



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/N/019/0151 OF 08-09
OF SHRI DEVIPRASAD R. DUBEY REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN
ZONE, KALYAN ABOUT NEW CONNECTION.

Shri Deviprasad R. Dubey (Here in after
Shreenath Apartment referred to
Rambaug Lane No.4 as Consumer)
Kalyan (W) – 421 301

Versus

Maharashtra State Electricity Distribution (Here in after
Company Limited through its Deputy referred to
Executive Engineer, Sub Dn.1.Kalyan (W) 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 registered grievance with the Forum on dated 22.08.08 for release of 3 ph. New flour mill connection.

The details are as follows: -

Name of the consumer: - Deviprasad R. Dubey

Address: - As above

Reason for Dispute:- Delay in releasing New 3 phase flour mill Connection.

- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/234dt.22/08/2008 to Nodal Officer of licensee. The licensee replied vide L.No.4035 dt.10.09.2008.
- 4). The Member Secretary & Member of the Forum heard both the parties on 11/09/2008 @ 15 Hrs. & Shri D. B. Nitnaware, Nodal Officer, Shri G. T. Pachpohe, Deputy Executive Engineer, Shri M. V. Deshmukh, Junior Engineer, representatives of the licensee attended hearing.
- 5). The applicant stated that he applied for three phase new connection for 15 HP load for the purpose of flour mill on 17.03.08 The licensee vide L.No.454 dt. 17.4.08 (personally handed over on 23.06.08) informed that there is an arrears of

Rs.3,01,518/- on connection No. 020261005531 on the same name and address. You have to pay this amount + interest upto date. Also the tax receipt from the KDMC is also not enclosed which will also required. In our letter dated 30/6/08 we replied that we have availed connections to the building in March 04, when the licensee have not informed about any arrears or not mentioned about this uptill now. When we applied for new connection, from where the arrears now have come.? We are not supposed to pay the said amount because we have not been informed about any arrears. In each visit of follow-up to the licensee, they used to tell us to complete all formalities i.e. laying of cable, fixing of meter board, etc. He stated that even after completing all works, they did not give the supply. The consumer prayed that the new connection applied for flour mill may please be released as early as possible. Even after lapse of 5 months our grievance is not redressed, therefore we approached the CGRF and registered our complaint on 22.08.08.

- 6). The licensee stated that the consumer has applied for 3 ph. 15 HP new electric connection for flour mill on 17.03.08. The same was scrutinized and submitted to Sub Division by Section Officer. While checking with the Billing Section, it is noticed that there is an arrears of Rs.3,01,518/- outstanding in the same name Shri Deviprasad Dubey on consumer No.020261005531/5, in the same address. This was

disconnected permanently in Sept.03 due to arrears. Accordingly the consumer has been informed about the arrears vide letter No.454 dt. 17.04.08 by post. Since there was no response from the consumer, a copy of the same was also handed over to the party on 23.06.08 during one of his visit to the licensee's office. Since these arrears are for actual consumed units used for construction purpose, he has to pay the same. Now the application is pending for want of payment of arrears.

- 7). The licensee stated that the consumer availed a construction supply and the same has been released on Consumer no. 020261005531 in the name of Shri Deviprasad R. Dubey, in around Oct.2000 at Hissa.No.6, Survey No.15, Bhagyodaya Park, Chikanghar, Kalyan (W). As per normal procedure after completion of the building and clearing all the dues on construction supply, this connection is converted to residential purpose i.e. for stair case, motor pump, or compound lighting etc. Their construction continued by one Wing after another so the construction supply was continued. From the bill dated 29.05.03, it is clear that they were in arrears of Rs.3,58,000/- and granted part payment of Rs.1,00,000/- against this arrears and the part payment is made by them on 31.07.03 when they were aware that they are in arrears. They stopped the payment of energy bill since Aug 03. Accordingly the supply has been disconnected

permanently in Sept.03 due to arrears. In the meantime they got supply to all individuals of the finished building at Hissa.No.6, Survey No.15, without making the payment of consumed units of the construction supply, though they were knowing about the arrears. It is true that the licensee has not checked whether there is any outstanding on the construction supply in March 04 at the time of releasing supply to the finished building for which const. supply was availed. The credit is given two times in the bill which appeared to be incorrect.

- 8). The licensee further stated that after Permanent Disconnection (PD), a bill on 27.05.03 for Rs.3,58,120/- was issued to the consumer and on request he has been granted a part payment of Rs.1,00,000/- against Rs. 3,58,120/- and he has paid the same on 27.05.03. From this, it is clear that the consumer was aware that he has to pay balance arrears of Rs.2,58,120/- as on 27.05.03 after effecting part payment but pretended to be not knowing about the arrears till informed him to pay the arrears in April 08, when applied for new connection for flour mill. In view of this, statement of the consumer is not correct. The arrears are against the actual units consumed by the consumer on the construction supply. Therefore he must pay the arrears and then only he will be eligible for getting new connection.

- 9). Forum observed that a temp. construction supply was given to the consumer in Oct.2000. The consumer did not pay the bills from Aug 03 onwards and the supply is disconnected in Sept.03 for want of payment of arrears. It is observed that the consumer had applied for 15 HP 3 phase connection on 17.03.08 for flour mill. The Dy.EE Sub Divisional Officer(SDO), Sub division -1 Kalyan (W) replied to this consumer on 17.04.08 that at H.No.6, S.No.15 where he has applied for new connection, is in PD arrears of Rs.3,01,518/- excluding interest, on consumer No.020261005531/5, given for construction purpose and after paying all these arrears, the application will be considered. It is observed that there was arrears of Rs.2,65,617.18 + interest arrears of Rs.35,900.94 as per CPL as on Sept.03 on the above connection given for construction purpose. This supply has been disconnected in Sept.03 due to arrears. While releasing the connections to the building (for which const. supply was released in Oct.2000), these arrears were existing but without verifying and recovering the PD arrears, all the connections were released by the licensee in March 04. When the complainant applied for 3 phase new connection for flour mill on 17.03.08, then only the SDO informed to the applicant vide his letter No.454 dt.17.04.08 regarding the arrears (the same letter handed over to the applicant on 23.06.08 i.e. after two months). On this forum verified the certified Xerox copy of outward register

of the Sub Division-1. It was observed that the letter No.454 dt.17.04.08 is entered in the name of Shri Deviprasad Dubey, erasing the existing outward numbers (O/W). So it is clear that the licensee has not given this letter on 17.04.08 but it is actually given on 23.06.08 (as acknowledged by applicant). The proof of sending letter by post is not given to forum by licensee. Further it is observed from the outward register that the O/W No.454 dt.17.03.08 is inserted in the name of this consumer. Further as per CPL the arrears as on Nov.07 is Rs.1,34,149.35 and interest Rs.35,900.94 (i.e. Total Rs.1,70,050.29) and a credit of Rs.1,31,467.93 is given in the same month. Whereas in the bill issued on 29.05.03, there are two credits are given (1). Rs.73,900.40 & (2) Rs.66,973.05 (Total Rs.1,40,873.45). On scrutiny of CPL it is seen that the arrears as on Mar.08 is Rs.1,34,149.35 + interest Rs.35,900.94 (Total Rs. 1,70,050.29) but licensee informed to the consumer the arrears as Rs.3,01,518/- + interest upto March 08. These are not tallying with each other. Therefore, the forum asked the licensee to submit the actual arrears as on March 08 after considering the part payment made by the consumer on 31.07.03 (which is not reflected in the CPL) as well as two credits given to the consumer upto March 08. Accordingly the licensee vide letter No. DyEE/Sub Dn.I/KLN/Billing/1492 dt. 20.09.08 informed that "The arrears as on Aug.08 is Rs.2,65,617.18 towards energy bill,

and Rs.35,900.94 towards interest (Total Rs.3,01,518.12). Interest on this amount from Aug.03 to Aug.08 is Rs.2,43,039.72. Thus total arrears as on Aug.08 is Rs.5,44,557.84. From above, it is seen that the licensee is not confirm about the arrears and drawn different figures in each times, giving credits, withdrawing the credits which do not tally with each other. It is true that the licensee has not made follow up after PD. This is because after PD the connection with consumer and licensee is discontinued and no bill comes out from the billing section. But this does not mean that the consumer is not liable to pay the unpaid arrears only because the licensee has not informed him till he applied for new connection in March 08. He was knowing about the arrears and deliberately avoided the payment. If he wants new connection, he would have brought the fact to the notice of the licensee at any time at least during above two instances. But he hide the facts to avoid payment of arrears and he created all these shows and blamed on licensee to get new connection (because the consumer is same).

- 10). It is also observed that the PD arrears are in the name of Shri Deviprasad R. Dubey and he applied for the connection in the same premises at Shop No.3, H.No.6, S.No.15 Chikanghar, Kalyan (W) and he has not paid the energy bills from July 03 onwards. Hence due to arrears the supply is made PD in Sept.03. The consumer is knowing that he is in

arrears, when he has been requested for permission for making part payment in May 03. The consumer, hiding this fact, applied for 3 ph new 15 HP flour mill connection in the same name and address. Though the purpose is changed, the name and address is same where he is in arrears at the time of PD in Sept.03. The arrears are for units actually consumed by this consumer for construction purpose, through the const. connection given to him. Therefore the licensee is entitle to recover the actual arrears as on Sept.03 with DPC and interest (upto PD date) after considering the part payment from the date of payment and various credits given to him. It is observed that the meter reading in Jan.03 as per CPL is 49448 units and previous reading is 35165 units ($49448 - 35165 = 14283$). The status in March 03 is "NOMTR" and May 03 onwards reading is not taken as per remarks "RNT". PD is made in Sept.03.

- 11). As per Maharashtra Electricity Regulatory Commission (Electricity Code and Other Conditions of Supply) Regulations, 2005 at Clause No. 10.5 states that:- *"Any charge for electricity or any sum other than a charge for electricity due to the distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives/ successors-in-law or transferred to the new owner/occupier of the premises, as the case may*

be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner/occupier of the premises, as the case may be:

*Provided that, **except** in the case of transfer of connection to a **legal heir**, the liabilities transferred under this regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supply to such premises.”* it is clear that **legal representative** should pay all arrears and than he is eligible for getting new connection. In this particular case forum observed as follows:-

- (a) The premise is same.
 - (b) There is no question any legal representative because the consumer also the same.
- 12). The forum observed that as per Consumer's Personal Ledger (CPL) of this consumer, the arrears as on March 2008 is Rs.1,34,149.35 (considering the part payment Rs.1,00,000/- made by the consumer on 31.7.03) + Rs. 35,900.94 towards interest on the arrears as on Sept. 03 (permanent disconnection date). Thus total arrears upto Aug.08 comes to Rs.1,70,050.29. Considering the CPL being authentic document, the figures appears on the CPL can be treated more reliable. Therefore consumer required to pay Rs.1,70,050.29 (Rupees one lakh seventy thousand fifty and paise twenty nine only). The licensee is not entitle to claim

interest from the consumer beyond Sept. 03 (w.e.f. PD month), as the licensee has not taken any action against the consumer to recover the arrears after PD date.

- 13). In spite of No. of correspondence made by the forum to the licensee, vide various letters viz. 234 dt.22.08.08, 253 dt.15.09.08 and 273 dt. 07.10.08, no detailed report regarding exact arrears is given by the licensee. Therefore, CPL record is considered as authentic record.
- 14). The forum observed after scrutiny of NOC No.KDMC/897 dt.18.9.02 that consumer as well as licensee has not pointed out regarding the connection released for 15 HP flour mill. The remark of JE Murbad Road Section under Sub Dvn.1, that "3 Ph. IP LT 15 HP, flour mill connection released"
- 15). The decision was supposed to give on 21.10.08, but the decision is given on 24.10.08 by three days late because the consumer submitted two documents one letter dated 18.09.02 regarding KDMC NOC and second regarding allegation against licensee's officer dt. 17.10.08, due to which a second hearing was fixed on 22,10.08. Due to curfew imposed on same day in Kalyan City, this hearing has been postponed to 24.10.08 and the same has been intimated to all concerned.
- 16). In the second hearing forum Member Secretary & Member, Shri Deviprasad R. Dubey, Consumer & Shri D. B. Nitnaware, Nodal Officer, Shri B. R. Karande, Executive Engineer Shri G.

T. Pachpohe, Deputy Executive Engineer, ,Shri S. M. Jadhav, Assistant Engineer & Shri M. V. Deshmukh, Junior Engineer, representatives of the licensee attended hearing.

- 17). It is observed that KDMC has issued a NOC No.897 dt.18.02.02 .On this NOC the Junior Engineer, Murbad Road Section passed a remark as “3 phase IP LT 15 HP flour mill connection released”. The JE Murbad Road section who attended the hearing asked whether this signature is yours, he said “Yes.” Then whether the connection was released physically as per remark. He said “no”. Generally if the party is ready to make the payment, we write down such remarks for putting it to the process. The licensee has not released the supply 3 ph.15 H.P. flour mill connection to Shri Dubey.
- 18) Regarding the allegation against licensee’s Officer, forum asked the consumer can you prove the allegation the consumer denied for it.
- 19). Forum given a chance to the consumer by calling a second hearing to clear the above points. Regarding release of 3 ph 15 H.P. flour mill connection the licensee denied the same. As regards allegation against the licensee officer this could not be established.
- 20) After hearing both the parties, studying all available documents submitted by Licensee as well as Consumer, forum unanimously passed following order.

O-R-D-E-R

- 1) The arrears of Rs. 5,44,557.84/- including interest, calculated by the licensee upto August 08 and intimated to the consumer vide No. DyEE/Sub Dn.I/KLN/GAD/1492 dt. 20.09.08, is hereby quashed and set aside.
- 2). The licensee should recover the actual arrears appearing in the CPL. i.e. Rupees 1,34,149.35 + Rs.35,900.94 (interest) = Rs. 1,70,050.29 (Rupees One lakh seventy thousand fifty and twenty nine paise) , as per para No.12 above.
- 3) The connection for 15 H.P. for flour mill should be released within one month from the receipt of above payment shown in decision para (2) and after observing all formalities and technical feasibility.
- 4). Compliance should be reported to the forum within stipulated time.
- 5). 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.

- 6). Consumer, as per section 142 of the Electricity Act, 003, can approach Maharashtra Electricity Regulatory Commission 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 :- 24/10/2008.

(Sau V. V. Kelkar)

(R.V.Shivdas)

Member

Member Secretary

CGRF Kalyan

CGRF

Kalyan