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Consumer Grievance Redressal Forum

“Vidyut Bhavan”, Gr. Floor,

L.B.S.Marg,Bhandup (W),

Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/13/151

Date: 19.09.2017

Case No. 13/2017

Hearing Dt.25.07.2017

**In the matter of effect of change of tariff prior to two years from the date
of application and not to disconnect the supply**

Shri. Shivnath Mahatre, - Appellant
H.N.1435,near K.K.Photo, Talvali Raod,
Ghansoli,Navli Mumbai (Consumer)
V/s.

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

Airoli Sub Division - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri. R.S.Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

Mr. Suraj Chakraborty - Consumer Representative

C - On behalf of Respondent

Shri. M.B. Deshpande, Addl. Executive Engineer, Airoli Sub Division.

Consumer No. 000157301527

1. Above named consumer filed this complaint against the demanded of arrears of difference bill issued by respondent utility on 31.04.2017 for amounting Rs. 15,59,760/- in equal monthly instalment along with notice of threat of disconnection. After receiving the said notice and arrears of demand bill this consumer directly filed application to this Forum in Schedule 'A' requesting not to disconnect the supply and effect of change of tariff category from commercial to industrial two years prior to date of application 22.06.2017. After filing the said grievance the office issued notice to the respondent utility. After receiving the said notice utility appeared and filed

reply on dated 12.06.2017 utility give the description of consumer no and address of connection situated to 15.02.2008. According to utility since Jan. 2013 consumer applied for additional load 48 KW and accordingly additional was load sanction after due procedure on April 2013 by Vashi Sub Division. On dated 10.12.2015 the site inspection was made and the load was tested. It was notice that multiplying factor was wrongly charge. Therefore Additional Executive Engineer, Testing issued letter no 33 on 17.12.2015 and issued supplementary bill for multiplying factor claim for amounting Rs. 16,20,880/- against the consumer against which consumer raised dispute against Vashi Sub Division 15.03.2016. IGRC not gave any order within stipulated time. Therefore, consumer approach to the Forum and made complaint at this office on 27.05.2016. After filing the said complaint interim order was issued on 27.05.2016 directing utility not to disconnect the supply subject to deposit of amount RS. 4, 00,000/- against provision demand bill. Accordingly Addl. Executive Engineer, Airoli issued letter no1389 dtd.12.07.2016. Consumer neither paid amount of as per interim order nor applied for change of tariff on 12.06.2016 utility representative instructed to submit details of A1 form to the consumer at the time of applied additional load and other document enclosed by consumer for industrial supply purpose on 14.07.2016. The decision was taken on merit thereafter this office filed final order in the complaint of consumer and letter was issued no 379 dtd. 26.10.2016 directing utility to take appropriate action for applying proper tariff as per guidelines of MERC difference of claiming MF recovery difference shall be calculated separately without charging any interest and penalty and the consumer complaint No. 44 of 2016 was dispose off. There is no mention of industrial category nor submitted any documents by the consumer at the time of applying additional load on paper for load extension, firm quotation, Load extension letter, release agreement and order was sine by the consumer under commercial tariff and the consumer at that time also not challenge for objected for charging commercial tariff. In the mean time consumer approach to Hon'ble Ombudsman for making representation 15/2017 on 14.02.2017 and during the course of hearing of representation the direction was given to the consumer for filing appropriate application. However the representation was rejected by Hon'ble Ombudsman on 15.03.2017. Against this order the consumer filed

review Petition bearing no 3/2017 on dtd. 17.03.2017 and pray for review of order passes on 15.03.2017 in representation No. 15/2017. After hearing on the review application on 11.04.2017 Hon'ble Ombudsman pass and order to pay the difference of MF arrears recovery of 16,20,880/- within 30 days and directed consumer to make separate application for change of tariff from commercial to industrial upon this direction consumer trying to waive complete responsibility of payment of MF:2 recovery arrears 16,20,878/-. Thereafter obeying the order of Hon'ble Ombudsman on 15.04.2017 the first instalment Rs.1, 35,075/- towards MF recovery of Rs.15, 59,760/- by waving interest and penalty the letter was issued to consumer bearing no 9114 dated 21.04.2017. The consumers fail to obey the direction and order by Hon'ble Ombudsman and not paid proper instalment which was agreed before Hon'ble Ombudsman. However consumer only paid for instalment for Rs. 1, 35,075/-. Consumer applied for change of tariff from commercial to industrial. Respondent utility under take to change the tariff from next billing cycle. As the consumer not obey in the order pass by the Hon'ble Ombudsman and this CGRF and delaying in the payment of MF: 2 difference instalments not at all paid and praying for avoiding any disconnection and seeking relief from one or other way. Hence this complaint filed directly is adversely affect by disobedient order of CGRF and Hon'ble by consumer. Hence this complaint is liable to be dismiss with cost.

2. After perusing rival contention of the consumer and the respondent utility following point arose for our consideration to which I have recorded my finding to the point for the reason given below
 - I. Whether consumer is entitled for change of tariff two years prior to date of application.
 - II. Whether consumer was entitled for any relief.

Reasoning

1. I have given opportunity to the consumer and his representative Mr. Suraj Chakraborty appeared at the time of hearing. Consumer filed copy of supplementary bill enforcing the order of Ombudsman, copy of representation No.15/2017, copy of supplementary bill, review application 3/2017, and copy of demand bill. I have perused all the document carefully during the course of

hearing consumer submitted that his filed Writ Petition against the order of Hon'ble Ombudsman bearing Writ Petition on of 5726/2017. Being the Writ Petition before Hon'ble High Court the consumer directed the consumer either proceed with the Writ Petition or tell this complaint liable to be dismiss on pendency of litigation in High Court Branch. Thereafter consumer inform to the Forum that Writ Petition No.5726/2017 came to be withdrawal of 10 July 2017 with liberty to apply this course to proper authority and appropriate remedy as per Law and accordingly the said Writ Petition for withdraw.

2. Thereafter I gave opportunity for hearing against the complaint raised before the Forum. The consumer relied on the order pass by Hon'ble Ombudsman in review Petition 03/2017. After perusing the said order it appeared that Hon'ble Ombudsman directed consumer to make an application and respondent utility directed to decide same giving effect in next billing cycle. Accordingly the said compliance of order subject to compliance of regular procedure and after all payment of arrears of MF:2 recovery instalment.
3. During the hearing it is brought to the notice by respondent utility that consumer fail to obey the order pass by this Forum in complaint No.44/2016 as well as review petition of 03/2017. Instated of compliance of the said order consumer chooses to filed another compliant taking advantage and not to disconnect the supply and allowed him to change the tariff from two years from the dated of application.
4. The argument raised by the consumer Representative was heard to my view when there is no application for change of tariff neither filed by consumer at earlier appropriate time and it was consequences of direction given by Hon'ble Ombudsman in review Petition of 03/2017. To my view there is no question of granting relief earlier to the date of application. In the safer interest it is observed that the respondent utility submitted in reply that application for change of tariff is under consideration for changing the tariff commercial to industrial in next billing cycle and therefore no error found in the action of the respondent utility subject to direction of Hon'ble Ombudsman in review Petition No.03/2017. I found the consumer only paid first instalment till the hearing make in this compliant no record was inform paying regular instalment and therefore unless the evidence of regular payment of instalment is submitted no interim relief as prayed by the consumer can be

granted. Hence, I found there is no substance in grievance raised subsequently by the consumer before this Forum. Therefore I come to conclusion the consumer not entitled for any relief. Hence I proceed to pass following order.

ORDER

The consumer complaint 13/2017 is stands dismissed.

No order as to the cost.

Both the parties should be informed accordingly.

Proceeding close.

The compliance should be reported within 45 days.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

Note:

1) If Consumer is not satisfied with the decision, he may file representation within 60 days from the 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 file representation before the Hon. High Court within 60 days from receipt of the order.

(I Agree/Disagree)

(I Agree/Disagree)

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

