

(A Govt. of Maharashtra Undertaking)

CIN : U40109MH2005SGC153645

PHONE NO. : 25664314/25664316

FAX NO. 26470953

Email: [cgrfbhandupz@mahadiscom.in](mailto:cgrfbhandupz@mahadiscom.in)

Website: [www.mahadiscom.in](http://www.mahadiscom.in)

Consumer Grievance Redressal Forum

“Vidyut Bhavan”, Gr. Floor,

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

Mumbai – 400078.

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

Date

**Case No.568/2014**

Hearing Dt. 19/10/2016

**In the matter of curative petition filed by consumer for clarification an objection raised order pass by this Forum not properly complied by respondent Utility**

**M/s.Shree Sachidanand Developers**

through tenant

**Spectrum Pharmatech consultant Pvt Ltd**

**6th Floor ,Swatstik Hi-point Gloria, Above Mahaindra**

**Showroom,Goadbunder Road ,Ovala,**

**Thane (West)400607**

**( Consumer NO.000252305963)**

- **Applicant**

**Vs.**

**M.S.E.D.C.Ltd., Kolshet, Sub Division**

- *Respondent*

**Present during the hearing**

A - On behalf of CGRF, Bhandup

1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.

2) Shri.S.B. Bhalshankar, Member Secretary, CGRF, Bhandup.

3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

**B - On behalf of Appellant**

1) Shri. Mahendra Sowankar

- *Consumer*

**C - On behalf of Respondent**

1.Shri. Vijay Sonawale, Addl. Executive Engineer, Kolshet sub division

1. According to consumer this Forum pass order in consumer complaint No.568/2014 dated 06.04.2015 directing respondent utility change factor MF:2 and recovery only for 24 months according to unit charge. Respondent utility also directed not to charge interest and DPC on the said amount. Forum also allowed consumer to pay the said amount of difference MF:2 in 12 monthly installment. The Forum give direction to respondent utility to calculated the amount of 24 month of MF:2 difference and excess amount which was payable by the consumer more than 24 months was restricted to the decision writ petition 1076/2011 pending before Hon'ble High court and direction was given to the consumer to execute Indemnity Bond for remaining amount overall impact of the order the respondent utility only permitted to recovered MF-2 difference charge only for 24 months earlier from 14.11.2013. In this matter consumer in earlier complaint pointed out to the Forum that 12 months installment was already deposited charge by the respondent utility and gave the details of payment of the said amount. This amount was recovered by respondent utility earlier after raising the objection of recovery of MF:2 difference before the order is pass by this Forum .When this order was finally pass by this Forum it was expected form the respondent utility to give their compliance as per direction within 30 days in accordance rules and regulation but respondent utility failed to complied the order of this Forum and not implemented properly. Consumer filed grievance that the miss interpretation of order of this Forum was made by respondent utility instated of refund of already deposit amount superintending Engineer , Thane Urban Circle issued letter dated 24.05.2016 informing to the consumer that the amount is already credited in the bill cannot be refunded through cash or cheque similarly the letter dated 01.06.2006 issued by Executive Engineer Wagle Estate inform to the consumer the order of this Forum CGRF pass already complied and the amount is

credited in the bill refuse to return the said amount by cheque or cash .This consumer also pointed out that respondent utility issued letter to the consumer and obtained indemnity bond in view of the compliance of this order on date 11.09.2015 and respondent utility also obtained indemnity bond now the consumer raise dispute against the respondent utility that order pass by this Forum in consumer complaint No. 568/2014 was not properly complied and amount shown credited in the bill coming from April 2015 to May 2016 consistently the amount was shown credited in the bill. However, monthly consumption bill (current bill) which was earlier form amount 8000 to 15000 was reduce up to amount of Rs. 6000 per month. Consumer raised the dispute that total amount for 62 months deposited 139070/-was huge and large amount with the respondent utility. In fact the said amount was required to be refunded when indemnity bond is already obtained. The amount which is respondent utility can recovery was directed to assess only for 24 month form the effect given in the order but entire amount was lying with the respondent utility by clarification order consumer pray for refund with interest. Consumer also pray for charging interest and after adjustment of amount the total amount required to be refunded to respondent utility Rs. 1391910/-.

2. After filing this clarification application by consumer notice was issued to the respondent utility. The respondent utility appeared and no reply is filed by respondent utility therefore the issues arise before this Forum giving further direction to the respondent utility in view of proper compliance of earlier order. I have given opportunity consumer and his representative to clarified and inform to the Forum about their grievance. Consumer also filed letter issued by Superintending Engineer, Thane circle and Addl. Executive Engineer Kolshet sub division. It appears form the dispute

whether following point arose from our consideration to which I gave my finding for the reason

- I) Whether order pass by this Forum earlier in consumer complaint No. 568/2014 required any clarification?
- II) Whether consumer is entitled for refund amount Rs 1391910 /- and interests calculated there on can be recovered?
- III) What order?

### **Reasoning**

3. For purpose of giving anxious consideration which issued I have minutely gone through the objection raised by consumer, it appears that action taken by respondent utility prior to filing complaint by consumer before this Forum and allowed 12 monthly installment along with current bill of MF:2 difference arrears and recovered entire due on their partakes this fact is brought to the notice of this forum by consumer in hearing. In fact when rules and regulations already establish and followed by the CGRF Forum and Hon'ble Ombudsman in their various decisions brought to the notice of this Forum. In any circumstances the respondent utility restricted to recovery MF:2 arrears only for 24 months but entire 62 months arrears mentioning amount Rs 23,73,800/- was recovered forum consumer in 12 equal monthly installment along with current bill. The letter place before this Forum dated 04.02.2014 gave the schedule of installment form 07.02.2014 to 20.01.2015 deposited by consumer they said letter indicated that consumer paid entire difference MF:2 arrears without paying any interest. This Forum already pass order no interest and DPC shall be charge in its final order.

4. Secondly, it is brought to the notice of Forum that respondent utility not adjusted the 24 months restricted recovery arrears and not refunded the amount excess recovered instead of that respondent utility proceeded to execute indemnity bond for remaining amount. This Forum fail to understand what is propriety obtaining the indemnity bond on dated 24.07.2015 when amount entirely already deposited by consumer. The letters issued by Superintending Thane circle to Executive Engineer inform refuse to refund the amount seems to be illegal and improper. Therefore excess amount deposited by this consumer required to be refunded.
  
5. However consumer charge for the interest in fairness of justice when interest is not charge and not paid by consumer to my view the consumer also not entitled to claim interest on excess amount already deposited at their wheel and he himself not agree to pay any interest. Under the rule of parachute if the interest is not charge and not paid the consumer also not entitled to claim any inertest on paid amount. Therefore by way of clarification I am inclined to allow the objection of consumer and give for the direction to respondent utility as the indemnity bond already executed by consumer his bond for the same. For remaining amount of MF:2 recovery subject to the decision of pending litigation before Hon'ble High Court the respondent utility cannot blow hot and cold together and therefore consumer is entitled for refund of excess amount Rs13,59,000/- subject to adjustment of further current bill. Hence I am inclined to allow the clarification petition and proceed to pass following order.

#### **ORDER**

1. Consumer objection for clarification petition is allowed.

2. Respondent utility shall refund the excess amount of MF:2 recovery deposited by consumer by deduction of further current bill without charging any interest and penalty
3. Order shall be complied within 30 days and compliance be reported to the Forum in accordance with law rules and regulation.  
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, 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**