



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/788/947 of 2013-14

Date of Grievance : 11/04/2014
Date of Order: 03/05/2014
Total Days : 23 days

IN THE MATTER OF GRIEVANCE NO. K/E/788/947 OF 2014/15 IN RESPECT OF SHRI NANDLAL MIRCHANDANI SHOP NO 825, OPPOSITE HOTEL FAMILY POINT, SECTION 17, ULHASNAGAR 421003, DIST-THANE, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN, REGARDING REFUND OF ELECTRICITY CHARGES.

Nandlal Mirchandani,
Shop No. 825, Section-17,
Opposite – Hotel Family Point,
Ulhasnagar 421 003,
District-Thane
Consumer No.021510755712)

.... (Hereafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer, MSEDCL,
Ulhasnagar Sub-Divn.-II,

.... (Hereinafter referred as Licensee)

Appearance : For Consumer – Shri Rajput –Consumer’s representative.
For Licensee - Shri Shedge-Dy.Exe.Engineer.

(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. 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 (Electricity Supply Code and other conditions of supply) Regulations 2005'.

2] Consumer approached this Forum on 11/4/2014, contending that though in theft case of electricity bearing No. 1119/2001, which was initiated on 4/12/2001. He is acquitted by the concerned Court on 20/5/2009. Thereafter he approached Licencee on 6/7/2012 for refund of amount deposited by him which was to the tune of Rs.1,85,653/- along with interest. In response to it, amount of Rs.1,85,653/- deposited by him refunded on 7/3/2013 by Licencee, but interest was not paid. Further, he approached every now and then to the Officers of Licencee and Licencee came up with contention that there is no any observation of Criminal Court about payment of interest and that it is mere acquittal, which will not condone the consumer and interest cannot be awarded.

3] In this light, on receiving application, it was sent to the Nodal Officer vide this Office letter No. EE/CGRF/Kalyan/0157 dated 17/4/2014. In response to it, Officers of Licencee attended and filed reply on 2/5/2014 and reiterated their stand that mere acquittal is not sufficient to pay the interest, as already amount of assessment of theft is already refunded to him on humanitarian ground .

4] We heard both the sides, we have gone through the factual aspect, it is just sufficient to mention that consumer was tried for the offence of theft of electricity under the Electricity Act 1910 and new Act i.e. Indian Electricity Act 2003 came into force subsequently, but date of theft is noted as 4/12/2001. It is a fact that consumer/accused is tried by Hon'ble JMFC and consumer/accused was acquitted on 20/5/2009. It is a fact that before conclusion of trial, new Act i.e. I.E.Act 20003 came into force and position was required to be reconciled by prosecuting agency and even Licencee. However, matter is dealt under old Act and acquittal is recorded. However, though, amount assessed for theft is returned in pursuance of consumer's application dated 6/7/2012, interest thereon is not given. It is seen from the papers available on record that opinion of legal advisor was sought by the Officers of Licencee and the Legal Advisor gave opinion on 12/4/2012 and 28/6/2012 to the effect that amount deposited is to be refunded with interest on it as per prevailing RBI rate . Thereafter seeking the details of prevailing bank rate, Officers of Licencee wrote letter to Canara Bank. Said information was received and accordingly even they worked out liability of the said interest which is to the tune of Rs.2,80,622.06 from the date of deposit. However, again opinion was sought from the Legal Advisor and he gave revised opinion on 1/10/2013, stating that interest cannot be paid . Refusal in that line is communicated by the Licencee to the consumer on 21/11/2013. Accordingly, consumer approached IGRC on 6/12/2013, but IGRC not yet decided and hence he approached this Forum on 11/4/2014, suffice it to say precise dispute is , pertaining to whether consumer is, entitled to interest on amount deposited towards the alleged theft of electricity.

5] During the course of hearing, we have gone through the order of Hon'ble Ombudsman Nagpur in Representation No.59/2013 dated 24/7/2014,M/s. M.M.Brothers Grah Udyog V/s. The Superintending Engineer MESDCL, Nagpur, wherein facts were of similar nature as seen in this matter. In that case, Licencee had

refused to pay amount deposited therein. However, in Para 15 of Order of Hon'ble Ombudsman considered the position and observed that when there is acquittal, it is a conclusion that there is no theft and there is no question of any Civil liability . It is further held that if there is no civil liability and once consumer is acquitted from the charge of theft, he was not liable to pay assessed amount. Further, it is observed that consumer is entitled to said refund and ultimately directed refund of amount with interest as per prevailing Bank Rate. We brought this particular precedent to the notice to both sides.

Hence, on the basis of above, we find, in this matter, consumer has approached Licencee for refund of the amount on 6/7/2012, and amount deposited by him refunded on 7/6/2013, but interest was not paid him. Hence, we find that consumer is entitled to interest on the amount of Rs.1,85,653/ from the date of demand i.e. from 6/7/2012. Hence Licencee is liable to pay interest from 6/7/2012 to 7/3/2013 on the said amount of deposit as per Bank Rate. On this count, this grievance is to be allowed. Hence the order.

ORDER

Grievance of consumer is partly allowed.

Consumer is entitled to the interest on the amount of Rs.1,85,603/- as per prevailing RBI rate of interest from 6/7/2012 to 7/3/2013.

The Licencee is directed to pay the above said amount of interest to the consumer within 30 days from the date of receipt of this order and report compliance within further 15 days.

Dated: 03/05/2014.

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.

