

1 Grievance No. K/E/847/1035 of 2014-15 &
No. K/E/848/1036 of 2014-15



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. K/E/847/1035 of 2014-15 * &
K/E/848/1036 of 2014-15

Dated of Grievance : **12/01/2015/***
Date of order : 11/03/2015
Total days : 58

**FURTHER ORDER TOWARDS NON EXECUTION/ SEEKING EXTENSION
TOWARDS THE ORDER PASSED IN THE MATTER OF GRIEVANCE NO.
K/E/825/1001 OF 2014-15 IN RESPECT OF SHRI NARESH M.SABHANDASANI,
PLOT NO.93, SECTION-6A, ULHASNAGAR-421 003, DIST. THANE REGISTERED
WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
REGARDING BILLING HT-1C TO HT-1N.**

Naresh M.Sabhandasani
Plot No.93, Section -6A
Ulhasnagar -421 003,
Dist. Thane.

(Consumer No. 021514006561) (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its Nodal Officer,
Kalyan Circle-II, MSEDCL
Ulhasnagar- Sub-Divn-III,

..... (Hereinafter referred as Licencee)

Appearance : For Consumer- Shri Ravi Anand-Consumer's Representative.
& consumer Shri Sabhandasani.

For Licencee - Shri Khan- Executive Engineer & Nodal Officer
Mrs. Chaitali Nagoti, Sr. Manager F & A
Mrs. P.P.Kale - Asst. Accountant.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

This matter is taken up considering the letter received from consumer dated 12/1/2015 and a further letter dated 3/2/2015. Consumer has sought further

direction as Licencee not complied the order of this Forum passed on 24/11/2014. Even Licencee addressed letter dated 17/1/2015 to this Forum seeking extension of time up to the bill of March 2015 for implementation of the order.

2] After perusing the aforesaid application and letters, this Forum on 3/2/2015 directed notice to both sides, asking them to attend for hearing towards their respective claims. Such letters issued on 5/2/2015 vide Forum's letter No. EE/CGRF/Kalyan/024. Accordingly, matter was taken up for hearing on 7/2/2015, 23/2/2015 and 10/3/2015. Both sides in tune with their prayer made submissions.

3] Before proceeding with the respective contentions and relief to be granted, it is just necessary to consider precisely the order passed by this Forum in aforesaid matter on 24/11/2014. For ready reference its Para No.6 and it's operative order is reproduced as under:

“6] Though consumer is pursuing this dispute from January 2014 but he is not able to get result in spite of Licencee admitting the mistake. CR contended that all these things ought to have been cured consciously, applying and complying the tariff order of MERC and failure cannot be easily bailed out but persons responsible are to be dealt, fixing the responsibility and action is to be taken against them. We find some force in this aspect long back on 12/9/2010 order is passed by MERC changed tariff and appropriate compliance was required to be obtained in the system by Licencee. Not only that, when at least consumer in January 2014 approached, with the complaint it could have been considered and dealt, redressing it within a reasonable time. But all things are going in a unreasonable manner. All the while, it is consumer who is reasonable, in performing his duties, such as paying amount as demanded waiting for relief though complained, after waiting for reasonable time approaching IGRC and then approaching this Forum. Even till this date, there is no any positive thing coming from Licencee's side. Under such circumstances, we find it is a fit case wherein Chief Engineer Commercial in Corporate

Office is to be asked to consider all these details and to fix up the responsibility of concerned Officers and to deal them as per rules. The ultimate result of it, is also to be submitted to this Forum within six months or so. Now as aspect is delayed disproportionately, we find on an average liability of consumer per month looking to the previous bills is about four lakhs or so, hence probably for next two months from January 2015 (covering the billing period from 1/12/2014 to 1/1/2015) if bills issued are not recovered from consumer it will not make any difference to the Licencee, as the approximate quantum of refund amount worked out which is of Rs. 9,30,918.62 Ps. takes care of it and within that period Licencee is required to rectify the mistake. We also make it clear that next bills from January 2015, have to be issued applying correct tariff category i.e. HT-II Non Feeder either in the IT and if not possible manually. It is to be made clear that for the next two months i.e. January 2015 and February 2015, payment of respective bills is to be treated as done, on the basis of due amount of refund. Treating said payment as if done by the consumer for those months prompt payment discount and almost all admissible incentives in that regard are to be allowed. Accordingly this grievance is to be allowed.

Hence the order.

ORDER

Grievance of consumer is hereby allowed.

Licencee is directed to rectify the wrong/mistake pertaining to entry of tariff category pertaining to the consumer promptly, showing it as HT-II Non Express. Licencee to refund excess amount already recovered from consumer from 1/9/2010 charging him as per HT-II Express Feeder and deducting therein the appropriate tariff applying HT-II Non Express, with interest as per RBI Bank Rate from the date of excess amount deposited till it is adjusted in the ensuing bills of consumer from January 2015.

Bills from January 2015 be issued to the consumer showing said category HT-II Non Express and charging consumer as per that category.

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As, Licencee is to promptly correct the tariff category, pertaining to the consumer, for next two months, from January 2015, no amount due

towards those bills be recovered but be treated as paid, adjusting from refund available to the consumer of excess amount paid from September 2010 and interest accrued on it as directed above. Balance amount if any remaining after adjusting for above two months, be further adjusted in the consumer's bills of further months or if any amount is found less in the second month it be recovered from the consumer.

Copy of this order be sent to Chief Engineer (Commercial) Corporate Office who in the light of aforesaid observations, to enquire and to fix the responsibility on the concerned persons and to take appropriate actions as per rules. Action so taken be informed to this Forum within six months or so from the date of this order.

Dated: 24/11/2014”

4] Aforesaid discussion and order is self speaking, approximate figure of refund is worked out to the tune of Rs.9,30,918.62 Ps. and that towards it's refund, direction is given that it is to be adjusted in two months bills i.e. December 2014 to be paid in January, 2015, and bill of January 2015 to be paid in February 2015. It is communicated by consumer on 12/1/2015 to this Forum, with copy to Licencee about order not complied. However, monthly bill for December 2014 for Rs.4,80,150/- issued on 5/1/2015 which is paid in January 2015 and bill of January 2015 was issued on 5/2/2015 and paid on 10/2/2015. In those bills there is no any reflection of compliance of order of this Forum and it is submitted during the course of hearing by consumer's representative that consumer being sensitive to his responsibilities paid of the said bills. Even it is submitted during hearing that bill for February 2015 for Rs.3,37,500/- issued on 9/3/2015 and is payable by

16/3/2015. It's quantum is of Rs.3,44,300/-. (Accordingly compliance of order of CGRF remained to be executed in these bills).

It is further seen that Superintending Engineer, Kalyan of Licencee addressed letter to this Forum and to the consumer on 17/1/2015, therein requested the Forum, to extend the time for compliance till the bill of March 2015. In the communication to the consumer said Superintending Engineer informed that matter is being pursued with the higher of Authorities i.e. Chief Engineer (Commercial) and after receiving the approval from Competent Authority, change will be effected as 'HT-II non express' and refund of tariff difference can be given. Further our attention is drawn to letters addressed by said Superintending Engineer to Chief Engineer (Commercial) Bandra, dated 4th December 2014 and 9th January, 2015 therein approval is sought to carry out the compliance of order passed by this Forum. Accordingly, it is clear that on behalf of Licencee there is no any dispute that order is to be complied, but the representatives who are appearing on behalf of Licencee are claiming that they are trying their best to give effect to the order of CGRF but held up and awaiting directions from Competent Authority and they are likely to get it early. On this ground, they are seeking time up to bill of March, 2015. This aspect is resisted by consumer's representative.

5] The aforesaid situation needs consideration as to whether there are any reasonable sufficient grounds to extend the time and whether this Forum can extend the time for compliance. In this matter, it is seen that all the while Officers appearing for Licencee are making a ground that about compliance approval of Higher Authority is required. The original grievance proceeding also reflects that MSEDCL has already processed the application for change of tariff and communicated that it will be made effective at the earliest. It finds place in the reply of Licencee dated 1st November 2014. Further it is important to note that

prior to it, consumer has approached IGRC on 30/7/2014, IGRC passed order on 20/9/2014, wherein order is given to the Licencee to do necessary follow up with Corporate Office, to get approval for lock opening and change the tariff. Accordingly, it is seen that consumer has moved the Licencee for the first time on 15/1/2014, addressing letter to S.E. of Licencee. In reply to the said letter, S.E. in his letter dated 29th May 2014, clarified as under:-

“With reference to the above subject, **it is regretted to note that for your subjected HT connection has been wrongly fed to HT –II Express** instead of HT-II, Non express. Upon receipt of your application, we have carried out the spot inspection and it is found that, since the date of connection, consumer is connected on 22 KV Panjabi Colony Feeder which is Non express Feeder.

---- Provision to change the tariff category from HT-II Express to HT-II Non express in IT system for HT billing has been locked by our Head Office. **Hence**, vide letter under reference (2) proposed **submitted and recommended by this Office for approval of the Competent Authority for opening of the lock status in respect of change of Tariff Category from HT-II Express to HT-II Non express.**

Therefore, we **request you to kindly cooperate this Office till receipt of approval of Competent Authority** in respect of subjected issue----“ (Emphasis supplied).

On close considering the aforesaid facts, it is clear that wrong entry is made about tariff category by Officers of Licencee. Consumer when complained on 15/1/2014, officers of Licencee responded and admitted the wrong committed that too after verification of situation. Towards it, **written to the Competent Authority on 2/5/2014**, but it was not complied in time and hence, consumer has **approached IGRC on 30/7/2014**. **IGRC** though **passed order on 30/9/2014**, there is no compliance and hence consumer **approached this Forum on 10/10/2014** and this **Forum decided the matter on 24/11/2014**. While passing the order time was given to comply the direction adjusting the refund amount in the

bills of December 2014 and January 2015. In spite of this direction, there was no any compliance. No doubt, S.E. addressed letters to the Chief Engineer (Commercial) on 4/12/2014 and 9/1/2015, but there is no any further positive progress. It leads to position of peculiar nature whereby this Forum finds that there are no reasonable grounds to seek any extension of time, when mistake is there on the part of Officers of Licencee, which is admitted when brought to the notice on 15/1/2014 and till this date (more than 13 months) said mistake is not rectified inspite of orders of IGRC and CGRF. Hence, we find, the prayer of Superintending Engineer, seeking time for compliance is not based on reasonable grounds. Secondly, we find once order is passed by this Forum, by issuing bills of December 2014 and January 2015 breach is committed. No doubt these bills are paid by consumer. Even bill for February 2015 is issued in the month of March 2015 payable by 16th February 2015 and it is in breach of order of this Forum. Hence there is no question of Forum again applying the mind and extend the time. Hence on both the counts, we find no relief can be granted to the Licencee.

6] Now turning to the prayer of consumer, it is clearly seen, that consumer approached this Forum on 12/1/2015 and on 3/2/2015 contending that (without complying the order of this Forum, Licencee committed breach of order). It is further submitted that Licencee issued the regular bills of December 2014 and January 2015 those are paid, but in those bills and as well as in CPL, it ought to have been shown as adjusted from refund amount which is approximately quantified by this Forum and Licencee ought not to have issued those bills, showing any outstanding. In this light, direction is sought.

When such directions are sought after passing of the order by CGRF question comes up whether this Forum can pass any further order towards non compliance of its order. This aspect comes within the provisions of MERC

Regulation, (CGRF and E.O.) In this regard, provisions contained therein more particularly clause 8.7 read with 8.2(a) and 8.2(e) are helpful . In this regard, already Hon'ble MERC passed order in case No. 23/2006, on 11/6/2006 and observed as under in Para Nos. 6 and 9. Those portions are as under:-

“6----Considering the submissions of complainant and counter reply by MSEDCL made on affidavit the commission is of the view that the appropriate course of action under Law would be for the complainants to move the concerned CGRF which passed the orders, on a new motion in the same proceeding (which culminated into the respective orders) are initiate proceeding afresh under the CGRF & E.O. for proper implementation of the orders passed by the CGRFs or for issue of clarificatory orders by the concerned CGRF.---

9 -- In view of the above the commission does not deem it fit to examine the specific cases of complainants and factual aspect there-under since the jurisdiction to do so vests with the concerned CGRF or Electricity Ombudsman as the case may be. The complainant may pursue their grievance and worked out the remedies with the concerned CGRF including issues with respect to the binding nature of orders passed by CGRF as provided in the CGRF and E.O. Regulations. There is no difficulty on the concerned CGRF to entertain the present complaints in exercise of powers vested in them u/s. 8.7 of the CGRF and EO. In fact, the said Regulation empowers the concerned CGRF to take suitable action, not being in consistent with E.A. 2003 or Rules and Regulations made there-under----“

Accordingly, we find in the light of aforesaid observation of Hon'ble MERC, this Forum can consider the application of consumer towards non compliance and issue directions as per Clause 8.7 read with 8.2 (a) and (e) of MERC Regulations, (CGRF and E.O.).

7] We find already order passed by this Forum is self operative. In other words, refund amount which was to be adjusted in the bills of December 2014 and

January 2015 , is clarified and Licencee was not entitled to recover amount of bills for those two months, except in case said bills exceeded the approximate refund amount worked out by this Forum. Accordingly, it is clear that consumer was not supposed to pay the bills issued for the month of December 2014 and January 2015, till the dues are up to the approximate calculation worked out by this Forum and any excess amount if found due, that much can be paid or can be recovered by Licencee. In other words, our directions are crystal clear that for the two bills i.e. December 2014 and January 2015 were not to be paid, Licencee was to give almost all the concessions available treating as if amount is paid. However, it is not complied, in addition bill for February 2015 issued without complying the order of CGRF on 9/3/2015 and its due date is 16/3/2015 and said bill is for Rs. 3,34,290/- Hence, we find the spirit of our order dated 24/11/2014 is to be maintained. Towards it, now, we direct that Licencee not to recover bill for month of February 2015 payable till 16/3/2015 and bill of March 2015 payable in April 2015, from consumer and not to take any coercive action in that respect. We hope that as these two bills are due respectively in the month of March 2015 and April 2015, payment of bill of April 2015 will be due in the month of May 2015, till then Licencee will rectify the mistake/wrong which ought to have been done earlier. Further directions will be given if there is non compliance in the month of May 2015 and in that case consumer may approach this Forum after 10th May 2015. After 10th May 2015 consequential reliefs and directions if required will be dealt. Accordingly, these applications are to be disposed off.

8]* As per the above referred order of MERC towards dealing the applications for non compliance of the orders of CGRF, it is necessary to pass the order in continuation of proceeding. Accordingly, this order is passed in

continuation but, applications of both sides are now given registration number for the purpose of identification.

Hence the order.

ORDER

Prayer of Licencee vide letter dated 17/1/2015, extending the time for complying the order of this Forum till the issuance of bill of March 2015 is hereby rejected.

Prayer of consumer towards issuing direction is allowed and Licencee is directed not to recover bills from consumer, for the month of February 2015 and March 2015. Further Licencee not to resort to any act of any coercive disconnection for nonpayment of these bills. If, there is no compliance of our original order, till the due date of payment of bill for April 2015, i.e. till 10th May 2015, consumer to approach this Forum and place the position on which this Forum will issue further direction and even the consequential relief will be dealt.

Dated: 11/3/2015.

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

- c) 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”

- d) 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.

*Clarification in Para No.8**