,63,440/- the D.L. released the connection on date 15.07.2006. The consumer contended that he has paid all the bills issued by D.L. as per HT.I Industrial (Non expressed tariff) till October 2010. The consumer received the supplementary bill of Rs.6,61,512/- on 19.11.2010 towards difference of HT Industrial Express and non-express tariff rates for the period June 2008 to September 2010. After receipt of above supplementary bill consumer filed complaint on 29.11.2010 in the Office of Superintending Engineer, Rural Circle, Aurangabad to withdraw the said bill on the ground that he had never applied for express feeder.
- 02) The consumer in his written complaint states that the supplementary bill of Rs.6,61,512/- issued by D.L. is from June 2008 whereas as per MERC Regulations D.L. is not allowed to recover any amount preceding to 24 months. The consumer further states that he never applied for express feeder nor agreed to pay the bills as per HT express feeder tariff rates. The consumer has submitted that instead of taking cognizance of his complaint letter D.L. issued 15 days disconnection notice. He requested the Forum to pass an interim order for non-disconnection of power supply till the order of this Forum and direct D.L. to withdraw the supplementary bill of Rs.6,61,512/- and issue the bill as per HT-I Non-express feeder tariff.
- 03) On date 20.12.2010 consumer representative Shri H.A.Kapadia and Nodal Officer, Shri A.R.Patil, was present. The Forum heard both the parties for ad-interim relief without affecting rights of the parties on its own merit in order to avoid hardship. The interim order is passed to restrained D.L. from disconnecting electricity supply till 30.12.2010 provided that the complainant should deposit 25 % of the amount of the supplementary bill on or before 24.12.2010. The further hearing on the matter is fixed on 30.12.2010.
- 04) On 30.12.2010 consumer representative and Nodal Officer were present Nodal Officer has submitted the point wise reply along with the copies of the flying squad report and tariff circulars. He states that as per the flying squad report dated 30.09.2010 consumer was found using the electricity supply on staggering day. As per the MERC

directives, the non-continuous industrial consumer should observe the staggering day but consumer was not obeying the instructions and availed the continuous supply hence his tariff was changed from non-continuous to continuous. The consumer requested 3 days time period for submission of counter reply. Forum directed consumer to submit his counter reply on or before 03.01.2011 and matter kept for decision.

- 05) The arguments made by the party and documents placed before the Forum reveals that the consumer was connected on 33kv Bidkin feeder emanating from 220kv Chitegaon S/Stn., It is not express feeder but it is continuous feeder. The group of HT consumers along with 33kv Bidkin S/Stn. is connected on the same feeder . Due to 33kv Bidkin S/Stn. the said feeder is not switched off on staggering day i.e. Friday for Aurangabad area hence it is a continuous feeder.
- 06) The MERC has issued the details tariff order dated 20.06.2008 applicable from 01.06.2008 and given the applicability of HT-I continuous industry. The Commission has specified that

“Only HT industry is connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all the others HT industrial consumer will be deemed as HT non-continuous industry“.

The Commission further clarified that the consumer getting supply on express feeder may exercised his choice between continuous and non continuous supply only once in the year within the first month after issue of the tariff order for the relevant tariff period. The complainant was billed previously as per non continuous tariff for the period **June 2008 to October 2010** because he had not submitted his option for continuous tariff . Being a non continuous industrial consumer he will have to observe the staggering holiday as decided by Govt. which as presently Fridays for Aurangabad District. This condition is also mentioned in the power sanctioned order of the consumer. But during the surprise checking carried out by D.L.'s flying squad on Friday dated **03.09.2010**, it is found that consumer is running his industry on Friday also and availing the continuous supply even though the option for continuous tariff was not submitted by him.

- 07) It is the submission of complainant that, the electricity supply was used on the said day i.e. 03.09.2010 for maintenance work of his factory., but admittedly the consumer did not apply or intimate or informed to the D.L. well in advance for use of electricity on staggering day for maintenance work. The said submission and defense of the consumer thereby can not be accepted

- 08) The second submission in nut shell is that, there is no evidence to the effect that the consumer was using supply on every Friday preceeding, and therefore D.L. is not entitled to claim difference in tariff prior to 03.09.2010. No doubt, there were no surprise checking by flying squad prior to 03.09.2010 and as such there was no express evidence to accept that, consumer was using supply on every Friday prior to 03.09.2010. But simultaneously it is not expected or require to surprise check by flying squad on every Friday to expect any evidence to that effect. Once the consumer found using and consuming electricity on staggering day during surprise check, it shall be presumed and accepted that, he was using electricity on every Friday, unless otherwise contrary is proved. There is no such contrary evidence on record. Therefore, we agree with the action of D.L. to issue the supplementary bill treating the continuous consumer on express feeder.
- 09) The supplementary bill Rs. 6,61,512/- issued by D.L. on date 19.11.2010 is for the period of June 2008 to September 2010. i.e. for 28 months. The section 56(2) of Electricity Act 2003 is as under:

“Notwithstanding anything 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 of charges for electricity supplied and the licensee shall not cutoff supply of the electricity”

As per the above provision in the Act D.L. is not entitled to recover the bill preceeding 24 months of date of issue of bill. In this case supplementary bill preceeding October 2008 shall not be recoverable. Hence complaint is partly allowed as.

ORDER

- 01) The supplementary bill preceeding to 24 months of date of bill issue is hereby struck down and quashed and directed to issue the revised supplementary bill.
- 02) Liberty is given to the consumer to exercise his option for HT continuous or non-continuous tariff and further bills be issue as per his option.
- 03) Payment of Rs. 1,65,378/- paid as per the interim order of Forum shall be adjusted in the revised bill.

(V.S.Kabra)
Member

(P.A.Sagane)
Member/Secretary

(V.B.Mantri)
Chairperson
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