

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. 575

Hearing Dt. 21/04/2015

In the matter of excess assessment of Bill

M/s. Reforms Machine Tools 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 said consumer filed this complaint against respondent utility alleging that in the month of November 2014 he received accesses recovery arrears of bill issued by respondent utility for amounting Rs. 1,93,830/-.

2. The above said consumer using the said connection for commercial purpose and running M/s. Reforms Machine Tools Pvt Ltd., since date of connection is consumer No. 000091194121 sanction load used by this consumer 3.5KW, connected load 3.5Kw. The said connection is used and given by respondent utility for Shop No.17 at 'B' wing, Runwal Eastate, L.B.S.Road. the bill category is LT II on dated 25/09/2014 authorized Officer, Addl. Executive Engineer, Flying Squad, MSEDCL, Thane Shri. Vinod L. Deshmukh visited the premises of M/s. Reforms Machine Tools Pvt. Ltd., where he found Hotel Restaurant and Bar during the inspected he found the meter is having seal of inspection report. The Officer found additional connected load 6.980KW and supply was unauthorized extend to Kitchen and external premises to Shop No. 17, 18 & 19 .The premises connected to also basement area which is used completely by Hotel Nisarg. Therefore bill issued to consumer under section 126 IE.A. 2003 for unauthorized use of extension of connection and without giving intimation to the Officer. It is alleged by the consumer the respondent utility not followed provisions 126 and not followed visit rules during visit to the premises corrected procedure as per condition no 24.20.1, 24.4.1, 24.4 of condition of supply and Government notification and E.A. Therefore issued notice to consumer why supply of connection should not be disconnected. The consumer issued final assessment bill, letter issued by utility to responded, and letter replied by consumer raising objection for provisional assessment of bill 17/11/2014. In 29/09/2014 MSEDCL Circular 24, MERC Circular 4.8, in complaint.

3. After filing this complaint 09/01/2014. The Secretary registers and issued the notice to respondent. The respondent utility appeared and filed his reply on dated 24/03/2015 and 03.02.2015. It is mention by respondent utility Add. Executive Engineer MSEDCL, Pachrasta Sub Division, Mulund

that as per inspection by additional Executive Engineer, Bhandup vide DVS 11452 dated 29/09/2014. It is reported that consumer No. 000091194121 M/s. Reforms Machine Shop no. 17. Hence, additional Executive Engineer, Bhandup has issued and purposed assessment of bill 23075 under section 126 I. E.A. 2003 the asses to bill amounting Rs. 1,93,830/- which is issued to the consumer to consumed unit 23075 for period 12 months and corrected bill issued.

4. In support of contention the respondent utility filed circular for entrustment of power dt. 25/09/2006 and 26/9/2006 account to respondent utility Additional Executive Engineer on receiving the report of inspection made provisional assessment to the said consumer charging additional use of units 23075/126 IE.A. 2003 and bill amount was calculated 1,93,830/- as bill is issued to the consumer for corrected unit -22998 for period 12 months and demand bill is issued the responded utility authorized.
5. After gave notice final assessment bill required to be paid by consumer in account with law. It is also directed to consumer it his aggrieved by final assessment order and bill he should approach to applet authority SE, PWD under after service of said notice and bill instead of approaching the said applet authority. The consumer filed this complaint to CGRF Forum on the grand. There is great evolution of provision by respondent utility and assessment Officer who visited the site was not authorized as his dignities addl. Executive Engineer who is not assign for the inspection work under section 126 IE.A.2003 given the provisional assessment and final bill assessment was not within limitation prescribe under statute. The assessment which is finally made by respondent utility. His exorbitant and calculated was wrong assumption. The connection was install to the premises as per terms and condition and definition of 24 of IE.A. 2003 as

Rule 8 excess to consumer premises Officer maintain logbook or copy of logbook was not issued the inspection premises was not made in accordance of rule there is violation of notification under the Representation No. 477 dated 26/9/2006 and also violation of supply condition No. 24 the date of inspection 29/9/2014. The provisional assessment of bill was issued on 17/11/2014 and was not issued within 7 days the final assessment was not within 30 day therefore this complaint is filed on dated 03/02/2015. I gave opportunity to representative Shri. B.R. Mantri who appeared before the Forum. I also heard minutely perused all the relevant document and write the notification of argument and by consumer and replied by respondent utility. Following dispute is consumer on following point. I gave any finding and reasons for deciding the said issue as follows.

1. In the above matter MSEDCL authorities said that, the supply was unauthorized extended to Shop. No. 17 from the above consumer no which is for Shop No. 18-19. This was agree consumer representative.

2. The consumer representative said that Shop No. 17,18 &19 is one hotel only. Thus, he extended supply from 18-19 to shop No. And he is paying bills regularly.

3. The consumer further said that he is to pay 50% of the amount of the served to him under section 126 of E.A. 2003 the authority of respondent utility resolved the final decision and which as.

6. Result:- the decision of the above matter be taken after wards. It is further submitted by utility that Additional Executive Engineer, F.S. Thane as above inform to utility vide letter No. FS Thane 138/20/12/2014 to appeal against the final assessment and gave details order and disconnected to connection filed appellant to authority of PWD Mumbai on 23/02/2015

further prayed that as per provisional of under section 126 E.A. 2003 consumer should file the appeal before appealed authority under 127 of E.A.2003. After paying 50% of amount to MSEDCL as It is observation for month record to consumer not file as per 127 required as per Law and wrongly presented grievance before CGRF as per Regulation 6.8 of MERC, (CGRF &) Regulations 2006, the Hon'ble CGRF has no jurisdiction to entertain the cases of unauthorized use of Electricity under section 127 IE.A. 2003. Therefore responded utility prayed that the consumer compliant to be dismiss with cost.

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. 1,93,830/- 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 1,93,830/- 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 established. Therefore consumer is required to challenge all the allegations raised in this complaint to that Forum to appeal 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 contents 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 file this complaint or other retakes only to save him from paying 50% of disputed bill before competent authority. Hence I did not find any substance 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. 575 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.

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