



Consumer Grievance Redressal Forum, Kalyan Zone

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No. **K/E/1050/1262 of 2016-17**

Date of Grievance : 29/06/2016

Date of order : 12/09/2016

Total days : 76

IN THE MATTER CASE OF GRIEVANCE NO. K/E/1050/1262/2016-17 IN RESPECT OF M/S.SATPATI MACCHIMAR VIVIDH KARYAKARI SANGH, AT POST SATPATI, TAL. PALGHAR, DIST. PALGHAR REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.

M/s. Satpati Macchimar Vividh Karyakari Sangh,

At Post Satpati,

Tal. Palghar,

Dist. Palghar,

(Consumer No.003089003368) (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution

Company Limited

through its Nodal Officer,

MSEDCL, Kalyan Circle-II, Kalyan (Hereinafter referred as Licensee)

Appearance : - For Licensee : Shri V.B.Jagtap-EE (Adm)Vasai Circle.
For Consumer- Shri V.K.Vaze- Consumer's representative.

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 as under:-

The consumer is a registered cooperative society having a Licence of factory and it is recognized as an industry by statutory authority.

3] The consumer further submits that this society consists of 7000 fishermen of village Satpati and around. According to consumer these members (fishermen) were required to carry ice at sea to keep caught fish fresh till evening, they returned to beach. However, as the ice is costly and members were unable to purchase ice from the market, installed an ice factory at Satpati for the above said reasons.

4] According to consumer, its main activity is to produce and supply ice to its members which is an industrial activity. Consumer further states that it has been sanctioned an electric connection for running the ice factory and consumer was charged as per industrial tariff category from 27/4/1970 i.e. from the date of supply.

5] Consumer submitted that on 28/4/2014, a surprise inspection was carried out by the Licensee and on the basis of this visit a

supplementary bill was issued to consumer, in which consumer's tariff category was changed from industrial to commercial. The vigilance staff who inspected the premises of the consumer stated that commercial activity has taken place and raised a demand accordingly.

6] It is further submitted that consumer has made a number of representations to the Licensee against the aforesaid action. On a inquiry being made by the consumer, it was conveyed to the consumer that additional amount was towards the difference of tariff rate as consumer has used the supply for commercial purpose as per their inspection report.

7] Consumer pleaded that the additional levy is wholly illegal as there is no change in use of supply and right from the beginning the supply is used for producing ice and for nothing else. Even in the spot inspection report dated 2/9/2014 in Clause No.4 the purpose of supply is mentioned as "production of ice." The consumer has paid the bill under protest to avoid the disconnection.

8] The case of the consumer is that the bill issued by Licensee on September 2014 is not correct and further submitted that even though consumer protested, Licensee went on charging consumer according to HT II N instead of HT IN, which is totally against the statutory rule of Hon'ble MERC.

9] With regard to the relief it is claimed by consumer –

- a] to give directions to the consumer to refund the amount of tariff difference (HT II N to HT IN) for the period of September 2014 to May 2015 and to pay interest as per RBI rate.

10] Apart from the above claim, consumer has also claimed an amount of Rs.50,000/- towards mental harassment.

11] Notice was issued to the Licensee who filed a counter reply. The stand taken by Licensee is that;

- 1] Consumer is running an industry at Palghar.
- 2] Consumer was paying the bills regularly for running the industry.
- 3] In the month of September 2014 a surprise inspection was carried out by Dy. EE Palghar and observed that though the consumer has taken supply for production of ice under the industrial tariff. Consumer is using the supply for storage and cold storage purpose in addition to its activity of producing ice.

12] It is also submitted by Licensee that due to the above observation, Licensee has changed the tariff category of the consumer from HT IN to HT II N with effect from September 2014 and thereafter up to May 2015, consumer charged as per HT II N tariff category. However, from the month of June 2015, onwards again Licensee has changed the tariff category of the consumer as per order of Hon'ble MERC in case No.121/2015 dated 26/6/15.

13] The Licensee further submitted that the tariff category of the consumer was changed as per the letter of the Chief Engineer (Commercial) dtd 13/5/14. The said letter states that , “ the fishes which are brought to the store and sold out, do not change into any other form. Even if, there is the use of cold storage for store of fishes, whole activity will fall under the concept of fishery as mentioned in the tariff order dtd 16/8/2012.”

14] Moreover, as per the Commercial Circular No. 175 dtd 5/9/12 according to Licensee fisheries comes under commercial tariff. Hence Licensee stated that in view of the above facts grievance application of the consumer may be rejected.

15] We have heard both the parties and gone through the documents produced on record. We have observed that Licensee has no case so far change of tariff category on the allegation that “ the consumer has taken connection for production of ice under the industrial tariff but actually the consumer is using supply for storage and cold storage purpose in addition to the production of ice.”

The inspection report placed on record mentions as follows:-

- 1] Name of
- 2] -----
- 3] -----
- 4] Production activity / Purpose of
Power supply -----production of ice
- 5] Whether there are
Ponds to cultivate the fish seed to fish ----- No.
- 6] Whether there are pond for ----- No.
growing of small fish.
- 7] Use of cold storage ----- for storage of ice.

16] Nowhere it is mentioned in the said report that the activity related to breeding of fish is taking place or fish are stored in the cold storage in the said premises. The Licensee have paid to establish the very fact upon which it had relied and assessed the consumer by issuing supplementary bill.

17] We have also noted that Licensee relied upon it's Circular No . 175 dtd 5/9/12 about levying charges and justifying change of tariff category of consumer. Licensee could not point out any statutory provision or even guidelines from its manual which authorizes Licensee to change the tariff

category of consumer from HT-IN in to HT-IIN and levied the charges accordingly for the above said disputed period. Even the guidelines from the Chief Engineer- Commercial vide letter No. PR-3/tariff /15075 dtd 13/5/14, on which Licensee relied and changed the tariff a category of consumer from HT IN to HT II N with effect from September 2014 to May 2015, Licensee could not place on record the said letter. Licensee merely has mentioned some line from the said letter in it's reply dtd 22/8/16 as follows:-

“The fishes which are brought to the store----- from the above portion of the letter we have failed to interpret or understand the specific instructions of Chief Engg. (Commercial), as Licensee could not point it out it's relevance for change of tariff category of consumer.

18] From the above, it is clear that change of tariff category of consumer from HT IN to HT IIN for the period of September 2014 to May 2015 is not in the line with its circular No. 175 dtd 5/9/12. Also it is not with the line of it's inspection report dtd 28/8/14. Hence we have arrived at the conclusion that the supply at the said premises is used for industrial activity i.e. production of ice as submitted by consumer and not as the cold storage for preserving fish on commercial basis. Consumer was forced to pay the excess amount for the period from September 2014 to May 2015 to avoid disconnection. However, consumer has paid this amount under protest.

19] In view of the above consumer's claim will have to be upheld.

20] This matter could not be decided within time as the consumer has given the last application on 30/8/16 that Licensee is not honoured its commitment. 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

Consumer's grievance application is hereby allowed.

The bills issued to the consumer from September 2014 to May 2015 are hereby quashed.

The Licensee is directed to revise those bills (from September 2014 to May 2015) without interest or DPC by applying HT-IN tariff category.

The excess amount (difference) paid by the consumer be adjusted in the next ensuing bill of the consumer.

Licensee is directed to refund the amount of interest by cheque as per RBI rate to the consumer on the excess amount (difference) collected by Licensee from September 2014 to May 2015.

Licensee is also directed to pay Rs.2000/- to consumer towards mental harassment.

Compliance be reported within 60 days from the date of receipt of this order.

Date: 12/09/2016.

(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.

