



(A Govt. of Maharashtra Undertaking)

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Consumer Grievance Redressal Forum
"VidyutBhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

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

Date

Case No. 618

Hearing Dt. 09.12.2015

In the matter of revision of excess bill recovery since 2012

M/s. Water D'Souza - Applicant

Vs.

M.S.E.D.C.Ltd., Gadkari, Sub Division - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

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

B - On behalf of Appellant

- 1 Shri. Harshad Sheth - Consumer Representative

C - On behalf of Respondent

- 1) Shri. R.B. Kore Addl. Executive Engineer, Gadkari, *sub division, Thane.*

ORDER (Passed on 18.11.2015)

1. M/s. Water D'Souza having consumer no. 000023262673/7 B.U. 4728 of Thane division date of connection 05.02.1991 under the category of 01 LT

I Res.1- Phase connected load 2.9KW sanction load 2.90KW,has filed this complaint against Respondent utility.

2. Meter No. 21011950 (772968) was installed by section office-D on 13.02.2015. the consumer was receiving bills on average as the meter was not recording the consumption. On complaint of the consumer, utility replaced this old meter with new meter no. 3119013.
3. On 12.02.2015 old meter bearing no21011950was sent for testing. Testing report receiving on 09.06.2015 was - No display, Forward creeping, Error-100%. Accordingly verification report is submitted.
4. For the period from October 2012 till March 2015, the respondent utility charged 3100 units per month.
5. After installation of new meter the revised bill was issued for average 277 units as per meter recording. The consumer lodged complaint against the utility for demanding excess bill for disputed period, which is recovered from him under threat.
6. By filing this complaint, the consumer has demanded adjustment of excess amount paid for six months, i.e. for the period from October 2014 to March 2015.
7. it is alleged by the consumer that the Respondent utility cannot demand and recover the bill on the ground of faulty meter for a period beyond 2 years. The consumer has prayed for adjustment of the excess amount paid by him in the next bill.

8. Initially, the consumer lodged a complaint with IGRC bearing case No. 47/2015. On 30.09.2015 IGRC heard the grievance and dismissed the complaint on the ground of Regulation 2006 clause No. 6.6
9. Being aggrieved by the said decision consumer filed a complaint before this Forum. Consumer relied on judgment of Hon'ble High Court in Writ Petition no. 9455/2011.
10. It is contention of consumer that the Respondent utility should have charged on average consumption used by consumer of 277 units per month; as meter was faulty. As per section 62(6) excess payment received by utility is required to be refunded with interest. Consumer also prayed for the compensation of Rs. 10,000/- as per MERC Regulation SOP 2014.
11. Consumer filed before us-
 - copy of IGRC order 16.10.2015
 - letter of EE, Gadkari Sub Division dtd. 07.09.2015, and
 - letter dated 19.09.2015
12. After issuing notice to the respondent utility of this grievance, utility appeared and filed para wise remarks on 16.11.2015. It is contention of Respondent utility that as per testing report received on 09.06.2015 the meter was shown faulty, no display and 100% creeping error. Respondent utility submitted verification report dated 11.06.2015. According to Respondent utility the section Engineer issued revised bill for six month, for the period from October 2014 to March 2015 and credit of Rs. 59420/- was given to the consumer in the bill of June 2015, considering actual consumption recorded on replaced meter (290 unit per month). Respondent utility followed Regulation 2005 MERC supply code and other

conditional clause No. 15.4.1. As per guidelines, in case of defective meter the consumer is required to be charged for maximum period of 3 months in which dispute arises. In this complaint the consumer disputed the bill in February 2015. The Respondent utility has admitted that adjustment was made for the period of six months due to error and permission was given to withdraw the extra adjustment (for 3 months) which is already given to the consumer. Consumer submitted application raising dispute against this adjustment. He filed an application for B-80 of October 2012 to March 2015 instead of October 2014 to March 2015.

13. As the responded utility rejected the said request, consumer filed grievance in case no.47/2015 which was decided on 31.08.2015.
14. According to utility the grievance of more than the period of 2 years cannot be claimed in view of provision of MERC, (Consumer Grievance Redressal Forum and Electricity Ombudsman Regulation 2006) clause No. 6.6. As such claim of the consumer requesting adjustment cannot exceed more than 2 years. Thus the respondent utility has prayed for dismissal of the claim with cost.
15. After perusing the rival contentions of consumer and respondent utility following points arose for our consideration:
 - 1) Whether consumer is entitled to receive the adjustment of bill revision from October 2012.
 - 2) Whether consumer is entitled to any relief in the form of refund with interest.
 - 3) Whether grievance made by the consumer is within limitation period.
 - 4) What ordered?

Reasons

16. We have heard both the parties and also perused order of IGRC and documents filed by both the parties.
17. In this case the record has revealed that the consumer filed is grievance for the first time with Respondent utility office on 13.02.2015. After it was rejected, the consumer deposited meter testing charges for the old meter. The consumer did not make any complaint though he was receiving average bill.
18. Meter testing report and verification report filed by Respondent utility disclosed that the meter was defective. The date of meter testing report and verification is 11.06.2015, when the grievance in made by the consumer. He claimed adjustment of bill dated 26.09.2012 and 24.08.2012 for amount of Rs. 2780/- and Rs. 2290/-. The period of dispute is beyond the period of 2 years.
19. In the same complaint consumer made grievance for adjustment in the bill for the period of 16.12.2013, 16.11.2013 to 16.11.2013, 16.12.2013 to 16.12.2013 to 16.12.2014. Admittedly the consumer not made any complaint.
20. After going through said dispute the Respondent utility verified the meter testing report and record of earlier units recorded on the meter. In this case the Respondent utility admitted that there was error in recording units on the meter. Respondent utility has taken an action and has given adjustment in the bill for the period of 6 months.

21. It is admitted by Respondent utility that instead of giving benefit of adjustment permissible under rule No. 15.4 for 3 months, it was given for six months and accordingly B-80 was prepared and adjustment of Rs. 59,420/- was given.
22. During the course of hearing consumer filed the bill issued by Respondent utility showing the adjustment of bill.
23. Consumer filed grievance with IGRC and claimed the benefit of adjustment of units presuming that faulty meter status was continued since October 2012. The question is why the consumer remained silent since October 2012 without taking any action? It shows that the party remained silent on his Right which could have been exercised within the 2 year from the date of cause of action.
24. We have come to the conclusion that as per directions and provisions of Rules and Regulation 15.4 period of limitation is described under clause No. 6.6; which reads as *“The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen”*.
25. The consumer thus cannot be given benefit for the period beyond 2 years, and the claim of this consumer is time barred.
26. However, in the to present case the Respondent utility admittedly has mistakenly given benefit of six months instead of 3 months. Mistake of MSEDCL cannot deprive Right of consumer to take the benefit of the wrong committed by the utility. Respondent utility should issue bills of monthly consumption as per actually consumed units. Where the status of

meter is 'defective', the recovery should be made only for 3 months. In our view, the benefits which are already given to the consumer, though by mistake, cannot be withdrawn.

27. During the course of hearing the consumer relied on judgment reported in Hindustan Petroleum vs MSEDCL 19.01.2012 in Writ Petition no. 9455/2011. With due respect, issue considered in the said judgment is not similar to one which is raised in his present case, thus the ratio of judgment cited is not applicable in present case.

28. In conclusion, to our view consumer; is not entitled to claim adjustment and benefit of B-80 since September 2012. Therefore claim of the consumer is liable to be set aside.

The consumer complaint stands dismissed with no cost. Hence we proceed to pass following order.

ORDER

1) Consumer complaint no. 618 stands dismiss without any cost. However consumer is entitled is benefit which is given by Respondent utility earlier. It shall no effect on earlier relief granted by IGRC to the consumer.

Both the parties should be informed accordingly.

Proceedings closed.

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**