



Consumer Grievance Redressal Forum, Kalyan Zone

Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301

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No.EE/CGRF/Kalyan Zone/

Date of Grievance : 01/06/2016

Date of Order : 09/08/2016

Total days : 70 days

IN THE MATTER CASE OF GRIEVANCE NO. K/E/1039/1251/2016-17 IN RESPECT OF MR. VIJAY GANGADHAR MOGAL, C/O. ROSHAN VIJAY MOGAL, SURVEY NO. 32/2 & 3, CHIKKANGHAR, BEHIND ROSHAN PETROL PUMP, KALYAN (W) REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING CHANGE OF TARIFF-COMMERTIAL TO INDUSTRIAL CONSIDERS MSME, REGISTRATION.

Mr.Vijay Gangadhar Mogal,
C/o Roshan Vijay Mogal,
Survey no. 32/2 & 3,
Chikkanghar,
Behind Roshan Petrol Pump,
Kalyan (W),
(Consumer No. **020020585839/0**)

..... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited
through its MSEDCL, Addl. Ex. Engineer,
Kalyan Circle-I

..... (Hereinafter referred as Licensee)

Appearance : -For Consumer : Shri Ramesh Shivdas Consumer's representative.
For Licensee :- Shri Vijay D.Yadav--AEE, Kalyan Circle-I.

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'.

2] The brief facts of the grievance application are that:

The consumer Mr. Vijay Mogal, is the director of Palm Water Resort (which is a unit of Gangajal Green Park and Resorts Pvt. Ltd) situated at S, No.32/2 and, Chikkanghar, Behind Roshan Petrol Pump, Kalyan (W), and according to the consumer, it is registered under MSMG (Micro Small and Medium Enterprises).

3] The consumer further states that he has made an application requesting the Licensee to change the tariff category from existing LT II to LT V, on 27/7/2015.

4] It is the contention of the consumer that since his company has been registered under MSME, the tariff category applicable to his company

should be as LTV because the company which is registered under MSME is considered under LT-V tariff category.

5] In support of his above contention, consumer has also submitted a certificate issued by Manager Dist. Indl, Centre, Thane.

6] The consumer also pleaded that as per Clause / para 2.16 .6 of the MERC's MYT tariff Order 2013-14 to 2015-16 M/s. Gangajal Green Park and Resorts Pvt. Ltd. Comes under service industries hence the billing tariff should be LT-V instead of LT-II. In support of his contention consumer has submitted on single page (page No.59 of 381) of MYT Order of MSEDCL for the period from FY 2013-14 to 2015-16.

7] Grievance of the consumer is that the above facts show that his company comes under LT V tariff category. Hence he should be charged as per LT V tariff category and his bill be revised accordingly. The consumer also prayed that the differential amount be refunded to him along with interest from the date of connection i.e. from 2011.

8] One more point raised by consumer is that when the consumer approached to IGRC by submitting Form 'X' on October 2015, consumer was charged as per LT-V tariff category for the month of October 2015 to December 2015. However, in the month of March 2016 suddenly Licensee recovered this less /differential amount which was taken by consumer by applying LT V instead of LT II. Grievance of the consumer is that on which ground his tariff was changed for the month of October-2015, November 2015 and December 2015, which was again reversed.

9] In support of his above contention the consumer has submitted the bills for the relevant months.

10] Consumer approached to IGRC on 7/10/15 on above grievance on 17/5/16. Not satisfied with the order of IGRC, consumer approached to

this Forum on 23/5/16. Copy of this grievance along with accompaniments sent to the Nodal Officer and intimation for hearing vide this Office Letter No.EE/CGRF/174 dated 1/6/16 and was called upon to reply the grievance of consumer.

11] In response to it, Officers of Licensee appeared and filed reply along with documents. Licensee submitted that Shri Vijay Mogal is it's consumer from 5/2/2011. On 7/10/15, consumer applied for change of tariff category, accordingly an inspection was carried out by Licensee on 22/12/15. At the time of inspection, Licensee found that the consumer is using electricity for :

- a] Resort and kitchen,
- b] Bar,
- c] Conference hall and
- d] Hall.

12] In support of the above contentions, Licensee submitted a letter dated 22/12/15, signed by Addl. EE Kalyan, addressed to the chairman of CGRF, Kalyan.

