



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 22/05/2012
Date of Order : 16/07/2012
Period taken : 54 days

IN THE MATTER OF GRIEVANCE NO. K/E/604/715 OF 2012-2013 OF
SHRI ASHISH DATTATRAYA MORE, DORE WADI, POST - VANGANI
REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL .

Shri Ashish Dattatraya More
Dore Wadi,
Post : Vangani
Tal : Ambarnath,
Dist – Thane : 421 503

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Badlapur East Sub-Division

(Here-in-after
referred
as licensee)

- 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 Agricultural (LT-IV) consumer of the licensee. The Consumer is billed as per Agricultural tariff. Consumer registered grievance with the Forum on 22/05/2012 for Excessive Energy Bill.
The details are as follows :
Name of the consumer :- Shri Ashish Dattatraya More
Address: - As given in the title
Consumer No : - 021560008063
Reason of dispute : Excessive Energy Bill
- 3) The set of papers containing above grievance were sent by Forum vide letter No EE/CGRF/Kalyan/0399 dated 22/05/2012 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/KC-II/Tech/2795, dated 18/06/2012 through Nodal Officer Kalyan Circle – II.
- 4) We the Members of the Forum heard both sides in the meeting hall of the Forum’s office on 18/06/2012 and 25/06/2012. Licensee represented by Nodal Officer Shri Giradkar, Shri V. H. Kasal, Asstt. Engr. Shi Dhomne Dy. Executive Engineer, and Consumer Shri Ashish More in person was present.

5) The brief facts of the grievance application are :

The consumer is having a farm located at Village Vangani, Dist : Thane. According to him he is a agriculturist and even growing and selling of rose flowers (floriculture) is his main activity which is an agricultural activity. He has a pump installed in his farm for the above purpose.

It is the contention of the consumer that his consumer No. is 021560008063 and meter No. 09451593 which is classified under LT IV under agricultural connection and charged accordingly.

The consumer further states that in addition to his floriculture activity which is his main activity, he is also having a nursery in which he grows plants and sells as per orders supplying to parties at their places. He categorically states that he does not sell these plants on the premises of the farm.

The consumer further submits that a Flying Squad unit of Licensee visited / inspected his farm on 28/02/2012 and issued a supplementary bill for A.G. pump.

It is the contention of the consumer that the Licensee has charged him under Section 126 of Electricity Act 2003 treating the additional activity of nursery as commercial activity and served a bill which is on higher side.

According to the consumer he has paid the said bill under protest. The consumer then approached I.G.R.C. but in vain. He, therefore, approached this Forum with a prayer to direct the Licensee to revise the supplementary bill and issue him the electricity bills as per tariff LT-IV.

- 6) Notice was issued to the Licensee who appeared and filed it's say as under
- (a) The electricity supply was given to the consumer for A.G. pump having 05 HP load.

- (b) On 28/02/2012 a Flying Squad of Unit – 2 Kalyan visited / inspected the premises of the consumer and observed that the consumer is using the electricity supply which is provided to him for agriculture purpose, is using it for nursery purpose.
- (c) The Licensee firmly stated that nursery is a commercial activity and electricity supply provided to the consumer is for agriculture purpose and hence it is breach / violation of agreement.
- (d) The Licensee further stated that we therefore have charged him under Section 126 of Electricity Act 2003 by imposing penalty which is fully justified.

Officers of Licensee supported it with a circular which is placed on record dt. 15/01/2011 of it's competent authority which shows the type of tariff applicable to nursery.

- (e) The Licensee therefore pleaded that accordingly a bill of Rs. 29,260/- was issued to the consumer which is a legitimate demand under Section 126 of Electricity Act 2003.
 - (f) The Licensee therefore prayed to dismiss the grievance of the consumer.
- 7) After going through the records placed before us and the submissions made by both the parties our observations are :
- (a) The circular dated 15/01/2011 signed by Chief Engineer (Commercial) MSEDCL Prakashgad, Bandra in para 5 clause (2) it is mentioned that "If there is mix load i.e. Agricultural + Nursery and there is sell of plants at site then, separate connection should be taken for sell of plants and commercial tariff can be appropriate for this purpose."

The above clause specifically mentions that the sale of plants also should be on site then it be treated as commercial. However, the Licensee neither in it's inspection report or say nor in it's submission specified that the consumer sells the plants on site.

- (b) The Licensee has also failed to prove that the consumer has an extended or additional electricity supply for selling the plants at a separate counter at the same site.
- (c) We have also noted that though the provisional bill is served on the consumer under Section 126 of Electricity Act 2003, no such provisional assessment order passed and no final order is passed and hence it can be said that action taken under Section 126 of Electricity Act 2003 is uncalled by changing the classification.
- (d) We also feel that before charging the consumer under Section 126 of I.E. Act 2003, basic requirements are not followed by the licensee such as :
 - i) No spot panchanama is on the record.
 - ii) No provisional assessment order is on the record.
- (e) Section 126 (1) of Indian Electricity Act 2003 reads as follows :

“If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.”

- (f) The said provision applies only when any allegation concerning electricity line, equipment, machine devices arises between licensee and the consumer and falls within the nature of provision elaborated in Section 126 of the said Act and if the assessing officer after following the basic due requirement as stated above comes to the conclusion that the consumer has misused the electricity supply or unauthorized use of electricity supply has taken place, then only the assessment can be made.
 - (g) However, the Licensee failed to prove that the consumer sales the plants on the site.
 - (h) We therefore, strongly feel that just quoting Section 126 is not sufficient which is to be demonstrate that Section 126 is resorted to by passing order of provisional assessment and then even passing the final order.
 - (i) Accordingly we find Section 126 of Electricity Act is not attracted to this matter and hence there is no question of bar by jurisdiction. In this light we find grievance of consumer is totally correct which needs to be redressed by setting aside the provisional bills issued and giving consequential reliefs.
- 8) Taking into consideration all the above points we are of the opinion that the bill issued by the Licensee dt. 28/02/2012 which is paid by the consumer is to be set aside. Hence we pass the following order :

O-R-D-E-R

- 1) The present grievance of consumer is allowed.
- 2) The assessment carried out by the licensee under Section 126 of Indian Electricity Act 2003 is hereby quashed.

- 3) Licensee is directed to revise the bill, the interest and the DPC if any, levied on the same amount is also hereby set aside.
- 4) Licensee is directed to revise the bill dated 28/02/2012 issued to the consumer and amount paid by the consumer as per the said bill which is excessive, to adjust in the next ensuing bills and compliance be reported within 60 days from the date of receipt of this order.
- 5) 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”.

- 6) 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 : 16/07/2012

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan