

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

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

Date :

Case No. 439

Hearing Dt. 07/06/2012

**In the matter of interest on S.D. and excess load penalty**

Smt. Parvati Visandas - Applicant

Vs.

M.S.E.D.C.Ltd., Bhiwandi - Respondent

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.

B - On behalf of Appellant

1) Shri Pravin Thakkar–Consumer Representative

C - On behalf of Respondent

1) Shri A.L. Deshpande, E.E., Bhiwandi.

**ORDER**

Smt. Parvati Visandas is a power loom consumer having sanctioned load of 10 HP under service no. 013012046337 at H. No. 218, Naigaon -1, Kalyan Road, Bhiwandi. The consumer is having bill dispute over the following issues.

- i) From April 2000 to June 2003 the utility charged the excess load penalty for use of unauthorized excess load of 33 HP i.e. connected load 43 against sanctioned load of 10 HP.
- ii) The utility should have charged the penal charges at double the rate of fixed charges applicable to the motive power where as in this case utility charged ` 180/HP instead of `120/HP when the applicable regular fixed changes was `60/HP, hence excess recovery should be refunded with interest .
- iii) The security deposit paid by the consumer should be reflected on bill and interest on S.D. should be awarded from 01/01/2002 onwards.
- iv) The capacitor penalty charged from July-04 to Sept-04 (3 months only) should be refunded as demanded during the proceedings.
- v) Regarding refund of RLC, demand is waived of by the consumer representative during proceedings
- vi) Spot Inspection report should be produced by the utility for verification of excess load in the year 2000.

With these grievances consumer had approached to the IGRC, Bhiwandi where the matter was heard and passed an order vide no. SE/BWD/Nodal Office/IGRC/Case no. 112/order/0591 dtd. 21/04/2012. In which most of the issues were considered positively except the excess load penalty. Aggrieved of this consumer filed his representation to this Forum and case was registered vide case no. 439 and hearing was fixed on 07/06/2012.

On behalf of consumer Shri Pravin Thakkar was present to represent the case he stated as below :

The consumer is having 3 phase LT connection for the power looms purpose. From April-2000 the wrong billing of penalty on additional load was imposed. The other machinery was lying idle and were under fitting. Consumer has also registered her complaint dtd. 06/05/2000 to June-2003 she had made several letters, but there was no any response and Utility is not bothered to give any reply. The arrears which is demanded and claimed by MSEDCL is of misconduct and wrong billing. Consumer raised her grievance before ICGR Committee, Bhiwandi, but withdrawal of penalty of additional load from April-2000 to June-2003 was not considered by them, so she compelled to file her representation before Hon'ble Forum for natural justice.

The cause of action arose vide dtd. 20/04/2012 when staff of MSEDCL and Torrent Power Ltd. has come to her premises and threatened her for disconnection of power supply. They told her that her consumer no. is in the list of arrears and they have order to disconnect her supply for arrears of MSEDCL. She knows that they have disconnected lot of connection without any prior notice of 15 days and any information highhandedly. She requested utility that her application of wrong billing is still pending and they have not given any weightage and response and never bother to give her any reply, inspite of all these facts and factor, repeated personally follows to their office they orally told her it will take time.

The consumer representative requested that inspite of all these facts and factors, if consumer is delayed in filing the appeal before Forum, the honour is requested to kindly condone the delay and appeal may kindly be considered for hearing and solving for the natural justice provided to consumer.

Consumer Representative Further stated that she has already registered and drafted several letter for the withdrawal of penalty on additional load from April-2000 to June- 2003, but there is no load survey,

was carried out spot inspection report is not available, and hence connected load taken, should not to be accepted. Further, her meter was not M.D based (Maximum demand) which can be verified and examined by their C.P.L available with Utility and Applicant requested to Forum to ask utility to produce Spot Inspection Report before Forum as a documentary evidence for verification.

At that time M.S.E.B. was ruling under Indian Electricity Act- 1910 and as per provision in the Act Section no.6, sub Section no. 6 and 7 reproduced as under:

Sub section -7:- The licensee may place upon sub meter (instrument) as he may think fit for the purpose of ascertaining or regulation either the amount of energy supplied to the consumer or any other quantity or time connected with supply.

Sub section -6:- Where any difference or dispute arises. The recovery of not more than exceeding six month should be calculated and there is no any notice of seven days was given to her, if it is should be produce before Hon'ble Forum.

As per M.S.E.B. Commercial Circular no. 375, dt 23/05/2003. For the determination of connected load for the power loom consumer may kindly be considered in this case.