13] The Licensee further contended that as per commercial circular No. 243 dtd 3/7/15 the above activity comes under the commercial tariff i.e. LT-II. Two more letters dated 15/3/16 and 05/07/16, having the same contentions are submitted by the Licensee on record. Hence according to the Licensee, the above activity comes under commercial tariff i.e. LT-II , hence the tariff applied to the consumer is correct.

In support of its contention, Licensee submitted circular No.243 on record.

According to the circular applicability under LT II : LT-Non Residential or commercial

Applicability:-

“This category shall be applicable for electricity used at Low/Medium Voltage in all nonresidential, non –

industrial premises and / or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment /leisure , pumping in the following places (but not limited to):

d] Marriage Halls, Hotels / Restaurants, Ice-cream parlours, Coffee Shops, Guest Houses, Internet / cyber cafes, Telephone Booths not covered under LT I above, and fax / Xerox shops; ”

14] We have gone through the documents kept on record and have heard the arguments advanced by both the parties, we have observed that:

1] The single page of “MYT order of MSEDCL for the period from FY 2013-14 to FY 2015-16 in case No.121/14 on which consumer is relying to show that as per para 2- 16.6 consumer’s activity comes under service industry, is not a ruling / order / guideline of Hon’ble MERC. It is a part of suggestion / discussion made by Envirocare Labs Pvt. Ltd. Hence Forum cannot treat it as a ruling / order or guideline of Hon’ble MERC.

2] We have also suggested the CR to bring on record relevant order but consumer failed to file it though sufficient time was given. Even consumer was not able to keep on record any document / order of Competent Authorities, directing Licensee to apply LT-V tariff category to the consumers who are registered under MSME.

3] There are letters dated 22/12/15 and 15/3/16 signed by Licensee , Addl. EE Kalyan to Chairman IGRC and a letter dated 24/6/16 addressed to Chairman of CGRF Kalyan signed by Addl. EE Kalyan informing that the spot inspection of the consumer’s premises is carried out by him on 22/12/15. In support of the said contention Licensee submitted spot inspection report dated 22/12/15. In the said report the Addl.EE Kalyan had clearly mentioned that the consumer is utilizing the supply for commercial purpose. Though the consumer was not

present at the time of inspection the said report is not challenged by the consumer at the time of hearing.

4] Circular No.243 submitted by Licensee wherein in Clause (d) it is mentioned that “Marriage Halls, Hotels / Restaurants, Ice-cream parlours, Coffee Shops, Guest Houses, Internet / cyber cafes, Telephone Booths not covered under LT I above, and fax / Xerox shops;”

It means that the activities which do not come under LT I come under LT II. Hence the consumer’s request to treat it under LT V cannot be considered.

5] Regarding the query of the Forum as to under which provision the tariff category of the consumer was changed for the period of 03 months i.e. for the month of October 2015 to December 2015 and which was again reversed by the Licensee. For this the Licensee replied that it was their mistake. In this regard we feel that the concerned Officers are accountable and responsible for every act / mistake committed by them and they cannot take a casual approach towards it. The concerned Officers cannot act as per their whims and fancies.

15] Taking into consideration, all the above observations, we are of the opinion that the tariff applied to the consumer for the month of October 2015 to December 2015 is correct.

16] This matter could not be decided within time as consumer has not filed the required documents on record. Moreover, the then the Executive Engineer has heard the grievance from both sides. In the meantime, the then the Executive Engineer-cum-Member Secretary has been transferred. Moreover, this Forum is functioning in absence of regular Chairperson and regular Member Secretary, the present Member Secretary in charge is discharging the additional work of Chairperson along with the regular work of Member Secretary from 28/6/2016, in addition to his

regular portfolio as Executive Engineer Enquiry MSEDCL for Kalyan Region.

Hence the order.

ORDER

Grievance of consumer stands rejected.

Licensee, however, is liable to pay penalty of Rs.1000/- (Rs. One thousand only) to the consumer by cheque for their negligence and casual approach towards consumer's changing tariff category.

Compliance of this order be done within 45 days on receiving the Order and it's report be submitted to the Forum within 60 days from the date of receiving this Order.

Date: 09/08/2016.

I agree

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

**(L.N.Bade)
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.