



Consumer Grievance Redressal Forum, Kalyan Zone
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No. K/E/769/926 of 2012-13

Date of Grievance : 04/02/2014
Date of Order : 26/03/2014
Total days : 50

IN THE MATTAER OF GRIEVANCE NO. K/E/769/926 OF 2012-13 IN RESPECT OF ASANDAS SADHWANI C/O. P.N.RANA F-303, 'STERLING 'MOHAN HEIGHTS CHS. TANAJI NAGAR, OPP. GOLDEN PARK, KALYAN (W) REGARDING BILL ISSUED AFTER PERMANENT DISCONNECTION OF RESIDENTIAL CONNECTION AND REFUSING TO ISSUE NO DUE CERTIFICATE.

Asandas J.Sadhwani,
C/o. P.N.Rana, F-303, 'Sterling'
Mohan Heights CHS, Tanaji Nagar,
Opp. Golden Park, Kalyan (W)
(Consumer No.020020326591

.... (Hereafter referred as Consumer/applicant)

Versus

Maharashtra State Electricity Distribution
Company Limited though its
Nodal Officer, Kalyan Circle-I, Kalyan,

.... (Hereinafter referred as Licensee)

Appearance : For Consumer – Mr.Rana-applicant/consumer In person
For Licensee - Shri Lahange –Nodal Officer / Executive Engineer,
Shri Bharambe –Asst. Engineer
Shri Bhise-Asst. Accountant.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

1] 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 (Electricity Supply Code and other conditions of supply) Regulations 2005'. 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 and Determination of Compensation) Regulations, 2005.' Hereinafter referred 'SOP' for the sake of convenience.

2] This grievance is presented on 12/2/2014, by applicant Mr. Rana (hereinafter for the sake of convenience he is referred as consumer though his status is disputed as consumer) alleging that supply available for consumer No. 02002032559 in the name of Mr. Asandas Sadhwani, which was made PD and bills were issued for a previous period at an excessive rate on average basis and a record pertaining to change of meter, recording of readings is not at all correct. He had approached Licencee for seeking 'No Due Certificate' as the premises wherein supply was available is given to developer and developer sought such certificate for seeking supply, but it is not given by the Licencee, alleging that unless dues are paid it cannot be issued. His grievance before IGRC is also rejected on 31/1/2014.

3] In this matter, on receiving the grievance application, it was sent to the Nodal Officer along with accompaniments of it vide this Forum's letter No. EE/CGRF/Kalyan 074 dated 12/2/2014. In response to the said notice, Licencee appeared and filed reply on 4/3/2014. This matter was heard on 5/3/2014 and 11/3/2014, during which consumer and Officers of Licencee made submissions in tune with their contentions.

4] On the basis of arguments advanced by both sides and contentions raised by them, following aspects are disclosed:-

a] Supply of Licencee is available to consumer Mr. Asandas J. Sadhwani bearing consumer No.020023026591 and as per the bill dated 8/2/2013, said supply was available in that premises from 7/11/1984 and tariff applicable was LT -II commercial.

b] In the said premises, initially meter No. 10734080 was installed and it was there till 15/10/2010. As per Licencee, said meter was Electro Magnetic Instrument but on 15/10/2010, said meter was replaced and digital meter No.14722824 was installed.

c] As there was change in meter, its replacement report was entered in the register, but it was not fed to system. However, on its basis, in format replacement report, copy is prepared. It is placed on record. Though new meter was installed on 15/10/2010 and as it was not fed to the system, bills were issued and entries continued in the CPL, citing old meter number and consumption was shown on average basis. Such entries continued till February 2013. As per the said record, meter reading of old meter at the time of replacement was 36151 units and of new meter it was 001 units.

d] On 18/2/2013, there was inspection by the Officer of Licencee and he noticed that said replacement report was not fed to the system and hence on the basis of the said report, change fed to system and matter was further dealt. On its basis, bill dated 10/4/2013 issued for Rs.57,465/- showing reading of units as 7967. Said reading is same for previous reading and further reading, It is corrected in ink and stated as provisional. How reading of 7967 units is arrived at is clarified in reply of Licencee that said figure was worked out, on the basis of per day calculation, considering the days from November 2010 till the end of July 2012.

5] In CPL as stated above, though units of consumption shown of old meter, that too on the basis of average or notionally, but credit is given for an amount of Rs.19,273/- under head of 'lock credit' in July 2012. It is seen from the CPL that said credit balance amount is reduced in the further period deducting in current dues of the current months and till the end of February 2013, credit balance was of Rs.17,209.64.

6] Final bill is issued on 4/12/2013, wherein previous reading is shown as 7967 and current reading is shown 10784 units, consumed units shown as 2817 and bill issued for Rs.82,204.01. Said figure worked out, includes net bill for the said month of Rs.24,561.65 Ps., plus arrears are shown to the tune of Rs.5,762.36. From

the total figure worked out i.e Rs. 82,204.01, amount is deducted to the tune of Rs.17,648/-, which was reflecting in CPL for the month of November 2013 as credit balance. Thereby liability is worked out to the tune of Rs.64,506/- rounded figure is Rs. 64,510/-.It is contended that these dues are accordingly worked out, communicated to the consumer, but he has objections to it.

7] From the aforesaid factual aspect, one thing is clear that previous meter was changed on 15/10/2010. However, it was not entered into the system, it was entered after inspection carried on 18/2/2013, thereafter bills are issued. No doubt, for the period from 15/10/2010, photo readings are taken from April 2010 to February 2013, but bills are not issued as per photo readings.

8] Applicant claims that he has not received any single bill and also claims that as building was unsafe, as per the order of KDMC, it is demolished and in fact no structure is standing there.

Applicant claims that he has received bill in the month of June 2012. Said bill was with the developer of that premises, from whom he has collected and paid it. Consumer claims that after approaching the developer, noticed that he is required to obtain 'No Due Certificate' for continuation of new connection of old meter or old consumer number. He approached Licencee on 1/10/2013 for issuing no due certificate and then he learnt that these developments, which he is now bringing it before the Forum.

9] In this matter, Licencee submitted that liability raised is correct. It is admitted that though meter changed, change report, was not fed to the system but consumer was assessed as per average and ultimately when said aspect of change report, not fed noticed during inspection, it is corrected and as per the reading reflected appropriately calculation is done, considering the average and hence liability is correct. Licencee raised a crucial legal question about the status of applicant/consumer, it claimed that Mr. Rana who had signed this grievance is not a

consumer. He has not produced authority from Asandas Sadhwani and hence, this grievance be rejected.

10] In the light of above factual aspect and dispute raised, it is necessary to decide initially the status of applicant- Mr. P.N.Rana. **It is now clarified that in the aforesaid details at times this applicant is referred as consumer, but he is to be read as applicant.** No doubt, this grievance application speaks about the name of consumer as 'Asandas J. Sadhwani' c/o. P.N.Rana.' whereas signature on this grievance application is of Mr. P.N.Rana and below the signature, name of P.N.Rana is written in bracket and there-under, name of Asandas J.Sadhwani is shown. At the end, in respect of authority or nomination, P.N.Rana himself has signed as consumer. Accordingly, it is to be now dealt first whether P.N.Rana is a 'consumer' as per Electricity Act, 2003, who can approach this Forum and seek reliefs.

11] Under Electricity Act, 2003, Section 43 speaks about the duty of Distribution Licencee to provided supply to the owner or occupier of premises, who makes application for towards it for his own use. Accordingly, this particular provision casts duty, on Distribution Licencee to provide supply. In Section 42 there is a provision for open access also. Further as per section 50 State Commission is required to formulate Supply Code and as per Section 52(v) Forum for Redressal of Grievance of consumer's is also to be established. State Commission is also required to lay down the condition of supply and all those powers are specified in **Section 181** of the Electricity Act, 2003. Basically, definition of 'consumer' is given in Electricity Act. which is not again defined in any of the Regulations. This definition of 'consumer' in the Act is unique in respect of Electricity Act.

Section 2(15) of Electricity Act, speaks about the definition of consumer, it reads as under:

'consumer' means any person supplied with Electricity for his own use,
by a Licencee or the Government or by any person. Engaged in the
business of supplying electricity to the public under this Act

Or any other Law for time being in force

and includes,

any person whose premises are for the time being connected for the purpose of receiving electricity,

With the works of licensee , the Government or such other person as case may be.

(above analysis and portion highlighted for clear understanding)

12] Mere perusal of the aforesaid section and its analysis, it is clear that first part is independent one and second part speaks about inclusive of extended portion. First portion speaks about supply of electricity is to a person, for his own use, whereas second part is of a person, the premises of whom is for time being connected, for receiving electricity. Accordingly, first part deals with the person who has taken supply from Licensee, applying to the Licensee, irrespective of his ownership. He may be the owner or he may not be the owner, but may be legally claiming through owner i.e. tenant /Licensee, mortgagee or authorized by the owner to stay in the premises or a person in settled possession, who cannot be evicted without following due process of Law. Accordingly the aforesaid aspect i.e. first part requires supply to a person in his name. No doubt, this takes care of the aspect to whom supply is to be given. Under the Supply Code, there is a provision for making application in a prescribed form and complying requirements. Accordingly, if any person fulfills criteria of occupier, is, entitled for supply. Second part as noted above refers to the premises of a person and it is not a supply, available for use of that person or, for his consumption. We find , it may take in it's fold the Licensee inter-se Generating Company and Distribution Licensee inter-se or any other combination , wherein supply is not for their own consumption. We are able to say if any person is trading in electricity then such person may be included in the second part.

13] Now question before this Forum is of grievance pertaining to supply to Mr. Sadhwani, who is having connection which is old one and said Sadhwani is not

coming before this Forum. The person who approached, happens to be applicant -Mr. P.N.Rana. He claims that he is occupier of the premises from the days of his father. No doubt, till this date, on the strength of his occupation, he has not resorted to any procedure for seeking change of name or when supply is PD, seeking any fresh connection. However, he is disputing the action of Licencee, towards dues worked out, permanent disconnection etc. and seeking no due certificate so as to facilitate him to have new connection in a developed premises which is to be occupied by Mr.P.N.Rana.

14] To consider the claim of Mr. Rana, it is necessary to find out whether he is a consumer. In the light of aforesaid discussion, we are to consider whether he is able to demonstrate that he is residing there and he can be a consumer. He is now required to satisfy the first criteria as per definition of consumer that he is having supply in his name. But we find supply is in the name of Sadhwani.. Secondly, applicant has not sought change of name for the said supply. Even it is seen that at no point of time name of Sadhwani is changed. Thirdly, when consumer is claiming through Shri Sadhwani, then so long Sadhwani's name is there, he is required to submit an authority from Sadhwani. Such authority is not there. Merely due to stay in consumer's premises, where supply is there, in the name of Sadhwani. Applicant cannot claim his status as consumer.

Applicant Mr. Rana on the last date of hearing shown to us original rent receipt issued in the name of his father which is in Gujarati and placed on record it's Xerox copy. It's translation is not provided and further filed Xerox copy of receipt dated 3/10/1974 issued by Licencee i.e. MSEB dated 7/10/1977 claiming that amount of Rs.80/- deposited towards change of name. This receipt is challenged by Licencee, contending that it contains over writings on it and it cannot be accepted. It is also clarified from Licencee side that from 1977 to 2014, there is no any correspondence for effecting change of name from the present consumer Sadhwani. We find, when documents are disputed then care is required to be taken to ascertain the correctness.

We noticed that though as contended by consumer, his father applied for change in name in the year 1977 and still the name of Sadhwani is continued, it speaks that either application for change in name is rejected or is not filed or is not accepted. Secondly, it is also clear that applicant Mr. Rana has worked with MSEB for long time on various respectable positions and had not sought change of name personally or not tried to place on record the persuasion made for his father's application in the year 1977. Hence we find that ultimately name of Sadhwani continued as a consumer, neither Mr. Rana nor his father became consumer in place of Sadhwani.

15] We find, from the aforesaid analysis, it is clear that he has not yet become consumer as per Electricity Act, 2003. If at all he wish to deal with the supply standing in the name of consumer Sadhwani, he is to produce authority letter of said Sadhwani or he is to acquire his own status as 'consumer' appropriately by seeking change of name. Applicant claimed that Mr. Sadhwani is not there, his whereabouts are not available and hence, he himself being occupier, he is the consumer. We find, such interpretation is not permissible as per Law. He is required to go for permissible procedure as per Law, either to seek change of name or to seek fresh connection, unless these are complied, he cannot gain the status of consumer.

16] In the light of above, as per regulation consumer Forum is established in this state and clearly , it is laid down that 'consumer' can approach this Forum. As noted above, status of Mr.P.N.Rana-applicant not falling in any clause of 'consumer' under the Act and hence he cannot agitate the grounds which he is trying to take before this Forum. We find though Mr. Rana claims as occupier in premises having supply in the name of Sadhwani he cannot claim himself as a consumer of Licencee. As long as Sadhwani and Licencee are governed by contract and agreement, unless that contract is terminated and new contract is established, Rana cannot file any complaint pertaining to consumer Sadhwani without authority. At this stage, we are supported by the order of Hon'ble **Ombudsman, Mumbai in Representation No.77/2012 dated 20/11/2012 amongst Shripad Narayan Vaishpayan V/s.**

MSEDCL, wherein similar point was involved and Ombudsman upheld that a tenant residing cannot approach the Forum without authority of consumer i.e. owner of premises in whose name said supply is standing. Under such circumstances, status of Mr.Rana is not of a 'consumer'. Hence this grievance cannot be dealt at the instance of applicant Mr. Rana.

Applicant- Mr. Rana placed on record various clauses of MSEDCL procedure for permanent disconnection working out dues etc. But we find all these aspects can be considered for redressing the grievance, if at all, the such grievance is brought before us by 'consumer'. But his status of consumer is not established.

Applicant- Mr. Rana had referred to various aspects, experience before the IGRC. We find as main grievance itself is not tenable for want of applicant's status as consumer, no any finding is required on it.

17] Lastly we find under the provisions of Electricity Act or in the Regulation of MERC, there is no provision of multiple consumer's, seeking relief for supply given to single consumer before the Forum. When name of Sadhwani is there as a consumer, Mr. Rana cannot add himself as consumer otherwise it will be allowing multiple consumers to approach the Forum.

Hence the order.

ORDER

This grievance application of applicant stands rejected.

Dated: 26/03/2014.

I agree

I agree

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

(Chandrashekhhar U.Patil)
Member Secretary
CGRF,Kalyan

(Sadaashive 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 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”

C] 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.

