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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. 576**

Hearing Dt.03/03/2015

**In the matter of unbilled consumers recovery**

**M/s. Panchamrut Co-op.Hsg.Soc.**

- Applicant

Vs.

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

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil Bavthankar, Chairman, CGRF, Bhandup
- 2) Shri.S.B.Bhalshankar, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Applicant

- 1) Shri Prakash Sardar , Consumer Representative.

C - On behalf of Respondent No. 1

- 1) Shri. Dignkar, Addl.Executive Engineer, Kolshet Sub Division.

**ORDER (passed on 30/03/2015)**

1. Above named consumer complainant has filed this complaint against the respondent utility stating that he is consumer of the respondent utility bearing consumer No. 000383035732. The said consumer using electricity meter for the purpose of stair case and water pump of M/s. Panchamrut Co-op.Hsg.Soc.electricity since 27/08/1991. Meter no of the said consumer is 2866849. On 20/02/2015 respondent utility issued bill for the 1<sup>st</sup> time which is provisional bill. It is alleged that the consumer used the said meter since installation (27/08/1991). After checking of said meter, it is found that reading of

the meter was 35248 units. Therefore the consumer was charged for 35248 units, amounting to Rs.1,44,162/-. After issuing the said bill the consumer was directed by Assistant Engineer Ovla unit - 1 as per inspection dated 08/08/2014, to deposit the said amount as the same being unbilled for last 23 years. Being aggrieved of the said provisional bill the consumer made complaint to IGRC on 31/10/2014 and requested not to charge the bill for more than 2 years. IGRC after hearing both the parties on 29/12/2014 directed that consumer used the said 35248 units for the period of 24 years which is actual use; therefore he is liable to pay amount of Rs. 1, 44,162/-. On failure the supply will be disconnected. The IGRC gave the decision that Section 56(2) of electricity Act 2003 is not applicable as per the judgment in writ petition 10764/2011 which is decided by Hon'ble High Court on 24/01/2012. As said issue is referred to larger bench and till then the consumer is liable to pay all arrears.

2. Being aggrieved by the said order of IGRC, the consumer filed this complaint on 19/01/2015 before this Forum.
3. After filing the said complaint notice was issued to the Respondent utility. After service of notice the Respondent utility appeared and filed reply stating that the consumer actually used the said units for the period 28/07/1991 to 08/08/2014 and units consumed by the consumer between 125 to 150 unit which is divided as per the reading 35248. In 276 months and benefit of slab also given to the consumer.
4. It is also contention of utility that the said consumer is a cooperative housing society, having 8 to 9 meter in the premises. They are regularly paying the bill timely but the said meter was unbilled due to mistake. There are more than Rs. 1,00,000/- consumers in the said sub division. Therefore the said meter was unbilled for 23 year section 56(2) is not applicable. I have heard consumer and his representative Shri. Prakash Sardar. He produced notes of arguments in support of his contention and submitted that arrears of more than 24 months cannot be claimed by respondent utility; therefore the provisional bill issued on

24/08/2014 as per inspection report dated 08/08/2014 is illegal and amount is not liable to recovered from consumer.

5. I have heard arguments of both the sides and gone through the judgment. minutely of The judgment made distinction of provision of 56 which reads as under

*56(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum become first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity*

6. In view of the observation made, period of recovery as reported in earlier judgment of Rototex Polyester and Anr 2007 which is relied on by the consumer. To our view till the final decision of the full bench judgment is received on referred issue, recovery against the provisional bill cannot be said to be legal as period of limitation for recovery of dues cannot exceed 2 years. However we find that the utility is liable for recovery against the consumer for period of 2 years from September 2012 to August 2014 amounting to Rs. 22,469/- with permissible charges. The remaining amount of recovery shall be calculated separately by respondent utility. The liability of payment of remaining balance which is more than 2 years will be deposited subject to decision of full bench of Bombay High Court as issue is referred to the larger bench. We feel it is proper to give direction to consumer to execute Indemnity bond as a security to pay remaining

amount subject to decision on the said issue so that the amount could be recoverable from consumer. Therefore we proceed to pass following order

### **ORDER**

- 1) The consumer complaint No. 576 is partly allowed.
- 2) The consumer shall directed to pay the amount of 2 years from September 2012 to August 2014 Rs. 22,469/- + other permissible charges.
- 3) The consumer shall execute indemnity bond for liability to pay amount subject to final decision of issue refer for larger bench to claim recovering amount due payable in future. There will be no interest and no penalty charge against the consumer.
- 4) The consumer shall continue to pay subsequent bill as per the demand made for subsequent period.

No order as to cost.

Both the parties be informed accordingly.

Proceeding close.

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

Note:

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

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

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

**S.B.BHALSHANKAR  
MEMBER SECRETARY  
CGRF, BHANDUP**

**It is found during the argument the present consumer is in occupation and using the supply in the category of LT-2 between original consumer and the present consumer. According to utility the premises was expected by Junior Engineer new connection was installed on 06/05/2011 bill start issuing since May 2011 to December 2013 for 31 months as per meter was in accessible RNA meter charge was claim and therefore actual reading which is available for 6 months on 24/03/2014. The reading was about consumption of January 2014 to 18/11/2013 was calculated 41525 units consumed.**