



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

Date of Grievance : 07/06/2012

Date of Order : 21/11/2012

Period taken : 167 days

IN THE MATTER OF GRIEVANCE NO. K/N/097/728 OF 2012-2013 OF
M/S. KHEMEE DYEING AND BLEACHING WORKS, ULHASNAGAR
REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT ADDITIONAL LOAD.

M/s. Khemee Dyeing & Bleaching Works
Khatri Bhavan,
O. T. Section Road
Ulhasnagar : 421 003

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Ulhasnagar Sub-Division No. III

(Here-in-after
referred
as licensee)

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

- 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 H.T. consumer of the licensee. The Consumer is billed as per H. T. Industrial tariff. Consumer registered grievance with the Forum on 07/06/2012 for Additional Load.
The details are as follows :
Name of the consumer :- M/s. Khemee Dyeing & Bleaching Works
Address: - As given in the title
Consumer No : - 021510329977
Reason of dispute : Additional Load
- 3) The set of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0457 dated 07/06/2012 to Nodal Officer of licensee. The licensee filed reply vide letter No. SE/KC-II/Tech/3011, dated 29/06/2012 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 02/07/2012, 10/07/2012, 18/07/2012, 27/07/2012 and 30/10/2012. Licensee represented by Nodal Officer Shri Giradkar, Shri Pawankumar Kachod Executive Engineer, Shri V. H. Kasal, Asstt. Engr. Shri Shendge Dy. Executive Engineer and Consumer Shri C. K. Khatri was present.

- 5) M/s. Khemee Dyeing & Bleaching Works is having electric supply through three consumer numbers, those are :

Sr. No.	Consumer No.	Load	Date of connection
1.	021519013042 – H.T.	300 KW	28/12/1995
2.	021510329977 – L.T. - V	70 HP	04/10/1982
3.	021510230466 – L.T. - V	26 HP	25/05/1979

This consumer sought additional load to 55 HP in L.T. – V connection of 70 HP i.e. aforesaid Sr. No. (2), thereby sought its enhancement upto 125 HP.

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|----|--|------------|
| a) | Application for additional load was submitted on | 17/02/2009 |
| b) | Additional load was sanctioned on | 19/05/2009 |
| c) | Firm Quotation was given on | 06/06/2009 |
| d) | Payment towards it for Rs. 27,825/- done on | 01/06/2009 |
| e) | Agreement signed on | 07/07/2009 |
| f) | Sanction released on | 28/07/2009 |

Inspite of sanction released on 28/07/2009 immediately it was not connected and further developments took place as under :

- | | | |
|----|---|------------|
| g) | Visit by the Officers of Testing Division to consumer site on | 14/08/2009 |
| h) | In pursuance of testing done, Executive Engineer Testing | 17/08/2009 |

Division addressed a letter dt. 17/08/2009 to Executive Engineer O&M Division, Ulhasnagar – I about the factual position that three connection are in the premises, all are in one name, one is H.T. and two are L.T., purpose of all is the same i.e. Dyeing & Bleaching. It was communicated that action is required to be

taken to regularize these connections as per the prevailing rules and to seek N.O.C. from Competent Authority before releasing load.

- i) On the basis of visit of officers of Testing Division, Dy. Executive Engineer Ulhasnagar Sub-Division No. 3 addressed a letter dt. 26/08/2009 to the consumer pointing out that there are 26/08/2009 three connections in the same premises for the same consumer, hence it is not possible to release additional load of 55 HP as per prevailing rules. Further it was suggested that consumer should either apply for clubbing of the three connections and enhance Contract Demand of H.T. connection or shift the remaining two numbers of connections to other location or apply for additional load of H.T. connection. In spite of such developments, matter was pending and proposal was given for shifting by the consumer.
- j) Consumer addressed a letter to the Officers of Licensee 04/09/2010 on 04/09/2010 submitting it on 06/09/2010 for shifting the meters within the premises.
- k) Again he addressed a letter of aforesaid nature 07/10/2010 on 07/10/2010.
- l) Both above two letters are replied by the Dy. Executive 28/10/2010 Engineer Ulhasnagar Sub-Division No. 3 on 28/10/2010 and it is informed that shifting cannot be considered, it is not feasible in view of regular routine maintenance, inspection and readings etc. further requested for clubbing of all connection and seeking enhancement of Contract Demand of H.T. connection.

- m) Aforesaid letter dt. 28/10/2010 is replied by the consumer on 04/11/2010 communicating that request for shifting of connection was as per the advice of the officers of Licensee in Letter dt. 26/08/2009. Further clarified that HT & LT connections are at different places and for different purposes. However, a pertinent question is raised asking how the Licensee is going to repay the amount collected for load sanction on 28/07/2009 and cable connected from pole to Junction Box and meter is lying in the office, all this involves quantum of several thousands. 04/11/2010
- n) Executive Engineer Ulhasnagar Division – I replied on 14/01/2011 to the consumer & in reply to his letter dt. 07/07/2010, 13/09/2010 and in column No. 4 towards sanctioned additional load it is communicated that matter is in progress and will be finalized within a week. 14/01/2011
- o) Even said letter is further modified by way of corrigendum dt. 21/03/2011 and aforesaid communication is modified and directed to be read as 'Already sanction and release of additional load is held up due to some technical problem as pointed out by the Executive Engineer, Testing Division Kalyan'. 21/03/2011
- p) Further consumer has addressed one more letter to the Superintending Engineer Kalyan Circle – II on 28/03/2011 pointing out at Sr. No. (1) additional sanction load is not yet connected. 28/03/2011

- q) Further it is seen on 22/12/2011 Dy. Executive Engineer Ulhasnagar Sub-Division No. III addressed a letter to the consumer and pointed out that consumer has not applied for additional load nor submitted documents to show that meters are separate. 22/12/2011
- r) This particular letter is replied by the consumer on 27/12/2011 and in reply attention was drawn to previous correspondence and agreement signed on 7th July 2009 towards additional load sanction. 27/12/2011
- s) Further development is seen, consumer represented to the Department about improper billing etc. and tried to high light that he is receiving more bill as his sanctioned load is not connected and he is forced to pay more amount. Further it is seen that on 25/02/2012 consumer addressed a letter to Superintending Engineer Kalyan Circle – II and reiterated his grievance of sanctioned load not yet connected. 25/02/2012
- t) Even it is seen Dy. Executive Engineer Ulhasnagar Sub-Division No. III addressed a letter dt. 27/02/2012 to the Executive Engineer Ulhasnagar Division – I in this regard enclosing copy of letter addressed to the consumer dt. 22/12/2011. In his letter dt. 27/02/2012 said Dy. Executive Engineer brought to the notice that consumer failed to explain why connection are not clubbed with existing H.T. connection and for want of compliance enhancement load is not released and he sought intimation of this aspect to higher authorities. 27/02/2012

- u) In tune with said letter Superintending Engineer Kalyan Circle – II addressed a letter dt. 02/04/2012 to the consumer asking the consumer to club existing two L.T. connection in H.T. connection and for further enhancement of load in H.T. connection if required, precisely this letter is based for approaching this Forum. 02/04/2012
- v) Consumer filed grievance before this Form 07/06/2012
- 6) As noted above, aggrieved on letter of Superintending Engineer Kalyan Circle – II dt. 25/02/2012 this grievance is lodged on 07/06/2012 and reply is given on behalf of Licensee by Dy. Executive Engineer Ulhasnagar Sub-Division No. III dt. 26/06/2012 to the Nodal Officer and Nodal Officer placed on the record of this Forum on 29/06/2012. On behalf of Licensee it is maintained that clubbing is necessary, unless clubbing is done, additional load cannot be released.
- 7) After said reply of the Licensee consumer gave reply to it directly addressing to Dy. Executive Engineer Ulhasnagar Sub-Division No. III on 07/07/2012 providing copy to the Nodal Officer and even to the Member Secretary of this Forum reiterating the stand already taken.
- 8) This matter was in the process of giving opportunity to both sides which they availed but on 20th June 2012 on behalf of Licensee Executive Engineer Ulhasnagar Division – I intimated to Dy. Executive Engineer Ulhasnagar Sub-Division No. III about load sanctioned to the consumer is cancelled, further asked for refund of payment done for the additional load. As this additional development occurred and brought to our notice during pendency of this grievance, we tried to find out whether this is a

appropriate course followed when matter is already being dealt in a Forum created under Regulation as per Statute. On this aspect the concerned Executive Engineer attended, made his stand clear that there is no any intention to disregard the Forum and he is bound by the directions of this Forum. He clarified he acted on the material available and noticed that initial sanction based on inspection report & feasibility, itself, is not correct and action is being taken against the concerned, as the details are sought pertaining to those persons.

- 9) On behalf of Licensee on 10th July 2012 details of property were sought from the consumer and letter to that effect was written. Even map is drawn by the Engineer of Licensee showing existing position of connections given. On behalf of consumer written note pertaining to the aspect placed on record on 26/07/2012 which is dt. 24/07/2012, he maintained his own stand. Accordingly total arguments were noted on 27/07/2012.
- 10) On the basis of aspect canvassed by both sides dispute is limited to the point whether in one premises, for same purpose there can be more than one connection ? No doubt, consumer is claiming that connections are different, purposes are also different. It will be discussed further but at this stage it is clear that three connections are in the name of same consumer and those are used for industrial purpose. Accordingly consumer is one, three connections are for same purpose. In this regard on behalf of Licensee it is contended that there cannot be more than one connection and if there are more than one connection, then it is to be clubbed. For this purpose heavy reliance is placed by the Department on the Code of

Commercial Instructions (1996) issued by MSEB. A reference is made to Clause No. 1.18.0, 1.18.1 & 1.18.2. Further reference is made to Conditions of Supply based on Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulation 2005 issued by the Licensee issued by the Licensee. More precisely reliance is placed on Clause No. 2.2.5 and 2.2.6. It is contended while reading aforesaid two aspects instructions are issued vide Departmental Circular (Commercial) No. 733, dt. 04/04/2005. On the basis of combined reading of these three provisions it is contended that there cannot be three connections and if those are, consumer is required to club it and if he is not clubbing no any additional connection can be given. No doubt in this matter additional connection is not sought only additional load is sought to a existing connection but during inspection officers of Licensee perceived multiple connections in the name of one consumer for same purposes and hence though load was sanctioned as prayed, payment is done by the consumer, sanction was given, simply connection was to be done which is kept pending and that aspect is reflected in the aforesaid chronology.

- 11) Now at this stage the provisions regarding clubbing are to be looked into and those three (provisions/letter) are reproduced as under for ready reference :

(A) CODE OF COMMERCIAL INSTRUCTIONS (1996)

Clause No. 1.18.0 :

TWO CONNECTIONS IN ONE PREMISES FOR SAME PURPOSE – NOT ALLOWED.

Clause No. 1.18.1 :

In one premises only one connection should be given for one purpose to avoid loss in billing and other complications in the existing connections. Whenever such two connections in one name and in one premises for the same purpose are noticed, one of the connections should be permanently disconnected and agreement be terminated but only after expiry of the initial period of the said agreement. The usual procedure of giving necessary notice for termination of Agreement should be followed.

Clause No. 1.18.2 :

Hence forth, care should be taken by the Engineers In-charge of new service connections and the staff under the control to ensure that there is no connection existing in the premises where the new connection is sought for similar purpose and in the name of same applicant. It should also be ensured that the Board is not misled by applying for new connection in some other name in the same premises only to escape from the condition of the said rule.

(B) CONDITIONS OF SUPPLY BASED ON THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (ELECTRICITY SUPPLY CODE & OTHER CONDITIONS OF SUPPLY) REGULATIONS, 2005.

Clause No. 2.2.5 :

MSEDCL shall not permit any Applicant / Consumer to have two or more independent power supply connections for an identical purpose, in one common premise. In case the Applicant / Consumer intends to use the power supply in a common premise for two different purposes, like Domestic along with Non – Domestic or General Motive Power along with

Non – Domestic, etc. the Applicant / Consumer may separately apply for independent power supply for each of such purposes, which the MSEDCL may permit provided release of such two connections to one common premise for different purposes is found technically feasible.

Clause No. 2.2.6 :

Whenever an Applicant / Consumer is permitted two or more than two separate & independent power supply connections to one common premise, but for different purposes, all such connections shall be liable for action under Section 126 of the Act, if subsequently it is noticed that the respective power supply thus obtained is being used for purpose other than authorised. Such act on the part of the Applicant / Consumer shall be treated as “Un-authorised Use of Electricity” and such Applicant / Consumer shall be liable for proceedings as have been prescribed under Section 126 of the Act.

(C) Ref. PR-3/COS/10344

Date : 04/04/2005

Departmental Circular (Commercial) No. 733

Sub : MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 and MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005.

Ref : PR-3/COS/4610 dated 15/02/2005

The Electricity Supply Code and Standards of Performance of Distribution Licensees, 2005 have already been circulated vide above referred letter. The said booklets of The Electricity Supply Code and Standards of Performance were to be distributed up to the level of Sub-

Divisional in-charge and they were also to be made available for the consumers at large.

The Supply Code and SOP Regulations have been notified and have come into effect from 20/01/2005. As such the provisions of the Supply Code and SOP are to be scrupulously followed from the notified date.

The existing provisions of the Board shall be continued to be followed only in those cases which are not explicitly covered in the Supply Code or Standard of Performance.

It is once again reiterated that all the provisions of the Supply Code and the Standard of Performance shall be followed in letter and spirit.

Sd/-

Technical Director (COM.TRC)

- 12) In this matter while preparing this order we came across the Judgment of Hon. Apex Court i.e. AIR 2010 SCW 4825 "Panjab State Electricity Board V/s. Ashwani Kumar" and we brought it to the notice of both sides, heard them on that point on 30/10/2012. Though consumer assured to re-act further on 02/11/2012, none attended on that date, nothing was added. In the said Judgment Hon. Apex Court in Para 5 and 7 dealt the object and aspect of clubbing. On the said Judgment consumer not made any submissions showing how it is not applicable to this matter.

In this matter it is clear that though at one point of time sanction is granted for additional load on the existing consumer number / meter, it is subsequently cancelled and from time to time consumer was persuaded to seek clubbing of three connections. No doubt, consumer claimed these are not for same purpose, not at same place but material available speaks that

consumer is running industry and use of all these three meters is for consumer's industry, premises is the same. No doubt existing three connections are there. As per policy of Licensee supported with MERC Regulation there cannot be multiple connections for same purpose and towards said policy there is a guide line available to the Licensee for clubbing and such clubbing can be insisted if any new connection is sought. However, if any additional load is sought on existing connection question comes up whether such additional load can be allowed when there are multiple connections and no clubbing is sought. No doubt in this matter feasibility is stated initially, in favor, subsequently against and hence Licensee is not able to proceed with connection and cancelled the sanction itself. No doubt consumer was required to deposit amount, was to bear expenses may be for purchasing wire etc. as per initial sanction. But question is whether in fact any such additional sanction can be given when there are multiple connections for the same purpose for the same premises requires clubbing as per policy of clubbing. We find in the aforesaid Judgment of Hon. Apex Court this aspect is made clear and spirit of said Judgment is to be accepted, none can be allowed to take benefit of additional load without seeking clubbing. In this line further we tried to have the re-action from Officers of Licensee whether the expenses already incurred by consumer can be equitably considered. They submitted as far as possible and if permissible under rules this can be adjusted within permissible limit. Accordingly when this aspect was perceived by the consumer, it was to re-act on 02/11/12 but not reacted.

Accordingly keeping in tune with the Judgment of Hon. Apex Court, we find the action of Licensee though initially sanction was there but subsequently it is cancelled and concluded that there are more than one connection for same purpose. They persued consumer for clubbing which is not followed. No doubt one of the alternative was provided for shifting the connections to different places, this also not found feasible by the Licensee. Accordingly the basic import of the policy framed and which is dealt and up held by the Hon. Apex Court in the aforesaid Judgment is clear itself, hence we find under such circumstances the act of Licensee cannot said to be illegal, the grievance of consumer cannot be upheld.

No doubt on 30/10/2012 when consumer was given opportunity to make submissions towards the aforesaid Judgment of Apex Court, consumer placed on record written statement which covers some other grievances which are not part of this particular grievance and this grievance is limited only for giving additional connection which was sanctioned. Accordingly no any view can be expressed on those grievances which can be agitated with appropriate Forum.

This is a matter which is peculiar in itself. It is taken up from time to time and it required some in depth discussion and finding out legal position. In this process we came across Judgment of Hon. Apex Court which was brought to the notice of both sides and on giving opportunity to both. Hence matter could not be decided within prescribed period.

Hence we pass the following order :

O-R-D-E-R

- 1) The present grievance of consumer is hereby not allowed to the extent of giving additional connection which was sanctioned. Towards the act of Licensee in accepting the deposit and expenses incurred by consumer appropriately those be considered by Licensee by adjusting or payment to the consumer.
- 2) 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”.

- 3) Consumer, as per section 142 of the Electricity Act, 003, 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 : 21/11/2012

I Agree

I Agree

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan