

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 136

Hearing Dt. 14/08/2007,
03/09/07 & 07/09/2007

In the matter of bill revision

Shri Sanjay Shukla

- Applicant

Vs.

MSEDCL, Bhandup

- Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup.
- 2) Shri S.B. Wahane, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri J.V. Kamat, Consumer representative.
- 2) Shri Sanjay Shukla, Consumer

C - On behalf of Respondent

- 1) Shri V.M. Bhatkar, Ex.Engr., Bhandup
- 2) Shri V.R. Nalwade, Dy. E.E., MSEDCL, Bhandup.
- 3) Shri R.S. Shinde, MSEDCL, Bhandup.

The consumer registered his grievance with this Forum on 26th July 2007 vide case No. 136. The hearing date was fixed on 14/08/2007. All the concerned were intimated to attend the hearing. As the case was pending in the Court and it being a subjudice matter ICGRC did not hear the case and informed the applicant accordingly. Aggrieved with the decision of the ICGRC, consumer appealed to this Forum for assessment of bill amount.

CONSUMER'S SAY :

1) The appellant consumer is running a small scale plastic industry in the name of M/s. Sai Engineering works at Sonapur, Bhandup. He gets energy supply from MSEDCL. He was issued energy bills from Nov-2005 to May-2006 under lock and inaccs status with average billing of units. He further states that his factory was never closed during the daytime except staggering day. According to him as per provisions of section 103 of E.A. 2003 should have issue him a notice if it had noticed the factory locked in two consecutive efforts and could not get the meter reading. However the utility did not initiate any action for seven months and billed him under lock/inaccessible status though the meter was in working condition. As per MERC's directives the utility had issued circular No. 50 dtd. 22/08/2006 which clearly states that if the reading is not provided by the meter reader and the same wrong status is given on the stipulated date of preparation of bill and average bills are issued, then the difference between the billing as per the actual reading and average bill should be recovered from the salary of the concerned meter reader. In this case the consumer's energy connection being industrial, the responsibility of taking of meter reading is of A.E. and J.E. hence they should be penalized at the rate of Rs. 200/- per month for six months and the penalty so recovered from them should be paid to him as compensation.

2) He has further stated that the utility officials visited his factory on 16/06/2006 at 5.30 a.m. The utility had alleged that the consumer had committed an offence of theft of energy and accordingly had filed the police case and the matter is subjudice. Immediately his energy supply was disconnected. In the whole process of visits, he was never informed. He further alleged that as per utility's circular No. 17 dtd. 18/10/2005, in such type of cases it was open to the utility officials to compound the case by recovering civil liability from him instead of filing FIR for alleged power theft. This was done so intentionally to harass him.

3) He was issued with energy bill of 5,93,520/- (as provisional bill) on 20/06/2006 after filing an F.I.R. He was not aware of this bill but when he went to utility office for reconnection, he was made aware of it but was not given a copy of it. After he sent a notice through his advocate to utility on 23/06/2006, the utility officials sent to him by post final bill of 3,82,790/- for seven months from Nov-05 to May-06. According to him this bill amount was not calculated as per utility's circular No. 17, dtd. 18/10/2005 and it was incorrect and exorbitant. He approached on 18/07/2006, the Chief Engineer (Commercial) who instructed utility's Bhandup office to reexamine the matter. On this, Bhandup office issued him a corrected final theft bill of Rs. 2,43,515.64 for 8 months.

4) Utility officials considered the period of theft initially for seven months but subsequently during the revision taken it for 8 months just to harass him.

5) He approached the utility officials to grant him installments for payment. The utility rejected his request. There upon, he approached City Civil Court, Mumbai with a request to grant him the installments. The Hon'ble court on his request granted him 3 installments on 01/12/2006 and directed the utility officials to accept from him 50% of revised final bill of Rs. 2,43,520/- i.e. Rs. 1,21,760/-. However, utility officials on 07/12/2006 informed him to pay Rs. 3,03,820/- which is inclusive of current bill, the installment and the interest. According to him this was violation of Court Orders and hence he approached the Court with the request to initiate the contempt of court proceedings. At this juncture, the utility agreed to obey the Court Order and accepted Rs. 1,21,760/- on 21/12/2006 and supply was reconnected on the same day. However the supply was again disconnected on 09/03/2007 because of failure to pay third installment as per

Court order. The same was paid on 29/03/2007 but supply was not restored. Instead an other claim of Rs. 2,56,590/- was demanded from him by the utility. He was not agreeable to such claim and hence approached the top officials of the utility. At their instance the matter was again reexamined and the bill was reduced to Rs. 1,38,930/- from Rs. 2,56,590/-. Since such frequent revisions in bill by utility's Bhandup officials was highly doubtful, he approached Hon'ble High Court.

The Hon'ble High Court issued order to utility to reconnect the supply after accepting the payment of Rs. 50,000/- and directed him to approach CGRF to resolve his grievance as per law.

His prayer in brief :

- a) Due to utility's failure to take timely meter readings he was issued with accumulated bill of Rs. 1,69,996/- for which he is not at fault and hence it should be recovered from salaries of earning officials and staff of utility
- b) He be awarded a compensation of Rs. 1200/- for non maintaining of S.O.P. to issue a bill as per reading.
- c) The staff and officials of utility should be punished for intentionally harassing him and causing huge production loss by power disconnection.
- d) The bill should be revised by considering the consumption recorded by the meter in my premises after installed by Court order on dtd. 21/12/2006.
- e) He should be compensated Rs. 3,00,000/- (total) towards mental torture various legal expenses and production loss for 10 months due to disconnection of power supply.

The above plea of the appellant consumer was sent to utility's officials at Bhandup for reply. A parawise reply which was sent by utility officials and

received by CGRF on 13/08/2007 with copy to the consumer. The utility officials submitted their additional reply points on 22/08/2007, a copy of which was given to the consumer through Forum on the same day.

The case was heard first on 14/08/2007. The hearing was incomplete as number of issues were related to bill revision and required more clarification from concerned officials of utility, the case was again heard on 03/09/2007 and eight certain points raised by the consumer through his representative required further clarification. The case was finally heard on 07/09/2007 when the consumer with his representative and on behalf of utility the Ex.Engr., Bhandup division were present before the CGRF.

In the course of hearing the consumer reiterated all the points submitted in his written plea and rejoinder which have been narrated in details as above.

The Executive Engineer, MSEDCL, Bhandup division in his written replies (on original plea and rejoinder of the consumer) explained the stand of the utility on each point as under:

Regarding non-reading of consumers meter and charging him average bills for a period Nov-05 to May-06, it is emphatically stated that the meter reader was regularly visiting consumer's industrial premises for taking reading, however it was final that the meter was inaccessible since the consumer had constructed the wall across the meter making it totally inaccessible for the meter reader's entry. This was also reflected in the CPL of the consumer. Noticing this position continuously, the utility officials decided to keep a watch on the premises and carry out surprise inspection of the installation. Accordingly, an intelligence was gathered and surprise check was carried out by the squad in the early hours in the morning. It was revealed that the consumer was taking the energy supply by bypassing the incoming cable of energy meter thus bypassing the actual consumption intentionally. Apart from this situation on the spot the low energy bills, which were generated as per lock/inaccessible status, also confirmed a clear case of theft of energy. At no stage a consumer did not apply for

compounding of the offence at Bhandup division office as regards correction of bills it is stated that immediately after the detection of the theft case as mentioned above a provisional bill of Rs. 5,93,520/- by sub-division office, Bhandup which was subject to final bill for theft bill (civil liability assessment) by deducting regular bill of 3324 units. This was calculated considering connected load in HP x conversion factor 0.75 x diversity factor x No. of days x 3 shifts (7 hours/shift).

Subsequently the consumer approached higher authorities of the utility who had given the guide-lines to consider load shedding period and according examine the bill, the bill was again scrutinized and finally worked out at Rs. 2,43,520/- considering the theft amount only (civil liability assessment) which was for 8 months, apart from this theft bill amounting Rs. 243520/-, a separate regular bill amounting to Rs. 255810/- upto Feb-2007. This regular bill, it is specifically stated that both these bills are totally separated.

After this, the consumer approached to City Civil Court, Mumbai with the request to order the utility to reconnection his disconnected power supply, the Hon'ble court on 01/12/2006. After hearing both the parties ordered applicant consumer to deposit 50% amount of theft charges (Rs. 243520/-) by 09/12/2006 and then only the reconnection of power supply be effected. The Hon'ble Court further directed that out of 50% of Rs. 243520/- of theft arrears, the consumer will have to pay the second installment of 25% by 30/12/2006 and remaining 25% shall be paid by 01/02/2007. The Hon'ble Court further directed the consumer to pay the regular bills of energy consumption.

The applicant consumer had paid 1st installment of theft amount and his power supply was restored. However he failed to pay 3rd installment and regular bill as directed by Hon'ble City Civil Court and therefore his supply was disconnected on 09/03/2007. The consumer paid 3rd installment of theft only, but not regular bill on 29/03/2007, therefore the supply was not connected.

Thereafter the consumer again approached utility higher authority who instructed Bhandup division office to work out energy bill to find out actual consumption by considering various ground realities like power failures, day to day consumptions etc. To find out this, MRI was examined. According it indicated the revise quantum of consumption. At this juncture the consumer was also invited in Bhandup division office (dtd. 27/04/2007) and explained to him all this facts. Considering the corrections in theft bill and regular bill, the correct total bill was issued by waiving DPC and interest in the month of April –2007 amounting to Rs. 138930/-. The consumer only orally expressed his dissatisfaction over this amount of the bill.

The consumer approached Hon'ble High Court, Mumbai vide writ petition 1347/2007 which was decided on 12/07/2007. The Hon'ble High Court directed consumer to pay immediately Rs. 50000/- to utility and thereupon is power supply was to be reconnected. The Hon'ble High Court further directed the utility not to disconnect the power supply with reference to the bill in question.

The Hon'ble Court further directed that the matter be examined and decided by CGRF.

OBSERVATIONS

1) The whole case is based mainly on the detection of power theft in the industrial unit of the consumer. FIR is already lodged with the Police and the criminal case is subjudiced. As per section 6.8 (MERC, CGRF & Elect. Ombudsman Regulation) this Forum has absolutely no jurisdiction to deal with the assessment charged and subsequently corrected in the theft case (civil liabilities) by the utility. It will be within the jurisdiction of the competent Court dealing with the theft case.

This CGRF is concerned exclusively with the regular energy bills charged and not theft charge bills. It is observed that the first (provisional) theft charge bill

under went corrections three times on account of various representations made by the consumer to the utility's various level officials. As a rule, the CGRF cannot interfere with that.

2) As regards regular bills, it is revealed from CPL of the consumer that the meter was replaced in Nov - 2005. After that the meter was found in the condition of locked/inaccessible (Jan-2006) status upto May-2006. Power theft was detected on 16/06/2006. At that time meter was showing a reading of 42568 units consumed. The bill were issued of Rs. 1,69,996/- by deducting past locked and inaccessible (Nov-2005 to May-2006) status bills amounting Rs. 13143.54. Thus this amount is correct and genuine and he is bound to pay that amount.

3) As consumer had not paid the theft amount (civil liabilities) and above regular bill, the connection was made permanently disconnected from July-2006 to 15th Dec-2006.

After directives from Hon'ble City Civil Court the power connection was reconnected on 21st Dec-2006. At that time the arrears of regular bill were amounting Rs. 1,73,391.80 which was not paid by the consumer. It is to be noted that the Hon'ble City Civil court, Mumbai had granted the consumer three installments of theft amount only (civil liabilities) also with the directions to get the power supply reconnected. He had not objected orders of Hon'ble City Civil Court about payment of regular bills and third installment of theft amount (civil liability), which was due on 01/02/2007. The utility therefore vide it's letter dtd. 14/02/2007 and 05/03/2007 informed the consumer for payment of third installment of theft amount).

As per directives from Hon'ble City Civil Court to failed the prescribed installments and regular bills the utility was therefore constrained to disconnect the supply with effect from 09/03/2007.

4) The utility issued a letter to the consumer on 26/03/2007 to make the payment as under:

Third installment of theft amount (civil liability) amounting to Rs. 60880/-.
Arrears of regular bill upto Feb-2007 amounting to Rs. 256590/-.
Total = (a+b) = 3,17,470/-.

But the consumer paid only third installment of theft amount (civil liability) of Rs. 60880/-. But failed to pay the arrears of regular bill as at (b) above. Therefore utility could not reconnect his supply.

5) Thereafter the consumer wrote a letter to Internal Grievance Redressal Forum, Thane Urban Circle on 27/04/2007 who intern replied to him vide letter dtd. 08/05/2007 that the consumer is bound to make payment of regular bill of actual consumption.

6) At the same time the consumer moved a writ petition in Hon'ble High Court, Mumbai for reconnection of power supply. It was decided on 12th July 2007, the Hon'ble High Court directed in the said orders that the consumer petitioner should pay Rs. 50,000/- to the respondent utility within one week and after receipt of this amount the utility shall reconnect the power supply and further shall not disconnect during the pendency of proceedings before CGRF.

7) On careful perusal of consumer personal ledger which indicates of actual consumption used by the consumer from Nov-2005 upto August 2007, it is revealed that the consumer is being charged on his actual consumption. The alleged average bills for the period Nov-2005 to May – 2006 were issued due to inaccessible and locked status, which utility adjusted in the next month when the power theft was detected. The bill adjustments, as CPL reveals the adjustments had been given from time to time. This is the reason for correction of theft bills three times. Further, the excess amount deposited by the consumer to the utility (as per order of Hon'ble Court) has been diverted towards arrears of regular bills. Thus it is concluded again that the recovery of theft amount is completed and balance amount, which is based on actual consumption recorded on meter is Rs. 119977.29. This is also found justifiable considering energy consumption of Jan. and Feb-2007. The consumer will have to pay this to the utility.

8) As regards taking action against utility staff under standards of performance on the allegation that the consumer's meter reading not been taken intentionally and was being issued average bills under the status of lock/inaccessible, the utility has clarified that the consumer was through out non co-operative to the visiting meter reading staff of utility as the meter was inside the factory premises which was under lock and the consumer not allowing the entry to the utility although the factory production was in progress.

Moreover, during the whole period of 8 months, he never approached utility officials about getting average bills. It is very clear as seen from CPL that the average bills were too low compared to his actual consumption. The status of the meter shown during Nov-2005 to May-2006 as shown in the bills/CPL is correct. The utility clarified that it had made all efforts to get access to the meter of the factory premises. However, the consumer remained non co-operative. In accordance with the provisions of Electricity Act 2003 section 163 (3), the utility could have resorted to disconnection of power supply, which it failed to do. This requires seven days prior intimation but here again the attitude of non co-operation comes into picture. Utility had stated that Sonapur, Bhandup industrial area where in consumer's industrial premises are located is power theft prone area and in a span of one year more that 100 criminal cases of power theft have been caught. Many a times the police protection had to be taken due to possibility of violence.

In these circumstances the provisions of S.O.P. cannot be rigidly followed, however, there is a lapse on the part of utility as to observe the provisions of section 163 (3) of E.A. act 2003. The utility will have to take some action against staff concerned.

The consumer's prayer that he should be compensated as he was intentionally harassed by repeated theft bill corrections but all this was in his favour done by the utility considering his own representations. As regards connection and disconnection he has approached Hon'ble City Civil Court, Hon'ble High Court which had taken cognizance of non payment of bill arrears

resulting into disconnections. These Hon'ble Courts had ordered reconnections only on payment of arrears in installments of theft bills and payment of regular bills. Thus on this Count the consumer does not deserve any compensation either towards alleged torture, expenses and production loss (due to power disconnection).

The case was registered with the Forum on 26/07/2007. He gave further rejoinder on 03/09/2007. The case is decided on 11/10/2007 since the remarks of the utility were required as the rejoinder of the consumer further hearing was taken on 07/09/2007. The case could not be decided within stipulated time limit of sixty days.

ORDER

- 1) The applicant consumer should pay to the utility's Bhandup office an amount of Rs. 1,19,980/- (Rs. One lakh nineteen thousand nine hundred and eighty) towards the arrears of regular bill accrued upto August 2007.
- 2) He should make timely payment to avoid further disconnection of power supply.
- 3) No orders about action under S.O.P. (Standard of performance). However, for non observance of section 163 (3) of E.A. 2003 suitable action to be taken by the utility against the staff concerned.
- 4) Compliance of these orders be reported to CGRF within one month from the date of issue of these orders.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 11th of October 2007.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

2) If utility is not satisfied with order, it may go in appeal before the Hon. High Court within 60 days from receipt of the order.

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

S.B. WAHANE
MEMBER SECRETARY
CGRF, BHANDUP

S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

**CONSUMER GRIEVANCE REDRESAL FOURM
MAHARASHTRA STATE DISTRIBUTION COMPANY LTD**

Ph. No. 25624315
25624316
25624322

Consumer Grievance Redresal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S. Marg, Bhandup (W),
MUMBAI - 400 078

REF.NO. Secretary/CGRF/MSDCL/BNDUZ/Case No. 136/

Date :

To

Shri Sanjay R. Shukla,
Sai Engineering Works,
Md. Umar Compound,
Sonapur, Bhandup (W),
MUMBAI – 400 078.

SUB : Decision issued in respect of case No. 136.

Dear Sir,

In response to the grievance put up by you with the Forum vide case No. 136 dt. 26/07/2007 hearing is completed on dated 07/09/2007 & the order passed on vide this office order No. 00179 dtd. 11/10/2007 is enclosed herewith for your information please.

Thanking you,

Yours faithfully

Encl : Decision (Page No. 1 to 12)

SECRETARY
CGRF, MSEDCL,

BHANDUP

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c.s.w.r. to :

- 1) Chief Engineer (L.M.),
M.S.E.D.C.Ltd., H.O.,
Prakashgad, Bandra (E),
MUMBAI – 400 051.
- 2) The Chief Engineer, MSEDCL, BNDUZ, Bhandup.

Copy f.w.cs. to :

1. The Executive Engineer (Office) & Nodal Officer,
Consumer Grievance Internal Redressal Cell,
Office of the Superintending Engineer,
O&M Circle, MSEDCL, Thane.
2. The Executive Engineer, O&M Division, MSEDCL, Bhandup.

**CONSUMER GRIEVANCE REDRESAL FOURM
MAHARASHTRA STATE DISTRIBUTION COMPANY LTD**

**Ph. No. 25624315
25624316
25624322**

**Consumer Grievance Redresal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S. Marg, Bhandup (W),
MUMBAI - 400 078.□**

REF.NO. Secretary/CGRF/MSDCL/BNDUZ/Case No. 136/

Date

To

Shri Sanjay R. Shukla,
Sai Engineering Works,
Md. Umar Compound,
Sonapur, Bhandup (W),
MUMBAI – 400 078.

SUB : Registration of your grievances dtd. 26/07/2007.

Dear Sir,

The grievance submitted by you is registered to this Forum vide Sr. No. 136, dtd. 26/07/2007 & hearing date is fixed on 14/08/2007 at 02.00 pm. at the office of the Consumer Grievance Redressal Forum, Vidyut, Ground Floor, LBS Marg, Bhandup, Mumbai -78.

Therefore, it is requested to attend the hearing on the above date alongwith documents in support of your grievance. In case of failure to attend the hearing on the above date, this Forum shall decide the Grievance Ex-parte on merit, which may please be noted.

Thanking you,

Yours faithfully

**SECRETARY
CGRF, MSEDCL,
BHANDUP**

c.f.w.cs. to :

1. **The Executive Engineer (Office) i.e. Nodal Officer,**

C.G.I.R.C., Office of the Suptd. Engr.,
O&M Circle, **Thane**
2. **The Executive Engineer,**
O&M Divn., MSEDCL.,
Bhandup.

-- He is requested to attend the hearing on the above date alongwith the concerned authority & the details of report related with the grievance of the consumer.

CONSUMER GRIEVANCE REDRESAL FOURM MAHARASHTRA STATE DISTRIBUTION COMPANY LTD

Ph. No. 25624315
25624316
25624322

Consumer Grievance Redresal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S. Marg, Bhandup (W),
MUMBAI - 400 078.□

REF.NO. Secretary/CGRF/MSDCL/BNDUZ/Case No. 136/

Date

To

The Nodal Officer & Executive Engineer (Office)
Consumer Grievance Internal Redressal Unit,
Office of the Superintending Engineer,
MSEDCL., **THANE.**

SUB : Submission of point wise compliance
in respect of case No. 136.

As per MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006 vide clause No. 6.12, the copy of grievance registered at Sr. No. 136 is being forwarded to your office for submission of issue wise compliance. The hearing date of the case is fixed on dated 14/08/2007 at 02.00 pm. However, the Nodal Officer shall act as the co-ordinator for filing the reply, making submission, providing issue wise comments on the grievance, submitting compliance status / reports etc. Therefore it is requested to submit point wise compliance to this Forum in respect of the case in consultation with concerned authority within 15 days from the date of issue of this letter or one week before the date of hearing which ever is earlier.

The copy of compliance should also be provided by you to the consumer before hearing.

**SECRETARY
CGRF, MSEDCL,
BHANDUP**

c.f.w.cs. to :

The Executive Engineer, O&M Dn. MSEDCL, Bhandup.

-- for needful action for submission of issue wise compliance & at attend the hearing along all the relevant documents related with the grievance.