



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

IN THE MATTER OF GRIEVANCE NO. K/E/255/281 OF 2009-2010 OF
SHRI N.C.BAROT, KALYAN, REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN FOR
EXCESSIVE ENERGY BILL DUE TO CHANGE OF TARIFF.

Shri N.V.Barot,
Barot Tabela, Ashok Nagar,
Waldhuni,Kalyan (East)
Dist.Thane.

(Here-in-after
referred
as consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy.Executive Engineer, Sub Dvn.2
Kalyan (East), Dist:Thane

(Here-in-after
referred
as licensee)

- 1). Consumer Grievance Redressal Forum has been established under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances

of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conformed on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2). The consumer is a L.T. V consumer of the licensee connected to their 415-volt network. The Consumer is billed as per Industrial tariff. The consumer registered grievance with the Forum on dated 29.05/09 for excessive energy bill due to change of tariff. The details are as follows : -

Name of the consumer :- Shri N.C.Barot,

Address: - As above

Consumer Nos. : - 020020001691

Reason of dispute: Excessive energy bill due to change of tariff.

- 3) The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/498, dated 29/05/2009 to Nodal Officer of licensee. The licensee through Dy.Executive Engineer, MSEDCL Sub Dvn.2 Kalyan (E) filed reply vide letter No. Dy.EE/Sub Dn.2/1856 dt. 19.06.09.
- 4) The Member of the Forum heard both the parties on 22/9/09 @ 15.00 Hrs. in the meeting hall of the Forum's office. The consumer Shri N.C.Barot, his representative Shri J.A.Paradeshi, and Shri Nitnaware, NO, Shri D.V.Bhojne, A.E., Shri V.M.Nemade,Dy.EE, Shri G.M.Rathod, Asstt.Acctt. Shri N.S.Pawar, LDC, Shri N.T.Kale, Dy.EE (FS) and Shri D.M.Satpute, JE (FS) all representatives of the licensee attended the hearing. The Chairperson and Member, heard both the parties in the second hearing held on 24.9.09 at 3 PM in the meeting hall of forum's office. The consumer's son Shri JN..Barot, consumer's representative Shri J.A.Paradeshi, and Shri Nitnaware, NO, Shri D.V.Bhojne, A.E., Shri V.M.Nemade,Dy.EE, Shri G.M.Rathod, Asstt.Acctt. Shri N.S.Pawar, Shri V.K.Diwanji, JE , Shri P.K.Tayawade, AE and Mrs.S.S.Nathu,

Asstt.Acctt.LDC, Shri N.T.Kale, Dy.EE (FS) and Shri D.M.Satpute, JE (FS), all representative of the licensee attended the same second hearing. Proceedings of both the above hearings including submissions made by both the parties are recorded and the same are kept on the record and the said submissions made by the parties shall be referred at the time of deciding grievance made by the consumer, in order to avoid repetition.

- 5) The consumer claims that the electric supply by the electric connection with consumer No.020020001691 which is being used for the water pump of the Bore-well, was being charged as per the tariff for agricultural from 1969 to 1999. The licensee changed the tariff of the said electric supply from agricultural tariff to the industrial tariff in the year 1999 without any basis and without any provision in the Commission's order in that behalf. The licensee has changed tariff to the electric supply to commercial tariff in the year 2009 without any basis and without any provision for the same in the Commission's order. The licensee has also changed the tariff of his other electric supply with consumer No.020028904267 from residential to commercial at the same time. The licensee accordingly issued two bills, one for Rs.1,37,076/- as per the recovery under section 126 of the Electricity Act in respect of Consumer No.020020001691, and other bill for Rs.5,439/- under section of the Electricity Act on 9.2.09, due to such change of tariff of the said connections as stated above. The consumer challenged both the said bills before the Internal Grievances Redressal Cell (IGRC) vide grievance application dt.25.2.09. The IGRC after hearing both the parties passed order dated 23.4.09 and partly allowed the grievance application filed by the consumer. It has held that the provision of Section 126 of the E.Act are not applicable in this case and it is a case of application of wrong tariff only. It has further held that the electric

connection with consumer No.020028904267 was being used for giving electric supply to the residences of the employees of the consumer residing at the said site and considering the said use, the consumer should be charged with residential tariff only and therefore the act of concerned officer of the licensee changing the tariff of the said connection to commercial tariff was not proper and hence directed the licensee to cancel the bill for Rs.5,439/- issued in respect of the said connection and directed the licensee to issue fresh bill of the consumption from the said meter as per the residential tariff. It has, however, upheld the act of concerned officer of licensee in directing the change of tariff of connection with consumer No.020020001691 from industrial to commercial tariff, but further held that provision of section 126 of E.Act are not applicable but it is case of only wrong application of tariff and therefore directed that the earlier bill issued for Rs.1,37,076.00 be cancelled and fresh bill with charges as per commercial tariff of the two years prior to the inspection of the Flying Squad on 5.2.09 as per Section 56(2) of the E.Act be issued. The licensee accordingly cancelled both the above referred earlier two bills, and issued a bill with credit of Rs.864.39 in respect of electric connection with consumer No.020028904269, and a bill for Rs.1,54,355/- in respect of connection with consumer No.02020001691. The consumer, getting aggrieved with the above referred second bill, filed the present grievance application before this forum challenging the said bill and the order of IGRC to that extent.

- 6). The licensee claims that on 5th Feb.09, the Dy.Ex.Engineer, Flying Squad, Kalyan (W) inspected the meters in respect of above referred two connections at the premises of consumer and found that the electricity by the said two connections was being used for the purpose of other than the purpose for

which the said connections were given. Therefore as per the directions of Flying Squad, above referred two bills, one for Rs.1,37,076 and other bill for Rs.5,439/- were issued in respect of the electric connection with consumer Nos.020020001691 and 020028904269 respectively by applying commercial tariff and of the period of one year prior to the date of inspection on 5.2.09. Thereafter the consumer filed grievance in respect of both the said bills before IGRC. The IGRC decided the said grievance application vide order dated 23.4.09. The licensee cancelled the above referred two bills and issued fresh bill for Rs.1,54,355.69 in respect of consumer No. 020020001691 and bill with credit of Rs.864.39 in respect of consumer No. 020028904269. Both the said bills are issued as per order of IGRC and hence the same are correct and the consumer be directed to pay the amount as per the said bill.

- 7). Considering the above say and various contentions raised by both the parties in the hearings, the following points arised for determination and the findings thereon are given against each of it for the following reasons.

S.No.	Points	Findings
1	Whether the act of licensee in changing the tariff of connection with consumer No. 020020001691 from Industrial to Commercial and consequently issuing bill for Rs.1,54,355.69 to the consumer is legal and proper?	...Yes
2	What order ?	As per final order

REASONS

- 8). It is submitted by CR that the consumer uses the concerned electric connection for Bore-well and uses the water from the said Bore-well for about 500 she-buffalos. The said she-buffelos drink the said water and he also uses water from the said bore-well for cleaning / washing she-buffallos and cattle

shed. He therefore submit that such use can not be said to be commercial and therefore the licensee has wrongly changed tariff of the electric supply to the said connection to commercial tariff. He further submit that in fact in the beginning the said connection was taken for agricultural purposes and licensee subsequently started applying industrial tariff to it. Such act of the licensee was also an illegal as industrial tariff could not be applied to such connection. He therefore submits that the act of licensee in applying commercial tariff to the said connection and consequently issuing bills for Rs.1,54,355.69 of the two years prior to the inspection on 5.2.09 be quashed and set aside.

9). As against this the LR submits that the said connection was earlier with 3 HP connected load. The consumer got it increased to 10 HP connected load in Sept.06. The consumer maintains 500 she-buffalos with the water from the concerned Bore-well for milk which he exploits commercially and therefore the Flying Squad has rightly recommended application of commercial tariff to the electric supply by the said electric connection, and accordingly the concerned officer issued bill for Rs.1,37,076/- as per commercial tariff of one year under Section 126 of the I.E.Act, and subsequently cancelled the said bill and issued another bill for Rs.1,54,355.69 of two years as per the order dated 23.4.09 passed by the IGRC. He, therefore, submit that such act and bill issued by the licensee is perfectly correct and legal.

10).It is a matter of common sense that nobody would maintain 500 she-buffalos for the need of milk of his family. Therefore the consumer is also maintaining the said 500 she-buffalos for commercially exploiting their milk. The consumer has admitted such fact during the hearing. Moreover, it is clear from the order dated 23.4.09 passed by IGRC that the IGRC i.e. its Chairman and Members

with the consumer and officers of licensee inspected the concerned site and found that in addition to the connection with consumer No.020020001691 (about which we are concerned in this grievance application) the consumer is having other four meters at the said site. Out of the said other four meters, three meters with consumer Nos.020028900415, 020028901918 and 020028901900 are for commercial use, the first connection is for 9 tube lights, 15 fans in the Tabela and milk cooling machine, the other connection is for office and third one is for 2 HP milk cooling pump, packing machine and for defreeze. It is thus clear from the said three connections and the other instruments/machines at the said site that the consumer puts the milk to further process for its commercial exploitation. Moreover as per spot panchanama prepared by Shri Waldhani JE, MSEDCL on 25.6.09 shows that the consumer has also developed 11 coconut trees, 3 limboo trees, 3 mango trees, 50 Asomalayo trees, 3 jackfruit trees and some flower trees. He must be getting income from the said trees. In view of above facts, in our opinion, the Flying Squad in its report as per the inspection on 5.2.09 rightly directed application of commercial tariff to the said connection and the IGRC considering the fact that the consumer himself did not make use of the said electric supply for other purpose but wrong tariff i.e. industrial tariff was being wrongly applied to the connection earlier, directed recovery of the arrears of two years prior to the inspection as per section 56(2) of I.E.Act instead of applying section 126 of I.E.Act 2003. The licensee has got authority to apply proper tariff as per Clause 13 of the MERC(Electric supply code etc) Regulations 2005. Hence we come to the conclusion that the act of Licensee in applying commercial tariff to the said connection and issuing the bill in

question for a period of two years prior to the date of inspection is perfectly legal and proper. Hence the finding in affirmative on this point is as above.

11). In view of the affirmative finding on point No.1, this forum unanimously passes the following order.

ORDER

- 1). Consumer's grievance application is rejected.
- 2) The stay order issued vide No.EE/CGRF/Kalyan/517 dt.4.6.09 stands vacated from the date of this decision.
- 3). The consumer to pay/deposit the amount of Rs.1,54,355.69 of the impugned bill dated 15.5.09 with licensee within 15 days from the date of decision in this case, failing which the licensee may take suitable action accordingly to law.
- 4). The Consumer can file representation against this decision with the Ombudsman at the following address.
"Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51"

Representation can be filed within 60 days from the date of this order.

Date : 21/07/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan