



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/259/285 OF 2009-2010 OF
M/S. J. P. ENGINEERING, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

M/s. J. P. Engineering
Gala No.10, Paras Industrial.Estate-2,
Waliv Phata ,Sativali Road, Vasai (E)
Vasai, Dist.Thane

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Vasai Road (East) Sub-Dn.
Vasai, 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 conferred 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 above 20 KW consumer of the licensee with C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 08/06/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- M/s. J. P. Engineering

Address: - As given in the title

Consumer No : - 001840604523

Reason of dispute: Excessive Energy Bills.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/529 dated 8/6/2009 to Nodal Officer of licensee. The licensee filed reply vide letter No. DYEE/VSI/ (E)/B/4984, dated 26/06/2009.
- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 16/03/2009. The said Internal Redressal Cell did not give any hearing to the consumer & also did not send any reply resolving the said grievances to the consumer. Therefore, the consumer has registered the present grievance before this forum on 08/06/2009.
- 5). The forum heard both the parties on 26/06/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representative of the consumer & Shri R.G.Gharat, UDC representative of the licensee, attended hearing. Minutes of the hearing including the submissions made

by the parties are recorded and the same are kept in the record. Submissions made by each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.

- 6). The following grievances raised by the consumer in its letter dated 16/03/09 sent to the concerned Executive Engineer of which copy the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 26/06/09 filed by the licensee, record produced by the parties, and submissions made by the parties, the finding or resolution on each of such grievance is given against it, for the given reasons.
- 7). As to grievance No. (1): – Regarding refund of difference between MD based tariff & H. P. based tariff & P. F. penalty recovered in the bills for Aug. 08 to Mar. 09 : The Consumer Representative (CR) submits that the licensee has charged MD based tariff to the consumer without 100% metering and its such action is illegal. He relies on operative order dtd. 20.6.08 of MERC in case No.72 of 2007, MSEDCL circular No.81 dt.7.7.08 in support of his contention. He further submit that as per order dated 12.9.08 of MERC in case 44 of 2008, the licensee can not impose MD based fixed charges, PF penalty and demand penalty/incentive without MD based tariff being made applicable to the concerned consumer but in the instant case, the licensee has applied the above charges or penalties without MD based tariff being applicable to it and hence such action of licensee is illegal. He further submit that thus the licensee has violated the Act, rules and orders of MERC and hence is liable for action under section 142 and 146 of the Electricity Act 2003. He further submits that therefore the licensee be directed to refund the amounts of such illegally recovered

charges together with interest at the rate which it applies to the defaulting consumer. The CR submits that the consumer claims refund of an amount of Rs. 2000/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff charged in the bills for the months from Aug 08 to Mar 09 and P.F. penalty of Rs.1714.23 charged in the bills for the months Aug.08, Nov.08, Dec.08, Jan.09 and Feb 09, together with interest.

---As against above contention, the LR submits that the matter is referred to Chief Legal Advisor and Chief Engineer (Com). After receiving the report from the above authorities, action will be taken accordingly.

While deciding the question regarding the applicability of MD based tariff to the LT above 20 KW industrial units, the Hon. Electricity Ombudsman vide order dated 6.5.09 in representation No.33 of 2009, M/s. Crystal Industries V/S MSEDCL, relying on the MSEDCL's circulars dtd. 05.02.09 held that the MSEDCL has suo moto decided to start MD based tariff for LT V consumers from April 09 inspite of 100% installations of MD meters completed in Aug.08 and therefore the MSEDCL is liable to refund the excess fixed charges and PF penalty recovered from such consumers. Therefore following the above referred decision, the licensee is directed to refund the amount of MD charges collected over and above the fixed charges recoverable as per HP based tariff and the PF penalty recovered from the consumer prior to the billing period of April 2009 together with interest at the Bank rate of RBI within 30 days from the date of this decision.

- 8). As to grievance No. 2 regarding bill adjustment :- The consumer claims that the licensee has added the debit bill adjustment charges of various

amounts such as Rs. 410.72, Rs.539.20 and Rs.460.34 in the bills for the billing periods Sept.07, Aug.07, and July 07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee claims that the first amount is of TOSE for Mar 06 to Sept.06, second amount is of TOSE of the period from Set.05 to Feb.06 and third amount is of FAC2 and IASC charges for Jan.07 respectively. The CR has relied upon the order dated 24th May 2005 passed by MERC in case No. 28 of 2004 in support of his contention that the licensee has earlier refunded the TOSE charged for the above referred periods as per the above referred order, but has again charged the same as above without any further order of MERC about it. The licensee has not filed any such order of MERC passed after the above order which enabled it recharge the TOSE. In view of the facts as discussed above, the licensee is directed to give in writing an explanation as to how it has recharged TOSE as claimed particularly in reference to the order dated 24/05/2005 passed by MERC in case No. 28 of 2004, to the consumer within a period of 30 days & on failure to do so, or in case of unsatisfactory explanation, refund the excess amount if any, recovered as above together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 9). As to grievance (3) – Regarding refund of Excess SD & interest on SD :
The consumer claims that the licensee gave the said connection to it on 29.12.96. The licensee has collected SD of Rs. 19,000/- + Rs. 9750/- = Rs. 28750/- at the time of taking new connection during the said period. Therefore the consumer takes that it has also paid the SD of such amounts at the time of taking new connection on 29.12.96. However, bills were showing SD as zero. Thereafter the licensee collected Rs.13,500/- as ASD

from the consumer. Therefore the licensee be directed to refund Rs. 29,250/- and the interest of Rs.19,476/- on the total SD. As against this, the licensee claims that the connection has been given on 29.12.96 for 65 HP load. The Security Deposit paid at the time of connection i.e. Rs. 19,500/- and Rs.9750/- is not displayed in the bills. The consumer has to submit original receipts to the Sub Division office and after verifying the facts, action will be taken accordingly. In view of the above contentions of the parties, the licensee is directed to verify the correct amounts of SD from time to time from its record and the record with consumer, display the correct amounts of SD, calculate the proper SD at this stage & refund the excess amount of SD & the interest at Bank rate of RBI on such amounts of SD at the prevailing rate, by giving it's credit to the consumer, in the ensuing bill after a period 30 days from the date of decision in this case.

- 10). As to grievance No. 4 - Regarding refund of difference of MD based charged and HP based charges from Oct.06 to Mar 07 : The consumer claims that the licensee was to refund an amount of Rs.11,584.13 on this count as the charges of the relevant period were reverted back to the HP based tariff from MD based fix charges, due to non completion of installation of MD meters in entire Maharashtra. The licensee however refunded an amount of Rs.8065.32 only. Therefore the licensee be directed to refund the remaining amount with interest. As against this, the licensee claims that it has refunded such remaining amount in the month of June 09. The licensee, however, did not produce on record CPL of the said month or any other document to show that it has really paid such remaining amount to the consumer. Therefore the licensee is directed to again verify as to whether it has paid such remaining amount on this count to the

consumer and if not, refund such remaining amount together with interest at the bank rate of RBI to the consumer by giving its credit to the consumer in the ensuing bill after period of 30 days from the date of decision in this case.

- 11). Grievance No. 5 regarding refund of excess ASC recovered for Oct.06 billed in Nov. 06 :- The consumer claims that the licensee is liable to refund the ASC of Rs.262.20 charged in the month of Oct. 06. As against this, licensee claims that ASC was charged in the month of Oct.06 as per MERC's operative order dated 27.9.06 in Case No. 54 of 2005. However, as per the MERC's further clarificatory order, the difference was credited to the consumer in the billing month Jan.07. The licensee however, did not produce on record CPL for the month of Jan.07 or any other document to show such fact of refund of the said amount of Rs.262.20 of ASC. Therefore the Licensee is directed to again verify as to whether the said amount of ASC has been refunded to the consumer and if not, refund the same together with interest at the bank rate of RBI by giving its credit to the consumer in the ensuing bill after 30 days from the date of decision in this case.
- 12). As to grievance No.6 regarding refund of excess ASC recovered in April 08: The consumer claims that the licensee issued bill for March 08 showing no consumption under locked condition. In April 08, consumption of two months is shown but cheap power consumption of only one month is considered. Therefore the licensee be directed to refund excess ASC of Rs.2684.64 together with interest of Rs.147.65 till the date of grievance application. The licensee has not given any say on this point in its reply dated 26.6.09. However, it is clear from the bill dt.14.3.08 issued for the

period from 2.2.08 to 3.3.08 that the current reading in it is shown as zero and the meter's status is shown as locked and the said bill is issued for average consumption of 2445 units. The copy of bill dated 12.4.08 issued for April 08 shows that the consumption of two months i.e. from 2.2.08 to 4.4.08 i.e. covering the period of the bill issued for the month of Mar 08, has been considered while issuing the said bills. In view of this, the say of consumer that while charging ASC in the said month, the licensee has given benefit of cheap power of one month only, can not be said to be without any basis. Therefore the licensee is directed to retrieve the MRI report of the said meter about consumption during the period from 2.2.08 to 4.4.08 and the recalculate the ASC to be charged to the consumer for each of the said billing month and refund the excess amount recovered on this count, if any, together with interest at the bank rate of RBI by giving its credit to the consumer in the ensuing bill after a period of 30 days from the date of decision in this case.

- 13). As to grievance No.7 – Regarding refund of excess ASC recovered in May 08:- The consumer claims that in May 08, meter is shown in locked condition but still the licensee has shown arbitrary readings and recovered excess ASC of Rs.1289.28 and therefore it be directed to refund the same together with interest of Rs.77.35 till the filing of grievance application. The licensee has not given any say to this point in its reply 26.6.09. The copy of bill for the May 08 shows status of meter as faulty and the current reading as zero and the same is issued for the average consumption of 2922 units, and that the ASC units were 948. The consumer has not filed copies of the bills for subsequent months to find out as to in which month, billing was made as per the actual reading. The licensee has also not produced on

record the CPL from which the said fact could be found out. Therefore the licensee is directed to review the bills for the month of May 08 and the bills for subsequent months till the month in which the billing is done as per the actual readings in the meter and then retrieve the MRI reports of the said meter to find out the actual consumption in each of the said months including May 08, recalculate the ASC to be charged to all the said months and then refund the excess ASC charged, if any, together with interest at the bank rate of RBI by giving credit of such amount to the consumer in the ensuing bill after period of 30 days from the date of decision in this case.

- 14). As to grievance No.8 : Regarding refund of capacitor penalty and penalty for excess connected load during the period from Nov.03 to Feb.04: The consumer on the date of hearing 26.6.09 filed rejoinder regarding this grievance and requested the forum to consider the same as the relevant facts giving rise to this grievance have been disclosed to him from the CPL which the licensee has provided to him on the date of hearing i.e. 26.6.09. It is fact that the licensee has given copy of the CPL to the CR on date of hearing i.e. 26.6.09 and therefore the forum decided to consider this grievance and its copy was supplied to the LR. The LR undertook to file say to the said rejoinder within 7 days during hearing but did not file the same till this date. The consumer claims that the licensee was to refund the penalty imposed on account of excess connected load and capacitor penalty charged during the period from Nov.03 to Feb.04 within three months as per MERC's order dt. 14.7.05 in case No.2 of 2003. The licensee imposed penalty for excess connected load and capacitor penalty during the period from Nov.03 to Feb.04 but has not refunded the same to the consumer. As the licensee was to refund the said penalties as per the

directions of MERC, the limitation of two years would not apply to the grievance about such refund. The consumer claims that the licensee be directed to refund total amount of Rs.54925/- including interest on this count to the consumer. The licensee did not file say to the said rejoinder till this date inspite of such undertaking by its representative at the time of hearing. Copies of reports regarding inspection on the basis of which the connected loads have been noted in the bills for the months of Nov.03 to Feb.04 are also not record to find out as to how the connected loads were measured. Therefore, the licensee is directed to find out the said facts from the concerned inspection reports and other records and refund the amounts of penalty for excess connected load and capacitor penalty imposed during the period from Nov.03 to Feb.04 for the refund of which the consumer is entitle as per MERC's order dt.14.7.05 in case No.2 of 2003, if any, together with interest to the consumer by giving its credit to the consumer in the ensuing bill after a period of 30 days from the date of decision in this case.

- 15). In view of the findings on the grievances of the consumer as above, the forum unanimously passes the following order.

O-R-D-E-R

- 1) The grievance application is allowed.
- 2) The licensee to comply the directions given in above para Nos. 07 to 14.
- 3) The Compliance should be reported to the forum within 90 days from the date of decision.

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.

5). Consumer, as per section 142 of the Electricity Act, 2003, can approach Maharashtra Electricity Regulatory Commission at the following address:-

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

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”

Date : 22/07/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan