



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 : 16/08/2013
Date of Order : 02/09/2013
Period Taken : 17 days

ORDER IN THE MATTER OF GRIEVANCE NO. K/E/728/862 OF 2013-14 OF G.M. MODULAR PVT. LTD. OF SATIVALI, VASAI (EAST), REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL

G. M. Modular Pvt. Ltd.,
Gala no.08, Bokadia Industrial Estate,
Sativali,
Vasai [E] – 401 208, Dist Thane
Consumer No.002170784742

} (Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Exe. Engineer, Vasai

} (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 & Electricity 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

Grievance No. K/E/728/862 of 2013-14
read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of
2003).

2. The Consumer is having Industrial supply from the Licensee. The Consumer is billed as per said tariff. Consumer registered grievance with the Forum on 16/8/2013.
3. The papers containing above grievance were directed to be served on Nodal Officer by Forum vide letter No. EE/CGRF/Kalyan/0396 dated 16/8/2013 to Nodal Officer of Licensee. The Licensee appeared through its Officers and filed its reply dated 31/8/2013 on 02/09/2013.
4. On behalf of Licensee reply dated 31/8/2013 is submitted. We heard Shri Harshad Sheth, Consumer Representative and Shri P.V. Patil, Dy. Exe.Engineer for Licensee.
5. Considering the argument and material placed on record, following factual aspects are disclosed.
 - a) Consumer had received a provisional bill on 8/12/2011 in connection with the action under section 126 to which Consumer objected on 15/12/2011. Accordingly its hearing was taken on 20/12/2011, however there was no final assessment order. But on 27/5/2013 Dy. Exe.Engineer, Vasai issued a letter communicating that as per provisional bill, Consumer has not paid the dues to the tune of Rs.23,07,360/- which he was to pay within 15 days or to face consequences and it is u/s 56 (1) of Electricity Act. Consumer had addressed letter objecting to it on 13/6/2013. One more letter he has addressed to the Assessing Authority on 15/6/2013 and he has challenged the said assessment and notice contending that there was no final assessment order and action is not correct.

Grievance No. K/E/728/862 of 2013-14

- b) Consumer then approached IGRC on 15/6/2013. However Consumer faced threat of disconnection of supply in tune with aforesaid notice of Licensee on 17/6/2013. He had approached this Forum on the very day by filing Grievance No. K/DOS/012/855 of 2013-14 and mentioned therein that supply is disconnected. He had sought protection.
- c) Said grievance No. i.e. K/DOS/012/855 OF 2013-14 is decided on 26/6/2013 observing that as there is no final assessment order u/s 126 there cannot be any action of disconnection or threat of it as per provisions contained in section 56(2), hence the notice issued by the Officers of Licensee to that effect set aside.
- d) Though matter is dealt by this Forum on 26/6/2013, Consumer claimed that his dispute before IGRC was pending which was filed on 15/6/2013, no order was passed therein. Accordingly, he had filed the present grievance alleging that IGRC had heard the matter but order was not passed, hence he sought relief. He has not made any reference in the Application presented before this Forum specifically about the further development but he has mentioned in the List of Documents enclosed a letter addressed to IGRC on 29/7/2013 and Letter of Advocate of Consumer on 6/7/2013. However, in the documents produced before this Forum he had enclosed Letter of Assessing Authority dated 2/7/2013 which speaks about the subject.

“Final Assessment order u/s 126 of Electricity Act, 2003....”

- e) As per the said letter, Assessing Officer has worked out the dues to the tune of Rs.20,52,050/- in place of amount worked out as per provisional assessment to the tune of Rs.23,07,360/-. Accordingly, as per the said letter, amount is sought. It is clear that on receiving this letter through Advocate, Consumer has addressed letter referred above, i.e. 6/7/2013.

Grievance No. K/E/728/862 of 2013-14

Accordingly, in the Application before this Forum though there is no specific reference to the letter of Assessing Authority dated 2/7/2013 but only highlighted aspect is of IGRC had not passed the order though application is pending from 15/6/2013.

6. In this matter, we tried to reconcile the aspect and during the course of arguments, on behalf of Consumer, it is submitted that even one more letter is addressed to the IGRC towards threat perceived as per the letter of the Officers of Licensee dated 2/7/2013. Legal position we tried to ascertain whether the application filed before IGRC dated 15/6/2013 still effective to the extent of provisional order of assessment passed, in the light of a further development of the order passed by this Forum in grievance no. K/DOS/012/855 of 2013-14 dated 26/6/2013. Action of Licensee seeking recovery only on the basis of provisional order followed by threat of disconnection is set aside and there is further order dated 2/7/2013 as per the letter by the Assessing Authority which he referred as the final assessment. Matter has progressed, stage of provisional assessment is complete, and even final assessment order is passed. Accordingly though original grievance of Consumer before IGRC dated 15/6/2013 is pending. Matter further progressed, and there is a final assessment order. No doubt Consumer is not agreeing to it as a final assessment order but Licensee is coming with a case that it is a final assessment order. When there is a dispute about the nature of that order and that dispute is brought before the IGRC it takes a further course of decision pertaining to the so called final assessment order. We find that though IGRC has not decided the matter within 60 days from 15/6/2013, but Consumer has again approached IGRC making grievance about Assessing Authority's letter dated 2/7/2013 which is said to be a final assessment order. Said grievance is made to the IGRC on 29/7/2013. Now dispute is brought before this Forum pertaining to the order of assessment, i.e. disputed final assessment but there is no contention of threat of disconnection.

During the course of arguments, Consumer Representative submitted that as per the letter dated 2/7/2013 of the Assessing Authority, recovery is being sought along with the regular bill and payment is not being received. to the extent of regular bill n the pretext that total bill is to be paid, Consumer is ready and willing to pay the regular bill keeping the disputed aspect open for decision of IGRC and of this Forum. Accordingly he claimed that the way in which Licensee is acting it leads to a result of making him a defaulter and initiating an action of disconnection which Consumer is perceiving it as a threat of disconnection.

7. On behalf of Licensee it is pointed out that Consumer's claim in the grievance application is limited one but now he is travelling to a subsequent development with IGRC , letters written therein and threat perceived. Officer contended that there is no question of perceiving a threat, if any action is to be taken towards dis-connection of supply on the said ground as per the mandate of law/rules/regulations, 15 days notice is to be given and no such notice is given till this date. Accordingly he submitted so called perception of the threat of the Consumer is not correct. He reiterated that cause of action to approach this Forum directly comes only when there is a threat of disconnection, as on this date no any threat is given, no any notice of dis-connection is issued and that in case if such action is required to be taken definitely, notice of 15 days will be issued and then only action will be taken. Accordingly he submitted that when matter is pending before the IGRC from 29/7/2013 pertaining to the further development, of assessment dated 2/7/2013 before IGRC, hence approaching this Forum without completion of 60 days of approaching IGRC is not permissible and hence this complaint is to be dismissed.
8. Consumer's Representative reiterated his stand of threat perceived and order not passed by IGRC, hence this Forum is able to entertain and decide this matter.

9. Both sides tried to highlight the main dispute pertaining to the action taken u/s 126, procedure followed therein but we find that same substantial question is pending before IGRC. Further we find if matter is before the IGRC and 60 days period is yet to be completed, it cannot be dealt by this Forum.
10. As noted above, it is clear that matter though started before IGRC from 15/6/2013, matter is not decided there, within two months, however, Consumer has again approached IGRC on 29/7/2013, making grievance about the order of Assessing Authority dated 2/7/2013, aspect is under consideration of IGRC from 29/7/2013, 60 days period is not over and hence, as per clause no.6.5 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006, this grievance cannot be entertained by this Forum.
11. In result this grievance is to be disposed off as it cannot be entertained.

Hence the order.

O-R-D-E-R

The grievance application of the Consumer is hereby disposed off as it is filed before completion of period of 60 days of approaching IGRC, i.e. from 29/7/2013 and there is no threat of dis-connection expressed by the Licensee.

Date : 02/09/2013

I Agree

I Agree

(Mrs. S.A. Jamdar) Member CGRF Kalyan	(Chandrashekhar U. Patil) Member Secretary CGRF Kalyan	(Sadashiv S. Deshmukh) Chairperson CGRF Kalyan
--	---	---

(This Order is dictated and declared in presence of both sides on 2/9/2013 and signed today after transcribing.)

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.