



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

Date of Grievance : 26/07/2012
Date of Order : 14/09/2012
Period taken : 49 days

IN THE MATTER OF GRIEVANCE NO. K/E/634/752 OF 2012-2013 OF
SHRI SHRIPAD NARAYAN VAISHAMPAYAN, DOMBIVALI (EAST)
REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL .

Shri Shripad Narayan Vaishampayan
Motiram Khandagale Building,
Sitaram Niwas, Behind Pitre Building
Ganesh Mandir Road,
Dombivali (East) : 421 201

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Dombivali Sub-Division No. III

(Here-in-after
referred
as licensee)

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

- 1) This 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. The 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 residential tariff. The consumer registered grievance with the Forum on 26/07/2012 for Excessive Energy Bill.
The details are as follows :
Name of the consumer :- Shri Shripad Narayan Vaishampayan
Address: - As given in the title
Consumer No : - 020011868399
Reason of dispute : Excessive Energy Bill
- 3) The set of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0597 dated 26/07/2012 to Nodal Officer of licensee. The licensee filed reply vide letter No. EE/KCK-I/CGRF/Case No. 752/3431, dated 30/08/2012 through Nodal Officer Kalyan Circle – I.
- 4) We the Members of the forum heard both sides in the meeting hall of the forum’s office on 21/08/2012 and 30/08/2012. Licensee is represented by Nodal Officer, Shri Patil, Shri Bharambe, Asstt. Engineer, and consumer Shri Vaishampayan himself is present.
- 5) The present consumer, in fact happens to be the tenant in the premises wherein meter is installed bearing consumer No.020011868399-BU-4166.

It is single phase residential connection. On the basis of material placed before us, it is disclosed that from the period from June-2006 to 21/11/2011, the said meter was showing zero reading and thereafter it was stopped. Accordingly, average bills were issued by the licensee from time to time and those bills are paid of without raising any dispute. As contended by the present consumer, those are paid through ECS. Aspect of payment is not in dispute. However, the present consumer has filed the objection on 18/01/2012. Thereafter, he approached IGRC on 17/04/2012 vide his Grievance dated 11/04/2012. IGRC passed order on 25/06/2012 observing that matter is time barred. Hence, he approached this forum on 25/06/2012.

- 6) In this matter on behalf of licensee, reply is filed on 30/08/2012. During the course of arguments, consumer maintained his contention that though meter was stopped during the period from June-2006 to 21/11/2011 and new meter is replaced in November-2011, the payment received by the licensee except for three months for the period from June-2006 to 21/11/2011 is required to be refunded to him adjusting it in his ensuing bills as licensee was entitled to recover only three months bills that too on average basis as per the rules of MERC and as licensee in time not replaced the stopped meter, but proceeded to charge the consumer on the basis of average bill and hence said recovery for more than three months is illegal, licensee is liable to refund it. Even he submitted that the order of IGRC dismissing his grievance on the ground of limitation is not correct.
- 7) In this matter consumer claimed IGRC dismissed his application on the ground of limitation which is not correct. In this regard he relied on the Judgment of CGRF Mumbai dt. 14/05/2012 in Representation No.

N - G (N) – 149/2012. In the said matter delay was noted for more than two years and CGRF found that complaint is not time barred. However, on behalf of Licensee it is submitted that said Judgment is not applicable and maintained the stand. We find as per MERC Regulation 6.4 against the order of IGRC matter can be brought before CGRF within two months and under Regulation 6.5 it can be filed even prior to completion of two months. As per Regulation 6.6 there is a bar prescribed for approaching the Forum and it can be only within two years from the date of cause of action. Now this bar of two years is specified for the CGRF and not for IGRC. If any directly complaint is brought to CGRF, it should be within two years but under the Regulation there is no any such bar prescribed for IGRC. However, Clause 6.2 of Regulation speaks about approaching IGRC Cell within the time period as stipulated by Distribution Licensee in it's rules and procedure for redressal of grievance. However, no such rules prescribing the time limit is shown and hence we find the bar of limitation observed by the IGRC is not correct. IGRC ought to have dealt on merit but as already IGRC rejected the complaint, hence approaching CGRF is totally found legal and proper.

- 8) In respect of main contention, licensee claimed that it is not the case of the consumer that he has not utilized the electricity. No doubt, average bills are issued from time to time. Meter was defective for the period from June-2006 to 21/11/2011. He has not disputed the average payment demanded, not denied the payment, but any how licensee could not rectify the said aspect of stopped meter, but if consumer has utilized the supply and has paid as per average bills, he is not entitled to seek any refund of it. It is

contended that there was no dispute when average bills were issued after three months. It is also a fact that consumer was conscious about meter is not showing reading, but in respect of it he has not denied to pay the amount which was raised on an average basis. His acquiescence is clear. Accordingly, it is contended that towards utilization of supply, consumer has paid the amount and there is no question of now refunding the amount. It is submitted that claim of consumer could have been upheld, if licensee would have raised a bill covering the period from June-2006 to 21/11/2011 at a time after 21/11/2011 i.e. after installing new meter and removing the old meter. Accordingly, it is contended that the clause which consumer intends to rely will not be applicable. The said clause of MERC regulation i.e. 15.4.1 reads as under -

“Subject to provisions of part 12 and part 14 of the Act, in case of defective meter, the amount of consumers bill shall be adjusted, for a period of three months prior to the months in which dispute has arisen in accordance with the results of test taken subject to furnishing the test report of the meter alongwith assessed bill.

Provided that.....

Provided further that in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, upto maximum period of 3 months, based on the average meter consumption for 12 months immediately preceding the three months prior to the month in which billing is contemplated.....”

- 9) Aforesaid clause, no doubt, prescribes a mode in which the billing is to be done for the period during which meter stopped. Though period of three

months is stated, but, in case, if any, average bill is issued for a further period and paid by the party without any dispute can it be said that the said aspect is illegal and consumer is entitled to refund of it. We find, this is not the intention of this particular clause. After all, consumer and licensee are the two parties, one is the supplier and another is the consumer and if for the supply consumer has paid without raising a dispute and that too on the basis of average, we find, there is no any merit in the contention raised by the consumer.

- 10) Consumer, at this juncture, has heavily relied on the order of CGRF, Mumbai in Complaint No.S-D-28-07 dated 08/01/2007 **Poornank Diamonds Vs. BEST Undertakings**. He contended that this aspect pertains to stopped meter and amount was covering period from 1997 to September-2001 and hence this is similar to the present case, hence, on this basis, his claim be allowed. We find, the facts of the matter are totally different, bills were issued on 26/02/2004 for the period covering 22/01/1997 to 11/09/2001 and pertaining to it matter is dealt on the basis that it is covering a period more than 3 months. But, we find, herein it is not a case that licensee has issued a bill covering a period for more than 3 months and about it dispute is raised. Herein consumer has accepted the average bills from time to time, paid from time to time rather knowingly paid the amount and only when defective meter was removed & new meter was installed opportunity is taken to raise a dispute, we find that the reliance placed on the judgment is not applicable.

Further on behalf of consumer reliance is placed on the Judgment of CGRF Mumbai vide Representation No. N – F (N) – 125 – 2011 decided on

15/09/2011. Relying on this order consumer tried to contend that in the said matter an amount of Rs. 10,000/- was paid as directed by the Licensee and even admitted to pay the other amount but there after dispute was raised and ultimately though amount of Rs. 10,000/- was paid voluntarily directed to be refunded. Hence consumer now claimed herein also he had paid the amount whichever is demanded and it will not be a bar for claiming back that amount. We have gone through the said Judgment, therein said Forum has observed that complainant therein was not liable to pay any outstanding electricity charges , therefore part payment of Rs. 10,000/- is also ill founded and said part payment is to be refunded to the consumer. We find herein there is no question of any illegal payment sought , payment is sought on stopped meter, payment is made towards the stopped meter, consumer was happy to pay the bill, he was rather happy to continue paying average bill knowingly meter is stopped . He had no any grudge that even average bills were not correct. It is not his case that bill is sought at a time for a period more than three months also. Accordingly we find the Judgment relied on is not applicable to the present case. Already the consumer by making payment regularly, as demanded has accepted the factual aspect and hence the said Judgment is not applicable.

At this stage we wish to observe that the three Judgments of CGRF Mumbai though relied, cannot be read as a precedent but just referred to understand the legal position.

- 11) Consumer herein made a grievance that new meter is replaced but before installing it or after installing it, on behalf of Licensee there was no any attempt to point out to consumer that meter is perfect and it is not defective.

Rather he is claiming that before installing it, testing of it should have been done in his presence. This is objected on behalf of Licensee. It is claimed in routine meters are installed and if there is any defect or if it is noticed, then on the contention of consumer, aspect of testing is done or if it is noticed by the Licensee it is done suo moto. We find in routine wherever any new meter is installed, then it is presumed that it is not defective but if any defect is noticed, then consumer is at liberty to bring it to the notice of Licensee and there after it's testing or rectification is to be resorted to. We find no force in the contention raised by the consumer.

- 12) We find that the consumer has filed this complaint though he is contending he is tenant and that meter is not standing in his name. He has not taken any consent of landlord. Hence, we find, it would have been appropriate, if complaint would have been filed taking permission or consent of consumer i.e. original landlord. Even on this point, we find, this complaint is to be dismissed. Hence the order :

ORDER

- 1) Grievance No. 752 of 2012-13 is hereby dismissed as it is not presented with the consent or permission of landlord and even it is dismissed on merit that consumer has paid average bill in response to the bill raised from time to time without any dispute and hence his grievance is found without any merit. It is dismissed.
- 2) Compliance be reported within 45 days from the date of receipt of this order.

- 3) The Consumer if not satisfied, 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”.

- 4) 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 : 14/09/2012

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan