

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No.520

Hearing Dt. 11/02/2014
26/03/2014

In the matter of accumulated billing

Shri. Kishor D. Sankhe, - Applicant

Vs.

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

Present on behalf category

A - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup.
- 2) Shri. R.M. Chavan, Member Secretary CGRF Bhandup
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Kishor D. Sankhe - Consumer Representative

C - On behalf of Respondent

- 1) Shri. A.P. Deshmukh, Dy. Executive Engineer, Vashi sub division

ORDER

Shri. Kishor D. Sankhe is a single phase residential consumer vide Service No. 000077475397. Since the date of connection the consumer was billed on refundable average basis with a locked status.

In the month of September 2010 the Respondent has disconnected the Electric supply which was restored only after payment of Electric bill for

an amount of 8000/-. However the billing was not started from the date of connection till August 2010 for non- reporting of New Connection Report.

The Respondent billed the consumer for “zero” consumption by punching the same previous reading resulting in credite billing in the month of February 2012. However in the immediate next month the Respondent issued bill for accumulated consumed units of 6253 for an amount of 59400/-.

The Respondent disconnected power supply for non- payment of arrears in June 2012.

The consumer has complained to the Respondent for such huge abnormal (billing) and on verification the accumulated units was bifurcated over the period of 27 months and the slab benefit was given to the consumer. The revised bill for an amount of Rs. 36910/- was issued to the consumer on 17/07/2012. However consumer declined to pay it.

The consumer filed his grievance to “IGRC”, Vashi Circle, and IGRC passed an order on 31.07.2012 According to the IGRC’s order there is serious lapses on the part of utility and the duties performed by the meter reading Agency and billing staff.

The IGRC has order to take action against defaulter in their duties after due enquiry. However no relief was awarded than to allow the consumer to pay the bill in equal installments and restoration of power supply.

Shri. Kishor Sankhe, a consumer appear before the Forum. According to him utility has failed to issue regular bill as per his consumption and there is no fault on his part and should not demand such a huge amount of bill. He further contested that the amount of bill should be recovered from the meter reading Agency and concerned billing staff.

Shri. A.P.Deshmukh, Dy. Executive Engineer, Vashi Sub division was present to represent the utility side here in after will referred as to the Respondent According to him the power supply of the consumer is restored in July 2012 as per the IGRC’s order. The installments in the

revised bill were granted but consumer has not paid the same. The Respondent has wrote to the consumer vide his letter dt. 09.08.2012 and asked for payment of installment, but consumer has not responded. Respondent then issued notice of disconnection on 23.08.2012; in response consumer paid only Rs. 2210/- but after that consumer has not paid a single penny.

The matter was heard on 28.03.2014; both the parties were present, perusal of the record and arguments during the hearing reveals that the utility is failed to provide bill to the consumer in regular cycle as per his consumption.

It is true that there are lapse in the duties of billing Staff as well as meter reading Agency. The matter should be investigated and action should be taken and the same should be inform to this Forum.

Gist of Representation is that whether the Respondent can raise the demand of supplementary bill with accumulated consumption for 27 months. The Forum feels that it will be worth to refereed the relevant provision in the Electricity Act2003 which clarify the time limit over the supplementary bill which is not shown continuously in the consumers bill.

Referring to the section 52(2) which states as:-

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.

The issue of the bills belatedly by the Distribution Licensee and that too because of their own mistake cannot be approved to provide additional leverage to the distribution licensee against the consumer protection in the light of the provisions under Electricity Act, 2003. It should also be understood that Section

56(2) balance the interest of both the Distribution Licensee and the consumer. on one hand, it empowers the Distribution Licensee to disconnect supply of electricity in case of neglect to pay. On the other hand, the responsibility is cast upon the Distribution Licensee to claim and recover the arrears within two years from the date when such sum becomes first due. Two years is quite an adequate period available to the Distribution Licensee to raise the bill towards the arrears if remained unclaimed for any reason, which in this case, was due to manual error. In such a situation, it would be unreasonable to interpret the provision of Section 56(2) in a manner to give a blanket authorization to the Respondent without any time limit to claim the old arrears, if any. Moreover, upon issue of the bills in keeping with the provisions of the Section 56(2), the Distribution Licensee is free to recover the same by any remedy permissible under law including by way of suit as provided under Section 56(1) of the Electricity Act, 2003. This gives sufficient latitude to safeguard the interest of Distribution Licensee. It is also an admitted position that the claim of the Distribution Licensee does not extinguish even beyond the period of limitation but only the remedy gets barred.

It will be observed that the cases cited by the Respondent would help in claiming and recovering the past arrears but only to the extent permissible and in conformity with the provision of the Section 56(2) of the Electricity Act, 2003.

The Forum further observed that in the similar case, Hon'ble Bombay High Court in W.P. No. 10764 of 2011 (MSEDCL, Sindhdurg Vs BSNL Deogad, Sindhudurg) referred the matter to the larger Bench owing to the conflict between the two judgments of the Division Benches for the correct interpretation of the provisions of section 56(2) of Electricity Act. Hon'ble G.S. Godbole, Judge of Bombay High Court in the same W.P. requested Hon'ble Chief Justice to refer the issue to the larger bench consisting of at least 3 Judges. Hence the present Representation which is on similar matter pertains to sub section 2 of 56 of Electricity Act. is pending before the larger bench of Hon'ble High Court to clarify the following issues:

- 1) Whether irrespective of the provisions of Section 56(2) of the Electricity Act, 2003, Distribution Licensee can demand charges for consumption of electricity for a period of more than two years preceding the date of the first demand of such charges;

- 2) Whether the charges for electricity consumed become due only after a demand bill issued by the Distribution Licensee and whether the Distribution Licensee can issue a demand bill even for period preceding more than two years from the date of issuance of demand bill notwithstanding the provision of Sub-Section 2 of Section 56 of the Electricity Act, 2003;
- 3) Which of the Judgments of the Division Bench namely Awadesh S. Pandey v/s. Tata power Co. Ltd., reported in AIR 2007 Bombay 52 or the Judgment of the Division Bench in the case of Rototex Polyesster &-12-12wp-10764-2011.

Another, reported in 2010(4) have correctly interpreted the provisions of Section 56(2) of the Electricity Act.

In view of above; Forum observed that conflict of opinion is whether the recovery should be limited to 24 months or should be made over the entire period which may beyond of 2 years.

In the present case the Respondent has claimed the supplementary bill for unread period of meter for 27 months.

In the above circumstances the Forum is of opinion to limit the period of supplementary bill to the 24 months subject to the decision of Hon'ble larger bench as said above and will be binded on both the parties.

As regards to the other issues raised by the complainant during proceeding that there is a possibility of misuse of electricity by the other tenant through the complainant meter being in the open meter box. The Respondent is directed to provide meter box which can be sealed/locked to avoid illegal asses to the meter by the outsiders. The necessary charges as stipulated in the Commission's approved Schedule of charges may be recovered.

As contend by the complainant to recover the amount of supplementary bill from the concerned billing staff and meter reading agency. It has no merit as there is no provision in the Electricity or Regulations made there under vest any authority in the Forum to direct the Respondent to take a particular action

including recovery of any amount by way of fine or otherwise and pay the bill of consumer against the raised supplementary bill.

ORDER

The Respondent hereby allow at this juncture to recover the supplementary bill as per 56(2) of Electricity Act 2003 limited to 24 months. without charging any DPC and Interest there on the equal installments of 24 months should be granted as per the utilities own circular No PR-3/Tariff/24156 dt. 18 July 2009.

It is also directed to recover the balance current bill a part from this disputed Supplementary bill along with admissible interest and DPC which are not paid by the consumer.

The supplementary bill which is raised by the Respondent now limited for recovery of 24 months from February 2010 to January 2012 dividing the accumulated consumption over the period of 27 months and ascertain per months consumption. This order is subject to the decision of Lagers bench which will be binding on both the parties and accordingly the bill will be finalize.

No order as to cost.

Both the parties should be informed accordingly.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 17th April 2014.

Note:

1) If Consumer is not satisfied with the decision, he may file representative 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

S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP

R.M.CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP

