



CONSUMER GRIEVANCE REDRESSAL FORUM
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Case No.: 01/2018

Date of Grievance: 18 /01/2018

Date of Order: 09/03/2018

M/s. Lata Polymers,
B-175, MIDC wai,
Dist. Satara

Applicant

(Herein after Referred to as consumer)

Versus

Executive Engineer,
M.S.E.D.C.L., O&M,
Division, Wai

Opponent

(Herein after referred to as Licensee)

Quorum

Chairperson	Mr. B. D. Gaikwad
Member	Mr. S. K. Jadhav
Member Secretary	Mr. M. A. Lawate

Appearance:-

For Consumer: - Mr. S. R. Purohit (Consumer representative)

For Respondent: - 1- Mr. A. S. Khuspe, Dy.Executive Engineer, Sub-Division, Wai.
2- Mr. M. B. Phalke, Assistant Accountant, Sub-Division, Wai.

ORDER
(Date:-09/03/2018)

1- The Complainant above named has filed present Grievance under regulation 6.4 Maharashtra Electricity Regulation Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006, Hereinafter referred to as Regulation of 2006.

1- The Complaint M/s. Lata Polymers is claiming to be consumer LT-V B-I Industrial consumer having contract demand of 16.78 KVA and sanctioned load is 18

HP and consumer No is 193010064981. The Electric Supply was released on Dt. 01.01.2011. According to complainant premises B-175 MIDC Wai, Dist- Satara are presently woned and occupied by M/s. Latar Poymers and using said Electrical Connection. The Electric Connection is in the name of previous owner M/s. Gurukrupa Industries and so the electric bills has been received in that name only. According to complainant it is the consumer within the meaning of section 2(15) of Indian Electricity Act 2003. However IGRC has rejected the complaint on technical ground holding that the complainant is not the consumer but Gurukrupa Industries is the consumer. It is held that M/s. Gurukrupa Industries being the consumer can challenge supplementary bill. The IGRC satara therefore rejected the complaint.

- 2- Complainant further states that provisional supplementary bill of Rs. 17,66,524/- is issued by SDO, Wai, Sub- Division in respect of tariff difference recorded by Flying squad, Satara on 25.07.2017. It is submitted that the Flying Squad visited premises on 25.07.2017 and recorded spot inspection which is not signed by any person on behalf of the Complainant. It is submitted that flying Squad has not adopted prescribed prosecute while carrying out the Inspection. The Copy of inspection report was not given to the complainant. There was no verification of connected load and accuracy of the meter. The record of excess M.D. of 32.7 KVA was only for 1 months and it can be concerned as an irregularity. The trend of consumption pattern should be considered to decide the period of assessment. The assessment is done without any explanation and for the period of about 5 years.
- 3- The Flying Squad has forwarded report to SDO wai with the instructions to change the billing tariff of the consumer from LT-V B-I to LT-V B-II retrospectively since September 2012. According to complainant it is the breach of section 56 (2) of I.E. Act 2003 and direction issued by Electricity Ombudsman in several representations. The assessment of arrears of the difference in tariff category should be only form the date of detection of the error. The present case is of plain tariff difference and it is the responsibility to issue correct bill. In the present case the tariff difference bill is issued retrospectively form September 2012.
- 4- It is submitted that during hearing chairman IGRC, Satara has not asked complainant to establish authority to lodge compliant. The complainant has produced document showing that the complainant is the owner of the said plot and using the

electricity. The IGRC has rejected the compliant illegally. The complainant is authorized occupier/owner of plot No. B-175, MIDC Wai, Satara and using electricity for it's own factory. The complainant is therefore is consumer of the licensee. The Complainant therefore prays for declaration that the provisional bill issued by SDO Wai is null and void and contrary to section 56 (2) of I.E. Act 2003. The complainant also prays that the bill amount Rs. 17, 66,524/- shall be set aside. The complaint prays for compensation of Rs. 20,000/- for mental harassment as the bill of huge amount is issued.

- 5- The responded has submitted say on the complainant stating that the Complainant is not the consumer of licensee and is not having locus-standi to file Complainant. The Flying Squad has inspected the premises of Gurukrupa Industries on 26.05.2017 in the presence of representative of complainant. The sanctioned load was 18 HP that is below 20 KV and three phase meter was installed on 01.01.2011 and was billed as per LT-V B-I tariff. It means consumer was bound to use load below 20 KW but he was using power above 20 KW and it was a duty of consumer to deposit energy bill as per tariff LT-V B-II. The CPL of the consumer shows that per month consumption was maximum 8,474 KWH up to August 2012. However from September 2012 consumption was increased at high level and it was twice that is above 14,947 KWH and same trend remained till the date of inspection that is 26.05.2017 and even till this date.
- 6- It is submitted by the licensee that complainant has failed to apply for change of name and also for enhancement of load. The charges claimed by respondent are correct and proper. When there was inspection by flying squad the representative of consumer was present but refused to sign the. The prescribed procedure was followed by officer of the respondent at the time of spot inspection. Even the procedure was followed while supplementary bill is issued. The allegations made in the complaint are wrong baseless and not maintainable. There is negligence own the part of complainant as application for change of name is not submitted till this date. The principle of natural justice was followed and complainant was given an opportunity of hearing. Section 56(2) of I.E. Act 2003 would not come in the way of the respondent form recovering the said amount under the revised bill. The respondent placed reliance on the

judgment passed by Hon'ble High Court Bombay in civil writ petition No. 7015 of 2008. The respondent therefore prays that the complaint shall be dismissed with cost.

- 7- We have heard the representative of the compliant as well as respondent at length. We have also perused the documents on record. The following points arise for our consideration and we have recorded our findings thereon for the reasons stated herein after.

POINTS

FINDINGS

- | | |
|--|-----------------------|
| I) whether the complainant is the consumer? | - No. |
| II) If the complainant is consumer, whether he is entailed for the reliefs claimed in the Complaint? | - Does not arise. |
| III) What order? | - As per final order? |

REASONS

- 8- **POINT No:- 1)** It is submitted on behalf of licensee that the complainant is not the consumer as per the definition under section 2 (15) of I.E. Act 2003. Own the other hand the representative of the complainant submitted that complainant is the consumer as the electric supply is supplied to the complainant for its own use it is submitted that consumer also includes any persons whose premises are connected for the purpose of receiving electricity with the works of a licensee. It may be noted that it is admitted fact that initially plot NO. B-175 was owned by one M/s. Gurukrupa Industries and proprietor was one Shri koshor Bhagoji Ingawale and he transferred said plot to M/s. Ravi Trading Company and then it was transferred to complainant M/s. Lata polymers. It appears that the transfer took place in the year 2013 but the electric meter remained in the name of M/s. Gurukrupa Industries. The licensee has issued the bills in the name of consumer M/s. Gurukrupa Industries till this date. It may be noted that the complainant has not taken any steps for change of name till this date for the best reasons known to complainant when the meter is standing in the name of the M/s. Gurukrupa Industries from the year 2011 till this date and bills are issued to the said consumer, It is difficult to accept that present complainant M/s. Lata polymers is the consumer. The complainant may be the owner of said plot but he is not the consumer of

MSEDCL. We therefore hold that complainant is not the consumer. We have therefore answered point no. 1 in the negative.

9. **POINT No:- 2)** We have already concluded that complainant is not the consumer. Now the question is whether complainant is entitled for the reliefs claimed in the complaint. The complainant has submitted that it is the plain case of tariff difference and there cannot be retrospective assessment of the arrears and it can be recovered only form the date of detection of the error. The learned representative of complainant has placed reliance on Electricity ombudsman's orders in Representation No. 21 of 2008, No. 27 of 2006, No. 09 of 2009 and No. 16 of 2016, wherein it is held that recovery would be limited only for maximum 24 months and not beyond. In case no. 24 of 2001, the commission has held as under:

"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, 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 senses of the term to be recovered retrospectively."

- 10- The Appellate Tribunal for Electricity (APTEL) in Appeal No. 131 of 2013 in the matter of Vianney Enerprises Vs Kerala State Electricity Regulatory Commission held that the arrears for difference in tariff could be recovered only from the date of detection of error. Even in Case No 24 of 2001 it has been held By Electricity Ombudsman (Mumabi) that recovery on account of reclassification can be prospective only. In the case in hand there is change in the tariff retrospectively form September 2012 to July 2017 and assessed the difference for 59 months. There cannot be any dispute that recovery of arrears for the difference in tariff shall be prospective from the date of detection of the error. In the present case there is reclassification of the tariff is on account of enhancement of load by the complainant without the knowledge or consent of MSEDCL. In the present case the complainant above named is not the consumer and so the compliant is not entitled for any reliefs claimed in the complaint. In the result we answer Point No. 2 accordingly and pass following order

ORDER

- 1- The Present Grievance is dismissed.
- 2- No order as to cost.



M. A. Lawate
Member/Secretary
CGRE, BMTZ, BARAMATI



S.K. Jadhav
Member
CGRE, BMTZ, BARAMATI



B.D. Gaikwad
Chairperson
CGRE, BMTZ, BARAMATI

Note:-The Consumer if not satisfied may file representation against this order before the Hon'ble Ombudsman within 60 days from date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, BandraKurla Complex,
Bandra (East), Mumbai-51.