

Grievance No. K/DOSE/022/893/2013-14



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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No. K/DOS/022/893 of 2013-14

Date of Grievance : 06/12/2013

Date of order : 29/01/2014

Period Taken : 50 days.

**IN THE MATTER OF GRIEVANCE NO. K/E/022/893 OF 2013-14 IN RESPECT OF SHRI VASANT GOVIND APTE,'RADHA NIWAS', POST SASAWANE, TAL. ALIBAG, DIST.RAIGAD, PIN-402 201, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING NOT GIVING NEW SUPPLY.**

Shri Vasant Govind Apte,

'Radha Niwas' Post Saswane, Tal. Alibag,

District-Raigad, Pin- 402 201, .... (Hereafter referred as Consumer)

Consumer No.02316001020 (*Agricultural connection From 1/05/1963*)

Versus

Maharashtra State Electricity Distribution

Company Limited though its

Asst.Engineer, ,Alibag Sub.Divn.-II, .... (Hereinafter referred as Licensee)

Appearance : For Consumer – In person.

For Licensee - Shri Marke- Deputy Executive Engineer,

Shri Waghmode- Asst.Enegineer

Shri Kasal - Asst. 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, (36/3003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply) Regulations 2005’. 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, 2005.’ Hereinafter referred ‘SOP’ for the sake of convenience.

2] The applicant/consumer is having three connections and disputed connection is towards agricultural connected on 1/05/1963. He was asked to pay an amount of Rs.4,250/- on the ground that he has used agriculture supply for residential purpose. He had approached Officers of Licencee from time to time, lastly on 6/9/2013, but no relief was granted. Accordingly, consumer approached this Forum on 4/12/2013.

3] In this matter, the papers pertaining to above grievance were sent by Forum vide No. EE/CGRF/Kalyan/Consumer No.0510 dated 6/12/2013 to the Nodal Officer of Licencee, in response to it, the Officers of Licencee attended and filed reply on 18/12/2013.

4] Both sides attended for final hearing on 13/1/2014, consumer in person made submissions and for Licencee, Officer Mr. Marke and Waghmode argued. We have gone through the grievance application, papers enclosed with it. We have gone through even reply of the Licencee, and submissions. On its basis, following factual aspects are disclosed:-

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- a] Consumer is having supply from 1963 for agriculture purpose, which is in dispute, other two connections respectively for residence and commercial are with him from the year 1968 and 1990 respectively.
- b] Till February 2013, there was no dispute about any of the connections.
- c] Dispute arose in respect of agriculture supply only and first such incident though not quoted by Licencee, consumer quoted it, stating that on 10/2/2013, when he was out of station, inspection was conducted by the Officers of Licencee and made aware that use of electricity meant for agriculture supply, is, being used for residential supply, which cannot be allowed. On getting this information, consumer addressed letter to the Officer of Licencee dated 11/2/2013, pointing out that connection for agriculture should be used for agriculture only, but considering the load shedding etc., agriculture pump operated and water is stored in the tanks kept on the roof of the house. This storage is used for agriculture purpose as and when required. Accordingly, allegations of Licencee denied.
- The main cause as contended by the Licencee starts from the Inspection dated 16/2/2013. As per inspection report, it was noted that supply is not utilized for agriculture, but is for residential purpose. It is claimed that on the inspection report, signature of consumer is obtained. On its basis, on the very day, the bill is prepared, handed over to the consumer for Rs.4,250/-, mentioning therein '126'. Said bill is paid by consumer on 18/2/2013.
- d] Consumer's said supply was permanently disconnected on 25/2/2013 as sought by consumer vide his application dated 16/12/2013 and report to that effect is placed on record.
- e] Consumer filed application on 1/3/2013 and mentioned therein that as per the oral order of Officers of Licencee, connection is permanently disconnected. He sought refund of security deposit to the tune of Rs.1050/-, which was deposited on 31/8/2009 for Rs.1000/- and Rs.50/- on 1/5/1963, along with its original deposit receipt for Rs.1000/- was enclosed and as receipt for Rs.50/- was not available, he enclosed electricity bill for the month of July, 2009, wherein deposit of Rs.50/- is shown. He had sought refund of said deposit with interest. However, he contended that as per the oral order of Officer, agriculture meter is permanently disconnected.
- f] Consumer then addressed one more letter dated 26/8/2013, asking Executive Engineer to divert his security deposit amount on his other connection or divert towards bill of other connection.
- g] Consumer then addressed letter on 6/9/2013, writing in detail, addressed to Executive Engineer and IGRC, which is sent by RPAD and the copy of said document placed on record. RPAD registration receipt is also seen by this letter. He has alleged

that his agriculture connection is totally cancelled without any pre intimation, though he was submitting his written representation, it was not accepted. It is also contended that in-spite of his demand for refund of SD, it is not being complied and he expected compliance and report in detail. He had explained what he has faced, in the Office of all the concerned Officers of Licencee in the region including Junior Engineer, Executive Engineer and IGRC.

h] The security deposit is ultimately adjusted on consumer's other connection and letter to that effect is issued on 09/10/2013.

i] Consumer has sought different reliefs in this grievance, such as restoration of disconnected agriculture supply, refund of amount of Rs.4,250/- recovered. He sought interest on SD amount, which he demanded on 1/3/2013 and was not paid till November 2013.

5] On behalf of Licencee, it is contended that during inspection, unauthorized use of electricity was noticed, bill was issued, consumer agreed to it, deposited the amount, thereafter sought permanent disconnection of it, which was done as per his request and hence, there is no any illegality in the said action. Accordingly, restoration of supply or refund of amount deposited, will not arise. Secondly, it is submitted that security deposit is already returned to the consumer on the basis of original security deposit receipts supplied. Those receipts were provided on 21/10/2013 and immediately in the next month, security deposit is adjusted, on the other connection of consumer. Hence, there is no question of granting any interest.

6] Considering, the aforesaid rival claims of both sides, the question comes up whether permanent disconnection of agriculture supply was sought by consumer voluntarily? Consumer all the while making ground that though inspection on record is shown on 16/2/2013 it was resorted by visiting on 10/2/2013 and towards it, he tried to explain how it is not unauthorized use of electricity and letter to that effect dated 11/2/2013 was tried to be given which is not accepted. He contended that as per the oral orders of the Officers of Licencee, he had proceeded to seek permanent disconnection. Accordingly, all the while, his contentions are reflecting that consent

for permanent disconnection was not as sought by him, but it was an act on the basis of what the Officers of Licencee conveyed.

No doubt, both the sides placed on record some factual aspects, but, during the arguments, tried to take a stand relying on oral versions and oral communications. We have already made aware both sides that thing should be made clear in writing , still they continued with their oral contentions and we find that no any basis to rely on the oral contentions.

7] On the basis of material on record, it is clearly seen that disputed supply for agriculture was used by consumer from 1963. He has given explanation that supply is not utilized for any other purpose than agriculture, but considering the load shedding with the pump water was lifted and transmitted into the tank kept on the house and then with gravitational force, as and when required utilized for agriculture. It needs no explanation that in the area wherein consumer is residing is a part of Konkan and residential houses are in the field itself and water supply for agriculture includes paddy crop and some horticultural plantations. Accordingly, it is clear that consumer has taken three different connections as per his needs. It is also a fact that consumer is not abandoning the claim for agriculture supply. He referred to some assurances given by the Officers of Licencee and Officers admitted that if consumer now seeks new connection for agriculture purpose, there is no any hitch and it will be released afresh. As stated above, consumer paid amount shown in the bill, issued on the basis of inspection conducted on 16/2/2013. It is noted above, in the said bill mention is '126', written and said section is explained in the reply dated 18/12/2013, contending that it was action u/s.126 of Electricity Act. Though such section is mentioned on the bill, during hearing, we tried to find out if there is any provisional assessment order passed and followed by notice any final assessment order passed. This, we were required to ask, as contention is taken by Licencee that this matter falls u/s. 126 of Electricity Act and this Forum has no jurisdiction to entertain the grievance. To know whether in

fact, prima facie, it is an aspect dealt u/s. 126 of Electricity Act, we enquired whether any order of provisional assessment, followed by final assessment order passed and placed on record. On behalf of Licencee it is submitted that none of such orders were prepared or served on the consumer. Accordingly, we noticed that this action is simply alleged u/s. 126 of Electricity Act. but prima facie, no action is taken u/s. 126 of Electricity Act. Merely by mentioning '126' on the bill, which is handed over on 16/2/2013 in no way fulfills the requirements u/s. 126 of Electricity Act. We are, aware when claim is u/s.126 of Electricity Act, we cannot exercise jurisdiction. But we are required to consider whether said action totally matured in final assessment order, making it open for consumer to approach Appellate Authority. Such things are not demonstrated in this matter. There is no provisional assessment order, which was based or seeking Rs.4,250/- by issuing bill, no notice issued for provisional assessment order passed, seeking consumer to make submissions if any, towards giving opportunity and no final assessment order passed.

8] The aforesaid legal position clearly leads to a conclusion that consumer was made to believe the Officers of Licencee and he obeyed the orders of Officers of Licencee, which he clarified in his letter dated 6/9/2013 and all this leads to conclusion that action u/s. 126 of Electricity Act is not complete. We are not able to comment on the merit of aspect, but thing is clear that without any Order of Provisional Assessment, consumer was made to believe that he is required to pay amount, no notice issued and once amount is paid, further order of final assessment order is also not at all passed. In this light, we find, there is no completed action u/s. 126 of Electricity Act, enabling to consumer to approach Appropriate Authorities thereafter i.e. Appellate Authorities u/s. 127 of Electricity Act. Accordingly, making a person to pay the amount without passing provisional assessment order and creating impression without giving him notice, makes act unenforceable . Accordingly, we find that the basic action of demanding amount of Rs.4,250/- is without any legal appropriate foundation. Further actions which consumer has conceded for permanent

disconnection etc. is followed due to the aforesaid action of Licencee which we find, was not enforceable. In result, it can be said that action of directing payment of Rs.4,250/- itself is not in tune with requirement u/s. 126 of Electricity Act and it is consumer, who was made to pay. He was not only made to pay, but he was without any response, his requests, every now and then made, including that of his last letter addressed to the Executive for Engineer and IGRC on 6/9/2013. Officers of Licencee were happy to just mention that consumer has not applied in proper format. MERC Regulations are clear on this aspect, communications to the Officers of Licencee sufficient, who may take its note to comply it or direct it to IGRC and none of such act is done by the Executive Engineer and there is no mention that IGRC ever asked consumer to apply in format. On the other hand, whenever any such flaw is noted, it is IGRC who is to help the consumer, to make it clear and required assistance is also to be given, but reply now given is nothing but a lame excuse.

9] It is a fact that consumer has sought refund of SD. It is nothing but an act committed by him just obeying what Officers of Licencee stated. His security deposit not returned in time. He was not asked to comply something towards it. But he had made clear that he has enclosed original receipt of deposit for Rs.1000/- and initially submitted towards proof of deposit of Rs.50/-, copy of electricity bill. Original receipt of Rs.1000/- which was handed over by him, was returned to him and ultimately he resubmitted it with Executive Engineer, along with original of Rs.50/-. Thereafter, in November 2013, amount of SD transferred in his other account. Accordingly, though consumer sought refund of his SD on 1/3/2013 without any reply, it was kept in abeyance and lastly complied in November, 2013. In the letter dated 9/11/2013, Officers of Licencee, just communicated that amount of SD is diverted to the consumer's other connection as prayed by him. This flaw is clearly demonstrated.

10] In view of the above, it is clear that consumer was made to pay the amount without passing any order of provisional assessment u/s. 126 of Electricity Act, serving on him provisional assessment order or giving him notice and an opportunity of hearing. Even, it is not followed by any final assessment order. This Forum has no jurisdiction if there is final assessment order, however, in this case, there is also no any provisional assessment order and consumer is dealt, prima facie this Forum can take note of it and can deal. Accordingly, this initial action itself is not in tune with Law. Payment of Rs.4,250/-, received, is not in tune with the Law and said amount is required to be refunded to the consumer and his disconnected supply of agriculture is to be restored without any burden on the consumer, as it is an act, not in tune of legal provisions. However, consumer's deposit is already adjusted in other account. Hence, out of the amount of Rs.4,250/-, deposit amount of Rs.1000/- and Rs.50/- which is already adjusted, is, to be readjusted and shown as deposit. The amount shown as adjusted in other account of consumer of SD be appropriately considered for giving credit in ensuing bills. Accordingly, this grievance is to be allowed.

11] Consumer has sought amount of Rs.2000/- towards harassment, which he has suffered, but the manner in which he has entered into correspondence makes it clear that there is no any ground to pay him any compensation which he has sought. But, we are, clear that herein Officers of Licencee could have acted more sensibly, but they have given deaf ears for consumer's cry, this needs to be avoided. In this matter consumer has prayed for relief, seeking direction to the Licencee to verify the connection of other persons in that area. But we find said aspect is not available for consideration by this Forum as grievance of consumer to the extent of his supply is to be dealt.

Hence the order.



**ORDER**

- 1] The grievance of the consumer is hereby allowed.
- 2] Licencee directed to restore disconnected agriculture supply of consumer, within 7 days from receiving this order.
- 3] An amount of Rs.4,250/- recovered from consumer be, now adjusted deducting from it an amount of Rs.1050/- showing it as deposit which Licencee has adjusted showing as refund of SD as per request of consumer and balance amount be adjusted in ensuing bills of consumer.
- 3] The SD amount which is already diverted by Licencee on the consumer's another connection, be adjusted for clearance of outstanding bills, if any or adjust it in ensuing bills.
- 4] Compliance of aforesaid aspect be submitted within 45 days from the date of receipt of the order.

Dated:29/01/2014

I agree

I agree

(Mrs. S.A. Jamdar)  
Member  
CGRF Kalyan

(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 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”*

- c) 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.