

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

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

Date :

Case No. 268

Hearing Dt. 03/06/2009

**In the matter of Non-Executive of Hon'ble Court Order in
respect of case no. 330/1999 & 107/2006**

M/s. New Empire Textiles Processors Pvt. Ltd. - Appellant

Vs.

MSEDCL/T.P.L. (Bhiwandi) - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri R.M Chavan, Chairman/Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri G.B. Singh, consumer representative.

C - On behalf of Respondent

- 1) Shri S. Anand, Ex. Engr. & Nodal Officer, Bhiwandi.

Preamble :

Consumer filed his grievance with this Forum on 05/05/2009 directly as ICGRU did not take any cognizance and hence his grievance registered vide case no. 268.

Consumer is having H.T. connection for dying, printing and processing unit under consumer no. 13019000286. Consumer filed case for non-compliance of Hon'ble Court order in Civil Suit no. 107/2006 and 330/1999.

Consumer say :

On the behalf of Appellant Shri G.B. Singh, represented the case and clarify the matter as under :

1) M/s. New Empire Textile Processors Pvt Ltd. was released new HT connection on dtd. 13/12/1995 at plot no. 1, MIDC, Saravali, Bhiwandi Kalyan Road. The consumer was paying the regular energy bill raised by MSEB for the units recorded by meter in pursuance in tariff applicable. However, MSEB issued supplementary bill for 44092 units in the month of August-1998 for the month of Nov.-1997 for Rs. 1,52,713/- without assigning any reason. The consumer paid Rs. 30,543/- i.e. 20% of the supplementary bill to avoid disconnection, MSEDCL filed the Civil Suit for recovery of the remaining amount vide Suit no. 107/2006 which was registered on dtd. 14/07/2006 and decided by Hon'ble Court on 29/02/2008. The Civil Suit was dismissed with order as follows :

- i) The appeal stands dismissed with costs.
- ii) The Decree be drawn accordingly.

As per Civil Suit no. 490/98, which was decided on 29/03/2008 by Hon'ble Court, consumer already paid total amount of Rs. 76356.50 to the Respondent.

As per Hon'ble Court order Respondent should have refund the recovered amount of supplementary bill but Respondent did not refund it.

Hence consumer filed the case with ICGRU MSEDCL on 09/12/2008, for refund of the amount paid but no response was given by MSEDCL till date.

2) Further, Appellant reiterated that Respondent issued another supplementary bill vide letter no. SE/BWDC/HTB/Acctt./03204, dtd. 06/09/1999 to pay additional amount of Rs. 4,02,140/- for prejudice use of energy on the basis of MRI data within seven days with a threat to disconnect the supply in case of non payment of additional dues, however Appellant paid Rs. 80,428/- vide cheque no. 394194, dtd. 22/09/1999 so as to avoid the disconnection & tried to set right the matter with MSEB authorities, but all in vain.

Ultimately, he filed Suit vide Civil Suit no. 330/1999 on 16/09/1999 which was registered on the same day whose decision was decided & delivered on 31/10/2007 & dispatched on 20/06/2008.

As both the orders are in consumer's favour. The amounts collected illegally should be refunded with interest, which Respondent would have impose on arrears in bill i.e. 18%. In case, if these illegal amounts were not paid by him, his supply would have been disconnection & he had been charged 18% interest on this illegal amount if not decided by Court in his favour.

- The amount to be refunded.
- 1) Civil Suit no. 107/06 - Actual amount paid
Rs. 30548.00 on 27/10/98
Interest 18% upto April 09 Rs. 57726.27
Total Rs. 88269.27
 - 2) Civil Suit no. 330/99 - Actual amount paid
Rs. 80428.00 on 22/09/99
Interest 18% upto April 09 Rs. 153215.39
Total Rs. 233643.34
 - 3) Oral judgement of case no. 107/06 dictated & delivered in open Court on 29/03/2008 against special Suit no. 490/98. Rs. 76356.50

Consumer's pray in response to above grievance is as follows:

1) The above amount paid with MSEB/under threat of disconnection of supply against the illegal bill raised to him which is decided by Court in consumer's favour & further no appeal by MSEDCL in higher Court. Hence, issue order to refund following amount.

Case No. 107/06	1)	Rs. 88269.27
Special Civil Suits no. 490/98	2)	Rs. 76956.50
Special Civil Suits no. 330/99	3)	Rs. 233643.34

2) He must be granted compensation for mental & physical harassment for Rs. 10,000/- for not getting refund though Hon'ble Civil Court delivered decision in his favour..

Utility Say :

On the behalf of utility Shri S. Anand attend the hearing and represented the case as under :

1) M/s. New Empire Textile Processors Pvt Ltd., consumer no. 013019000286 have been decided by Hon;'ble Court. Hence Hon'ble CGRF should not entertain the case as it is already decided by the competent Court. It is for the consumer to approach before the Hon'ble Court for execution of the Court order. As per Reg. No. 6.7 (d) of MERC (CGRF & Ombudsman) Regulations; the matter is not entertainable.

2) The representative of Respondent reiterated that as per Hon'ble Court Order in case of Civil Appeal no. 107/2006 & 330/1999 the matter is under process of withdrawing the supplementary bill charged to the consumer and amount Rs. 76356.50 & 80428/- which consumer have paid will be refund in the monthly energy bill of consumer.

Observations :

1) In this matter appellant filed the case with IGRC on 09/12/2008. But no cognizance was taken by IGRC of MSEDCL Bhiwandi. Hence consumer approached to CGRF directly and registered his grievance on 05/05/2009.

The matter was heard on 05/06/09. Shri S. Anand, Ex. Engr., MSEDCL, Bhiwandi represented on behalf of utility (herein after referred to as Respondent) and Shri G.B. Singh representing on behalf of consumer (hereinafter will referred as Appellant).

At the outset an Appellant stated that M/s. New Empire Textile Processor Pvt. Ltd. is a HT consumer of Respondent and was paying regular bills in due time. However, Respondent raised supplementary bill for the month of Nov.-97 amounting to Rs.

1,52,713/- without any reason. Appellant paid 20% of supplementary bill to avoid disconnection of his electric supply on dtd. 27/10/1998 on this Respondent file Civil Suit no. 107/2006 for recovery of balance amount of supplementary which was decided in Sp. Civil Suit No. 490/98 stating to refund Rs. 76356.50 to the consumer which was paid by him against supplementary.

2) Respondent issued the supplementary bill for prejudice use as per MRI data vide it's letter no. SE/BW/DC/HTB/Account/03204, dtd. 06/09/1999 for an amount of Rs. 4,02,140/- asked to pay within seven days with the threat of disconnection. Appellant pay 20% of the amount, amounting to Rs. 80428/- vide cheque no. 394194 dtd. 22/09/1999 to avoid the disconnection. The Appellant was rely that the matter will set right by the Respondent. But he could not get any relief and hence Appellant filed a Civil Suit in the Hon'ble Court vide no. 330/1999, dtd. 16/09/1999. The Hon'ble Court delivered the judgement on 31/10/2007 which was dispatched on 20/06/2008. The order is as follows :

Order : 1) Suit is decree with Costs.

2) It is hereby declared that the supplementary bill of Rs. 402140/- issued by the defendant is illegal arbitrary and not binding upon the plaintiff.

3) It is hereby further declared that, the demand letter dtd. 06/09/1999 issued by the defendant threatening disconnection of electric supply is illegal, arbitrary and cannot be acted upon.

4) The defendant, agents and servants are hereby permanently restrained from disconnecting the electric supply in respect of outstanding amount of Rs. 402140/-.

5) Decree be drawn up accordingly.

As per order of the Hon'ble Court the Respondent should credit the 20% of supplementary bill amounts. But Respondent did not take any cognizance of the Hon'ble Court order. Hence

Appellant made an appeal to CGRF for non compliance of Court Order by Respondent.

Appellant also made an additional demand for payment of interest on recovered amount @ 18% till April 2009.

Forum observed that the Respondent has already communicated for refund of recovered amount as ordered by Hon'ble Court in Civil appeal no. 107/2006 (490/98) and 330/1999 through consumer's energy bills to concerned billing authority. Hence his main cause of grievance will be solved as per Respondent's submission dtd. 30/05/2009.

As per MERC (CGRF & E.O.) Regulation 2006, Regulation 6.7 (d) the Forum is not permitted to interfere the matter, which is already being dealt, by Hon'ble Court, Tribunal, Arbitrator or any such authority.

In the present case the additional demand of Appellant for want of interest on recovered amount is related with the matter, which was already decided by Hon'ble Court. As per MERC Regulation 6.7 (d) clearly ousts the jurisdiction of Forum to deliberate and decide the issue. Hence the case is to be and hereby dismissed.

The Appellant as advised to approach to appropriate Court for his additional demand

ORDER

1) The case is dismissed with the advice to the Appellant to approach appropriate authority for his additional demand of interest on recovered amount by Respondent.

No orders as to cost and compensation.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 18th of June 2009.

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

R.M. CHAVAN
MEMBER SECRETARY
AND I/C CHAIRMAN
CGRF, BHANDUP