

5(A Govt. of Maharashtra Undertaking)
CIN : U40109MH2005SGC153645

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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/

Date

Case No. 578

Hearing Dt. 21/04/2015

In the matter of excess assessment of Bill

M/s. Runwal Pvt. LTd,(Hotel Nisarg)

Applicant

Vs.

M.S.E.D.C.L., Pachrasta Sub Division

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

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

B - On behalf of Applicant

- 1) Shri. B.R.Mantri - Consumer Representative

C - On behalf of Respondent No. 1

- 1) Shri. V.L.Deshmukh, Addl. Executive Engineer, flying Squad, Thane.
- 2) Shri. R.N. Gawande, Addl. Executive Engineer, Pachrasta Sub Division.
- 3) Shri. Rupesh Adarkar,, Assistant Accountant, Pachrasta Sub Division.

ORDER (passed on 02/07/2015)

1. Above named consumer having Consumer No. 700000850278 category commercial tariff LT-II(B), sanction load 34KW,connected load 34KW has

lodged this complaint before this Forum. The connection is used for Hotel Restaurant and Bar. Working hours in the said premises is @ 18 hours. The consumer is having meter No.032378 Make & Type - HPL Socomec Capacity of meter –Amps-50/5A pulses/Kwh1600 IMP/ KWH. According to consumer he received provisional assessment bill for the period November 2012 to October 2015 demanding additional units of bill assessed in a case booked under Section 126 Electricity Act 2003 amounting to Rs. 1,46,060/-. Total amount of bill payable was Rs. 1,46,060/- against consumer No. 700000850278, Billing unit – 4704. Respondent utility issued provisional bill on 03/12/2014, making reference to spot inspection report, DVS report on 11451 dt. 29/09/2014, provisional bill dated 17/11/2014 and letter from Nisarg Restaurant on 17/11/2014. Respondent utility assessed 7987 units against the said consumer and claimed the bill amounting Rs. 1,46,060/- and issued the letter along with inspection report on 29/09/2014. Additional Executive Engineer Shi. Vinod L. Deshmukh, flying squad, Thane, MSEDCL made provisional assessment as per provisions of the condition No 24.3.3 and charged against the consumer alleging that prima facie indicative of unauthorized use of electricity (UUE) under Section 126 Electricity Act 2003. In said letter mention to pay the amount as per this provisional assessment(as per billed attached) within 7 days from date of issue to be paid after an opportunity for personal hearing is given to consumer for their oral/written representation within 7 days in case of consumer disagreement with the notice.

2. After receiving the said letter of provisional bill and order to the consumer on 29/09/2014. The consumer gave reply to the said letter on 21/11/2014 objected demand of extra amounting Rs. 1, 46,060/-. Thereafter as per notice issued by respondent utility hearing held on dt 15/12/2014. Responded utility gave opportunity to the consumer for personal hearing against provisional demand of bill as per report and proceeding conducted

by respondent utility .The point was discuss in the hearing was consider as below

1. In the above matter MSEDCL authorities said that, the supply extended to Shop. No. 17 from Shop Nos. 18-19 was unauthorized. This was agreed by the consumer representative.
2. The consumer representative argued that Shop No. 17,18 &19 is single unit-one hotel only. Thus, he extended supply from 18-19 to shop No. 17, and he is paying bills regularly.
3. The consumer further said that he is ready to pay 50% of the amount of the bill served to him under section 126 of E.A. 2003 till the authority of respondent utility gives the final decision and which as.

3. Result:- The decision of the above matter be taken after wards that responded utility issued final order of assessment on 20/12/2014 that order mention that unauthorized use of electricity has taken place as under section 126 I.E.A. 2003 and liability as per final assessment of order amounting Rs. 1,46,060/- is required to be debited from account. It is inform to consumer that under 127/1 of E.A. 2003 he may appeal an against the final order lies before the appellate authority appointed by the The Government of Maharashtra vide notification dtd. 05/05/2008 within 30 days of said order and enclosed final assessment order along with said amount charging additional unit period of assessment after 12 months calculated already bill unit 7987 and other recoverable amount shown as per Circular in under section 126 I.E.A.2003 and claim total amount Rs. 1,46,060.68 paisa. After receiving the said letter and final assessment order above consumer filed this compliant to the Forum on dated 09/01/2015 alleging that MSEDCL has inspected the premises and issued wrongly assessments bill under section 126 on reason that supply has

extended Kitchen(Open premises) and without Kitchen consumer could not run Hotel Shop 18 & 19 having separate connection which installed in commercial category for Hotel Nisarg and prayed for not disconnect the supply as the matter was withdrawn of assessment order issued under section 126 E.A. 2003 without following of provision 24.2.1,24.4.1 and 24.4 of condition of supply and State Government notification no IEA2006/C.R.477(1)/NGR-3 dated 26/09/2006.

4. On filing this complaint, secretary registered the said compliant and notice was issued to respondent utility. After service of notice respondent utility filed this reply dated 03/02/2015. It is mentioned by respondent utility Add. Executive Engineer MSEDCL, Pachrasta Sub Division, Mulund that as per inspection by additional Executive Engineer, flying squad Thane vide DVS 11451 dated 29/09/2014, it is reported that consumer No. 000091194121 M/s. Reforms Machine Shop no. 17 has unauthorized extended load of 6.98kw to Nisarg for Kitchen and open space and in basement area which is used in combine. Hotel Nisarge is already having commercial connection in the name of Runwal with consumer No. 700000850278 Hence, additional Executive Engineer, Flying squad has done assessment of **23.0** under section 126 I. E.A. 2003, amounting to Rs. 1,46,060/- which is issued to the consumer as corrected units 7987 for period 12 months.
5. The consumer filed documents along with the complaint viz. provisional assessment of bill, letter in spot inspection report dated 29/09/2014, final assessment order letter issued by utility, reply given by consumer dated 21/11/2014, final assessment order and demand of bill.
6. Respondent utility filed CPL, final assessment, order assessment given to 16/2014, reply dated 03.12.2014 and 23.02.2015. We have given opportunity to consumer and representative Shri. B.R. Mantri and

respondent utility additional Executive Engineer, Shri. R.N. Gawande on 24.02.2015 both appear before this Forum. I have heard all allegations made by consumer.

7. According to consumer from the date of inspection 29/09/2014. The final bill was issued on 17/11/2014 final assessment order pass 20/12/2014 as per provision of the period of duration is 30 days issued final bill as there is non application of mandatory provision. It is submitted by consumer additional Executive Engineer does not have power to make spot inspection and there is no document filed by utility within 3 days of spot inspection the bill should be given to consumer which is not followed logbook was not mention by MSEDCL at a time of caring spot inspection as per submitting of consumer Government of Maharashtra taxes and duties can not to be include the bill only electricity charges should be taken in the bill under section 126 IE.A. 2003 actual unit requirement for the month that we have given respondent utility to produce details say and calculated electricity charges which is mention in the bill. He also directed respondent utility to submit agreement copy of entered by consumer at the time come. Respondent utility also given opportunity to produce the log book and relevant entry along with circular of document interest of powers of Additional Executive Engineer for power of premises. Accordingly the hearing was postponed to 04/03/2015. Thereafter utility submitted copy of nomenclature of prayer authority provisional assessment order and procedure followed by respondent utility after giving opportunity of hearing the actual calculation of load to connecting to the meter for Shop No17, sanction load 3.75KW connected load 6.90KW and for Shop No. 18 & 19 sanction load 34KW, connecting load 48.775 KW which is 14.775 KW exceed using for shop premises on 17/01/2014 was found connection as per regulation CGRF 8.4. The matter was heard by utility 15/12/2014. The

period of date of inspection is 29/09/2014 provisional assessment was made on 17/11/2014 and 20/12/2014 final assessment order was pass.

8. After considering argument of both side. We consider objection raised by consumer on various parts.

It appears for take of record that respondent

9. Utility initially assessment provisional bill dated 17/10/2014 and claim amounting Rs. 1,46,060/- provisional order of assessment on Annexure 'K1' filed on record 29/03/2014 to which reply was given by consumer dated 21/11/2014. It is saying from the reply of consumer. He demand of extended amount 1, 46,060/- in the said letter consumer not at all obtained for power of Additional Executive Engineer to make inspection of the premises the consumer raised any objection in hearing opportunity given by respondent utility and dated 15/12/2014 in month reply or other final assessment order and demand of bill the consumer not raised any objection that about power invested to Additional Executive Engineer for inspect the premises was unauthorizly by this Officer of utility. It is first time raised in this complaint dated 09/01/2015. Therefore the objection raised on this part which is required to be raised in earlier application filed before IGRC which was not raised consumer and therefore now he cannot raised objection on this point before this Forum. As it is after thought and only with the intention to create a ground for filing compliant before this Forum and not willing to pay 50% bill deposit as per rule. Stated in procedure.

10. Even for the consumer of argument I have given opportunity to utility to filed the document regarding invest of power to additional Executive Engineer for visiting the premises with flying squad Officer. Accordingly consumer utility filed administrative Circular No.490 dt. 1/7/2014 whereas

in column No. 4 Dy. Executive engineer which was existing nomenclatures due to revised nomenclature Additional Executive Engineer shown in separately pay scale of for the said post are not declared about sanction or otherwise withdrawal of any powers of Dy. Executive Engineer. Therefore original power which are allotted with Dy. Executive Engineer as per original circular which was earlier issued is under the notification is continued and remain in force dated 26/9/2006 the power of Dy. Executive Engineer for filling compliant under section 126 which is issued remaining invested. Therefore I found the Officer who inspected the premises on 29/09/2014 Shri. Vinod L. Deshmukh, Dy. Executive Engineer working Flying Squad, Thane as per duty list as per Officer of MSEDCL officer authorized for inspection as procedure even it is not caused any prejudice or any adverse circumstances created against the consumer because of his exercising power by duty Officer Addl. Dy. Executive Engineer who is otherwise authorized prejudice is not reported. Therefore objected raised by consumer is absolutely illegal and not tenable. It is assign part of his duties therefore objection raised by consumer complaint is not tenable.

11. I have consider other objection raised by utility about Jurisdiction of this Forum it is submitted that this Forum has no jurisdiction and power to entertain the dispute against consumer representative as per under section 6.8 of E.A. 2003. It is apparently clear from the provision separately Forum under Rule 24.6.2, 24.6.3 and 24.6.4 separate channel for deciding the dispute in case of unauthorized use of Electricity is establish issued. Therefore consumer is required to challenge all the allegation raised in this complaint to that Forum to appealed authority as already notice was issued along with assessment of bill and demand made by utility under section 126 IEA 2003. Therefore the consumer is not entitled to file this complaint

before this Forum. I found there is substance in the contention of utility in this case. I accept the same.

12. The consumer filed judgment (Representation No. 64 of 2013 Mr. Dattaaprasad N. Kulkarni) for my perusal and relied observation made by CGRF, Nagpur and Ombudsman given in the said judgment. I have minutely gone through contains of said judgment to my view in the given case action of utility to charge consumer under section 126 IE.A. 2003 was withdrawn and the proposed assessment of the bill was wrong here in this case there is no document or any reason brought to my notice by consumer that the action by utility was withdrawn or otherwise.
13. Therefore the intention of consumer to filed this compliant 1 or other retakes only to save him from paying 50% of disputed bill before competent authority. Hence I did not found any subsequent in the complaint made by consumer. I have come across with the judgment reported him.
14. As per Regulation 6.8 of MERC Regulation 2006, if the Forum prima facie of the view that any grievance falls on any of the provisions i.) unauthorized use of Electricity as provided under section 126 of the Act, ii. Offences and penalties u/s 135 to 139 of the Act, then the same shall be excluded from the jurisdiction of the Forum.
15. In the present case admittedly the vigilance team had visited the premises on 7.3.12. As per the report of the vigilance team, the meter was not in OK condition. The meter body was damaged. Rupture marks were noticed on left and right side on the joining edges. The MSEB seals were found broken. There is no explanation on behalf of the complainant as to how these remarks of the vigilant team came to be recorded. It further reveals that the assessing officer has served provisional assessment on

the consumer. The consumer had filed an objection on such assessment u/s 126(3) of the Act. The respondent has followed the required procedure. The consumer has remedy of preferring an appeal u/s 127 of the Act. The IGRC has thereby rightly held that the Forum has no jurisdiction to enquire the grievance. I am the viewed is of the view that, the grievance fall under the caption of unauthorized use of Electricity and such prima facie section 126 of the Act is attracted to this case. Hence in the result, law of the opinion that this Forum has no jurisdiction to enquire the grievance of the complainant. The complaint as such is required to be dismissed for want of jurisdiction. Hence I proceed to pass following order.

16. Is the said case such dispute false under section 126 IE.A. 2003 is heard outstare. The jurisdiction of this Forum to my view when statue not permitted this Forum to entertain such dispute false under section 126 which expressly born to the jurisdiction of this Forum and cannot be entertain. Hence I have no other option to dismiss the case of consumer. Hence I proceed to pass order.

ORDER

The consumer complaint No. 578 is hereby dismissed for with cost for want of jurisdiction.

Both the parties be informed accordingly.

Proceedings closed.

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

RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP