

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

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

Date :

Case No. 397

Hearing Dt. 01/10/2011

Shri Faisal Ahamed Mohd. Hanif

- Appellant

Vs.

M.S.E.D.C.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 Sajid Ansari- –Consumer Representative

C - On behalf of Respondent

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

Preamble :

Shri Zubir Ahmed Haji Isag Momin filed his grievance for removal of electric service connection no. 13011175478 which is in the name of Shri Faisal Ahmed Haji Isaq Momine who is land owner and said connection is released without his knowledge and N.O.C. It is also contended that there is a huge arrears of utility on this premises for the discontinued connection

no. 13010152601. He approached to the utility but could not get relief and hence filed appeal in this Forum.

Consumer Say :

Shri Mohd. Anwar Mohd. Atahar Ansari the tenant has utilizing his premises since his father's time and consuming electricity and making the electricity bills payment himself, his own address is H. No. 143, Kotergate Bhiwandi-421302.

He further stated that he came to know from reliable sources that his tenant had surreptitiously removed, discarded and threw away meter no. M00406001 (cons. no. 13010152601) which reflected MSEDCL's pending arrears of ` 12,86,791.81 as per the electricity bill of December 2008, which please note. Thereafter, another meter no. B35106977 (cons. no. 13011175478) was installed without his consent and knowledge. This meter had been removed from H. No. 174, Thana Road, Bhiwandi and subsequently been installed illegally at his premises. This meter had shown MSEDCL's pending arrears of ` 1,38,398.14 as per the electricity bill of January 2011.

After knowing the facts, he informed and requested to M/s. Torrent Power Ltd. and the Nodal Officer, MSEDCL, Bhiwandi to remove the meter no. B35106977 (consumer no. 13011175478), vide following letters viz:-

- a) On 03/09/2010 & 18/10/2010 both letters to the Manager, M/s. TPL, Bhiwandi.
- b) On 27/01/2011 & 15/04/2011 both letters to
 - i) the General Manager, M/s. TPL, Bhiwandi
 - ii) the Nodal Officer, MSEDCL, Bhiwandi. (photo copies of all the above referred letters are enclosed herewith for perusal and ready reference).

He further stated that it is highly regretted, that inspite of their regular request letters spanning a period of almost 8 months, neither M/s.

TPL nor the Nodal Officer, MSEDCL, Bhiwandi has deemed fit to reply or take any action, which seriously be noted.

Due to the purposeful inaction of M/s. Torrent Power Limited and The Nodal Officer, MSEDCL, Bhiwandi, he was compelled to approach the "State Public Information Officer" under Right of Information Act 2005 dtd. 29/04/2011 (copy attached).

Since he received no response for his Annexure "A" procedure, he approached the Appellate Authority vide Annexure "B", dtd. 09/06/2011 (copy attached).

The Appellate Authority directed the State Public Information Officer on 15/07/2011 to furnish the information sought within 7 days. But, regrettably, no information has been forwarded to him till date, which please be note.

However, M/s. TPL, Bhiwandi , disconnected power supply on 25/08/2011 of consumer no. 1301175478, but they have not yet removed the said meter . Which please note. Whereas, this meter ought to have been removed physically, as it had been installed totally on an illegal basis.

He added that applications both to M/s. TPL and the Nodal Officer, MSEDCL, Bhiwandi to remove the illegally installed meter from his premises and to recover the MSEDCL's arrears of both the consumers nos. referred above from his tenant. But so far the illegally installed meter has not been removed at all. Therefore, due to all the above non-co-operative attitude of both M/s. TPL & Nodal Officer, MSEDCL, Bhiwandi, he forced to approach to the Hon'ble Forum for redressal of his grievance through the Hon'ble Judgment.

Prayer :-

It is sincerely requested that the illegally installed meter no. B35106977 (cons. no. 13011175478) be immediately removed from his premises.

The MSEDCL's arrears :

- 1) Cons. no. 13011175478 – ` 1,51,000.00
- 2) Cons. no. 13010152601 – ` 12,86,791.81 directives should be issued to the Nodal Officer, MSEDCL, Bhiwandi and M/s. Torrent Power Ltd. to recover the MSEDCL's pending arrears from his tenant. Failing which, he should be held immune to the pending arrears recovery from him, please note.

As per electricity bill of April 2008 the address of cons. no. 13011175478 was mentioned as H. No. 174, Thane Road, Bhiwandi-421302. Whereas; M/s. TPL altered it to H. No. 174, Thane Road, Kotergate, nr. Panch peer Kabrashthan, Nizampura, Bhiwandi-421302. M/s. TPL has assisted his tenant by doing the above unlawful action, as such it is requested that M/s. TPL be penalised for their illegal action.

As per Dec-2008 electricity bill, cons. no. 13010152601 the MSEDCL's pending arrears was ` 12,86,791.81 but, M/s. Torrent Power Ltd. made permanent disconnection without recovering the arrears, which please be note. This illegal and unlawful action of M/s. TPL may please be investigated and the said pending arrears be directed by M/s. TPL to recover the said pending arrears of MSEDCL, from his tenant.

M/s. TPL and the Nodal Officer, MSEDCL, Bhiwandi be directed to provide him with all the relevant documents on the basis of which cons. no. 13011175478 had been installed on his premises.

It is humbly requested to compensated, in accordance with Forum's judiciousness; for the mental agony, physical tormentation, tension and

monetary losses suffered by him due to the high handed, negligent attitude of M/s. T.P.L. and the Nodal officer, MSEDCL, Bhiwandi.

Utility Say :

Shri Deshpande Nodal Officer and Shri Jeeval Clark, Dy. Manager of M/s. TPL were present to represent the case, they stated that connection for service no. 13011175478 was released by MSEDCL, Nodal Office on 07/11/1997 in the name of Faisal Ahmed Mohd Hanif. As on date, the MSEDCL arrears are ` 1,46,940.96 and TPL arrears ` 10,450.16. Further it was also observed, that the service was in continuous use and consumption recorded in the meter is as per load connected and in use. The service was disconnected for MSEDCL arrears on 25/08/2011.

He again stated that connection for service no. 13010152601 was released by MSEDCL, Nodal Office on 17/09/2001 in the name of Rahadurbahi Ab Gafoor. Since take over by TPL, the service no. 13010152601 is IA (inaccessible service). Hence from the above it is clear that as the subject matter of the consumer complaint pertains to the period prior to take over by TPL.

Further is Regular Civil Suit registered vide RCS no. 565/2011 by Faisal Ahmed Mohd Hanif , consumer no. 13011175478, hence the case is sub-judiciary. Again as per clause no 6.7 (d) of the MERC (CGRF & EO) Regulations, 2006 which states that the "*Forum shall not entertain a grievance 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.*" This it is clearly evident that grievance filed by consumer does not fall within the purview of Hon'ble Forum and shall be disposed off.

OBSERVATION :

The matter was heard on dtd. 16/10/2011 both the parties were present. Documents on record and arguments during the hearing reveals that the service connection no. 013010152601 in the name of Shri Rahadurbhai Ab. Gaffor, at 143, Kotergate, Bhiwandi was in huge arrears of utility, the supply was discontinued due to this arrears. However as claimed by the Appellant that new connection in the name of Shri Faisal Ahmed Mohd. Hanif under service no. 13011175478 in the same premises, without recovering the old arrears on the premises due to unpaid electric charges of sr. no. 013010152601, this is a gross negligence of then utility while conducting survey before release of the new connection.

As regards to the Appellant plea for disconnection of the new service connection due to wrong release of supply in the premises of holding old arrears Forum observed that the Hon'ble Civil Court, Bhiwandi had already passed the order in the some representation and issue, in such case this Forum cannot intervene.

Considering the MERC (CGRF & EO) Regulation 2006 therein Regulation 6.7 (d) reads as :

“(d) where a representation by the consumer, in respect of the same Grievance, is pending in any proceedings before and 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 or arbitrator or authority”.

The Forum cannot entertain the representation where the same issue is under consideration in the Hon'ble Court.

The Applicant could not substantiate the harassment and mental agony hence Forum is declined to award any compensation. However, M/s. TPL should provide the relevant documents as regards to the release of new connection in the premises holding old arrears.

ORDER

Observing the MERC (CGRF & EO) Regulations 2006, 6.7 (d) the Forum has no other alternative than to reject the prayer on the above ground and disposed off.

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 23rd November 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