



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax - 2210707, E-mail : cgrfkalyan@mahadiscom.in

No. **K/E/1037/1249 of 2015-16**

Date of Grievance : 21/03/2016

Date of order : 24/05/2016

Total days : 65

IN THE MATTER CASE OF GRIEVANCE NO. K/E/1037/1249/2015-16 IN RESPECT OF NANKIBAI ISHWARDAS, SHOP NO. 1117, STEEL FURNITURE SHOP NO.1117, U-123, FURNITURE BAZAAR, ULHASNA GAR-421 002. DIST. THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE AGAINST ASSESSMENT U/S 126.

Nankibai Ishwardas,
Steel Furniture Shop No.1117,
U-123. Furniture Bazaar,
Ulhasnagar-421 002,
Dist. Thane.

(Consumer No. 021510722504) (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited
through its Nodal Officer,
MSEDCL, Kalyan Circle-II, Kalyan (Hereinafter referred as Licensee)

Appearance : - For Licensee : Shri Gawali, AEE, Ulhas-II S/Dn.
Shri Mahajan L.G, AA, Ulhas-II S/Dn.
For Consumer-Consumer's Representative- Shri Rajput.

(Per C.U.Patil-Executive Engineer – cum- Member Secretary

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal

Forum has been established as per the notification issued by MERC i.e. “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

The consumer Nankibai Ishwardas having her shop No.1117 at Furniture Bazaar located in Ulhasnagar -02 and is having III phase industrial connection bearing consumer No. 021510722504. The consumer being aggrieved of the IGRC decision (SE / KC-II /IGRC / 2462 dtd 24/6/15), approached to this Forum by submitting his grievance in Schedule ‘A’ dated 21/3/16 which was registered by allotting No.K/E/1037/1249 dtd 21/3/16. The hearing was scheduled on 6/4/2016 at 12:45 hours. The hearing letter bearing No.155 dated 21/3/16 was served to the Nodal Officer of KC-II with the copy to the consumer.

The grievance of the consumer represented by her CR was regarding assessment raised by Licensee u/s 126. The bill of amount Rs.45,540/- was raised by Licensee which was paid under protest by the consumer on 6/8/15 vide receipt No. 2540228. The CR stated that the

Officers of the Licensee had interpreted wrongly the existing wiring connection and its use and applied Section 126 considering commercial use on the industrial connection. It was the godown under use attached with the industrial unit, which was considered as the commercial use by the Officers of the Licensee and consumer was booked u/s 126 by wrong way. Hence he approached with her grievance to CGRF.

On hearing date i.e. on 6/4/16, the Licensee appeared with reply no.773 dated 6/4/16. Their reply is narrated as below:

1. With reference to above subject, Smt. Nankibai Issardas, consumer no. 021510722504 having Industrial connection at Shop No. 1117, U-123, Furniture bazaar , Ulhasnagar-2. Dec-14 energy bill was generated above 1 lakhs , hence Assistant Engineer of the Nehru chouk section office visited the site on dated 15.12.2014 for verification.
2. Dated 15.12.2015 visit of Assistant engineer and as per the SVR submitted for the consumer Smt. Nankibai Issardas ,Shop No. 1117, U-123 ,Furniture Bazar ,consumer no: 021510722504 ,having Industrial connection for 2nd floor, with sanction load of 16HP (Industrial). But consumer is not in use on 2nd floor and using only 2.604kW load for 1st floor as commercial load and having meter sr. No MS243217, make: Secure maximum demand showing 39.8 kW, even if having connection for 1st floor, Smt. Nankibai Issardas ,shop no 1117, U No. 123 , Furniture bazaar , having consumer No 021510730540 commercial purpose with the sanction load 0.7kW with the changeover arrangement supply from two different DTCs and maximum demand on meter no. 20106774, Make: HPL meter is 0.5kW.
3. Energy meter no. 243217 make: secure tested in the testing laboratory and found R-phase burnt and hence send to the company as per IGRC instruction and consumer request for further analysis and report given as “During meter analysis at our end, meter is found completely burnt internally, hence testing analysis is not possible.”
4. Assessment was carried out for the period of 12 months as per section 126 of electricity act 2003 (**for the purpose other than for which the usage of electricity was authorized and for the premises or areas other than those for which the supply of electricity was authorized**) and of the

3905 units as per assessment sheet and provisional bill issued to the consumer on dated 22.01.2015.

5. Consumer given application of hearing under section 127 on dated 31.3.2015. Though the thirty day period elapsed on 22.02.2015 (Notice issued to the consumer by AdEE/ Sub Dn –II / 78 / 22.01.2015) , hearing under section 127 of electricity act was carried out on dated 20.04.2015.

6. Consumer paid the bill without any objection on dated 06.08.2015 with the receipt no. 2540228 amounting Rs. 45540.00.

7. On ground floor shop no. 1117 and 1118, which are adjacent to each other two shops having different connections of Mr. Ganasingh Bholasingh having consumer number 021510111556 with sanction load of 0.2kW released on dated 05.05.1962 and Mr. Kanayalal Issardas Kewalramani having consumer number 021514810068 with sanction load of 2kW released on dated 20.06.2014 both for commercial purpose.(Bills enclosed)

8. On 1st floor these two shop nos. 1117 and 1118 are clubbed and having the only one connection with the address of shop no 1117 in name of Smt. Nankibai Issardas having consumer number 021510730540 with sanction load of 0.7kW commercial purpose released on dated 25.03.1997.

9. On 2nd floor also these two shops nos. 1117 and 1118 are clubbed and having Industrial connection in the name of Smt.Nankibai Issardas with the address of Shop no. 1117 having consumer number of 021510722504 released on dated 9.05.1996. Here as on date 06.10.2015 carpentry work was going on and also some of the furniture's were on display.

Both are different connections for different purpose for different premises released on different dates, hence the stand of the consumer of having Industrial connection with commercial connection embedded is false and having no base.

Considering time between two different inspection and scope and findings of the case under section 126 as per Electricity act 2003 is perfect and having full evidences.

Further it is to submit that , as per MERC (Consumer Grievance Redressal Forum and Electricity Ombudsmen Regulation 2006) clause No. 6.8(a),

“If the forum prima facie of the view that any Grievance referred it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum - (a) Unauthorized use of the electricity as provided under section 126 of the Act “

In view of above regulation, Hon. CGRF has no jurisdiction in the matter of cases under section 126 of EA Act 2003. Hence it is requested to Hon. CGRF to dismiss the grievance application of the said consumer for the want of jurisdiction.

FORUM’S OBSERVATION

After going through the details, the Forum observed that the Officers of the Licensee have served the provisional bill u/s 126 to the consumer vide letter no. 78 dtd 22/1/15 and the opportunity to be heard was given by the Licensee to the consumer. The Forum has also verified the statement of hearing dated 20/4/15 and the issue of the final assessment bill served to the consumer vide letter 858 dated 11/5/15. All the necessary steps taken by the Licensee while imposing section 126 of Electricity Act.

After scrutinizing all the documents on record, prima facie it appears to the Forum that present grievance comes under section 126 of Electricity Act 2003.

Hence, this Forum has no power to entertain this grievance as per the Clause 6.8 (a) laid down in the MERC (CGRF & EO 2006). The said Clause is reproduced below:

“If the forum prima facie of the view that any Grievance referred it falls within the purview of any of the following provisions of the Act the same shall be excluded from the

jurisdiction of the Forum – (a) Unauthorized use of the electricity as provided under section 126 of the Act “

In view of the above, the grievance application of the consumer deserves to be disposed off.

This matter could not be decided within time as Licensee was to provide the details sought from time to time, those were provided on 29/4/16 and their submissions are heard on that day and clarification taken on 17/5/2016. **Moreover, the Forum is functioning in absence of regular Chairperson and the Member Secretary is discharging the additional work of Chairperson along with the regular work of Member Secretary.**

Hence the order.

ORDER

Consumer's grievance application stands disposed off as per MERC Regulations (CGRF & EO) 2006, Clause 6.8 (a) as clarified above.

Date:**24/5/2016.**

I agree

**(Mrs.S.A.Jamdar)
Member
CGRF,Kalyan**

**(Chandrashekhar U.Patil)
Chairperson-cum- Member Secretary
CGRF,Kalyan.**

**** (In the sitting of Forum, the Chairperson is not available. As per MERC Regulations (2006), Clause 4, the technical member shall be the Chairperson of such sitting in which Chairperson is not available and hence in the present case, the technical member performed the role of Chairperson of the Forum).**

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
- c) delay in compliance of this decision issued under “Maharashtra Electricity 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.