



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 21/02/2013

Date of Order : 12/04/2013

Period Taken : 51 days

IN THE MATTER OF GRIEVANCE NO. K/E/696/822 OF 2012-2013 OF
SHRI ASSANDAS CHANCLANI ULHASNAGAR REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE,
KALYAN ABOUT EXCESSIVE ENERGY BILLING AND CLUBBING OF
METERS

Shri Assandas A. Chanchlani
Anil Cinema,
Plot No. 221
Kalyan – Ambernath Road,
Ulhasnagar : 421 003

Here-in-after
Referred
as Consumer

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Ulhasnagar Sub-Dn.-3
Dist. Thane.

(Here-in-after
referred
as licensee)

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

- 1) Consumer Grievance Redressal Forum has been established under “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 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 a L.T. consumer of the licensee. The Consumer is billed as per Commercial tariff. Consumer registered grievance with the Forum on 21/02/2013 for Excessive Energy Bills. The details are as follows: -
Name of the consumer :- Shri Assandas Chanchlani
Address: - As given in the title
Consumer No : - 1) 021510811043 2) 021510119697 3) 021510472818
Reason of dispute : Excessive Energy Bills and Clubbing of Meters
- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/123 dated 21/02/2013 to Nodal Officer of licensee.
- 4) The brief facts pertaining to this matter as disclosed from record and submissions are as under:
 - a) Consumer is approaching this Forum and it is the third round. Initially he approached this Forum vide his Grievance Application No.741 dated 25/6/2012 which is decided by this Forum on 15/9/2012. As per the said decision the matter was to be decided by IGRC.
 - b) IGRC accordingly decided the matter on 14/9/2012. While deciding the matter IGRC directed that consumer be assessed issuing bill of plain recovery instead of assessing u/s 126 of Electricity Act.
 - c) As compliance of IGRC order was not done, consumer had approached this Forum on 5/11/2012 by filing Grievance Application No.771 and in the

meantime on behalf of Licensee it was reported that compliance towards IGRC was yet to be worked out. Accordingly the Licensee thereafter worked out that aspect and sought recovery of Rs.10,10,687/-, said order of Licensee is of 7/12/2012. On receiving the said order of Rs.10,10,687/- consumer approached this Forum and it was noticed that consumer was claiming non compliance of IGRC order as per its directions and after hearing both sides this Forum expressed the view that assessment done on 7/12/2012 working out the dues of Rs.10,10,687/- is a new order and if it is disputed, it can be taken to IGRC.

- d) Accordingly consumer again approached IGRC and as IGRC was to deal the matter within 60 days but it was not complied hence he approached this Forum with this grievance on 21/2/2013.
 - e) On receiving the grievance, notices were issued to both sides and matter was fixed for hearing on 12/3/2013.
 - f) On 12/3/2012 it was perceived that the matter is not yet decided by IGRC and it is appropriate if matter is dealt by IGRC and accordingly matter was adjourned to 2/4/2013 and in the meantime on 20/3/2013 IGRC decided the complaint and the dues worked out by the Licensee on 7/12/2012 were upheld. Copy of the said order is made available to us.
- 5) In the light of the aforesaid actual aspects both the sides made their submissions.
- 6) On behalf of the consumer representative, Mr. Sardar placed on record Written Notes of Arguments and read over those details. Sum & substance of his contention revolves around challenging the IGRC order passed on 20/3/2013 and order dated 14/9/2012. In the order dated 20/3/2013, the tariff difference worked out by Licensee for Rs.10,10,687/- is upheld and vide order dated 14/9/2012 IGRC set aside the action u/s 126 of Electricity Act and directed '(ii) issue bill of plain recovery for tariff rate, as per prevailing rules and regulations. It is submitted

that the total episode commenced due to the visit of Flying Squad of Licensee on 7/3/2012 to the consumer unit and on that basis, u/s 126(2) of EA the dues are worked to the extent of Rs.387,974/- which was for the period of two years. As noted above said working u/s 126(2) of EA is set aside by the IGRC and directed for issuing bill of plain recovery for tariff rate difference, that too as per prevailing rules and regulations. Learned Consumer Representative contended neither those rules or regulations are cited or referred in the Order and even in the subsequent order dated 20/3/2013 though declaration is given that the recovery of tariff worked out by Licensee is found to be correct and as per MERC tariff but which of the MERC tariff or on what basis it is found to be correct is not clarified. Accordingly he contended that thereafter by clubbing of three connections and dues worked out and recovery of liability is resorted to, but it is not on the basis of any valid legal provisions either in the Electricity Act or under the MERC regulations, etc.

- 7) Accordingly C.R. challenged this total aspect. He had referred to the commercial circular no.123 dated 4/10/2010 issued by Chief Engineer (Commercial) which speaks about the clubbing. He contended, no any recovery can be done retrospectively on the basis of said circular. Accordingly he had challenged the orders of IGRC and the quantum of liability worked out.
- 8) Dy. Executive Engineer, Mr. Shendge along with Shri Kachot, Executive Engineer, made submissions sticking to their stand contending that in the premises of consumer there are three meters and every meter is having a load of 49 KW. It is contended that in case it would have been 50 KW the tariff rate will differ, it will be higher. Accordingly it is contended that with ulterior motive consumer taken these three connections the officers at that time though allowed, it is an aspect of taking disadvantage, with the intent to have benefit for the self and loss to the company. Accordingly it is contended that this intention of consumer is clear. On

this basis, referring to the principle of natural justice they submitted, it is must to calculate the dues clubbing the units shown in all three meters and on the said total sum the dues are worked out from June 2008 and not worked right from first day of those three connections taken. Accordingly they supported calculations done and liabilities raised.

- 9) At this juncture we tried to have the details from the officers of the Licensee, whether there is any provision in the MERC regulation for clubbing such units together and to work out the liability. In this regard they were not able to lay hand on any such specific provision, but they reiterated their stand that principles of natural justice are to be followed and if one person has taken the advantage then he has to pay for it.
- 10) It is disclosed during submissions of Licensee that actually these three meters are clubbed with effect from 2/11/2012 and accordingly from 2/11/2012 till this date, calculation of energy utilized by clubbing the load. But dispute is of prior period. The dispute which was brought initially before this Forum and IGRC was pertaining to the dues worked out resorting to section 126 of EA on the basis of visit of Flying Squad dated 7/3/2012 and at that time the dues were worked out for the period of two years quantified to the extent of Rs.3,87,974/- but when said recovery was challenged before IGRC. IGRC dealt it, set aside the action u/s 126 of Electricity Act and further directed as under:

'(ii) issue the bill of plain recovery for tariff rate difference as per prevailing rules and regulations'.

- 11) No doubt, on behalf of Licensee officers are contending that order of IGRC is complied dues are worked out on 7/12/2012 to the tune of Rs.10,10,687/- and this quantum worked out for the period from June 2008 to March 2012. If this period is considered and above extracted order of IGRC is considered, then it is necessary

on the part of officers to explain whether this recovery from June 2008 to March 2012 is as per prevailing MERC rules and regulations. Specifically officers were at pains to explain and lay their hands on a peculiar provision, they banked upon principle of natural justice. An attempt is done to support that recovery contending that it is a loss of the Licensee and it is a gain for consumer which is legitimately required to be paid off. In continuation of it, it is necessary to note that in the order dated 20/3/2013 IGRC upheld, the above recovery of Rs.10,10,687/- worked out by Licensee observing that :-

'the recovery of tariff difference by the Licensee is found to be correct and as per MERC tariff'.

Again, here is the observation of the said authority that it is as per MERC tariff but we are faced with the same reply that there is no such mention in the MERC tariff order. It is further explained that in the order of IGRC tariff rate difference is confirmed. We find dispute is not of tariff rates, the dispute is pertaining to recovery period, i.e. from June 2008.

- 12) On behalf of the Licensee, Officers vehemently contended that the payment is sought towards the energy utilized which was not recovered properly applying appropriate tariff by clubbing, hence no more weight can be given to the consumer's claim.
- 13) We tried to have the support to their contention in law. We find legal provisions are to be considered while dealing liability to be imposed. Bare use of word of natural justice will not take into its fold almost all situations. It needs to be applied properly in different circumstances. Herein, till March 2012 for all three meters of Consumer separate bills are issued which were paid but due to inspection by the Flying Squad of Licensee in March 2012 action was resorted to under section 126(a), arrears were sought for previous two years but those orders are set aside by IGRC directing plain recovery, however such plain recovery for last four years

treating the fact of clubbing retrospectively, though actual clubbing is done on 2/11/2012. When connections were given to the Consumer for three meters, what was the reason for giving three? Why it is now being disputed is an aspect for consideration, while appreciating the claim of officers of Licensee in the principle of natural justice.

- 14) The aforesaid detailed aspects are speaking about the position. Three meters installed in the premises of Consumer are not in dispute. Those are installed by the officers of Licensee, that too after due sanction. Meter no. and date of connection as under:-

Sl.No.	Meter No.	Date of Supply
1.	8000042748	26/9/1979
2.	8000953524	21/6/1988
3.	80001953535	7/11/1998

During the proceedings the Consumer submitted that to cater to the need of the Air conditioner and cooler, these additional meter is taken with the gap of nearly ten years. Under such circumstances, it is just not possible for us to brand that it is a fraudulent act of Consumer. Separate connections were sought by filing application, then as per existing procedure & scrutiny, inspection, feasibility were seen and accordingly multiple connections are given. When the aspect of multiple connections given is noticed it is dealt in the light of the experience that by such multiple connections billing is affected and Consumers are benefited thereby steps are taken by Licensee to ensure that further there should not be more than one connection in the premises. In other words giving multiple connections is not permitted when new connections are sought,. Now question is of exiting multiple connections already existing. In this regard as stated above there is no any direct

section or rule towards clubbing the old connections. No doubt, such clubbing may be resorted with consent of Consumer or such clubbing may occur by legal provisions. If in the present set-up wherein Consumer is having multiple connections seeks any increase in the load or any changes in the existing meters then clubbing can be insisted as condition. The question is about the existing multiple connections. Time and again, we tried to ascertain from the officers of the Licensee, legal provisions either in the Electricity Act or in MERC regulations about such clubbing of existing meter but no one was able to lay hand on it. Accordingly we find, if multiple connections are given before or long back, then its clubbing is to be with same authority. In this matter, due to an inspection by Flying Squad of Consumer's premises on 7/3/2012 this aspect noted and thereafter this grievance cropped up. As per the inspection report matter was initiated u/s 126 of EA but ultimately it is dropped in the light of the order of IGRC. Further while resorting to action u/s 126 recovery was sought for previous two years, but when the particular action was set aside the officers of Licensee resorted to recovery for last four years, i.e. from June 1988 to March 2012. Precisely for this retrospective recovery we tried to find out whether there is any base available. In fact, no any such position is traced. However reference is made towards the Commercial Circular No.123 dated 14/10/2010 of Licensee and it speaks about the policy of clubbing and assessment in respect of multiple connections wherein clubbing is not available. The said material portion reads as under:

“... In this regard, it is observed that, in some existing connections, it is not possible technically and/or physically to club such type of connections. In view of this, it is decided as under:-

- a) In case it is not possible to club the meters of Residential Housing Societies & Commercial Complexes, unit consumption of all the meters are to be added in one of the single meter and billing is to be done as per slabs &*

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determined by MERC for Residential Housing Societies And Commercial Complexes (According to dominant / main use of electricity in the premises).

b) In future all new common purpose connections of the Residential Housing Societies And Commercial Complexes are to be released on single common metering point only. Any separate meters issued will be viewed seriously...”

Aforesaid two clauses are clearly speaking about future action and charging for existing connections which cannot be clubbed. In other words, mode of clubbing is not at all laid down. It has its own effect. Whenever such clubbing is to be resorted then it involves expenses; may be towards changing different cables, meter of higher capacity, etc. and if any such additional expenses are to be burdened on the Consumer then definitely it requires consideration of Consumer's rights. Probably there may be some system worked out to ensure clubbing is done considering all these difficulties but we are not able to find any such circular issued. Ignoring it at this stage we find that in respect of present Consumer already clubbing is done with effect from 2/11/2012 and bills are issued accordingly which are not in dispute. The dispute is brought before us for the first time by filing grievance on 25/6/2012 bearing grievance no. 741, and as per contention of Licensee this action started due to the inspection carried on by Flying Squad on 7/3/2012. Accordingly, the aspect of noting multiple connections is of 7/3/2012 and hence from the above referred circular first clause is considered then at the most for purpose of billing units of three meters clubbed together can be considered as proper only from 7/3/2012. This is also canvassed by Consumer Representative in written submissions. But if anything is to be recovered for previous period then there is no any base at all. As noted above it is a Consumer who has sought supply, applying for different meters which is allowed, he was charged regularly for these meters separately which he has paid. At no point of time he was asked to club or asked to pay the amount clubbing it together and hence we find unless there is such base nothing can be

recovered retrospectively. Hence recovery from June 2008 to March 2012 is found without any base. We are not able to accept the contentions of officers of the Licensee on this count. Before closing discussion on this point, we wish to make it clear that in the judgment of apex court, which is already noted above, i.e. 2010 AIR SCW 4825 Punjab State Electricity Board v/s Ashwini Kumar, the legal position is set out in para no.2, 3, 7 & 8. Towards it there is no any comment from Licensee side and we find the said precedent speaks itself, which we have noted and considered above while coming to the conclusion.

- 15) The Dy. Executive Engineer, Mr. Shendge referred to the IGRC order dated 20/3/2013 and relied on clause no.14 the point wherein IGRC observed :-

‘4. Consumer expresses his readiness to pay the recovery bill provided the detailed work sheet along with tariff related circulars from 2008 are given to him’.

- 16) In this regard consumer is disputing the contention that consumer agreed to pay the total dues. He had referred to the letter dated 22/3/2013 and copy submitted to the Nodal Officer on that day disputing that aspect. In other words it is contended that their readiness to pay should not be taken as a blank offer but it is conditional on providing the circulars issued from 2008.
- 17) In the light of above this grievance of Consumer is to be upheld.

I agree

(Sadashiv S. Deshmukh)
Chairperson, CGRF Kalyan

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

View of Member Secretary (Shri R. V. Shivdas) :

I have gone through the above reasoning. I am not agreeing to it. The action of Licensee as per IGRC order (SE/KC-II/IGRC/1166 dated 20/3/2013) is correct.

(R.V. Shivdas)
Member Secretary
CGRF Kalyan

Hence the order by majority

O-R-D-E-R

- a) Grievance of Consumer is hereby upheld.
- b) The bill issued by Licensee on 7/12/2012 to the tune of Rs.10,10,687/- for the period from June 2008 to March 2012 is hereby set aside as in fact there was no clubbing of meters as per law.
- c) If any amount is deposited by Consumer towards that period over and above the regular bill issued during that period it be refunded to the Consumer.
- d) Licensee to submit the compliance within 30 days from the date of receipt of this Order.
- e) The Consumer can file representation against this decision with the Hon. Electricity 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”.
- f) 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 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”

Date : 12/04/2013

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

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan