



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/298/328 OF 09-10 OF SHRI
KHANDERAO BABURAO BURADE REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE ENERGY BILL.**

Shri Khanderao Baburao Burade
B-206, Kaleshvar Apartment
Gujrathi Baug, Kalambe,
Shahapur : 421 601

} (Here in after
referred to
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Assistant Engineer, Shahapur Sub/Dn.

} (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 (MERC) 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 single phase L.T. consumer of the Licensee. The Consumer is billed as per Residential tariff. The consumer registered grievance with the Forum on 08/09/2009 regarding excessive energy bill. The details are as follows: -

Name of the consumer : Shri Khanderao Baburao Burade

Address: - As above

Meter No : 9000447958

Reason for Dispute : - Regarding Excessive Energy Bill

- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/699 dt. 08/09/2009 to the Nodal Officer of the Licensee, and the Licensee through Nodal Officer MSEDCL Kalyan Circle-II filed reply vide letter No. AE/Shahapur/2082, dt. 19/09/09.

- 4) The Chairperson & Member Secretary of the Forum heard both the parties on 05/11/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Mrs. Ujwala K. Burade, representative of the consumer & Shri Purohit, Nodal Officer, Shri P. P. Tendelkar, Jr. Engineer, Shri Hundekari, Asstt. Engr. representatives 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 the parties in respect of grievance since already recorded will be referred to avoid repetition.

- 5). According to Consumer after court litigation he took possession of the flat which was purchased by him from the builder under register sale deed

dated 18/06/94 on 20/04/2006. Earlier there was meter bearing No.278968 make Van capacity label 5035/5, 30 A and that one Hira Vitthal Dahale was residing in the flat in which this meter was installed. After taking possession according to the consumer he applied for new meter. However, Assistant Engineer Shahapur charged Rs. 3390/- as arrears of electricity bill on the said meter. It is contended that though consumer did not consume electricity on the said meter, the licensee compel him to pay the said amount for giving new meter. As the consumer was in need of new meter, under protest he deposited the said amount and accordingly new meter bearing No. 9000447958 was allotted to him on 17/10/07 i.e. after a period of one and half year. It is contended that none from the licensee recorded billing of the earlier meter for long period and all of a sudden issued a provisional bill dt. 06/02/07 for Rs. 3390 on consumption of units 462. Consumer claimed that without consuming electricity he was compelled to deposit Rs. 3390/- and unnecessary delay was made in giving new meter thereby he could not stay in the flat for which he had to pay maintenance charges for no fault on his part. It is contended due to inaction and lethargy on the part of licensee, consumer suffered monetary loss and mental trouble. Consequently consumer prayed to refund him the amount of Rs. 3390/- and to pay compensation.

- 6) In contra, the licensee contended that meter No. 278968 was installed in the flat No. 206 on 30/12/98 in which Hari Vitthal Dahale was residing. On 06/01/07, the Assistant Engineer Shahapur along with his technical staff visited the flat and took Meter reading as 00467 from 30/12/98 and the bill was issued to the consumer of the amount of Rs. 3390/- who was

then residing in the flat. According to the licensee panchanama of the meter was drawn on 06/01/07 in the presence of witnesses and as consumer was then residing, bill as per meter reading was given.

- 7) On perusal of the record and hearing both the parties following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a)Whether the consumer is responsible to pay the bill amount ?	Yes, for a period of two years only
b)Whether the licensee is responsible to pay compensation to the consumer ?	No
c) What Order ?	As per order below

Reasons

- 8) The consumer inviting attention to the Judgment and Decree passed by the Civil Court dt. 31/01/02 in Spl. Civil Suit No. 255/97 and the deed of cancellation dt. 19/04/06 submitted that he got possession of the flat No. 206 in the month of April 2006 from Hira Vitthal Dahale however, the licensee without recording meter reading of the earlier meter gave him the provisional bill of the amount of Rs. 3390 dt. 06/02/07 which he is not responsible to pay as he had not consumed electricity. He urged that as he was in need of new meter, he deposited Rs. 3390 and therefore, the licensee is responsible to refund the bill amount as above. On perusal the deed of cancellation dt. 19/04/06 para No. 4, mentions the party in the said

deed i.e. Hira Vitthal Dahale paid all electric bill in respect of the flat till 31/03/06 and further the documents on record show consumer took possession in the year 2006. Provisional bill referred to above cover the electricity bill from 1998 till 2006. According to consumer he was not residing in the flat, therefore he is not liable to pay electricity bill. From the record it is evident that on the day of issuance of the bill consumer was residing in the flat. As per the provisions of the Electricity Act 2003 consumer means any person who is supplied with electricity by the licensee and that occupier of the premises is liable to pay the electricity consumption charges. On the day of issuance of bill as stated above consumer was residing in the flat, therefore the consumer is liable to pay the electricity charges.

- 9) As stated above, deed of cancellation to which consumer was not party, one Hira Vitthal Dahale vide para 4 as per the said deed confirmed that he has paid all the electric charges. If according to consumer said Hira Vitthal Dahale consumed the electricity and when Hira Vitthal Dahale said to have paid electric charges but according to licensee, for the first time vide provisional bill referred to above meter reading was taken and bill assessed to Rs. 3390/- consumer can recover the same from Hira Vitthal Dahale however, he cannot exploit the mistake committed by the employees of the licensee. Licensee as per the provisions under the Act can recover electricity charges from the owner/occupier and as consumer was occupier on the day of issuance of bill, and as licensee had supplied electricity, consumer has to pay the bill for consumption of electricity.
- 10) The CR submitted that assuming consumer is liable to pay electricity consumption charges as per Section 56(2) of Electricity Act 2003, the

licensee can recover arrears for a period of two years only, however, the bill under reference dt. 06/02/07 is for the period from 1998 i.e. more than eight years, consequently it is time barred.

Sub-Section 2 of Section 56 states :

“Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity”.....

In construing the expression due “ the interpretation that is to be placed must be harmonized so as to be applicable in the context of Sub-section 1 and Sub-section 2 of Section 56. A sum cannot be said to be due from the consumer unless a bill for the electricity charges is served upon the consumer. Liability of a consumer arises or is occasioned by the consumption of electricity, the payment for due only upon the service of a bill for the purpose of Sub-Section 1 and Sub-Section 2 of Section 56, a sum can be regarded as due from the consumer only after a bill on account of the electricity bill charges is served upon him. In the case in hand, for the first time by bill dt. 06/02/07 Rs. 3390/- was claimed. Hon. Electricity Ombudsman in case representation No. 60 of 2009 dt. 01/07/09 while setting aside the order of Forum dt. 04/05/09 in case No. 211 of 2009 held that Distribution Licensee is not entitled to recover past arrears raised by way of supplementary bill for more than two years preceding the date of demand. In the case in hand by bill dt. 07/02/07 amount for more than eight and half years is claimed, however, as per the clear cut provision

discussed supra licensee is entitle to recover arrears for a period of two years, therefore, the licensee will have to be directed to prepare a revised bill for two years and the rest of the deposited amount be adjusted in the ensuing bills.

- 11) So far the contention of the consumer that he was compelled to deposit Rs. 3390/- as per provisional bill dt. 06/02/07 in order to allot him a new meter is concerned, it is a rule of prudence that for giving a new connection first arrears is necessary to be deposited. True it is, every month the licensee is required to take reading of the meter and accordingly to issue bill to the consumer every month, however, in the case in hand, provisional bill dt. 06/02/07 of the amount of Rs. 3390/- for the first time given of the period from 1998 onwards for which the licensee will have to be directed to take appropriate action against the concerned erring employees of the licensee. Since the bill was for the consumption of electricity and the consumer was occupier of the premises, licensee is entitle to recover arrears for the period of two years only.
- 12) So far the grievance of the consumer that after a period of one and half year he was given a new meter for which he suffered loss and mental agony is concerned, documents on record show that panchanama of earlier meter was drawn on 06/01/07 and the provisional bill was dt. 06/02/07. Since meter was already there and one Hira Vitthal Dahale was consuming electricity and existing owner demanded new meter, obviously without depositing the arrears amount, new meter was not to be given by licensee for which time appears to have consumed.
- 13) As per MERC Regulation 2006, Section 5.1 Forum has to decide the grievance within a period of two months from the date of receipt of

grievance. This grievance was received to this Forum on 08/09/09. However, Hon. Member of the Forum Mrs. V. V. Kelkar retired on 08/10/09 and the Hon. Chairperson resigned on 03/09/09. Present Chairperson took charge on 20/10/09. The Member Secretary was deputed for Training at Chennai for a week. Due to insufficient strength of the Forum and the reasons given above, the instant reference could not be decided within the stipulated period.

- 14) On overall going through the record it seems there was inaction on the part of concerned employees for not recording the meter reading in time for which action is necessary to be taken against them however, licensee is justified in recovering electricity consumption bill from the consumer for a period of two years who was then occupier of the premises and on this background prayer of the consumer seeking compensation from the licensee is not justified. In view of the position grievance application will have to be partly allowed. Points are answered accordingly and hence the order.

ORDER

- 1) Grievance application is partly allowed.
- 2) Licensee to prepare revised bill for the consumption of electricity for two years only and the remaining amount be adjusted in the ensuing bills.
- 3) Licensee to take appropriate action against the erring employees as mentioned above and to report compliance.
- 4) The Compliance should be reported to the forum within 60 days from the date of this decision.

- 5) 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.

- 6). Consumer, as per section 142 of the Electricity Act, 003, 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 : 23 /11/2009

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan