



**Preamble:-**

M/s.Futura Hygine Pvt. Ltd. (M/s. Auark Poymers Pvt. Ltd.) is a LT consumer of MSEDCL under service connection no. 000431364476 with connected load of 63 HP and sanctioned of 67 HP. The premises was inspected by utility on 08/12/2009 and found that the consumer was billed with wrong MF i.e. 1 Amp instead 2 Amp. According to this report Utility served supplementary bill for the period of June 2003 to Dec 2009 amounting to Rs. 11,95,562/-.

For non-payment of this bill utility disconnected his power supply on 15/03/2010, which was restored against partial payments of Rs. 50,000/- by cheque, which was dishonoured, and subsequently the supply was disconnected temporarily on 15/03/2010 and made PD on 12/07/2010. Consumer approached to SE, Vashi Circle vide its letter dt. 18/03/2010 and to E.E. Vashi division on 26/03/2010 protesting against his temporary disconnection of supply but could not get any relief and hence approached to this Forum for immediate restoration of his supply and accordingly the case was registered with this Forum on 31/08/2010 and interim hearing was fixed on 04/09/2010.

**Consumer Say:-**

On the behalf of Applicant consumer Shri Ravi Anand and Shri S.S Miraje were present to represent the case along with consumer.

According to their written statement the utility had replaced the CT's of the meter without knowledge or intimation to the consumer.

They also stated that they could not rely on the date (13/06/2003) of replacement of CT as stated by utility and argued that it could be in the month of Jan 2010 also.

They further explained that utility had issued a notice through their advocate on dt. 02/02/2010 without considering any law point to which they did not reply. Again utility issued a similar notice 25/02/2010. In pursuance to this notice formal hearing was held at utility's office ended without any concrete outcome.

Hence consumer approached to E.E. Vashi division vide their letter dt. 26/03/2010 and also to the SE of Vashi Circle on 18/03/2010. In spite of these letters utility disconnected their supply without 15 clear days mandatory notice on 15/03/2010.

Consumer representative again emphasized that CT replacement was not intimate to the consumer hence utility should submit the complete CT replacement report to Forum to ensure the exact date of CT replacement.

The Applicant consumer admitted in his submission and also shows willingness for the payment of supplementary bill if rectified as per EA 2003 u/s 56(2), which is limited for 24 months.

He further requested for restoration of supply and suitable installments for the payment of supplementary revised bill.

**Prayer of the consumer:-**

1) The D.L. be directed to restore the supply immediately.

- 2) The supplementary bill be revised as per law.
- 3) To pay reasonable compensation for illegal disconnection resulting in closer of our factory, which will, caters our belly.
- 4) Request to take necessary action on higher authorities for neglecting suitable directions on such important issues.
- 5) Any other order as deem fit by CGRF.

**Utility Say:-**

On the behalf of utility Shri P.R. Khadke Dy. E.E of Koparkairane sub division was present to represent the case.

During the course of hearing he stated that consumer had applied for additional load and accordingly utility sanctioned the additional load on 20/05/2003 and the necessary charges were paid by the consumer on 26/05/2003.

With this enhanced load utility replaced CT's of the meter 50/5 AMP by 100/5 AMP on 13/06/2003. This was done with the due knowledge of consumer as the load was enhanced on his own request. Meter replacement report was submitted to the office but unfortunately variation in multiplying factor due to replacement of CT's was not updated to the computer and hence billing was continued with MF 1 instead of MF 2.

He further stated that this discrepancy had came to notice during the spot inspection, which was done, on

08/12/2009 by Jr. Engr. Pawane section. Which was brought into the notice to the consumer who also signed the same. The Opponent produced the copy of spot inspection report to the Forum.

The Opponent added that the supplementary bill is only for the energy utilized by the consumer but remained unaccounted due to wrong MF for the period from June 2003 to Dec 2009 was served to the consumer amounting to Rs. 11,95,562/- on dt. 18/01/2010 which was received by consumer on 20/01/2010. Consumer also wrote a letter dt. 19<sup>th</sup> Feb 2010 requesting for personal hearing.

Utility issued 15 days disconnection notice on dt. 25/02/2010 for non-payment of electricity charges towards the amount of supplementary bill, which followed by another notice, issued on 27/02/2010.

On request of consumer a meeting was held at sub division office on 03/03/2010, which failed to take any action. Hence considering the disconnection notice issued on 27/02/2010, utility disconnected his power supply on 15/03/2010.

Having not been satisfied with the meeting held on 03/03/2010 at sub division level, consumer approached to utility on 18/03/2010.

He also had a meeting with E.E. on 26/03/2010 following an meeting with S.E. at Vashi Circle on the same day, In which he verbally assured the S.E. that he would make an immediate payment of Rs. 50,000/- upon which utility would reconnect his supply.

He deposited the cheque as agreed, which was dishonoured; hence the supply, which was restored, was again disconnected temporarily on 10/04/2010. On 21 June 2010 utility also sent a letter requesting him for the payment within 7days otherwise supply would be disconnect permanently without any further notice. Accordingly utility disconnected his power supply on 13/07/2010.

The Respondent further stated that the second disconnection was done due to dishonoured of cheque of Rs. 50,000/-. These facts were not disclosed by the consumer hence consumer's request for immediate reconnection without taking any charges is not as per Rules and Regulations.

**Observations:-**

M/s. Futura Hygeine Pvt. Ltd. (M/s. Quark Polymets Pvt. Ltd.) is the LT consumer of MSEDCL, Koparkheraine sub division under consumer no. 000431364476 from 1995. The above consumer was made PD on 13<sup>th</sup> July 2010 and hence approached to this Forum for immediate reconnection of his power supply on dt. 31/09/2010. Accordingly an Interim hearing was fixed on 04/09/2010. Both the parties were present during the hearing.

Document on record and submission by both the parties it revels that the consumer raised the issue of exact date of CT replacement of the meter. He raised the point that it should be in the month of Jan 2010 instead of Jun 2003. To confirm the exact date utility would submit the complete test report to the Forum.

In response to this query utility submitted the additional load released report, which contain the current transformation details too. On going through this report Forum has no hesitation about the replacement of CT's from 50/5 to 100/5 in the month of June 2003. Hence there is no substance in the Appellant's prayer regarding the exact date of replacement of CT.

Another point raised for supplementary bill for Rs. 11,95,562/- raised for wrong multiplying factor from June 2003 to Dec 2009 was alleged by consumer and took a strong opposition through letters and requested to the Utility for hearing to resolve the matter.

Accordingly on 03/03/2010 a meeting was held at sub division office in presence of both parties advocates but no concrete decision was taken in the meeting and hence consumer decided to approached higher authorities regarding the matter. In spite of all these, utility disconnected his power supply on 15/03/2010, which was illegal according to EA 2003 u/s 56(2) by which utility is violating the provisions of Act.

The Respondent in his defence clarified that supplementary bill was issued to the consumer on 18/01/2010 but consumer failed to pay the arrears of supplementary bill. Hence Respondent issued a disconnection notice u/s 56(1) of EA 2003 for non-payment of Electricity charges on 25/02/2010 followed by 27/02/2010 and accordingly his supply was disconnected on 15/03/2010.

Considering all the points Forum observed that the utility has issued a 15 clear days notice to the consumer

for non-payment of electricity charges and Forum also observed that consumer is failed to pay his regular bills hence the disconnections done by utility is in order.

Consumer also raised the point that second disconnection was made without issuing a 15 clear days notice and also point out that as per EA 2003 u/s 56(2) a utility cannot disconnect his power supply.

Utility presented certain points to clarify the above issue. They stated that while alleging on utility consumer hide certain facts before the Forum. After the disconnection on 15/3/2010, consumer wrote a letter on 19/03/2010 to utility requesting for a meeting and immediate reconnection of supply. Accordingly verbal meeting was held with E.E. and S.E. at their offices. In the meeting held with S.E. at Vashi circle on 18/03/2010 it was decided that utility should reconnect his supply immediately on condition that consumer would pay Rs. 50,000/- as a part payment of supplementary bill. Accordingly utility reconnected his power supply without taking any reconnection charges. On the other hand consumer issued a cheque no. 158062 dt. 27/03/2010 of Rs. 50,000/- to utility, which was dishonored by the bank due to insufficient funds. On query to consumer, consumer replied that it was purposely bounced, as there was no hopes form utility to rectify the supplementary bill.

Considering all the above Forum feels that utility had restored Appellant's power supply immediately as decided in the meeting on the other hand consumer failed to clear the admitted payment hence utility temperaliy disconnected his power supply again on 10/04/2010 for dishonoured cheque. Utility also gave a fair chances to



consumer for the payment of the supplementary bill by writing the letters on 08/04/2010 and 21/06/2010. As consumer had failed to pay the amount, his supply was made PD on 13/07/2010. Utility's action against this disconnection was in order to Rules and Regulations hence Forum feels that it would be proper to reconnect his supply by taking reconnection charges. As per Rules and Regulations.

Now the main grievance of the consumer is that the supplementary bill form June 2003 to Dec 2009 for Rs. 1195,562/- for wrong MF is not according to the EA 2003 section 56(2). As per 56(2), utility only can recover the supplementary bill for the period of two previous years and accordingly the bill may be reworked without DPC and interest there on.

During the hearing Respondent argued that the date of the connection was in 1995 with consumer no 000431364476 which was metered through CTPT unit and his CT's were of 50/5 amp ratio with MF-1. In the year 2003. Consumer enhanced his load form 31 HP to 63 HP and accordingly his CT's of the meter were replaced from 50/5 amp to 100/5 amp. But this replacement was not feed to the computer at that time. In Dec 2009 Dy. E.E. of Koparkherane sub division inspected the meter and confirms that the multifying factor was 2 instead of 1 therefore consumer was billed only 50% form June 2003 to Dec 2009, hence utility raised realistic bill as it was a result of only correction of multifying factor with back effect.

The Appellant submitted two cases of Ombudsman i.e 7 of 2009 and 72 to 2009 to support the prayer of the consumer on this issue.

In the present case Forum observed that though the bill was raised for the energy utilized by the consumer, which remained unaccounted for not updating the MF in the record of Utility. The EA 2003 section 56(2) does not allow to claim any charges which are not continuously shown in the bill beyond 24 months form the date of it's first due.

The Electricity Act 2003 section 56(2) reads as:

*Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.*

As mentioned above it would immerge that the Opponent (Distribution Licensees) is not entitled to recover past arrears raised by the way of supplementary bills for more than two years. Moreover the amount so revealed after the rectification of bill in accordance with the EA 2003 section section 56(2) as mentioned above should not attract any interest and DPC.

As regards to another prayer of the consumer for granting the installments for the payment of rectified bill, Forum suggest to the utility to observe their own circular no. PR-3/Tariff/ 24156 dt. 18/07/2009 regarding the grant of installments for payment of supplementary bills raised

due to corrective action by MSEDCL where consumer is not at fault.

Consumer's prayer for compensation towards disconnection of supply and there by closer of his factory cannot be considered as supply was disconnected due to dishonoured of cheque for Rs. 50,000/- made by the consumer and hence prayer of the consumer is hereby rejected.

During the interim hearing held on 04/09/2010 prima-facie Forum observed that the demand of the energy charges (supplementary bill) is not solely because of consumer's fault it was due to failure of utility to update its own record in time hence Forum has no hesitation to issue an interim order for restoration of consumer's power supply by accepting reconnection charges and one month rectified bill in accordance to the utility's circular no PR-3/Tariff/ 24156 dt. 18/07/2009.

Moreover Forum also observed that apart from this disputed bill consumer is in arrears for his regular consumed energy, which should recovered along with DPC and interest if not paid.

### **ORDER**

- 1) As directed above consumer's supplementary bill issued for period of June 2003 to Dec 2009 should be rectified as per EA 2003 section 56(2) i.e for 24 months.
- 2) No DPC and interest should be levied on rectified supplementary bill.

- 3) Power supply of the Applicant consumer should be restored on payment of reconnection charges and one month's rectified supplementary bill.
- 4) The pending regular bill apart of this dispute amount should be recovered alongwith DPC and interest.
- 5) The payment of installments so given as per circular No. PR-3/ Tariff/ 24156 dt. 18/07/2009 should be observed scrupulously and for non-payment of installments in due time, utility is free to take action as per Rules and Regulations.
- 6) The disconnection of power supply was due to dishonoured of cheque issued by the Applicant consumer towards the part payments and could not conclude as illegal disconnection. Hence the prayer for the compensation is hereby rejected.

No orders as to cost.

Both the parties 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 23<sup>rd</sup> September 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.

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