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Grievance No.K /E/752/906 of 2013-14

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

Grievance No. /E/752/906 of 2013-14

Date of Grievance :13/01/2014
Dated of Order : 23/01/2014
Total Days : 10 days.

IN THE MATTER OF GRIEVANCE NO. K/E/751/906 OF 2013-14 IN RESPECT OF PURSHOTTAM S. BALLANI, BALLANI COMPOUND, VITTHALWADI, RAILWAY STATION ROAD, ULHASNAGAR- 421 003 REGARDING RECOVERY OF EXCESSIVE ENERGY BILL, THREATE OF DISCONNECTION AND OTHERS.

Purshottam S.Ballani,
Ballani compound,
Vitthalwadi Railway Station Road,
Ulhasnagar-421 003.

Consumer No. 021510144560.

.... (Hereafter referred as consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Deputy Executive Engineer,
Ulhasnagar Sub-Divn.-III
Appearance : For Consumer – In person

.... (Hereinafter referred as Licensee)

For Licensee - Shri Khan- Nodal Officer and Executive Engineer,
Shri Shedge Dy.Executive Engineer
Shri Kasal- Asst. 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, (36/3003). 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] Consumer is having Industrial supply. He approached this Forum with grievance dated 13/1/2014, disputing the amount claimed and notice served dated 8/1/2014 u/s. 56 of Electricity Act, towards recovery and threat of disconnection by Dy.Executive Engineer of Licencee.
- 3] In this matter the papers containing above grievance were sent by Forum to the Nodal Officer of the Licencee vide letter No.EE/CGRF/Kalyan/009 dated 13/1/2014 for urgent hearing as this matter was taken up due to the threat of disconnection perceived. In response, the Officers of Licensee appeared and filed reply on 17/1//2014. Further details are provided on 20/1/2014 and consumer too added the contentions vide his submissions dated 20/1/2014 and 22/1/2014.
- 4] We heard both sides at length on 17/1/2014 and on 22/1/2014. Consumer, in person attended and made submissions. For Licencee Nodal Officer Mr.Khan with

the help of his colleagues made submissions. We have gone through the grievance application, reply filed by Licencee. On the basis of it, matter is being dealt as under:-

5] Consumer summarized the grievances, explaining the previous aspect which is dealt by this Forum, taken to the MERC for execution and Licencee approached therein to the Hon'ble High Court and Hon'ble High Court passed the order, but matter is yet to be decided finally by the High Court. Order passed by Hon'ble High Court not yet complied by Licencee.

This aspect of High Court matter is explained by the other side, contending that said dispute pertains to the year 2008 and the present dispute is in respect of the consumption for the month of January and February 2011. We too verified the total aspect and perceived that as matter is in the High Court, it is subjudice there, hence no any view can be expressed by this Forum pertaining to that aspect. Secondly, even consumer referred to the flaw in the accounting which is involved in the Hon'ble High Court, but we find it is not available for us for any comments it is subject matter before Hon'ble High Court.

6] Consumer referred to main disputed aspect of bill issued, covering the dues for February, 2011, in the month of September 2013. Those dues were sought on the basis of audit note. From CPL, it is seen that in the month of January 2011, status of meter is shown as 'Lock' and previous reading is shown as 5,44,646 and current reading is shown as 561047 and in the column of consumption, units are shown as 11,353. But on actual calculation deducting the previous reading from current reading consumption comes to 16401 units. Further, in the month of February, 2011 consumption is shown, stating previous reading 544646 and current reading is shown as 564665 and adjusted units are shown to the tune of 16400 and actual consumption is shown as 3219 units. It is also contended that in the month of January 2011, previous reading was shown as 544646 and same reading is shown in the month of February 2011 as previous reading. Accordingly, it is contended that in these two months consistently previous reading

shown is same. It is also pointed out that adjusted units i.e. 16400 are shown in the month of February 2011, which are of January 2011. Accordingly, for the month of February, 2011, it is contended that though, consumption is shown as 3219 units, it ought to have been of 19619 and out of it only units consumed shown as 3219 and balance 16400 units remained uncharged.

7] It is the contention of Licencee that this aspect was noted during audit and in pursuance of audit note, the demand towards said consumption is issued and served on the consumer in June, 2013 including the dues for the said month. Accordingly, amount of Rs.1,02,628.29 is pertaining to un-charged consumption for February, 2011. In the CPL placed on record said figure is reflected. It is the contention of Licencee that this amount pertaining to February, 2011 is not paid hence added in the further bills. Time to time adding this figure along with current bill, demand is made and as it was not paid, notice is issued u/s. 56 of Electricity Act on 8/1/2014. It is claimed as per the said demand consumer was to pay amount of Rs.1,73,280/- within 15 days of receiving the notice, failing which supply will be disconnected. Accordingly, it is the contention of Licencee that arrears are not paid, those are required to be paid.

8] On behalf of consumer it is contended that accounts of Licencee are totally mismatching and that aspect is brought to the notice of Licencee and even it is yet to be dealt by Hon'ble High Court. On this basis, it is contended till all these aspects are clear it cannot be said that accounts are correct and liability worked out is not correct. Consumer has taken liberty to add some other grievance showing how bills issued are not correct, how those are not matching and requirement of change of the meter, even added the aspect of connection of supply given to one of the resident in his premises. We find, this matter is taken up for urgent hearing, only on the ground that there is threat of disconnection, demanding the disputed arrears which are for the month of February 2011. As per MERC Regulation, when there is threat of disconnection, this Forum, can directly entertain the grievance. We find, even consumer has approached IGRC, matter is pending

therein, it covers all other aspects also, including the recovery for February, 2011. Hence, aspect of threat of disconnection pertaining to the dues of February, 2011 is a crucial aspect which this Forum considered and taken up for urgent hearing. Other aspects are open for consumer to agitate before the IGRC. It is already concluded above, that as matter is pending in the Hon'ble High Court, contentions prior to 2008, in no way can be dealt, pertaining to accounts, or correctness of recording.

In this light, now, we are required to consider, whether bill for February, 2011, claimed by Licencee is to be paid by consumer or not. Pointedly, we asked consumer whether he had paid this amount, he came up with a contention that he has paid amount of Rs.93,730/- towards the bill of January, 2011 for 16400 units on 25/2/2011, which is reflected in his cash book, but the receipt of payment is not available as it is record of more than three years old. He contended that said payment is made in cash, through ATM of Licencee as payment by cheque pertaining to him, is, stopped by Licencee. On the other hand, as stated above, Officers of Licencee claimed that such payment is not reflected, in the amounts collected on that day, in the ATM. On this count, both sides were directed to place on record their respective material in support. On behalf of Licencee, the total receipt of cash, on the said day, in that ATM, is, placed on record, it is a IT statement and on its basis it is claimed that as contended by consumer, amount is not received. Consumer tried to resist this contention on the ground that accounts of Licencee are not correct, entry may not have been taken. He has not produced extract of his account book. Repeatedly, he tried to take shelter of previous contention which is in dispute before the Hon'ble High Court about amounts though paid, not reflected in the account of Licencee pertaining to consumer. This aspect of accounts, already we have considered above, observing that it is not available for us to comment. No doubt, one more aspect is tried to be brought in, showing cheque bounced and payment made in cash, is not reflected in the account. This aspect is explained by the Officers of Licencee and hence we find that aspect is also not helpful in favour of consumer.

When consumer is claiming that bill for January or February, 2011 paid that too in cash, he is required to place on record material worth believing. Consumer is having industrial unit, maintenance of account and record is important which is to be maintained for various purposes, showing amount received and amount spent, supported with receipts and vouchers. This is an accepted mode of considering the truthfulness of payment. Though, consumer made a statement that it is reflected in his account, he is not able to point out any support to it. In respect of Licencee, entries pertaining to ATM of the alleged date of payment, are, placed on record, therein consumer's alleged payment is not reflected. When consumer is making a positive contention, he cannot seek negative proof from other side. We find, Licencee cannot be asked to prove a negative aspect. Placing on record ATM entries position is made clear and takes care of the burden of Licencee. No doubt, consumer tried to point out some flaw in the said ATM statement. But it is explained by Officer that total collection of that day is shown wherein, payment of consumer is not reflected, hence there is no question of finding any fault in the said statement which is generated in computer (IT). We find statement of consumer, about payment done, is a mute question, which is to be dealt and as stated above, except bare oral statement of consumer there is no any other material and hence, it cannot be accepted. Hence, contention of consumer about payment cannot be accepted.

9] In result, we find, in absence of any material produced by consumer to show that arrears, as pointed out for the month of February, 2011, in the audit note and shown in the month of June, 2013, to the extent of Rs.1,02,628.29 ps is paid by the consumer, his contention cannot be accepted. Said liability subsists. Hence, amount claimed including said arrears and current bill referred in the notice issued u/s. 56 of Electricity Act dated 8/1/2014 cannot be said to be improper. Said liability is to be discharged by the consumer.

Consumer claimed that if he is to pay the said amount, he be given easy installments as dues of February, 2011 are being sought in 2013, he was not responsible

for , what happened in January-February,2011 during which appropriate reading is not reflected and for January, 2011 remark for meter's status is 'Lock'. In respect of 'Lock' and the error in working out the liability on the face of it, there is a flaw, but on noticing the flaw, consumer is made aware and amount is demanded from time to time. When it is not paid notice is issued on 8/1/2014. Hence, no more weightage can be given to the said aspect of flaw.

Question is of giving installment. Non payment from February, 2011 is a factual aspect, perceiving that flaw in June, 2013, that too on the basis of, audit note is clear and from June, 2013, till 8/1/2014 there is no payment. Period of more than six months elapsed. Licencee resisted for any such installments during hearing, contending that amount is overdue, it needs to be paid. No doubt, even with the Licencee there was a prayer by consumer, seeking installments for payment which is not replied or dealt. Accordingly, we find, as amount, is over due there is no any ground for granting installments by the Forum. However, considering the fact that consumer has expressed his readiness to pay the amount, in case his contention is not accepted, reasonable time is required to be given to him, as the time limit for paying the amount expires today i.e. on 23/1/2014, as per the notice dated 8/1/2014, we find equitably consumer is to be protected till 30/1/2014, directing the Licencee not to act in pursuance of notice dated 8/1/2014, for coercive action, so that consumer can pay the due amount till 30/1/2014. In result, grievance of consumer on that count is to be rejected.

Hence, the order.

ORDER

Grievance of consumer disputing the payment towards January and February,2011 is hereby rejected. However, consumer is given time till 30/1/2011 for making payment pertaining to said period and current bill as per the notice of Licencee dated 8/1/2014 and in this light, Licencee is directed till 30/1/2014 not to proceed with

coercive action of disconnection on the basis of notice issued u/s. 56 of Electricity Act dated 8/1/2014.

Other grievances are open for the consumer to agitate before the IGRC.

Dated: 23/1/2014

**(Chandrakant U. Patil
Member Secretary
IGRC,Kalyan.**

**(Sadashive S.Deshmukh)
Chairperson
IGRC,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.