As per the M.E.R.C. order issued in case no. 2 of 2003 order dated March-2004 for the definition of the connected load is produced herewith.

As per M.E.R.C. Ombudsman order issued in case no. 2 of 2005 order date 9- March 2005 may kindly be considered in this case.

The Hon'ble Forum Bhandup Zone has also accepted such types of cases, previously for the justice provided to the consumer for ready

reference. In the case of Meena Ahuja of Bhiwandi. Case no. 73 order no. 129, dt. 27.07.2006, similar order may kindly be contemplated.

The Hon'ble I.C.G.R. Committee, Bhiwandi, has also issued the similar types of order in case of Bombay Ice Factory in case no. 236 order no. 21 dated 07/02/2011 justice provided to the Consumer may kindly be contemplated in this case.

The Representative of consumer further stated that it is her right to file the grievance before Hon'ble Forum as the grievance is not resolved by the I.C.G.R. Committee established by M.S.E.D.C.L. The cause of present application is in continuous nature.

The application is filed within permissible time, the said application is not time barred inspite of consumers repeated follows, it was not considered up to 31.03.2012.

The I.C.G.R. Committee did not apply its judicial mind and they do not want to take any responsibility and they simply kept themselves refrained and forbearance and wrongly interpreted to the provision of law and erred in arriving wrong conclusion.

As per the provision in the E.A. Act- 2003, Section no. 173. In consistency of Law, the Chairman is the competent authority by utilizing his power of competency and as per Consumer Protection Act- 1986 (86) to provide natural justice to the consumer.

In the light above facts and factors, it is requested to kindly consider pray as under ;

**Prayer:**

- 1) Kindly consider to condone the delay in filling the appeal and kindly consider to admit it, for solving the grievance in the interest of justice provided to the consumer.

2) Kindly provide withdrawal of penalty of additional Load from April - 2000 to June -2003 and interest, D.P.C. (Delayed Payment Charges) thereon.

Kindly provide if any additional facilities for the benefit of natural justice.

**Utility say :**

On the behalf of utility, the Nodal Officer Shri A.L. Deshpande, Executive Engineer Bhiwandi Circle was present to represent the case. (here in after will referred as to the Respondent) the Respondent stated the facts as below :-

It is stated by the consumer that he was written letters in April 2000 and June 2003 for withdrawal of additional load penalty. In the matter the original application needs to be verified. The cause of action indicated is from April 2000 to June 2003, however, consumer never approached till 2011 for solving billing dispute. In this connection it is to bring out that credit for wrong billing in the month of Aug 2003 and Dec 2003 was already given to the consumer & same can be verified from CPL.

He further stated that the allegations made by the consumer regarding threatening for disconnection of supply is not correct as no such disconnection notice served to the consumer.

As regards to their application for wrong billing, the case was heard in IGRC Bhiwandi on 04.04.2012 and order dt. 21.04.2012 was issued.

Regarding the condoning of delay the statement made by the consumer inter-alia confirms that matter is delayed and time barred.

As stated by the consumer Representative about the wrong billing there is no wrong billing done as can be seen from the CPL. The additional load penalty charged need not be withdrawn as it is charged by

following the practice in vogue at that time and accordingly reflected in CPL.

The Respondent further stated that as regards to the additional load penalty it is to state that irrespective of the quantum of sanctioned load and whether the energy is consumed is being recoded by conventional meter or static meters the consumer is to be penalized for unauthorized connected load on the basis of physical verification as per commercial circular no. 375 dt. 23/06/2003.

He further insisted that it is seen from the CPL that the load of consumer was 10 HP, however consumer was using unauthorized excess load over the period of April 2000 onwards. Further the consumer has paid part payment of Rs. 15000/- on Dec 2008 towards MSEDCL arrears which confirms that the consumer was aware of MSEDCL arrears.

The consumer has referred the provisions of IE Act 1910/ sec 26, subsection 6&7 and stated that the recovery for not more that '6' months be considered. In this connection it is to state that per above clause-26(2), dispute shall be decided by an electrical inspector upon application.

The consumer has not submitted documentary evidence towards application made to the electrical Inspector.

The Respondent further stated that consumer in the letter dt. 06/05/2000 that their sanctioned and connected load is 10HP and other machinery is lying idle however in application dt. 31/08/2004 he has confirmed the connected and sanctioned load is of 33 HP.

It can be seen from CPL, that the load of the consumer as on March 2000 was 10 HP and April 2000 onwards the connected load of the consumer from Nov. 2000 to March 2001 was 43 HP and from April 2001 to July 2001 it was 38 HP and 2001 to June 2004 it was 33 HP. Again in next month from July 2004 to Sept 2004 was 42 HP, thus from above it

can be seen that the consumer was using load as per his will and therefore the additional load penalty levied was correct. Further as per commercial Circular no. 375. The over-load penalty levied based on physical verification.

As per the practice vogue at that time the due verification of the connected load is to be derived. It can be seen that consumer in his application up to 2004 had not raised any dispute on the issue.

The Respondent added that at the time of hearing of IGRC the issue of penal charges was not raised by applicant. If the request of the consumer as per para (2) i.e. condoning the delay of time barred case is considered then as per Hon. Ombudsman order no. (2) of 2005 of dt. 09/03/2005 the difference between penal charges can be refunded through bill.

The consumer has not turned up after 2004 till 2011 for resolving the dispute as such the case is time barred.

- 1) In view of above it seen that the consumer was habituated of using unauthorized additional load as per will. Hence the billing was done as per the connected load.
- 2) Cause of action arisen in April 2000, as such the representation is time barred.
- 3) The consumer has paid amount of ` 15000/- in Dec 2008, as such it can be said that he is agreed with the MSEDCL arrears .

The matter was heard on 07/06/2012 both the parties were present, the documents on record and arguments during the hearing reveals that the respondent utility has agreed to resolve the following issues with the immediate effects.



- 1) Reflecting the paid security deposit in the consumer bill.
- 2) Awarding the applicable interest from 01.01.2002
- 3) Withdrawing the capacitor penalty for the period of July 04 to Sept 04.

However the dispute remains is about withdrawal of excess load penalty for the period of April 2000 to June 2003. In the present case it will be more appropriate to see the provisions in the tariff order regarding the charging of penalty on the excess connected load. The relevant commissions tariff order is of 1<sup>st</sup> Dec 2003. Which speaks that no penalty on excess connected load should be levied after 1<sup>st</sup> Dec 2003 in absence of LT M.D. meter. Moreover, the commission had laid down the guidelines as to how the penalty for excess load, if any should be charged depending upon the period of occurrence for the period from 1<sup>st</sup> Dec 2003 onwards. However being the excess load penalty is charged for the period April 2000 to June 2003, and the commission order come in to force on 1<sup>st</sup> Dec 2003, it can not applicable in the present case.

On perusal of consumers CPL produced by the Respondent, the sanctioned load of the consumer till March 2000 is seen to be 10 HP only. From April 2000 the sanctioned load is observed to be 10 HP and connected load is raised to 43 HP. It was also seen from this CPL that the connected load figure is corrected from 43 HP to 38 HP in the month of April 2001. Which again corrected to 33 HP in the month of Aug 2001. This could not be happened without detail verification or inspection of the premises. The consumers personal ledger is a authentic computer generated documents and in absence of any other proofs this documents shall have to be used as authentic record of the consumer, the entries taken in the CPL time to time can not be denied and hence the statement made by the consumer that connected load found during the inspection was not as mentioned in the CPL is observed to be and hereby rejected. Moreover the matter is of the Year April 2000 thereafter consumer has

correspondence with the Respondent utility on 06/05/2000, 22/11/2003 and thereafter long time the consumer applicant wrote on 12/03/2012 , this kind of correspondence and follow up can not be consider as continuous in nature. The commission tariff order dt. 1<sup>st</sup> Dec 2003 is not applicable as elaborated above. Moreover the MERC (CGRF & EO) Regulations 2006 there in Regulation 6.6 do not allow to entertained such old grievance The sub-section 6.6 of MERC (CGRF & EO) Regulations 2006 reads as:-

*"6.6 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.*

Hence Forum is of the opinion that as pleaded by Respondent and considering above subsection 6.6 of MERC (CGRF & EO) Regulation 2006 the prayer of consumer for withdrawing of excess load penalty is not tenable and hence rejected.

- The Respondent is here by directed to immediately reflect the paid S.D. amount on the next bill of consumer.
- The interest on paid S.D. should be awarded at the applicable rate from 01/01/2002 onward.
- As agreed in the Internal Grievance Cell order the capacitor penalty should be withdrawn for the period of July 04 to Sept 04.
- The prayer of applicant for withdrawal of excess load penalty is rejected for the reason elaborated in forgoing paragraph.

The Compliance should reported within 60 days from the receipt of this order.

No order as cost

Both the parties be inform accordingly.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 22/06/2012.

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.

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

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