



(A Govt. of Maharashtra Undertaking)

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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. 633

Hearing Dt. 02.01.2016

In the matter of issuing p. assessment bill under section 135

Shri. Deepak Prabhat Fatak., - Applicant

Vs.

M.S.E.D.C.L. Panvel Sub Division - I - 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. Archana Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Niyaj Ahamad – Consumer

C - On behalf of Respondent

- 1) Shri. S. D. Rathod, Addl. Executive Engineer, Panvel Subdivision – I

ORDER (Passed on 06.1.2016)

1. Above named consumer filed this complaint against respondent utility alleging that respondent utility issued notice under 56(1) of Electricity Act 2003 giving threat of disconnection demanding Rs. 2028921.91/-. According to consumer respondent utility issued provisional assessment

bill for alleged theft under section 135 E.A. 2003. Against this order consumer has already filed a Case before the Hon'ble Sessions Court Raigad Alibag on 16.06.2015. During hearing of his litigation the consumer has already deposited amount Rs. 1 Lac. In his complaint consumer has submitted that as he has already deposited amount of Rs. 8 lacs against provisional assessment bill. Thus, issuing notice dated 19.11.2015 is bad in law. Consumer has prayed for the interim relief against disconnection of his supply.

2. After filing this complaint on 07.12.2015 notice was issued to respondent utility, which then appeared and filed reply on 28.12.2015. Respondent utility submitted that grievance is already registered against consumer at Sr. No. 633 and case is registered against this consumer, who is owner of M/s. Mehek Polymers, having of water storage tank manufacturing factory at Balaji Industrial Park,L.S.No.01,Gala No.C25, Tondare Village, Taluka Panvel.
3. The consumer having consumer no 029130004448 and the connection was released on 25.05.2012 in the category of LT-V, sanctioned load 50HP. On 27.04.2015 Flying Squad Thane visited premises occupied by consumer and during the inspection, the Flying Squad Thane observed discrepancies in meter, terminal screws at Plug in type combined CT terminal were loosen and meter display current seen as Zero, where as actual current of load was about 60Amp when measured by tong Tester. The supply was extended Gala no.D-05&C-22, unauthorized. Due to interference meter stopped recording unit even on full load. This is theft of energy.
4. Therefore assessment bill along with the notice was issued to the consumer for consumption of 237540 units, valued at Rs. 2735090/-; against which the consumer filed litigation before Sessions Court Raigad Alibag. in view of order of Sessions Court dated 16.06.2011, consumer deposited Rs. 8 Lacs. Thereafter on oral request of consumer he was allowed to deposit current bill and his supply was restored.

5. Thereafter consumer case No. 633 was registered against consumer on 07.12.2015. During pendency of the said litigation the case pending before Alibag Court was adjourned on 17.12.2015 (case 990 of 2015 in CR No.II-2032/2015). The action is taken by electrical inspector under relevant provisions of Electricity Act. As the consumer committed theft, his supply was disconnected in view of Regulation No.25.6.4 of Electricity Supply Code and Other Conditions of Supply Regulations, 2015. The facility of compounding of offences shall be permitted only once and therefore in all such cases, where the consumer has been permitted compounding of offences, necessary entry shall be taken on the CPL of such consumer. Therefore the amount of assessment entered in CPL with specially predetermined adjustment type B-10. Since the consumer has not paid full assessment amount, notice under section 56(1) of E.A. 2003 for disconnection was served upon the consumer.
6. Despite knowing the fact that the case is already registered, he approached this Forum seeking parallel order. As per (Consumer Grievance Redressed Forum and Electricity ombudsman 2006) clause No. 6.7 and 6.8, it does not permit the Forum to proceed with this case for want of jurisdiction. Therefore the complaint is liable to be dismissed.
7. Respondent utility filed documents including:-
 - a. deposit receipt Rs. 1Lac
 - b. demand of bill
 - c. copy of notice 19 November 2015
 - d. wireless message dated 09.10.2015
 - e. intimation of order of Sessions court dated 16.06.2015 given to the consumer
 - f. provisional bill along with letter.
8. We have perused all document filed by consumer as well as respondent utility. After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration:
 1. Whether this complaint is maintainable.
 2. Whether consumer is entitled to any relief.

Reasons

9. It appears that consumer filed this complaint to take benefit of deposit of Rs. 8 Lacs as per condition in the order passed by Sessions Court. Provisional assessment bill along with notice of disconnection under section 56(1) of E.A. 2003 was issued by respondent utility. Notice of disconnection does not mention anything about involvement of the consumer in the theft case. Under section 56(1) notice of disconnection was issued to the consumer but there was no mention about anything else but the provisional assessment bill which was claimed by respondent utility. Already the complaint was filed, the notice of disconnection was given and as per Sessions Court's order the consumer has deposited Rs. 8 Lac against the demand bill of Rs. 2,73,590/- . Provisions of consumer grievance redressed Forum and Electricity Ombudsman 2006 clause no 6.7 and 6.8 which is read as under:-

6.7 The Forum shall not entertain a Grievance:

(a) unless the consumer has complied with the procedure under Regulation 6.2 and has submitted his Grievance in the specified form, to the Forum;

(b) unless the consumer is aggrieved on account of his Grievance being not redressed by the IGR Cell within the period set out in these Regulations;

(c) unless the Forum is satisfied that the Grievance is not in respect of the same subject matter that has been settled by the Forum in any previous proceedings; and

(d) where a representation by the consumer, in respect of the same Grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.

6.8 If the Forum is prima facie of the view that any Grievance

referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum:

(a) unauthorized use of electricity as provided under section 126 of the Act;

(2) (b) offences and penalties as provided under sections 135 to 139 of the Act;

(c) accident in the distribution, supply or use of electricity as provided under section 161 of the Act; and

(d) recovery of arrears where the bill amount is not disputed.

Therefore we accept the contention of respondent utility and hold that consumer complaint is not tenable. Hence we proceed to pass the order as follows:

ORDER

1. The consumer complaint No. 633/2015 stands dismissed.
2. No order as to cost.

Proceedings closed.

Both the parties be informed accordingly.

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

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