



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

No. K/E/789/948 of 2014-15

Date of Grievance : 21/04/2014  
Date of order : 03/05/2014  
Total days : 13 days

**IN THE MATTER OF GRIEVANCE NO. K/E/789/948 OF 2014-15 IN RESPECT OF ESEN PACKAGING, GALA NOS. 8 & 15, BLDG. NO.4, Mr. RAJ PRABHA UDYOG NAGAR, WALIV ROAD, VASAI (E) DIST. THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING DISCONNECTION OF SUPPLY.**

Esen Packaging,  
Gala No. 8 & 15,  
Bldg. No. 4,  
Rajput Prabha Udyog Nagar,  
Waliv Road, , Vasai (E),  
Dist. Thane- 401 208

.... (Hereinafter referred as consumer)

V/s.

Maharashtra State Electricity Distribution  
Company Limited through its  
Nodal Officer, Exe.Engineer (Admin)  
Vasai Circle, Vasai,

.... (Hereinafter referred as Licencee)

Appearance : For Consumer – Mr.Tekchandani- & Mr. Yusif (Representatives)

For Licensee - Shri A.S.Gosavi-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 matter is presented before this Forum on 21/4/2014. On that day incidentally Nodal Officer was present and hence considering the nature of the grievance, it was decided to take up the matter for hearing as emergent. Accordingly, date was notified for hearing on 25/4/2014.

2] Accordingly, when matter is taken up. The Nodal Officer is not present. He deputed his representative Mr.A.S. Gosavi-Asst. Accountant with record. No any reply as such is filed by Licencee. Said Gosavi placed before the Forum the Order of Final Assessment pertaining to the present consumer, which is dated 21/1/2014.

3] On behalf of consumer, it’s representatives Mr. Tekchandani and Mr. Yusef Ansari are present. Authority letter of Mr. Ansari not placed on record. Mr. Tekchandani placed copy of his authorization on record.

4] It is borne out from record that supply is provided to the consumer bearing consumer No. 001849032280. It is a HT supply. Contract demand is of 225 KVA and connected load is of 298 KWA.

5] We have considered the grievance brought before us and it is contended that against the consumer proceeding is initiated u/s. 126 of Indian Electricity Act. It is disclosed that as per the claim of Licencee, premises of consumer inspected on 21/9/2013. Panchnama was drawn. On the basis of panchnama and inspection report, provisional assessment bill dated 29/11/2013 was issued, by Assessing Officer, Superintending Engineer Mr. Sonawane. As per consumer, it's copy was served on 30/11/2013.

6] Said provisional assessment order is replied by consumer on 6/12/2013 and hearing was conducted before the said Assessing Authority on 24/12/2013.

7] Though grievance was placed before this Forum, there was no mention about the Final Assessment order passed. When it was presented before this Forum, pointedly it was asked whether there is final assessment order. Nodal Officer was present, who maintained that final assessment order was passed and served on the consumer. But representative Mr. Tekchandani was not able to place on record such final assessment order. Rather he was not aware and hence position was to be ascertained. During final hearing, representative of Licencee placed before us the file containing the final assessment order dated 31/1/2014 which bears acknowledgment from the consumer's side. It is acknowledged by Mr. A.K.Pandey on 1/2/2014, his signature is seen. Accordingly, now it is, clear that after provisional assessment order even final assessment order is passed.

8] On behalf of consumer, both representative tried to demonstrate flaw in the process of inspection done, inspection note prepared, panchnama drawn, they claimed those are not correct. At once stage, it was submitted that panchnama was not pertaining to present consumer. They referred to some blanks kept in the column of panchnama. Secondly, it is contended that though, inspection is conducted on 21/9/2013, provisional assessment order passed on 29/11/2013 hence, it is not as per time limit prescribe u/s. 126 I.E.Act. Further, it is contended that inspection report contains blanks and Inspection Report itself is prepared putting back date. It is claimed that no signature is obtained either on panchnama or on the inspection report of consumer's representative. On all these grounds, it is contended that aspect of Section 126 is not applicable, it is not pertaining to the consumer and hence, claim be quashed. Along with grievance application, order of this Forum passed in grievance No. 710 dated 21/8/2012 is produced on record and relied on it. But we find, this is order wherein provisional assessment order itself was not served. Copy of said provisional assessment order was not placed on record. In the said matter, there was no final assessment order as such u/s. 126 of I.E.Act. In that light, action of Licencee against the consumer u/s. 126 was dealt therein and relief was given. But, herein, there is a provisional assessment order, there is final assessment order. A receipt of those orders is not in dispute though correctness of those orders are agitated. Hence order of this Forum relied on is not helpful to this consumer on factual aspect.

Further reference is made to Representation No. 62/13 and 63/13 dealt by Hon'ble Ombudsman, Mumbai passing orders therein on 6/9/2013, 5/9/2013. On the basis of these two orders, attempt is done to contend, flaw which is noted in this matter needs to be considered in the light of observation of Hon'ble Ombudsman and relief is to be granted. On behalf of Licencee, except reliance on

the file, no more things are added. On behalf of Licencee , it is submitted that on panchnama and bill signature of Mr. Pandey – representative of consumer is there. Representative of Licencee pointed out that in the back side at the end of panchnama, there is reference to the consumer, number of present consumer and signature is there-under of Mr. Pandey.

9] From the above factual aspect, it is seen that matter is dealt by the Officer of Licencee i.e. Assessing Officer by passing orders u/s. 126 of I.E.Act. He has passed orders for provisional assessment and final assessment. Those orders are passed by said authorized Officer as per the provision of Section 126 of I.E.Act. Said order is available for challenge before Appellate Authority u/s. 127 of I.E.Act. Though, an attempt is done to challenge the said orders pointing out flaw therein but fact remains those orders are of Competent Authorised Officer in discharge of his duties as public servant, which are subject to appeal before Appellate Authority u/s. 127 of I.E.Act. There is no any contention of inherent lack of jurisdiction with the authority who passed orders u/s. 126 of I.E.Act. Orders passed by said authority cannot be dealt even by Civil Court or any Authority as per the provisions of Indian Electricity Act. Even MERC Regulation 6.8 bars jurisdiction of this Forum. However, it is directed that if Forum comes to conclusion on prima facie consideration that aspect attract Section 126 of I.E.Act, then such matter cannot be entertained and tried. Accordingly, we are to consider when this matter is dealt by Authorised Officer, having jurisdiction can it be interfered by this Forum. Though, representatives of consumer relied on the orders of Hon'ble Ombudsman referred above, but subsequently Hon'ble Ombudsman while deciding Representation No. 97/2013 M/s. G.K.Moduler Pvt. Ltd. V/s. MSECDL on 23/12/2013 upheld the view that when there is a order by Competent Officer u/s. 126 of I.E. Act, it cannot be entertained and dealt by the Forum. This is

the latest Judgment of the Hon'ble Ombudsman. We, at this stage, are able to lay hand on the Judgment of Apex Court dated 1/7/2013 in Civil Appeal No. 5466/2012 (arising out of SLP ( C ) No.35906 of 2011 ) –U.P.Power Corporation Ltd. v/s. Mr. Anis Ahmed wherein Their Lordships clearly laid down that final assessment order u/s. 126 of I.E. Act which is passed by Public Servant, there cannot be any dispute before the Forum. We find, this peculiar observation of Their Lordships in the said Judgment speaks that if there is independent machinery available to challenge the final assessment order, therein almost all defences/grounds available can be taken including all procedure defects and legal flaws. Accordingly, we find, if once there is final assessment order u/s. 126 of I.E.Act which is amenable for appeal U/s. 127 then in the light of bar created under the MERC Regulation Clause 6.8 this Forum cannot exercise the jurisdiction as it is barred.

10] In the light of above, we find the present grievance cannot be dealt for want of jurisdiction. It is to be dismissed for said reason.

Hence the order.

### **ORDER**

Grievance of consumer is hereby dismissed for want of jurisdiction.

Kalyan.

Dated: 3/5/2014

I Agree

I Agree

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

**(Chandrashekhar U.Patil)**  
**Member Secretary**  
**CGRF,Kalyan**

**(Sadashiv 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.

Matter taken up today. Reply yet not filed by Licencee, concerned by Executive Engineer is not present. It is told that he is out of station. Accordingly, Officers of Licencee seeking time.

2] Dispute is brought here as consumer complained to the Licencee on 31/8/2013 about meter not correctly giving reading or meter reader is not right. It is also stated that there was change of meter in Feb. 2012, new meter was provided, however said replacement was not uploaded. Last reading of old meter continued in CPL and bills were issued on average basis. However, in December 2013, heavy bill for 20410 units was issued, quantifying to the tune of Rs.24,720/-.--- Consumer has approached IGRC on 16/1/2014, IGRC rejected his application on 26/2/2014. However, consumer approached this Forum on 19/3/2014. Consumer is having his **peculiar** grievance. However, for want of reply of Licencee, it is not possible to deal those aspects. Admittedly, for dues of 23 months, at a time, demand was made and consumer has paid an amount of Rs.10,000/-, recently which includes previous arrears and current bills. Accordingly, at this stage, we find, it proper to direct the Licencee not to take any coercive action towards disconnection for want of payment of arrears shown in the bill of December 2013. Let Licencee to file it's reply and then matter will be dealt. Matter is adjourned to 23/4/2014 at 14.30 hours.

Kalyan

Dated:7/4/2014

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

**(Chandrashekhar U.Patil)**  
Member Secretary  
CGRF,Kalyan

**(Sadashiv S.Deshmukh)**  
Chairperson  
CGRF, Kalyan

Dated: 23/4/2014

The persons who were present on 7/4/2014 are present. They reported that meter is tested in consumer's presence. Officers of Licencee sought time to file reply to the grievance application, which they are to prepare considering the meter testing report. Now matter is adjourned to 3/5/2014 at 3.00 p.m.



Dated:23/4/2014

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

**(Sadashiv S.Deshmukh)**  
**Chairperson**  
**CGRF, Kalyan**

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Ph- 2210707, Fax - 2210707, E-mail : cgrfkalyan@mahadiscom.in

No. K/DOS/028/909 of 2013-14

Date : 7/2/2014

**MINUTES OF THE HEARING OF THE CASE OF GRIEVANCE NO. K/DOS/028/909 OF 2013-14 IN RESPECT OF MAHENDRA SHRIPATRAO NIRMAL ROOM NO.3, SIDDIVIANAYAK SOCIETY, THANKAR PADA, KALYAN (W), HELD IN THE MEETING HALL OF THE FORUM'S OFFICE ON 7/2/2014 AT 16.00 HRS REGARDING DISCONNECTION OF SUPPLY.**

1. Following persons were present.

S.No.	Name	Organisation
1	Shri Sadashiv S. Deshmukh	CGRF
2	Sau S. A. Jamdar	
3	Shri Chandrashekher U.Patil	
4	Shri Lahange, Nodal Officer & Exe.Engineer	MSEDCL
5	Shri Bharambe –Asst.Engineer	
6	<b>Shri J.D.Kamat-Jr.Asst.-Engineer</b>	
7	Mahendra Shripatrao Nirmal	Consumer Consumer representative
8	Shri Manstri	

2] We all above mentioned persons were present.

3] The matter is taken up today. The reply presented by Licencee. Consumer's representative placed on record precedents, even provided status report of suits, filed by consumer and owner of the premises Mr.Nikam. Plaints of both suits are also placed on record.

4] It is not in dispute that consumer is residing in the premises, wherein there was a supply. It was in the name of owner Shri Nikam and present consumer happens to be the brother-in-law of said Nikam. It is also a fact that supply in the name of Nikam, resulted in PD in July 2012 and in the same premises new connection was given in the name of consumer – Mahendra Nirmal from 15/7/2012. The said connection of consumer is cut off and disconnected on 29/9/2013 and reply is given to the consumer that at the time of seeking connection, he has filed Municipal Tax Receipt bearing his name but subsequently, his name from tax receipt is removed buy the Corporation and on the complaint of owner Mr. Nikam, action is taken by Licencee disconnecting supply, referring to Clause 10 of the affidavit of consumer filed while

seeking connection. It is seen, that consumer and Mr. Nikam already approached Civil Court, by filing suit. Consumer too filed suit for Specific of Performance and Nikam has filed suit for possession of the suit premises, contending that consumer and his family members are trespassers. Even Nikam has sought relief, adding Licencee as a party for restoring his connection, which has resulted in PD. Now considering all the aforesaid aspects, it is clear that Licencee acted on the complaint of Nikam and taken action for cancelling the connection of consumer, that too referring to Clause 10 of Affidavit, filed along with application.

5] In any way, connection was there, there was an objection from Nikam. Nikam, added Licencee and consumer as party in the Court, his prayers are peculiar. However, as consumer's supply is disconnected due to the complaint of Nikam. We find, it is, just and proper to ask Mr. Nikam to attend this matter, if, at all, he is interested, thereby Forum will be able to decide in the matter effectively. Hence matter is adjourned to 26/2/2014 at 12.30 hours ,for attendance of Mr. Nikam.

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

**(Chandrashekar U. Patil)**  
**Member Secretary**  
**CGRF Kalyan**

**(Sadashiv S. Deshmukh)**  
**Chairperson**  
**CGRF Kalyan**