



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/0162/0184 OF
08-09 OF M/S. SAROSH ICE FACTORY REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN
ZONE, KALYAN ABOUT COMPENSATION.

M/s Sarosh Ice Factory
Jahangir Maidan,
Murbad Road,
Kalyan – 421 301

} (Here in after
referred to
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its Dy. Executive
Engineer, Kalyan (W) Sub/Dn. No. I

} (Here in after
referred to
as licensee)

- 1). Consumer Grievance Redressal Forum has been established under regulation of "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. 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 22/01/2009 for compensation.

The details are as follows: -

Name of the consumer: - M/s. Sarosh Ice Factory.

Address: - As above

Consumer No: - 020020812924

Reason for Dispute:- Compensation

- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/050, dt. 22/01/2009 to Nodal Officer of licensee. The same is replied vide letter No. DYEE/Sub.Dn. I/Kalyan/Billing/309, dated 20/02/09.

- 4). The Members of the Forum heard both the parties on 24/02/2009 @ 15 Hrs. In the meeting hall of the Forum's office Shri J. A. Pardeshi Consumer's representative & Shri G. T. Pachpohe, Deputy Executive Engineer, Shri D. V. Bhojane, Assistant Engineer, Shri S. N. Deshmukh, Asstt. Acctt. representatives of the licensee attended hearing.

- 5) The consumer representative (CR) stated that he had earlier filed a grievance before this forum for illegal disconnection and forum had inspected our factory and confirmed the supply was disconnected illegally and sanctioned an amount of Rs.3500/- for illegal disconnection.

- 6) On this, the licensee replied that that they have not disconnected the supply. The supply upto their Feeder Pillar was "ON" and the cables from Feeder Pillar installed in their compound, was found to be disconnected. This might have been done by the consumer, as he wants to close his factory. If the supply was disconnected, this would have been disconnected from the Pole. There is no meaning " in removing the cables from the F.P. inside their compound ". The licensee stated that on the allegation of the consumer about the sanction of compensation for alleged illegal disconnection, a compensation of Rs.3500/- was sanctioned.
- 7). The C. R. further stated that our factory machineries are completely rusted and ammonia pipe lines also choked up. The repairing of these machineries cost Rs.7 lakhs. This is caused due to illegal disconnection of supply and negligence of licensee. Therefore we claim Rs.7 lakhs as compensation towards this. The CR further stated that the compressor is yet to be opened. This is also damaged and repairing of the compressor will further cost upto Rs.5.00 lakhs.
- 8). The consumer argument that when the supply received and started the machineries, then it was found they are damaged and accordingly taken out the estimate of machines by the representative of company. They have given the estimate of Rs.7 lakhs. We entitle to claim this amount from licensee,

because machineries are damaged due to illegal disconnection of supply.

- 9). On this addition of compensation of rusted machineries the licensee requested to refer Hon. Electricity Ombudsman's 9th para of their order. " asked the licensee what prevented him to go for routine maintenance of machinery during that period. Records also show that there was zero or negligible consumption of electricity between Jan.06 and Oct.06 indicating total absence of any production when according to him supply was available. It is, therefore in vain to connect rusting of machinery with non availability of electricity after Jan.07"
- 10). The forum asked the consumer that your appeal to the Hon. Electricity Ombudsman after the decision of forum for additional grievance is pending then why you registered with forum again for the same grievance, before giving the decision of the Hon. Electricity Ombudsman. The C.R could not give satisfactory justification.
- 12) The consumer further stated that they have not opened the compressor as yet. It is estimated that the compressor may have suffered loss of Rs.5 lakhs. The consumer further reiterated its earlier submission that the licensee had disconnected the supply without any proper notice as required under Section 56 I. E. Act 2003. This amounts to deficiency in service. Mr. Paradeshi, (CR) further argued that it was not the concern of the licensee whether or not any production activity

is going on in the factory but it should only ensure that the proper supply is given. He agreed that consumption after Jan.06 to Oct.06 was nil or negligible but he maintained that it was only because of non supply of power from Jan.07, that the machinery got rusted. Therefore, his prayer for compensation of Rs.7 lakhs should be considered. He agreed that this prayer was not specifically made before the Forum as he was not aware of any estimate of losses. Therefore although it is a new prayer the same should be considered in the background of this explanation.

- 14) The licensee maintained that there was no disconnection of electric supply to the consumers premises on its part. It alleges that there appears manipulation by the consumer himself with an ultimate view to make a false claim of compensation for the alleged stoppage of manufacturing activity.
15. The C.R. stated at the time of first filing of the case, he did not know the actual damaging of the machineries. When we called the company personal and took the estimate then we came to know that repairing will cost Rs.7.00 lakhs.
- 16 The disconnection is done in Jan.07. We asked about reconnection to the licensee, then they did not given any response. After one and half years they informed that the have not disconnected the supply. When supply reconnected then we found that the machineries are damaged due to rust and ammonia pipes were leaking.

17. Forum asked to the CR that in your pray you have stated that you have already filed your grievance with Hon. Electricity Ombudsman and their decision is pending. You have filed your grievance on 22/01/09 with the forum. So how you filed the grievance with the forum before decision of Hon. Electricity Ombudsman. You should see that whenever a case is pending in the Ombudsman or MERC or Court, you can not file the same grievance with any other forum./ court till it is decided. The intention of such type of action is nothing but misguide the forum.
18. Forum observations:
 - a). From the study of the case it is noted by the forum that the consumer has not approached the Licensee for the addl. Grievance of compensation. The consumer directly approached the Hon. Electricity Ombudsman and same has been rejected and then he registered the grievance in the forum.
 - b). It is also noted that the consumer's supply was disconnected on 15.07.2007 and he has registered his first grievance with the forum on 15/07/2008 (i.e. after 15 months & 15 days consumer registered his grievance with the forum) so it is not understood why the consumer take up this matter so late.
 - c). The Forum observed that when consumer first registered his grievance on 15.7.08 with the forum, the relief of compensation for Rs.7 lakhs / or any amount for rusted machineries, was not demanded. The forum given its decision

on 28.8.08 and consumer appealed before Hon. Electricity Ombudsman on 01.01.09 and Hon. Electricity Ombudsman given its decision on 03.02.09. The consumer filed second application with the CGRF on 20.1.09 (before the decision of Hon. Electricity Ombudsman) regarding “compensation for rusted machineries due to alleged illegal disconnection”. In this application he has stated that “The subject matter of grievance has not been decided by any authority/court arbitrator. His application filed before Hon. Electricity Ombudsman is under consideration”. A copy of decision dated 03/02/09 given by Hon. Electricity Ombudsman against his Appeal No.73 of 2008 is enclosed herewith.

- d). It is noted that the consumer claimed that the factory remained closed for about 19 months. If it is so, the consumer ought to have made some alternate arrangement (i.e. Generator) for keeping the machineries in running condition.
- e). The consumer should have arranged for oiling/ painting and maintained the factory machineries in good & running condition, if he was waiting for getting supply.
- f) Hon. Electricity Ombudsman vide decision dated 03/02/2009 of case No. 73 of 2008 has rejected the application for compensation of Rs. 7 lakhs.
- g). Considering the above factual circumstances, and after hearing the consumer and going through all papers made available by the licensee as well as consumer, forum come to the conclusion unanimously that the consumer is not entitle for

compensation of damages for the alleged rusting of machineries of his factory and therefore his demand for the same is hereby rejected. Hence no order is passed.

- 19). Consumer can file appeal against this decision with the Ombudsman at the following address.

*“Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”*

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

Date :- 04/03/2009.

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan