

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

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

Date :

Case No. 334

Hearing Dt. 15/07/2010

**In the matter of old arrears**

**Shri Pradeepbhai K. Nifadkar** - Applicant  
**Vs.**

**MSEDCL Bhiwandi** - Opponent

**Present during the hearing**

**A - On behalf of CGRF, Bhandup**

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

**B - On behalf of Applicant**

- 1) Shri Pravin Thakkar – Consumer Representative.

**C - On behalf of Opponent**

- 1) Shri.S.V. Kale Ex. Engineer, Nodal officer  
MSEDCL Bhiwandi

Preamble

Shri Pradeepbhai K. Nifadkar was a power loom consumer under service no. 013010870466 having 3-phase LT connection with sanctioned load of 10 HP and connected of 30 HP.

This consumer was acquitted of the offence of theft of energy with the Hon'ble court order in case R.C.C. no. 447/2001. dt. 05/05/2004. The Utility MSEDCL accordingly withdrawn the charges levied towards theft of energy amounting to Rs. 5,23,534/-. The utility MSEDCL has also settled the dispute by rectifying the bill for a period January 99 to Dec 2003 for non-use of the premises. The rectified bill amounting to Rs. 4,16,105/- was served to the Applicant; however the Applicant disputed that his bill should be revised from Nov. 1997, as there was no use of premises and thereby of the electricity. The Applicant is in urgent need of new connection in the same premises but as per his opinion the old arrears are fictitious and hence he is reluctant to pay and filed the case for interim order with this Forum, which was registered under case no. 334. On going through the case this case could not be considered for interim order as stipulated under Regulation 6.5 of MERC (CGRF and E.O) Regulations 2006. But being the consumer's dispute is in process with utility from long back and is prevented from getting supply, Forum fixed up hearing on 15/07/2010 instead of redirecting it to ICGRC, Bhiwandi.

**Consumer Say: -**

On the behalf of consumer Shri Pravin Thakkar was present to represent the case (here in after referred as to the Applicant).

The Applicant stated that the bill of this consumer is revised by the utility to an amount of Rs. 4,16,105/- for the period of January 99 to Dec 03. He further stated that the fictitious billing from Oct 97 to Jan 99 is not considered by the utility. He reiterated that during above period there was no electric supply and consumer had sold out his machineries and hence there was no to need reconnect the electric supply. The utility insisted to pay the total revised bill for fresh connection to his premises but the Applicant was willing to pay the revised bill in part for an amount of Rs. 50,000/- under protest and get the fresh connection.

He also reiterated that the utility had lodged a energy theft case against this consumer. The Hon'ble court acquitted him from theft of energy. He claimed that the billing done on average basis with RNA and reject status for 2789 units / month from Oct 97 to Jan 99 is not revised as per actual units recorded by the meter and interest on actual arrears is not waived by the utility.

He further stated that on 06/03/2000 the utility had disconnected his supply from the pole because his premise was vacant and locked.

The representative of utility has carried out the inspection and verified the facts.

He also referred to the provisions of EA 1910 u/s (2) and (6) which pertain to the duty of licensee towards correctness of meter. He briefed that if the meter is not recording correctly; the utility cannot charge the bill for more than six months with the average consumption. The utility had changed his meter in Nov 2001 but the new meter data was not feeded to the system and hence billed on meter changed, reject, faulty status between the period Nov. 2001 to Dec 2003.

He stated that during the above period utility had never tested meter and billed him on average basis.

He furthered referred 15.4.1 of MERC (Electricity supply code & other conditions of supply) Regulation 2005 billing in the event of defective meters, which is permitted for a period of not more than three months.

The Applicant claimed that the consumer had not used excess load than its sanction for a period of Oct 97 April 2000 and utility charged him excess load penalty without verifying his load.

He also referred the section 173 of EA 2003 and section 86 of consumer protection Act 1986 for the rectification of his bill in the interest of consumer.

**Prayer of the Applicant:-**

- 1) To withdraw average billing from Oct 97 to January 99 and over load penalty from Oct 97 to April 2000.
- 2) Withdraw the average billing from Jan 99 to Dec 2003 and interest there on.
- 3) To considered the interim order for reconnection of supply by accepting the part payment under protest.
- 4) The consumer also demanded the detailed break up of rectified bill for an amount of Rs. 4,16,105/-.

In his further submission by the way of rejoinder dt. 15/07/2010 he stated that his payments of bill amounting to 1,15,568/- vide receipt 1074 dt. 19/03/1998 is not reflected in CPL and hence should be deducted from the rectified bill.

In his another rejoinder dt 06/07/2010, he referred section 56 (2) of EA 2003 and claimed that the first due date of pending arrears is 05/05/2004 and he was issued the rectified bill on 28/06/2010 for arrears to an amount of 4,16,105/- hence period more than two years is passed and accordingly the utility is not entitled to demand the arrears and hence should be squashed.

**Utility Say :-**

On the behalf of utility (MSEDCL) Shri S.V. Kale Nodal officer Bhiwandi circle represented the case (here in after referred as to the Opponent).

The Opponent stated in his submission that as per the legal adviser's (Kalyan Zone) letter dt. 28/05/2010 on Hon'ble court's order dt. 05/05/2004 the recovery charged towards the theft of energy for an amount of Rs. 5,23,534/- is waived. Moreover the average and fictitious billing of this consumer for the period of Jan 99 to Dec 2003 is also withdrawn. Utility also waived the connected load penalty Rs. 1,22,000/- inclusive of theft amount and interest thereon amounting to Rs. 11,29,343.60 is waived while rectifying the bill of this consumer.

At the outcome the rectified bill payable towards an arrears of Rs. 4,16,105/- issued on 28/06/2010 to the consumer.

The Opponent stated that the Applicant consumer had agreed to pay the revised bill in installments for which he submitted an affidavit during the hearing. Utility stated that they are ready to give the installments to the consumer.

The Opponent clarified that unless the Applicant pay the total arrears it is not possible to issue a fresh connection in the premises and is also not supported by any Act or Regulations.

He also clarified that the amount paid by the Applicant on 19/03/1998 for Rs. 1,15,568/- was already deducted from his arrears, which can be verified from the CPL in the month of May 1998.

During the course of hearing the Opponent stated that the utility is in receipt of rejoinder from the Applicant on dt 14/07/2010 for rectification of average billing from Oct 97 to Jan 99 which is not considered during the above rectification. He stated that the due consideration will be given to this rejoinder shortly which will be informed to the Forum within 4 to 5 days.

As per the consumer's arguments utility is ready to give the detail break up of rectified and final bill.

**Observation :-**

The matter was heard on 15/07/2010. Both the parties were present. On perusal of record and submission from both the parties reveal that Opponent utility has already revised the consumer's bill from Jan 99 to Dec 2003 and given a credit along with interest thereon.

From the Hon'ble court order it is observed that the Applicant consumer was acquitted from theft of energy i.e. criminal offence only. However as per the opinion of the legal advisor of utility (Kalyan Zone), utility had also withdrawn the recovery charged towards theft of energy along with interest.

It is also observed from B-80 record that the utility has withdrawn the connected load penalty considering the non-use of premises from Nov 2001 to Dec 2003 amounting to Rs. 1,22,000/-. But with the above

rectification of bill consumer is not satisfied and demanded for rectification of his bill from Oct 97 under the reason of non-use of his premises.

Forum observed from the coloum No. 6 of inspection report of the consumer premises carried out by the utility officials on 06/03/2000, which reveals that the consumer had applied for closure of his power loom on 13/01/1999 and accordingly the utility has revised the bill from Jan 1999 onwards. There is nothing on record to support the claim of the consumer for closure of his unit from Oct 97 from when he wants the rectification of his bill.

However from the CPL of the consumer, it is observed that consumer was billed on average basis with RNA status, which should be revised as per readings from Oct 97 to Dec 98.

Forum also observed from the CPL record that the consumer's bills were rectified and due credit was given in the month of Nov 97, July 98, August 2000, April 2001, July 2002, Sept 2003 which should be reviewed.

Consumer Applicant in his submission demanded for the waive of connected load penalty from Oct 97 to April 2000. However Forum observed that the said consumer never applied for reduction of his load before Jan 99 or put forth any resistance for imposition of connected load penalty from Oct 97 to Dec 98. Hence



Forum is declined to give any relief for waive of connected load penalty from Oct 97 to Dec 98.

During the course of hearing the Applicant consumer insisted that payment made against the energy bill amounting to Rs. 1,15,568/- vide receipt no. 1074 dt. 19/03/1998 is not reflected in consumer's CPL and not considered while rectifying his bill. But the Opponent explained during the hearing and shown the effect of payment in the CPL to the satisfaction of the consumer.

As regards to the Applicant's statement referring to section 56(2) of EA 2003, according to which the first due of the arrears become on 05/05/2004 and the Opponent utility is not entitled to demand the arrears for a period of more than two years. The Forum cannot agreed to the above Applicant's statement as, it is applicable to the live consumer's and not for PD. (i.e. permanently disconnected).

During the course of hearing the Opponent utility put forth an affidavit submitted by the consumer to the utility for granting him installments for easy payment of rectified bill for an amount of 4,16,105/- and claimed that the consumer was agreed about the rectification of the bill. On quary, the utility agreed to grant the installments provided the fresh connection will be released only after payment of total arrears. Forum is of opinion that after rectification of bill, consumer should pay complete arrears and apply for the new connection, which should be released as per Rules and Regulation.

As regards to the argument of the Applicant in respect of Regulation 15.4.1 MERC (Electricity supply code & the conditions of supply) Regulation 2005 it is operative from 2005 onward and cannot apply for period Oct 97 to Dec 1998 for rectification of bill.

### O R D E R

- 1) The utility MSEDCL should rectify the bill from Oct 97 to Dec 98 as per actual consumption along with interest thereon.
- 2) As regards to the connected load penalty form Oct 97 to April 2000. Consumer could not substantiate the non-use of premises and could not put forth the documentary proof for closure of unit hence no relief can be granted.
- 3) After rectification of bill, consumer should pay total bill and apply for new connection and utility should release new connection observing SOP.

The compliance should be reported to this Forum within 30 days.

No orders 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 26/07/2010.

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.

**MRS. M.P. DATAR**  
**MEMBER**  
**CGRF, BHANDUP**

**S.L. KULKARNI**  
**CHAIRMAN**  
**CGRF, BHANDUP**

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