

Consumer Grievance Redressal Forum, Kalyan Zone
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No. K/DOS/33/1016 of 2014-15

Date of Grievance : 26/11/2014

Date of order : 16/12/2014

Total days : 21 days.

IN THE MATTER OF GRIEVANCE NO. K/DOS/33/1016 OF 2014-15 IN RESPECT OF ALI AKBAR ADAMJEE PEERBHOY KHATIJA LODGE, ELEPHISTONE ROAD, MATHERAN, DIST. RAIGAD – 410 102 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN TOWARDS ILLEGAL DISCONNECTION OF RESIDENTIAL SUPPLY AND ILLEGAL THREAT OF DISCONNECTION OF COMMERCIAL SUPPLY.

Ali Akbar Adamjee Peerbhoy,
Khatija Lodge, Elphistone Road,
Matheran,
Dist. Raigad- 410 102,
(Consumer No. 026510353748 (Res.) &
026510013904 (Commercial)

..... (Hereafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited through its
The Addl. Executive Engineer,
Sub/Divn-Karjat
MSEDCL, Pen Circle

..... (Hereafter referred as Licensee)

Appearance : For Consumer – Shri Ali Akbar Adamjee Peerbhoy - In person.
For Licensee - Shri Balaji Waghmode - Dy. Executive Engineer.

(Per Shri Sadashiv S. Deshmukh, Chairperson)

1] Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42

of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] Consumer approached this Forum with a grievance dated 27/11/2014, contending that his residential supply was illegally disconnected on 25/11/2014 and illegal threat is given for disconnecting his commercial supply available to the hotel.

3] On receiving the grievance, Forum perceived that as there is disconnection of residential supply and there is a threat of disconnection of commercial supply, it was decided to take up the matter urgently.

Accordingly, the grievance application was registered and Licencee was informed about the date of urgent hearing kept on 27/11/2014 at 12.30 hours vide this Office Letter No. EE/CGRF/Kalyan/0422 dated 26/11/2014.

In response to it, Jr. Engineer Mr. Pawar for Licencee attended on 27/11/2014 and made it clear that residential supply is disconnected as arrears Rs.5160/- due from November 2014 not paid. Notices were issued to the consumer and hence for nonpayment supply is disconnected. Consumer disputed this statement. On this count Mr. Pawar Jr. Engg. sought time to file written reply. Time was granted till 2/12/2014. In respect of commercial supply, it was made known that there are arrears of two months to the tune of Rs.60,000/- or so and still no notice of disconnection is issued. In this background, towards interim relief order was passed, observing that on

consumer paying dues of residential connection it be reconnected. Those dues were to the tune of Rs. 5,160/-.

4] Subsequently, it is disclosed that as per the interim order, consumer paid the arrears of residential connection on 27/11/2014 and on the very day supply was restored. These details are stated by Officer of Licencee in the reply filed on 2/12/2014. On 2/12/2014 both sides were present and during discussion, it was made known to the Forum that notices of disconnections were issued on 13/8/2014, 5/10/2014 but consumer in person was not residing there hence, could not be served on him and the persons present there not accepted the notices. This particular statement was challenged by consumer. It was also noticed that reply given by Licencee was not as sought by the Forum i.e. parawise. Considering the stand of consumer, Officers of Licencee was allowed to make position clear on the adjourned date i.e. on 11/12/2014. This date was fixed considering the convenience of both sides.

5] On 11/12/2014, on behalf of Licencee detailed reply is submitted along with it statement of Mohakar Technician dated 9/12/2014 who served the notices of 13/8/2014, 5/10/2014 placed on record. In addition, copy of register wherein disconnected meter and it's reading noted is also produced. Copies of notices dated 13/8/2014, 5/10/2014 are enclosed and said set was made available to consumer who read it and thereafter both sides made submissions.

6] Consumer in person elaborated that person who has given statement on 9/12/2014 is not brought before this Forum, even Mr, Pawar- Jr. Engineer is not present here and statement of Mohakar Technician is got prepared, just to avoid blot of guilt pertaining to concerned Officers. Secondly, it is contended that no reports independent of disconnection and reconnection are produced. It is contended that these aspects may attract or result in criminal cases. Thirdly, it is contended that there is claim of Mohakar about notices dated 13/8/2014 and 5/10/2014 tried to be served, none accepted, consumer was not present and

during first notice, it was affixed to the door and for the second it was kept on the latch but there is no support to it, photographs of such notices pasted or left at conspicuous portion of the house ought to have been taken and kept on record which is not done. He contended that there is no latch to his house. Further it is contended that entering in the premises of consumer amounts to criminal trespass and if at all any act was done by Mr. Mohakar, it attracts the offence of criminal trespass. It is contended that if claim of these Officers accepted, it will embolden them to continue such illegal acts. It is claimed that whenever any disconnection is resorted, notice u/s. 56 of Electricity Act was to be given. Secondly, it is contended there should have been proper service of notice by way of RPAD if consumer is not available, but these are not complied. It is further contended that statement of Mohakar is on a plain paper, neither it is affidavit nor it is notarized and it is challenged. Accordingly, it is contended that claim of Licencee is not correct.

7] On behalf of Licencee, it is submitted that in the register aspect of disconnection is noted, reading available at that time is noted and in reply reading available on the date of reconnection noted. Disconnection was on 25/11/2014 and reading was taken noted as 18503 units and it is replaced on 27/11/2014 and meter reading was same i.e. 18503. It is contended that statement of Mr. Mohakar is recorded and there is no any illegality, notice was tried to be served, but consumer was not present, none present there, were not ready to accept the notices, hence those were left in the premises. Accordingly, it is submitted that contention of consumer is not correct.

8] During the discussion, it is disclosed that from November 2013 onwards, towards residential supply consumer has not paid the amount. We tried to enquire the reason for it. He fairly submitted as licence of his hotel was not renewed by Government Authority, he was financially affected, hence he could not pay the bills.

In respect of commercial connection it is not disputed that for two months bill is not paid by consumer.

We tried to find out from consumer whether he has attempted to verify what was the reading seen when residential meter was again reaffixed on 27/11/2014. He contended that he has not noted or recorded it and not seen it. Consumer insisted that when there was disconnection or reconnection, it was the duty of Licencee to note those details provide copy of report to the consumer and obtain his signature which is not done.

9] From aforesaid submissions and factual aspect disclosed, it is clear that consumer is having residential supply as well as commercial supply for the hotel business. In respect of hotel business, consumer was facing a trouble as licence was not renewed by the Collectorate Raigad. Consumer had litigation on that aspect. Further it is contended that there is development and favourable order is passed recently about the renewal of Licence. Consumer claimed that as hotel business affected, arrears of residential connection from November 2013 not paid and for two months arrears of commercial supply not paid.

On this basis, to the extent of commercial supply, it is clear that though consumer claimed that there is threat of disconnection. On behalf of Licencee it is submitted that no any notice is issued u/s. 56 of electricity Act about disconnection of said supply for want of payment of arrears. Accordingly, we find, consumer's inability to pay may have developed in his perception the threat of disconnection,. But considering the tenor of Licencee, there cannot be any disconnection of commercial supply in absence of legal compliance done as per Section 56 of Electricity Act. Under such circumstances, there is no force in the contention of consumer that there is any threat of disconnection of commercial supply. Consumer tried to claim that as his hotel licence was not renewed by the Government and he had brought it to the notice of Officer of Licencee who orally informed that his contention will be brought to the notice

of higher authorities and can be considered. It was in the light of consumer's contentions that let the said commercial connection be converted to residential, as hotel is not being run. It is admitted fact that consumer never filed appropriate application for converting commercial supply to residence one. Oral contention is not sufficient and it ought to have been done in writing. Consumer tried to mix the aspects that Government action of not renewing the licence but continuation of commercial tariff by Licencee to his hotel which cannot be accepted. It is the consumer who is to bring it to the notice of Licencee, his intention of conversion from commercial to residents or otherwise. These contentions are not helpful to the consumer. Hence no any relief can be granted towards it.

In respect of residential connection, it is clear that consumer's last payment is of 14/11/2013 and admittedly from November 2013 billing month, no bills were paid and those arrears were quantified at the time of hearing of interim application to the tune of Rs.5,160/-. Quantum of arrears is not in dispute. Even as noted above as per the interim order passed by this Forum, on 27/11/2014 consumer paid the said amount along with Rs.200/- towards reconnection charges and supply is restored on that day. Now question is whether disconnection resorted to on 25/11/2014 as claimed by consumer is illegal.

No doubt, it is clear that Licencee is coming with a claim that as arrears are not paid from November 2013, time to time, consumer was contacted and persuaded to pay the amount and as it was not paid, notices are issued on 13/8/2014 and 5/10/2014. These notices were taken by Licencee's Technician Mohakar for service, who endorsed on the notices 'notice not accepted' and returned those to the office. Though about this notice not accepted, independent report about service, not filed. In his statement recorded by the Addl. Executive Engineer, he has stated that consumer was not residing there, hence

was not available, attempt was done to hand over the notice to the residents therein, but they refused to accept, hence first notice was affixed to the door and second one was kept in the latch. This is the statement brought on record.

As against it, consumer contended that this has not happened, statement of Mr. Mohakar is subsequently brought up to save the skin and it amounts to crime.

One fact is clear that Mr. Mohakar, Officer of Licencee made endorsement on the notices which were placed on record by the Officers of Licencee on 2/12/2014 and further on 9/12/2014 and statement of Mr. Mohakar is recorded who has stated the factual aspect. Question comes up whether this chronology is to be accepted or not. An attempt is done to contend that notice ought to have been sent by RPAD or the service as alleged by Mohakar ought to have been photographed and would have been evidenced which is not done. It is clear that there are arrears on the residential connection from November 2013. Consumer has not ever tried to pay that amount, but tried to claim that due to his financial difficulty he could not pay the amount. Accordingly, nonpayment of arrears from November 2013 is a factual aspect. Under such circumstances, if Officers of Licencee claimed that notices were issued it cannot be suspected or disbelieved. In respect of service of notice, one thing is clear that there is no any counter plea from consumer that none of his persons residing therein not faced a situation of notice brought to them and it was refused. When it is alleged that consumer is not residing there and was not available at that time, this itself is peculiar one. This circumstance is more important as there is disconnection of supply on 25/11/2014 and it is not the contention of consumer that in his presence said disconnection was done. On the other hand, it is contended that as consumer was not present there, meter was taken out and supply was disconnected as there was no response from consumer towards payment of arrears in spite of oral persuasion and notices left at the residence. Here is a

consumer who has not paid the bills from November 2013 but, tried to find illegality with the act of Officers of Licencee towards service of notice. At this stage, it is necessary to appreciate that from November 2013 up to the notice dated 13/8/2014, no any overt act is done by Licencee. Even thereafter till 25/11/2014 there was no action of disconnection. This particular period gap speaks itself. Hence, it is claimed that the arrears demanded, notices were issued and consumer was informed that if arrears not paid supply will be disconnected, it cannot be suspected or disbelieved. It is a natural way of Officer seeking payment by issuing notice, demanding the amount and communicating the effect, if there is no compliance of payment. Considering all these, the endorsement on the notices, found natural and believable. No doubt, it would have strengthened the aspect, if report of such service in detail submitted, as now explained in the statement dated 9/12/2014. But this itself will not negativate the effect of the action taken. As consumer in person not available on the date of disconnection or there is no any material made available by consumer so as to demonstrate that none of the Officer of Licencee ever approached his residence or hotel and tried to serve notice to the persons available/residing there. In this light, the factual position of notices issued, notices could not be served, cannot be doubted. No doubt, in the conditions of supply framed by Licencee clause 22.1 and 22.2 are clear about it. Those are as under:-

“22.1.... Every notice, order or document required to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgment receipt or by registered post or such means of delivery as may be prescribed with legal validity;

22.2... Every notice, order or document required to be addressed to the owner or the occupier of any premises shall be deemed to be properly

addressed by the description of the owner or the occupier of the premises (naming the premises) and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises;”...

Accordingly it is not mandatory that notices are to be served by RPAD only. Delivery of notices by affixing on some conspicuous part of consumer's premises is valid mode. Under such circumstances, it is not possible to accept the contention of consumer that his residential supply is disconnected illegally without any notice u/s. 56(2). Consumer has not admitted any notice served but has now disputed the contents of notice which are produced by Licencee. However during hearing he tried to point out a fault in the notice stating it is not referring to section 56. We find notice dated 5/10/2014 is issued, therein amount of arrears shown as Rs.5,160/- and as contended by Licencee disconnection is done for want of payment of those arrears. Hence, disconnection done on 25/11/2014 is in pursuance of said notice. Accordingly disconnection is towards the arrears pending till the bill of October 2014. Disconnection is after 15 days of notice hence no any fault can be found. Accordingly, the various contention of consumer on this count cannot be accepted.

10] Consumer tried to put various questions about the compliances to be done by the Officers of Licencee, but the aforesaid conclusion is sufficient towards the disconnection done for want of nonpayment of dues, that too after issuing notices. Secondly, consumer tried to contend that as there is no report of disconnection and reconnection this is also a illegality. In this regard, it is seen that register showing disconnection, status of reading in meter, is placed on record. Secondly, in the reply status of said meter when supply was restored is

stated. Consumer is not coming with any other contention that reading reflected at the time of reconnection, is not as contended by Officers of Licencee. A vigilant consumer who not paid the bill from November 2013, but paid it, in compliance to interim order of this Forum, on 27/11/2014, could have easily noted down what was the reading reflected in the meter as on that date of reconnection. Merely alleging is not sufficient but due diligence is also to be shown with same spirit which is lacking with the consumer. These observations are not to be read as if there is licence to the Officers of Licencee not to prepare report of disconnection or reconnection on the spot and to obtain acknowledgment from the persons present there.

Consumer has tried to take almost all pleas and most of those are not within the scope of this Forum's jurisdiction. Hence, no any comment is required on those.

11] In result, it is clear that apprehension expressed by consumer towards illegal threat of disconnection towards commercial supply is without any force and is not a correct perception. In respect of disconnection of residential supply there is no any illegality as such. Hence, grievance application of consumer is to be rejected.

Hence the order.

ORDER

Grievance application of consumer is hereby rejected.

Dated: 16/12/2014.

I agree

(Chandrashekhar U.Patil)
Member Secretary
CGRF, Kalyan

(Sadashiv S.Deshmukh)
Chairperson
CGRF, Kalyan

NOTE: -

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

We both present, None attended for Licencee, none attended for Matheran Giristhan Nagar Parishad

- 2] Matter taken up. It is informed to our member secretary that Nodal Officer who was working is transferred and hence they are not able to attend the Forum. He is made aware that his complaint is peculiar in nature is difficult with the Officers of Licencee to attend, time is sought.
- 3] With the help of consumer, consumer's representative and material on record, following factual aspects are disclosed:
- a] Consumer is having residential supply LT-I one phase. 048244000404.

The said supply is available from 18/4/1992.

b] There is no dispute of period prior to July 2012.

c] Dispute is pertaining to the period from July 2012 to October 2013 and meter in the consumer's premises was changed in July 2012 only. For these 16 months i.e. from July 2012 to October 2013 meter was working, but bills were issued showing 83 units per month and it was not as per the actual reading. Reading itself was not taken. Consumer paid bills issued for 83 units per month regularly.

d] Consumer received a bill in the month of November 2013 for Rs.24,294/- of 3995 units, it was of huge amount and for heavy consumption shown. Towards it consumer deposited Rs.2500/- on 2/12/2013 and Rs.3000/- on 31/12/2013. Thereafter consumer received bills covering the period from October to December 2013, showing previous reading 3995 units and correct reading 4924 units consumed 293. For January 2014 bill received, showing previous consumption 4229 current reading 4372, consumed units 88 and for February 2014 previous reading is shown 412, bill reading is shown 4368 units and consumed as 53 units. Accordingly average of 65 months is worked out to 83 units.

e] It is contended that consumer addressed letters to the Licencee from time to time. When there was instance for paying amount and amount was not paid, supply of consumer is disconnected on 25/2/2014. Thereafter consumer was asked to pay the amount, hence he gave letter of undertaking on 21/4/2014 to pay the amount @ Rs.2000/- per month that too without prejudice to his rights. Previously he has written letter dated 10/3/2014, making grievance about disconnection in spite of dispute. He addressed one more letter on 28/10/2014, seeking bills as per reading shown in the meter. He has approached Janjaguruti Grah Manch Raigad and they had addressed letter to Asst. Engineer on 13/3/2014. It is contended that one of these letters pertaining to the grievance of consumer is head and decided.

3] Accordingly, consumer approached this Forum with a grievance on 11/11/2014. He is seeking relief about the failure on the part of the Licencee to record reading regularly per month, issuing bills of extra units, though average of less units.

4] Let reply of Licencee is to be received and on receiving it further aspect will be discussed and dealt with.

Dated: 26/11/2014.

(Chandrashekhar U.Patil)
Member Secretary
CGRF, Kalyan

(Sadashiv S.Deshmukh)
Chairperson
CGRF, Kalyan