



Consumer Grievance Redressal Forum, Behind "Tejashree", Jahangir Meherwanji
Road, Kalyan Zone Kalyan (West) - 421301
Ph.- 2210707 & 2328283 Ext:- 122 Fax : 2329488

**IN THE MATTER OF GRIEVANCE NO.K/E/024/0026 OF 05-06
OF SHRI PRAKASH LOKWANI REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN
ZONE, KALYAN ABOUT THE WITHDRAWAL OF
CONCESSION IN TARIFF GIVEN TO POWER LOOM
INDUSTRIES.**

Shri Prakash D. Lokwani
Unit no.177, Sheet 21, Opp Radha
Swami Satsang Hall Follower Line,
Ulhasnagar – 3

Here in after
referred to
as consumer)

Versus

Maharashtra State Electricity Distribution Co.

Here in after

Ltd. through its Dy. Ex.Engineer, referred to

Sub-Division –3 , Ulhasnagar-3

as licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "Maharashtra Electricity

Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” 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 L.T. consumer of the licensee connected to their 415-volt network. The consumer is billed on industrial tariff. The consumer registered his grievance with forum on 1/7/05. The details are as follows.

Name of consumer: - Shri Prakash Lokwani

Address: - Same as above

Consumer No.: - 021510805574.

Amount of the assessment bill: - Rs 3,75,768/-

Period of assessment: - Not shown in the assessment bill.

Reason of assessment: - Not shown in the assessment bill but informed verbally to consumer on his personal approach to the licensee office that the assessment bill is charged due to withdrawal of concession given to power loom industries in tariff.

- 3) The batch of papers containing above grievances was sent by forum vide letter No. 0245 dated 1/07/2005 to Nodal Officer of licensee. The letter was replied by Nodal Officer vide letter No SE/O & M/KCK-II/Tech/1740 dated 20th July 2005.

- 4) All three members of the forum heard both the parties on 25th July 2005 from 15 hours to 16 hours in the meeting hall of the forum's office. Shri Gopaldas Lokwani, Shri Deepak Mulchandani & Shri Tuljaram Lokawani, representatives of consumer, represented the case of consumer & Shri H.K. Randive Nodal Officer, Shri J.R. Reddy Assistant Engineer, Shri R.L Sonule Deputy Ex. Engineer & Shri L.B. Khetre represented the case on behalf of licensee.
- 5) Nodal Officer vide letter No 1740 dated 20th July 2005 objected admission of the case quoting that the case is falling under Clause No. 6.4, Sub-clause (1), Chapter II of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003. The said Clause 6.4, Sub-clause (1) reads as follows:

“Grievances falling within the preview of following provision of the Act are excluded from the jurisdiction of the forum”.

(1) Unauthorized usage of Electricity as provided under 126 of the Act. The phrase unauthorized use of electricity as per section 126 of Electricity Act means usage of electricity.

- i) By an artificial means or
- ii) By means not authorized by concerned person or authority or licensee or
- iii) By tampered meter or

- iv) For the purpose other than for which the use of electricity was authorized.

This is a case of subsidy granted to power loom industry in energy tariff by Government & as such does not fall in any of the four categories mentioned above. The forum, therefore, does not endorse the view of the Nodal Officer and the case has been taken up for decision.

- 6) Shri Gopaldas Lokwani, representative of the consumer, submitted that the consumer is using energy for the purpose of power loom industry from the beginning i.e. from the date the consumer has taken the power supply from the licensee. He further said that he is entitled to subsidy in energy tariff given to power loom industries by the Government. However, the licensee has suddenly withdrawn the subsidy given in energy tariff to power loom industry with effect from May 2001 onwards. The licensee has sent an assessment bill of Rs.3,75,768/- for the period of May 2001 to October 2004 withdrawing subsidy on energy tariff. He submitted that the assessment bill is not justified and abnormal and shall be withdrawn and the subsidy given in the energy tariff to power loom industry shall be restored to the consumer. The forum observed that Departmental (Commercial) Circular No. 685 dated 3/10/2003 states that State Government had declared subsidy in tariff applicable to power loom consumer for the year 2002-2003. The subsidy given by the Government is

Rs.30/- per HP per month on demand charges and paise 186 per unit.

- 7) Shri Reddy Assistant Engineer of the licensee, submitted that it came to the knowledge of the Chief Engineer, Kalyan Zone that few power loom consumers are enjoying subsidy benefit even though they are not using for power loom purpose i.e. they are using the energy other than power loom purposes without intimation or permission from the licensee. As per instructions from the Chief Engineer, Kalyan Zone, special inspection of all power loom consumers was taken up by field officers to ascertain the fact. From inspection of above consumer on 9/8/2004 by flying squad and on 10/11/2004 by Divisional staff, it was noticed that the consumer is using the energy for thread work, which cannot be considered as using the energy for power loom purpose. Hence subsidy given in energy tariff to power loom industry was withdrawn with effect from May 2001 and assessment bill for the period from May 2001 to October 2004 amounting Rs.3,75,768/- was sent to the consumer for making payment.
- 8) It is seen from the record submitted by the consumer that there was a fire in their factory premises on 15/1/2000 and subsequent to this fire the consumer has shifted the power loom and other machineries at the back side of their wall to other premises. On enquiry with Shri Gopal Lokwani he agreed that the energy for power loom, which has been

shifted to the other side of the wall, is not from the meter of the consumer and the consumer is using energy only for twisting and pin winding purposes.

- 9) Shri Reddy, was asked to submit the following details to the forum on or before 28th June 2005.
- a) Date of connection.
 - b) Tariff applied from the date of connection onwards
 - c) Use of power from the date of connection
 - d) Date from which subsidy to the energy tariff was introduced to the power loom industries.

 - e) Date of inspection by the licensee.
 - f) Date of issuing bill-withdrawing subsidy.
 - g) Period for which subsidy has been withdrawn.
 - h) Reasons for selecting this period.
 - i) Reasons as to why the period mentioned in section 56(2) of Electricity Act 2003 was not considered.
- 10) Shri Reddy, could not submit the relevant data on due date due to disruption and dislocation resulted by heavy down

pour on 26th and 27th July 2005. He submitted the relevant data on 29th August 2005 which is as follows:-

- a) 02/07/98
- b) Industrial tariff applicable to power loom
- c) For power loom from date of connection.
- d) 9/8/2004 by flying squad of licensee and on 10/11/2004 by Divisional staff.

e) Nov. 2004.

f) May 2001 to October 2004.

- g) As per clause 31 (e) of Misc. Conditions of Supply of the license. Period of three from years was selected for assessment as mentioned in (f) above.

11) It has been observed by the forum that the licensee issued a General Circular (Commercial) No 398 dated 15th September 2004 in respect of subsidy applicable to power loom to consumers. It is clarified in the said circular that industry having any or all of the following activity/machineries is a weaving preparatory unit and can be considered eligible for subsidy in energy tariff, provided the said industry also uses power for weaving machinery i.e. power looms.

- a) Single yarn sizing b) twisting sizing c) warping d) pin winding e) twisting f) yarn dyeing g) humidification plant h) dust separator etc.

- 12) It is established from the record that the consumer is using energy for twisting and pin winding purposes only and not using energy for weaving machinery (power loom purpose). The consumer has shifted weaving machinery (power loom) to other place and not using energy from its own meter for power loom purpose. The licensee staff on 9/8/2004 and 10/11/2004 verified this. The action of the licensee, is therefore, justified in withdrawing subsidy applicable to power loom industry in the energy tariff of the consumer.
- 13) Now the question before forum is to decide the period before first detection by the licensee i.e. the period prior to 9/8/2004 during which the licensee, on account of withdrawal of subsidy in energy tariff to power loom industry, can claim the sum due. The date of detection 9/8/2004 is the date subsequent to Electricity Act, 2003 coming into force (Electricity Act, 2003 came into force on 10th June 2003). We, therefore, look into provision of Section 56 (2) which stipulates period of claiming sum due from any consumer by the license. Section 56 (2) of Electricity Act, 2003 reads as under.

“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

arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

- 14) In view of the provision contained in Section 56(2) of Electricity Act, 2003 we decide a period of two years prior to first date of detection (9/8/2004). The licensee can thus withdraw the subsidy applicable in energy tariff to power loom industry. From 9/8/2002 onwards.
- 15) After taking stock of entire situation, the members of forum unanimously decided to pass following order.

O - R - D - E - R

- 1) The assessment bill (due to withdrawal of subsidy) amounting to Rupees Three Lakhs Seventy Five Thousand Seven Hundred and Sixty Eight (3,75,768/-) for the period from May 2001 to October 2004 is, hereby, set aside and quashed.
- 2) Interest and delayed payment charges, if any, charged on the above amount can also be deleted from the consumers bill.
- 3) The licensee, however, should withdraw subsidy applicable to energy tariff for power loom industry with effect from 9/8/2002 of this consumer.
- 4) The assessment bill due to withdrawal of subsidy as mentioned in para 3 above, if not claimed, for any period from 9th August 2002 onwards can now to be claimed by the licensee from the consumer.

- 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 5.

Appeal can be filed within 60 days from the date of this order.

- 6) 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: - 01/09/2005 Licensee

(M.R.Mehetre)	(Sau V.V.Kelkar)	(I.Q.Najam)
<i>Member Secretary</i>	<i>Member</i>	<i>Chair person</i>
CGRF Kalyan	CGRF Kalyan	CGRF Kalyan

