



**Consumer Grievance Redressal Forum, Kalyan Zone**  
**Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301**  
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**IN THE MATTER OF GRIEVANCE NO. K/E/355/399 OF 2010-2011 OF**  
**MRS. KALPANA S. SHAH VASAI REGISTERED WITH CONSUMER**  
**GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT**  
**EXCESSIVE BILLING.**

Mrs. Kalpana S. Shah  
Gala No. 08/15,  
Kalpataru Ind. Estate, Chinchpada,  
Waliv, Vasai (East), Dist. : Thane

(Here-in-after  
referred  
as Consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited through its  
Dy. Executive Engineer  
Vasai Road (East) Sub-Dn.  
Vasai, Dist. Thane.

(Here-in-after  
referred  
as licensee)

- 1) 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. This 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 L.T. consumer of the licensee with C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 25/06/2010 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- Mrs. Kalpana S. Shah

Address: - As given in the title

Consumer No : - 001840605783

Reason of dispute: Excessive Energy Bills.

- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/287 dated 25/06/2010 to Nodal Officer of licensee. The licensee filed reply vide letter No. IGRC/VC/CGRC-0355/0399/2010-11/5097, dated 21/07/2010.
- 4) The forum heard both the parties on 23/07/2010 @ 15.30 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, Shri Vinit Sheth representatives of the consumer & Shri S. M. Bangar, Dy. Ex. Engr. representatives of the licensee, attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. Submissions made by each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.

- 5) Consumer has taken electricity connection from the Distribution Licensee (DL) to the company premises situated at Kalpataru Industrial Estate, Chinchpada, Vasai (East) in March 1998. It is contended by the consumer that reading of July 2009 was zero, KVAH reading was excess in Aug. 09 and less in Sept. 09, KVAH cannot be less than KWH and as such entry data for the months Aug. 09 and Sept. 09 was faulty and based on this wrong data, PF penalty was charged as shown in the chart enclosed. It is further contended that reading of December 08 displayed faulty meter and MD & TOD meter readings were not shown, in March 09 meter was replaced showing PF as 1.00 and as earlier months PF was also 1.00 consequently PF penalty charged in this context being excess needs to be refunded vide chart enclosed with interest as per the directions of Hon. MERC / Ombudsman. It is further averred by the consumer that MD tariff and TOD slots are basic components of Tri-vector meter operating system, if any data is damaged by the officials, consumer should not be suffered for this and as such licensee is liable to refund P. F. penalty as per the chart enclosed. It is further the contention of consumer that licensee collected SD and ASD Rs. 12,000 + 7,200 in the year 1998 while taking 40 HP connection. In the year 2004 while extending load from 40 HP to 65 HP again SD and ASD Rs. 7,500 + 4,500 was collected but the same was not displayed in the bills and as such licensee is liable to refund the same. In March 2010 licensee was requested to refund the same with interest but not refunded so far. As regards Security Deposit (SD) it is the contention of consumer that in June 2008 licensee appropriated the amount of SD towards the energy bill showing defaulter consequently they deprived from PPD and interest / DPC was charged from them contrary to the directions

given by Hon. Ombudsman in representation No. 23 of 09 dt. 26/03/09 consequently licensee is liable to refund DPC, PPD and interest as mentioned in the chart enclosed. According to consumer licensee did not supply them correct update copy of CPL for want of which they face difficulty to put forth their grievances. By letter dt. 21/12/09 and on perusing the CPL by letter dt. 28/05/10 consumer requested the Dy. Ex. Engr. Vasai Sub-Division to refund the amounts with interest on the above counts, but not responded therefore they moved the IGR Cell but in vain, consequently consumer lodged the grievance with prayer to direct the licensee to refund the amount of excess P.F. penalty, SD/ASD with interest as per the directions of Hon. MERC / Ombudsman and DPC, PPD and interest while appropriating ASD in June 2008 and further to direct the licensee to furnish correct and update copy of CPL so as to enable them to put forth their grievance properly.

- 6) Licensee filed their reply on 21/07/2010. It is contended that PF penalty as per the guide lines given by Hon. MERC will be calculated. So far zero display on SD/ASD in the bills of the consumer, according to licensee registers at that times are not preserved therefore it is unsafe to refund the amount without receipt and that change over to oracle system is the technical difficulty and on this count "Akhil Bharatiya Grahak Manch" has filed the case before the Hon. MERC bearing No. 93/08. So far refund of PPD and DPC and interest while appropriating ASD in June 2008, it is contended the same will be refunded in next billing cycle. It is further the contention of licensee that CPL has already been furnished and as such grievance application since sans merits be dismissed in limine.

- 7) On perusal of the record and hearing both the parties at length following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a)Whether licensee is liable to refund P F. penalty if collected excess as per the order of Hon. MERC ?	Yes
b)Whether licensee is liable to refund the amount of SD/ASD in the event of zero display/without the production of receipt as per directions of Hon. MERC in case No. 93 of 08 ?	Yes
c)Whether licensee is justified in appropriating ASD amount from the bill of June 2008 ?	NO
d)What Order ?	As per order below

**Reasons**

- 8) At the outset learned representative for the consumer submitted that officials of the licensee have not supplied them correct and update CPL for want of which they face difficulty to putforth their grievances properly. During the course of hearing Forum directed the representative for the licensee to supply correct and update CPL to consumer and accordingly it was supplied. In fact, officials of the licensee are duty bound to supply correct and update CPL copy as and when required.
- 9) It is the grievance of the consumer that licensee charged P.F. penalty contrary to the directions given by the Hon. MERC in Tariff Case No. 116 of 08, dt. 01/08/2009. Learned representative for the consumer inviting our

attention to the applications made to Dy. Ex. Engr. dt. 21/12/09 and 28/05/10 submitted that in the month of August and September 2009 KVAH consumed was wrongly entered without considering the reading of August 09 KVAH and the calculation equation mentioned in the order as above, and as such excess PF penalty recovered vide chart enclosed needs to be refunded with interest. In contra, learned representative for the licensee pointing calculation depicted by the consumer urged with force that RKVAH is to be used as one of it's parameter and not RKVAH (Lag) and further submitted that RKVAH is not equal to RKVAH (Lag) only but it is the vector sum RKVAH (Lag) and RKVAH (Lead). In reply dt. 28/05/10 Dy. Ex. Engr. Vasai Sub-Division pointed out the power factor calculation in the light of MERC Tariff Order. Needless to say Dist. Licensee has to follow the directions given by Hon. MERC. We have gone through the detail order of Hon. MERC dated 17/08/2009 page 239 and also subsequent clarificatory order dt. 12/05/10. In clarificatory order Hon. MERC on page 3/4 stated vide chart :

Power Factor Penalty (Applicable for HT-I, HT-II, HT-IV, HT-V and HT-VI categories, as well as LT-II (B), LT-II (C), LT-III and **LT-V** (B) categories). Whenever the average PF is less than 0.9, penal charges shall be levied at the rate of the following percentages of the amount of the monthly bill including energy charges, reliability charges, FAC and Fixed/Demand Charges, but excluding Taxes and Duties :

Sr.No	Range of Power Factor	P. F. Level	Penalty
1	0.895 to 0.900	0.90	0%
2	0.885 to 0.894	0.89	2%
3	0.875 to 0.884	0.88	3%
4	0.865 to 0.874	0.87	4%
5	0.855 to 0.864	0.86	5%
6	0.845 to 0.854	0.85	6%
7	0.835 to 0.844	0.84	7%
8	0.825 to 0.834	0.83	8%
9	0.815 to 0.824	0.82	9%
10	<b><u>0.805 to 0.814</u></b>	<b><u>0.81</u></b>	<b><u>10%</u></b>

Dy. Executive Engineer Vasai Sub-Division vide reply dt. 28/05/2010 pointed out the calculation as regards charging of PF penalty. On going through the say filed by licensee it seems while calculating the P.F. penalty licensee taken into consideration three months KWH and KVAH readings however as per the directions of Hon. MERC it should be calculated month wise basis since the bill is issued monthly. It is significant to that neither the consumer nor the licensee took pains to place on record energy bill for the month of November 2008. Considering this aspect we find proper to direct the licensee to calculate the P.F. penalty on month to month basis, if the P.F. comes below than 0.9 penalty may be imposed and if it goes above 0.9 incentive should be given to consumer as per directions of Hon. MERC in case No. 116 of 08, page No. 239/240. So far MR – 9 and MRI

report is concerned, it is the duty of licensee to preserve and supply the same to consumer as and when required.

- 10) So far refund of SD and ASD amount in case of non availability of receipts and in the event of zero display due to change over to oracle system learned representative for the licensee submitted that on verifying F-1 register furnishing indemnity bond in the light of update CPL, amount as mentioned in the chart enclosed can be refunded. In the instant case consumer do not have receipts of SD & ASD and there is problem of zero display. Point therefore arises whether without receipts amount with interest can be refunded on furnishing indemnity bond. Learned representative for the licensee submitted that F-1 registers at that times are not preserved therefore it is rather risky to refund amount without receipts. He pointed out that "Akhil Bharatiya Grahak Manch" has filed case No. 93/2008 involving this vital point. Learned representative for consumer urged that F-1 Register is maintained in the Office in which entry of consumer's number, name, date of release of connection, details of S.D. and ASD etc. is recorded and on verifying the Firm Quotations and concerned records in the presence of consumer or his representative, amount of lost/misplaced SD & ASD with interest can be refunded. Learned representative for the licensee all the while submitted that Case No. 93 of 2008 is pending on this count. From the website we collected the copy of order dt. 01/09/2010 passed by Hon. MERC in case No. 93 of 2008. In para 10 (v) & (vi) licensee pointed out in the context of their letter dt. 29/04/09 that on production of money receipts or any other documentary evidence in respect of S.D. after due verification data regarding SD can be



updated and correct amount of SD can be shown in the energy bill in the event of zero display and further pointed out that consumers who do not produce money receipts or any other documentary evidence in respect of S.D. paid, it will be presumed that these consumers have not paid any SD and on this background Hon. MERC in para 19 (ii) directed the licensee to take efforts to correct error regarding zero SD display within six months time. Considering the aspect of zero display, on production of any other documentary evidence in respect of SD paid, the officials of the licensee have to correct the position. As regards lost/misplaced receipts of SD/ASD, on verifying F-1 register, record of consumers in and around the locality and the amounts paid as SD/ASD at the time of new connection, firm quotation and considering prevailing practice of collecting SD/ASD from the respective tariff category, furnishing indemnity bond, hearing the consumers patiently, officials of the licensee to do the needful in the light of the directions given by Hon. MERC without violating the consumers rights under Electricity Act 2003 and the rules.

- 11) So far refund of DPC, PPD and interest while appropriating SD in June 2008, inviting our attention to the complaint dated 21/12/09 and 28/05/10 addressed to the Dy. Ex. Engr. Vasai Sub/Dn. learned representative for the consumer submitted that at the time of getting new connection in 1998 SD was paid however amount of SD was appropriated in June 2008 though consumer was paying the bill regularly. He urged with force that though the bill was paid within discount period their SD was appropriated showing them defaulter and because of this licensee imposed DPC and charged interest thereby they deprived also from the benefit of PPD. In this context

learned representative for the consumer relied on the decision of Hon. Electricity Ombudsman in representation No. 23 of 09 dt. 26/03/09 in case Natural Sugar and Allied Industries V/s. MSEDCL. In the case relied as above, licensee without intimating the consumer appropriated 39.61 lakhs from May 2008 paid bill amount towards the ASD rendering May 2008 bill payment as insufficient therefore licensee included DPC and interest in the bill of June 2008. Hon. Ombudsman pointed out that licensee cannot transfer the amount of ASD to the unpaid bill and treat it as arrears cautioning transferring ASD amount in the main bill would mean allowing interest or DPC on the ASD like any other arrears which is not permitted in the law and contrary to the Supply Code Regulation and further pointed out that licensee's action of appropriating the amount of ASD is disapproved directing licensee to refund the amount including DPC and/or interest if recovered. In the instant case showing the consumer defaulter ASD was appropriated for payment of energy bill of June 2008 thereby the consumer deprived from PPD and DPC / interest was imposed. Considering the facts as above action of the licensee of appropriating SD imposing DPC, PPD and interest is not consonance to the provisions of Section 47 of Electricity Act 2003 and the Supply Code Regulation. On the premise, licensee is liable to refund the amount of DPC, PPD and interest collected while appropriating SD in June 2008 as per the order dt. 26/03/09 referred to above. On going through the records as a whole, and the orders referred to supra, we unanimously find proper to direct the licensee to refund amount of excess P. F. penalty, SD/ASD, DPC, PPD and interest while appropriating ASD in June 2008 and supply correct and update copy of

CPL as and when required by the consumer. Points are answered accordingly and the grievance application will have to be allowed.

- 12) While parting to the matter it is to be noted that this grievance was submitted by the consumer before the Forum and was registered on 16/06/2010. Vide para 6.18 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 Forum has to decide the grievance within a period of two months from the date of receipt. Learned representative for the licensee sought time to file written argument therefore delay is caused in deciding the grievance. Hence the order :

**O-R-D-E-R**

- 1) The grievance application is allowed.
- 2) Licensee is directed to work out the amount of PF penalty in the light of the discussion supra and as per the directions of Hon. MERC and the Ombudsman and to refund if collected excess to the consumer with R.B.I. rate of interest within 30 days and report compliance to the forum within 60 days from the date of receipt of this decision .
- 3) Licensee is directed to refund the amount of SD and ASD with R.B.I. rate of interest to the consumer as per the directions given by Hon. MERC in case No. 93 of 08 dated 01/09/2010.
- 4) Licensee is further directed to refund the amount of DPC, PPD and interest collected while appropriating SD in June 2008 with R.B.I. rate of interest to the consumer as per the directions given by Hon. Ombudsman in representation No. 23 of 09 dated 26/03/2009 within 30 days and

compliance should be reported to the forum within 60 days from the date of receipt of this decision.

- 5) Licensee to furnish update and correct copy of CPL to consumer as and when required.
- 6) The Consumer 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”.*

- 7) As per section 142 of the Electricity Act, 2003 consumer 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 : 28/10/2010

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

(R.V.Shivdas)  
Member Secretary  
CGRF Kalyan

(S.N. Saundankar)  
Chairperson  
CGRF Kalyan