

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

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

Date :

Case No. 387

Hearing Dt. 11/08/2011

Shri R.S. Ansari - Appellant
Vs.

T.P.L., Bhiwandi - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S. D. Madake, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 2) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri Pravin Thakkar –Consumer Representative

C - On behalf of Respondent

- 1) Shri Deshpande, Ex. Engr/Nodal Officer, Bhiwandi.
- 2) Shri Jeevan Clark, T.P.L., Bhiwandi.

Preamble: -

Shri Ansari Roshan Shakil is a single phase residential consumer under consumer no. 13013382977 with the sanctioned load of 0.34 kw against which he was using load of 1.085 kw. On dtd.

14/12/2010, the utility detected theft of energy going on in the premises by bypassing the meter. However, consumer do not agree with the allegation of pilfergement of energy and also claimed that utility has not follow the procedure laid down as per V&S circular no. vgs/enforcement/2731, dtd. 29th June 2004 and commercial circular no. 24, dtd. 6th June 2006. The consumer approached to the utility on 13/05/2011 but no cognizance was taken hence approached to this Forum for redressal of his grievance.

Consumer say :

On behalf of consumer Appellant Shri Pravin Thakkar was present to represent the case (hereinafter will referred as to the Appellant). The Appellant submitted his say as he is having single phase Lt. connection for residential purpose. The inspection was carried out, if they found any irregularities, they have to inform, but they have not intimated to him, and booked the case of theft of energy and issued the recovery of ` 7,166/-, which is totally excessive and on higher side that too after six months.

The order of provisional assessment should be served within 7 days from the date of inspection and opportunity for hearing should be given to the consumer to file objection, if any against the provisional assessment of the electricity charges which is payable by the consumer.

The order of final assessment should be given to the consumer within the period of 30 days, but in his case no any opportunity of the hearing was given to him, when his meter shows the reading, how utility can say it is direct line, consumer has registered his complaint on dtd. 13/05/2011, but no response so far have been given to him.

Consumer has pointed out here that he has approached for payment of current bill, but the cash collection counter staff refused to collect his payment and application for accepting his current bill, but the counter staff have refused to accept, which is totally against the human rights, then they accept his application dtd. 09/06/2011 vide registered no. 928 but no response given to him so far. It is totally apparent that the order diversify the statutory provisions.

They have also rejected appeal by I.G.R.C., therefore, he was compelled to file his appeal before honourable Forum, under E.A. Act 2003 (36), Section no. 42, sub-section no. 6 and section no. 173 Inconsistency of Law regulation framed thereof consume protection Act 1986 (86).

As per E.A. Act-2003 (36), Section no. 42, Sub-Section no. 6, reads as under :

Section no. 42 : Duties of the Distribution Licensee Sub-Section no. 6

Any consumer, who is aggrieved by non-redressal of his grievance under Sub-Section (5) may make a presentation to the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

As per E.A. Act-2003 (36), Section no. 173, please read as under:

Inconsistency in Laws : *In this respect the Chairman of the Forum is competent to accept such cases, which are reasonable in the interest of consumer in pursuance in order to protect the interest of the consumer as per Consumer Protection Act-1986 (86).*

Hence, he requested to the Forum to kindly accept his appeal for hearing and solving his grievance.

He stated further that all the loads were not running at one time and he has used the supply as per his requirement and consumed units are recorded on the meter.

He further stated that there is no any reason that the line is direct. The meter has not been tested in the presence of consumer. The meter testing report and meter testing results was not given to him. If utility have any doubt about irregularities the meter should be replaced by utility and cost of meter should have recovered from consumer.

As per M.E.R.C. SOP Regulation no. 8.4, reads as under :-

“Signature of two witnesses in the Spot Inspection Report should be provided”. There is no signature of the witnesses in the Spot Inspection Report.

As per M.E.R.C. Regulation for (C.G.R.F. and E.O-2006) Regulation no. 17 (7.14) reads as under :

“The Electricity Ombudsman shall be guide by such factors which the opinion of the Electricity Ombudsman are necessary in the interest of justice and shall ensure transparency which exercising its powers and discharging its functions in compliance with the principles of natural justice”.

As per M.E.R.C. SOP Regulation-2006, the Regulation no. 3 (31) Basic Principles :

- To protect the interest of the Consumers.
- As per M.E.R.C. S.O.P. Regulation no. 17.14 \C.G.R.F. and Ombudsman 2006,
- Regulation no. 3, 3.1, 8 (8.2)

The Assessment is on the basis of assumption and allegation is totally wrong and imposed. The reading of consumed units are recorded on the meter. The assessment is totally baseless and excessive and high side on assumed unit and allegation basis.

The recovery is charged on the basis of 200 units per month is totally excessive and high side.

He further requested that his application to replace the meter and incoming six month consumption pattern and the amount for the last six months period paid by him may kindly be reduced and the remaining amount may kindly be collected from him.

Prayer of the consumer :

- 1) To provide withdrawal of six months consumption pattern incoming and reduce from six months amount which is already paid by him.
- 2) If any other facilities are provided if possible.

Utility's Say :-

On behalf of utility Nodal Officer Shri S.D. Deshpande & from Torrent Power Ltd, Shri Jeevan Clark was present to represent the case (hereinafter will referred as to the Respondent).

They stated that service no. 13013382977 was inspected and site inspection reports no. 15588, dtd. 14/12/2010 was prepared and

issued to the consumer/representative. During site visit, it was found that consumer was using power by directly tapping from sintex box. Hence, as per the section 135 of the electricity Act, 2003, as amended by the Electricity (Amendment) Act 2007, this is a theft of electricity and FIR has been lodged on the above service on 20/12/2010 vide FIR no. 4272/10.

Respondent further stated that as per clause no. 6.8 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, *“If the Forum is prima facie of the view that any grievance referred to if falls within the purview of any of the following provision of the Act the same shall be excluded from the jurisdiction of the Forum”*:

- (a) *Unauthorised use of electricity as provided under section 126 of the Act.*
- (b) *Offences and penalties as provided under sections 135 to 139 of the Act.*

Hence it is clearly evident that grievance filed by the consumer does not fall within the purview of the I.G.R.Cell and hence the same is disposed off.

Observation :-

The matter was heard on 11/08/2011 both the parties were present. Perusal of record and arguments during the proceeding reveals that the utility had detected the theft of energy in the premises of consumer Shri R.S. Ansari having consumer no. 13013382977 on 14/12/2010. Accordingly, the utility has registered the first Investigation report vide 4272/10, dtd. 28/12/2010. As mentioned by the consumer representative that copy of panchanama was not given

to the consumer and also the details of assessment of theft bill is not furnished by the utility which is mandatory as per E.A. 2003. Forum feels that there may be some short fall in the procedure adapted by the utility but this does not construed that there was no theft of energy. Moreover the Respondent utility has filed the F.I.R. in the Kalyan Police Station which becomes the matter subjudised. Considering the MERC (E.O. & CGRF) Regulations 2006 therein 6.7 (d) which reads as ...

6.7 The Forum shall not entertain a grievance :-

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 passed by any such Court, tribunal, arbitrator or authority.

The above Regulation do not permit the Forum to proceed the subjudised matter and hence, the case is dismissed and disposed off.

ORDER

Being the matter is subjudised, the prayer of the consumer cannot be entertained and hence rejected and case is deposed with this order.

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 15/10/2011.

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. D. Madake
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP