



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

IN THE MATTER OF GRIEVANCE NO. K/N/034/363 OF 2009-2010 OF SHRI MAHESH NAIK, NALLASOPARA (EAST) REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT NEW CONNECTION – TEMPORARY CONNECTION.

Shri Mahesh Naik
Rock Garden, Bungalow Scheme,
Virar Road, Nallasopara (East),
Tal: Vasai, Dist : Thane - 401 209

} (Here in after
referred to
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its Dy. Executive
Engineer, Nallasopara East Sub/Division

} (Here in after
referred to
as Licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "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 (MERC) vide powers conformed 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 single phase LT consumer of the Licensee. The Consumer is billed as per residential tariff. The consumer registered grievance with the Forum on 20/02/2010 regarding the New Connection - Temporary Connection. The details are as follows: -

Name of the consumer : Shri Mahesh Naik

Address : - As above

Consumer No : - 00190127755/1 (Temporary Connection)

Reason for Dispute:- Regarding New Connection – Temp. Connection

- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/0084, dt. 20/02/2010 to the Nodal Officer of the Licensee, and the Licensee through their Dy. Ex. Engr. Nallasopara East Sub/Dn. filed reply vide letter No. DYEE/ Sub.Dn/ Nallasopara Sub/Dn/East/696, dt. 11/03/2010.

- 4) The Members of the forum heard both the parties at length on 12/03/2010 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Shri Mahesh Naik, Consumer and Shri Girish Patel, Shri K. V. Patil, Shri Ashok Gupta, Consumer Representatives, Shri S. J. Mungare, Nodal Officer, Shri Nitin Pewekar, Dy. Ex.Engr. Representatives of the licensee, attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. Submissions made by the parties in respect of grievance since already recorded will be referred to avoid repetition.

- 5). Consumer had started bungalow construction in Village Moregaon for which he was in need of electricity. Therefore on 10/02/09 he made an application for temporary electric connection. According to consumer on 13/02/09 as per the directions of Dy. Ex. Engr. he deposited Security Deposit, however he was not given electric connection though he frequently approached the concerned officials of licensee. It is the allegation of consumer that the officials of the licensee deliberately failed to give him temporary connection, therefore they are liable to pay him penalty as per Sub Clause III of Clause 43 of Electricity Act 2003. It is further the contention of consumer that instead giving him connection, officials of the licensee falsely charged him of the offence of committing theft of electricity under Section 135 of the Electricity Act. Consumer complained the same to the concerned officials and the IGRC but in vain, therefore he prayed to direct the licensee to refund him amount of assessment against the theft and to punish the erring officials for not giving temporary electric supply as per the provisions referred to above.
- 6) Licensee opposed the above said allegations contending that as per the application temporary electric connection was given to the consumer on 20/03/09, however he remained in arrears of electricity bill, therefore his supply was permanently disconnected. It is contended that after disconnection, consumer putting hook on electric lines unauthorizedly used electricity in his room and shop. He was so found committing theft of electricity during inspection on 15/06/09. Consequently Jr. Engr. Mr. Ali Khan lodged complaint to Police MSEDCL Kalyan who in turn registered CR No. II 1353/9 on 08/09/09 of the offence under Section

135 of the Electricity Act 2003. It is contended since consumer committed theft of electricity, question of return of assessment amount to the consumer does not arise. Consequently licensee prayed to dismiss the grievance.

- 7) On perusal of the record and hearing both the parties following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a)Whether this Forum has jurisdiction to decide this grievance vide Clause 6.8 of "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006" ?	NO
b)What Order ?	As per Order below

Reasons

- 8) On perusing the voluminous documents on record prima facie shows that the consumer was found committing theft of electricity putting hook in the service wire, consequently electricity bills have been issued under theft assessment i.e. unauthorized use of electricity. As seen from the complaint of Junior Engineer Mr. Ali Khan dt. 08/09/09 during inspection on 15/06/09 consumer found taking electricity to his shop and room in Ekvira Building, in Village-Moregaon Talav. Based on the complaint Police MSEDCL Kalyan vide FIR No. II 1354/09 on 08/09/2009 registered offence against

the consumer under Section 135 of Electricity Act. In this FIR it is alleged consumer committed theft of 1233 units worth Rs. 6840/-. The officials of the licensee in view of the position issued bills under theft assessment. Considering the position referred to above, we are prima facie of the view that the grievance falls within the purview of Section 135 of Electricity Act, excludes the jurisdiction of this Forum vide Clause 6.8 of "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006".

- 9) The main grievance of the consumer is that he was not given temporary electric connection within one month of receipt of the application therefore the licensee is liable to pay him penalty but instead licensee charged him of the offence of theft and on this ground consumer claims compensation from the licensee. As per Clause I of Section 43 of the Electricity Act, licensee shall give supply of electricity within one month, Sub-Clause (3) states if the licensee fails to supply electricity within the period specified as above, is liable to pay penalty which may extend to one thousand rupees for each day of default. According to licensee consumer was given temporary connection but he remained in arrears of electricity bill, therefore his connection was permanently disconnected. It is further the contention of licensee that instead giving arrears of electricity consumption bill, consumer took electricity unauthorizedly i.e. committed theft of electricity therefore he is charged of the offence of theft under Section 135 of Electricity Act.
- 10) Giving of temporary connection and later on disconnection interlink with the alleged theft of electricity. Whether consumer committed the

offence of theft under Section 135 of Electricity Act or not will be proved before the Hon. Court. Since the grievance falls within the purview of Section 135 of the Electricity Act, this Forum has no jurisdiction to entertain the same, therefore the grievance deserves to be disposed off for want of jurisdiction. Point is answered accordingly and hence the order :

ORDER

- 1) Grievance application is disposed off for want of jurisdiction.
- 2) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”

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

Date : 13/04/2010

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan