

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

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

Date :

Case No. 429

Hearing Dt. 29/02/2012

Shri Ashk Jivaraj Hariya

- Applicant

Vs.

Bhiwandi

- Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

1) Shri S. K. Choudhary, Chairman, CGRF Bhandup.

2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.

2) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Applicant

1) Shri Sajid Ansari–Consumer Representative

2) Shri Adil Punjabi–Consumer Representative

C - On behalf of Opponent

1) Shri Joshi, T.P.L., Bhiwandi.

2) Mr. Jeevan Clark, T.P.L., Bhiwandi

The consumer Shri Ashoka Haria has filed this complaint, praying for refund of penalty charges.

Facts in brief

Mr. Ashok Haria is the consumer of the Opponent, bearing consumer no. 13892376535; who had initially installed warpine

machine, which was subsequently replaced by 18 power looms and kanji machine with additional 6 looms under fitting.

On 10/02/2004, after the visit of Flying squad, he was charged 30 months penalty for 6 loom overload, though the looms were under fitting. Thus the consumer was sent bills for 'Theft of Electricity' for Rs. 1, 48,989/- along with additional bill of Rs. 1, 04,165/- on 30/11/2004 and 30/01/2006 respectively, out of which Rs. 31,000/- was paid by the consumer in December 2004. After being acquitted from the charges of theft, consumer filed representation before IGRC, for which hearing was held on 18/02/2010. But till date, the consumer has not received any order from the IGRC, hence this complaint.

MSEDCL has filed their reply on 28/02/2012 before this Forum. As per this reply, it is their contention that giving supply to the under fitting looms itself is illegal, and the same should be counted as the additional connected load.

Along with this reply, they have also filed the legal opinion of their legal advisor, Kalyan Zone, dated 04/09/2010 in which it has been stated that it would be proper to cancel the charges of Rs. 1.48.989/- changed to the consumer towards theft of energy.

We have gone through all the documents placed on record before Forum by both the parties, and have also perused the order passed by the Special Judge (EA), Thane, dated 16/04/2008 in Special case no. 238/2005.

Now the only question before Forum is-

Whether the consumer is entitled to get the refund of Theft charges.

Forum is of affirmative opinion for the afore stated reasons

REASONS

The consumer was made to pay Rs. 1,48,989/- towards the charges for theft of electricity vide bill dated 16/11/2004, along with penalty on connected load of Rs. 720/-.

The consumer was also booked for the charges under sections 135 and 138 of EA 2003.

The Special Judge (EA), Thane, vide judgment dated 16/04/2008 in Special case no. 238/2005 has acquitted this consumer from the charges of theft.

The reasons quoted for the same, in brief are-

1) The utility has failed to prove that the consumer was using 25 HP load, though the sanctioned load was 19 HP and

2) Using excess load is not an offense u/sec 135 and 138 of EA 2003.

The utility has not challenged this order before the higher authority, making this order final.

Therefore Forum is of the opinion that the charges collected by the utility under the heading 'theft charges' from this consumer must be refunded along with interest at the rate approved by the RBI at the relevant times, from the date of order of the Special Court, ie. April 2008.

ORDER

1) MSEDCL is directed to refund Rs. 1, 48,989/- along with interest at RBI approved rate from April 2008 onwards by way of adjustments in the subsequent bills of the consumer in 10 installments.

2) MSEDCL to comply with this order with immediate effect.

3) No order as cost or compensation.

Compliance should be reported within month period.

No order as 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

Note :

1) If Consumer is not satisfied with the decision, he may go in appeal 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 go in appeal 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

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Corrigendum

The matter was decided by order dtd. 10th April 2012. In fact two bills were sent by MSEDCL to the Complainant for theft of electricity. One bill was of ` 1,48,989/-. Another bill of ` 1,04,165/-. In the theft case Complainant was acquitted under judgement dtd. 16/04/2005 in special case no. 238/2005. Therefore the complaint was filed before this Forum claiming that amount referred above under two bills sent by MSEDCL.

By judgement referred above dtd. 10/04/2012, this Forum has discussed regarding both the bills in the body of judgement, however by oversight only one bill was considered for giving direction to refund ` 1,48,989/- alongwith interest at RBI approved rate since April-08.

Complainant submitted an application on 13/07/2012 which is taken before the Forum today i.e. 04/08/2012 and it is found by the Forum that the original order inadvertently the refund of ` 1,04,165/- remained to be ordered. Therefore after having discussion we came to the conclusion that application filed by Complainant on 13/07/2012 needs to be considered and corrigendum is required to be issued, accordingly in the original order. The Forum also discussed as to whether it needs any further hearing from other side? The Forum came to the conclusion that on the fact of judgement, itself when it is found that one bill though discussed remained to be considered in final order for giving directions to MSEDCL regarding its refund to the Complainant and thus for reasons the matter doesn't needs further discussion from other side. Therefore this application is disposed off with the following order.

ORDER

- 1) Application is allowed.
- 2) The original order dtd. 10/04/2012 is modified as below :
- 3) After order no. 1 in original order the following order 1 B is added :

1B) "MSEDCL is directed to refund also the bill of ` 1,04,165/- alongwith interest at RBI approved rate since April-2008 onwards by way of adjustment in subsequent bills in ten installments towards bill claiming theft of energy."

This corrigendum order be treated as a part and parcel of original order. It should be attached with the original order. The decision of this corrigendum be informed to both the parties.

**S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP**

**R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP**