

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

**Case No. CGRF/AZ/AUR/R/652/2017/45
Registration No. 2017090016**

Date of Admission : 12.09.2017

Date of Decision : 02.01.2018

Shri Shaikh Ajim Shaikh Dadamiya, : COMPLAINANT
Home No. 4,
Sajapur, Daultabad,
Dist. Aurangabad.
(Consumer No. 492170006411)

VERSUS

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

CORAM

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

CONSUMER GRIEVANCE REDRESSAL DECISION

- 1) The applicant Shri Shaikh Ajim Shaikh Dadamiya, H. No. 4, Sajapur, Daulatabad, Dist. Aurangabad. is a consumer of Mahavitaran having (Consumer No. 492170006411). 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 12.09.2017.
- 2) In the complaint, it is stated that, he has paid electric bill of Rs. 760 for the month of October 2016, that electric connection was given to him on 20.11.2013. That up to October 2016 bill is issued to him as per the residential rates. That, in the month of October 2016 without giving any notice, surprisingly bill of Rs. 25330/- was given to him. the connection category changed from Residential to Commercial. That, the complainant submitted application to Assistant Engineer, Daulatabad and communicated to the respondent that the use of electric connection is residential and that bill of Rs. 25330/- is issued wrongly. That in the month of July 2017 the category of complainant was changed from Commercial to Residential and the mistake was corrected, however the amount was not deducted from the bill.
- 3) Hence it is prayed that the disputed bill of Rs. 25330/- for the month of October 2016 is wrong and thereafter the bill issued at the commercial rate up to July 2017 that amount may be deducted from the interest bill. That the orders may be issued not to disconnect the electric supply and that the complainant is ready to pay the amount of corrected bill.

4) That the respondent has filed say on 26.09.2017 (Page No. 15) it is submitted that the complainant has taken electric connection bearing consumer No. 492170449908 since 2008. That the amount of Rs. 7466.98 is due from the respondent towards the bill of the said consumer No. Therefore since September 2016 the said commercial electric connection was permanently disconnected.

5) The complainant was also having residential electric connection bearing No. 492170006411 since 2013. That, the Assistant Engr. Of Daulatabad Unit has checked the PD connection premises and it was found that the complainant was using residential electric connection bearing No. 492170006411 unauthorisedly for commercial purpose. Therefore, the Assistant Engineer has reported to Dy. Executive Engineer and Dy. Executive Engineer issued bill for the period of one year i.e. from September 15 to August 2016 under cons. No. 492170006411 (live) u/s 126 of IE act amount of Rs. 25330/-.

6) The electric bill of consumer No. 492170006411 is corrected from commercial to residential category in the month of July 2017.

7) That on 27.09.2017, the complainant has submitted application stating that the respondent, Assistant Engineer, Daulatabad Unit had been to his residence along with his line staff for disconnection of supply and i.e. supply was disconnected at 1.30 pm. The incoming wire entering the meter was cut off and body cover of meter box was removed. It is alleged that, the supply was disconnected illegally, without giving notice under the EA 2003, so also supply is disconnected even after oral order from CGRF to Nodal Officer/ DyEE for not to disconnect the supply and that the complainant was put to harassment. Hence, it is prayed to reconnect the supply emergently and penalty for disconnecting the supply illegally without notice and even after oral orders from CGRF may be

imposed. So also compensation of Rs. 5000/- may be awarded to the consumer for mental agonies and harassment of entire family as there are old aged persons and patients suffering from kidney deceased were kept in dark an account of illegal disconnection.

8) Interim Order was passed for reconnecting the supply, rejoinder is given by the applicant at Page No. 54 wherein all above prayers are made.

9) That on 30.10.2017 the respondent has filed say (Page No. 78) and submitted that as per the spot inspection report dtd. 08.10.2016 the bill dated 13.10.2016 was issued to the complainant u/s 126 of EA Act 2003, that there was no appeal preferred by the applicant or any objection was not raised by him, therefore the said bill was included in the regular bill in the form of B-80.

10) On going through the complaint and say filed by the respondent and the annexed documents filed by both the sides and on hearing both the parties, following points arise for our determination with our findings thereon for the reasons to follow :-

1)	Whether the provisional assessment bill of Rs. 25330/- is illegal and requires to be quashed?	Yes
2)	Whether penalty for illegal disconnection without notice u/s 56 of ie act 2003, requires to be imposed against the respondent?	No
3)	Whether compensation of Rs. 5000/- be awarded to the complainant as claimed?	Yes, Rs. 1000/-
4)	What order and cost?	As per final order

REASONS

11) The disputed bill is produced at (Page No. 9) it is for the amount of Rs. 25330/- dtd. 08.10.2016 & issued u/s 126 of IE Act 2003. Complainant is resident of Sajapur H. No. -4, having his residence along with 4 shops. Present dispute is regarding residential meter No. 492170006411

12) That, the disputed bill (Page No. 9) of Rs. 25330/- is prepared on the basis of spot inspection, the copy of the report of spot inspection is produced at Page No. 16. The said report copy goes to show that, it bears the date 08.10.2016 and reveals that the meter of the complainant was checked the meter no. is 7460502 & consumer no. was as above, meter make Genus reading 144 category residential, actual purpose commercial, period of utilization from date of connection and in the remark column it is directed to issue bill u/s 126 of IE act 2003. During the course of argument the consumer representative Shri Ali has pointed to us several deficiencies in the spot inspection report and submitted that in fact there was no spot inspection. Directions are issued to produce the spot inspection, original report and accordingly Shri Todkar the concerned Engineer of Daulatabad Unit has produced the original spot inspection on record. Following deficiencies are transpired in the said report :-

13) The original spot inspection report does not carry the date and therefore no inference is allowed to draw about visit of concerned Engineer to the spot on 08.10.2016. Equally the copy of spot inspection provided to the consumer does not carry the date, however the copy produced before us and produced at page no. 16 carries the date 08.10.2016. There is no plausible explanation submitted by the respondent as to how this date is inserted in the copy of spot inspection report produced at Page No. 9. Not only that, but there is another copy of spot inspection report produced at page no. 52, which also bears the date 08.10.2016.

About this report there is no acceptable explanation coming forward from the side of respondent. There are discrepancies found in the report produced at page no. 79 with that produced at page no. 52 which are as follows :-

- A) The original spot inspection report does not bear the date whereas the report at page no. 52 and page no. 16 bears the date 08.10.2016
- B) The original spot inspection report page no. 79 is not attested by any of the witness and also not signed by consumer. It only bears sign of the concern engineer, whereas the inspection report at page no. 52 is signed by witness, namely Rohit Magare and it also bears the endorsement that the consumer has refused to sign. Both these reports are found discrepant

14) The only considerable report is the original report at page no. 79, which is not attested by any of the witness and not signed by the consumer. It appears that in order to fill up the lacuna later on the spot inspection report at page no. 52 is prepared and it is tried to be shown that the concerned engineer has complied the procedure u/s 126 of IE act 2003. However, there is no explanation forthcoming from the side of respondent, as to why the report at page no. 52 was prepared. In this circumstance, the only inference is that in order to patch up the deficiencies the second report is prepared subsequently, which is not true and it not acceptable document.

15) Considering the original spot inspection report produced at page no. 79 is being unattested by witnesses, does not carry the date and sign of consumer, so it is not prepared as per the procedure laid down u/s 126 of IE act 2003 and the concerned engineer has also not followed commercial circular No. 200, dtd 5th July 2013 and has not prepared the report as per Annexure –J. Neither it is in the format, nor it as per procedure u/s 126 of IE act 2003. Hence the spot inspection

report is prepared in breach of u/s 126 of IE act 2003. Not only that, but the concerned report though goes to show that the consumer has the connection for residential purpose and used it for commercial purpose, but there is no reference as to what purpose was the commercial use made by the consumer. So considering these basic infirmities the spot inspection report is found neither reliable, nor u/s 126 of IE act 2003 and therefore it is found illegal. Therefore, the bill issued on the basis of the said spot inspection report is illegal and cannot be considered. Fact remains that, in the month of July 2017 the category is further corrected by the respondent from commercial to residential but the bill is not corrected. It is tried to be shown by respondent that initially there was commercial connection bearing consumer No. 492070449908 taken by the consumer in the year 2008 and there were arrears of Rs. 7466.98 of that connection and it was not paid hence in September 2016 that connection was permanently disconnected. It is further tried to be pointed out that the said commercial connection as was permanently disconnected, therefore the present disputed electric connection of residential purpose was used unauthorisedly for commercial purpose in the shop by the consumer. It is important to note that these allegations raised by the Respondent are not proved for the reason that the detection process by way of spot inspection itself is illegal and therefore these particular circumstance does not prove helpful to the respondent. So also, what was the commercial activity carried out by the respondent is not forthcoming in the report. Considering the above discussion, the disputed bill is found illegal and required to be quashed. Hence we answer point no. 1 in the affirmative.

POINTS No. 2 & 3 :-

16) In the application submitted by the consumer (page No. 54), it is specifically submitted that on 26.09.2017 during the course of hearing before this forum the authority of CGRF has orally directed to Nodal Officer and Dy. Executive Engineer, Sub Divn-1, Aurangabad not to disconnect the supply of consumer until further order. It is found that though such oral directions were issued, still on 27.09.2017, the Assistant Engineer of the respondent of Daulatabad Unit has disconnected the electric supply of the consumer at 2.00 pm. Then on 27.09.2017 on application of the consumer written interim orders are issued by this Forum for reconnection of the supply and then it was reconnected on 28.09.2017. It is material to note that before disconnecting the electric supply the concerned Engineer of Daulatabad Unit has not issued notice under 56 (1) of IE Act 2003 to the consumer and illegally disconnected the essential service of the electric supply of the consumer. This patent illegality committed by the Assistant Engineer of Daulatabad Unit. Though the complainant has made a request to impose penalty against the concerned Engineer however since, we feel it, just and proper to initiate disciplinary enquiry against the concerned Assistant Engineer of Daulatabad Unit and therefore separate penalty is not necessary to be imposed therefore point no. 2 is answered accordingly.

17) It is found that on 27.09.2017, the Assistant Engineer of respondent of Daulatabad unit has illegally disconnected the electric supply of the complainant of his residence on account of which himself & his family has to live in dark for one night. It is also submitted by the complainant that his father is suffering from Kidney disease. Be the fact as it may, in this circumstance, it is just and proper that the respondent to pay the compensation of Rs. 1000/- for mental

torture harassment and mental agony to the complainant. Thus we answer point no. 3 partly in the affirmative.

18) Considering total facts and circumstances of the dispute, since it is found that the spot inspection report prepared by the respondent is in violation of section 126 of IE Act and so also another report is tried to be prepared and tried to be patched out the deficiencies, so also on account of illegal disconnection of the essential services, it is just and proper to initiate disciplinary enquiry against the concerned Engineer. For these reasons, we allow the claim and proceed to pass following order in reply to point No. 4

ORDER

- 1) The complain is hereby allowed.
- 2) The disputed bill dtd. 13.10.2016 (Page No. 9) is hereby set aside and quashed. The MSEDCL shall issue a revised corrected bill for the period October 2016 to July 2017 to the consumer as per the actual meter reading and as per residential tariff and no interest shall be charged to consumer on the revised corrected bill.
- 3) The MSEDCL shall initiate disciplinary enquiry against the concerned Engineer immediately and report its compliance to this authority.
- 4) The MSEDCL shall pay the compensation of Rs. 1000/- for mental torture, harassment and mental agony to the complainant.
- 5) The compliance of the order shall be reported within 30 days.

Sd/-
Shobha B. Varma
Chairman

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/-
Vilaschandra S.Kabra
Member