



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. K/E/778/936 of 2013-14

Date of Grievance : 05/03/2014
Date of Order: 21/07/2014
Total Days : 138 days

IN THE MATTER OF GRIEVANCE NO. K/E/778/939 OF 2013/14 IN RESPECT OF SHRI C.V.DESHPANDE,A-11-302,CHANDAN LOK UDHYAN, SANGLEWADI, BAILBAZAR, KALYAN (W) 420 301, DIST-THANE, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN, REGARDING NOT ISSUING THE INSTRUCTION AS PER MERC DIRECTION GIVING APPROPRIATE GAP FOR PAYMENT OF BILL THROUGH "BILL DESK"AND PROVIDING PROMPT PAYMENT DISCOUNT....

Shri C.V.Deshpande,
A-11, 302, Chandan Lok Udhyan,
Sanglewadi, Bailbazar,
Kalyan (W),
Dist. Thane
(Consumer No.020020567563 L-T-I
Residential)

.... (Hereafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer, MSEDCL,
Kalyan (W) Sub-Divn.-III,

.... (Hereinafter referred as Licensee)

Appearance : For Consumer –Shri Deshpande–In person.

For Licensee - Shri Lahange –Nodal Officer/Exe.Engineer.

Shri Bharambe –Asst.Engineer.

Shri Kedar-Asst. Accountant.

(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, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission. 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 (Electricity Supply Code and other conditions of supply) Regulations 2005’.

2] This grievance is brought by consumer on 5/3/2014, contending that he is having supply for residential premises from 24/9/1994 and he is paying bill as per the facility provided by Licencee through ‘Bill Desk’. However, in the said intimation by Bill Desk no time gap of 21 days specified, about the date of issue of bill and due date of payment. Even it is not specified, the date of payment for availing prompt payment discount. He approached IGRC towards his bill dated 25/11/2013 and sought relief, pointing out, how ‘Bill Desk’ has not given the aforesaid details and said Bill Desk introduced by Licencee, acted in breach of MERC directives and there is no such authority available to Licencee for allowing such deviation. He sought direction for compliance as per MERC Regulation and to provide prompt payment discount which is not given.

IGRC passed order on 7/1/2014, disposing off the Grievance Application and noted that grievance of consumer is already taken up, by the concerned Officers

to appropriate Higher Authorities. It is also observed specifically, in following words 'It is instructed to resolve the issue in time bound manner.' Further there is direction to the Licencee for submitting compliance within 45 days from the date of order. However, as there was no any compliance, consumer approached this Forum on 5/3/2014.

3] In this light, on receiving grievance application, it's copy along with accompaniment sent to the Nodal Officer vide this Office letter No. EE/CGRF/Kalyan/0103 dated 5/3/2014. In response to it, Officers of Licencee attended and filed reply on 22/4/2014 and 12/5/2014 and 24/6/2014. Inspite of the notice from this end, to the Licencee to file para-wise reply, it's compliance is not done.

4] This matter being peculiar in it's nature, it was taken up from time to time, discussed, as the Officers of Licencee were claiming that it needs to be taken up, with the head Office and it needs to be dealt, being a policy matter. We granted time as and when sought. Ultimately, no any Higher Officer from Head Office, they could not keep them for this matter. But Officers of Licencee expressed that none from Head Office could attend. It is a fact that this Forum, has, not issued any letter or notice to any of the Officer from Head Office, to attend the matter, but we had directed the Officers of Licencee to place on record the names and details of designation of the concerned officers, who are concerned with this grievance, which is already allowed by the IGRC and directed to comply it within 45 days, but there is no such compliance. In so many words, no such details of compliance are placed on record by the Officers of Licencee. During discussion, they referred to the letter sent to the Higher Authorities, discussion with Higher Authorities and persons related to 'Bill Desk'. Even one Officer Mr. Pathak from 'Bill Desk' was called by the Officers of Licencee, who tried to explain the procedure of Bill Desk. However, in absence of any reply to the grievance of consumer para-wise, we found it, not possible to appreciate

the contention of Licencee. In fact grievance brought before us is, not for seeking any new relief or towards refusal of relief by IGRC but it pertains to non compliance of order of IGRC. Accordingly, what was required to be brought before this Forum, by Licencee, was about the steps taken to comply the order of IGRC.

We are clear that IGRC order is in favour of consumer and there is no question of, we interfering in that order, but we are called upon to deal it's non-compliance. No doubt, in respect of orders of CGRF, it can take the steps required, in case orders are not complied. Said position is clarified in the order passed by MERC in case No. 23/2006 dated 11/10/2006. But, in respect of enforcement or non compliance of orders of IGRC, no any such provision is found in Regulation. In other words, **now we find that if there is any order, passed by this Forum we can consider it's fate.** But, as order of IGRC, is, brought before us, we find it is just necessary to note it and it needs to be directed to be complied. We find, as order of IGRC is self speaking and clear, it needs to be continued and to be implemented by Licencee without any excuse.

5] In the aforesaid discussion, we have concluded that order of IGRC needs to be endorsed and direction is to be given to the Licencee to comply, hence that order will merge in our present order which will be enforceable.

At this juncture, one more incident is, just to be, mentioned and it pertains to the similar grievance filed by consumer, before the IGRC on 16/11/2011, decided on 28/12/2011. **Said grievance was, allowed by IGRC and directed to the Officers of Licencee not to take the grievance casually, and it be complied, taking it through General Administration Department and it be routed through concerned Executive Engineer to the Head Office and appropriate action be taken and Bill Desk be directed to specify the due date. Though said order is passed. It was not complied and consumer being out of the country, he had not followed it.**

The aforesaid fact demonstrates, how it is a consumer, required to run behind the Officers of Licencee, seeking a relief and though IGRC, granted the relief, every care is taken by the officers of Licencee to ignore it and driven the consumer for this unnecessary course. It could have been avoided in time.

6] Though, Licencee is, coming with a case pertaining to Bill Desk. But we are clear that whatever may be the relations amongst Licencee and Bill Desk. It has its own implication. In respect of payment of bill amongst them there seems to be an arrangement, on the basis of agreement. However, if any such arrangement is there, it is required to be in tune with the directives of MERC Regulation pertaining to issuance of bill, giving due date of payment, keeping gap of 21 day and mentioning a date, whereby consumer can make payment at an early date prior to the due date and can avail incentive. These are the requirements which are to be made known to the consumer, by the Licencee as well as any other agency created by Licencee, like that of Bill Desk.

Now the precise dispute brought before the IGRC and reiterated before this Forum, pertaining to this aspect and it is demonstrated that consumer's hard copy of bill issued by Licencee, speaks date of issue 25/11/2011 and due date or last date of payment on it is of 16/12/2013, whereby 21 days gap is shown. Even date 4/12/2013, is, shown whereby consumer is made aware if payment, is, made up to that date, he is required to pay Rs.1110/- instead of Rs.1120/- which he can pay up to the due date of payment i.e. 16/12/2013 and further it is also clarified if payment is done after 16/12/2013, he is required to pay Rs. 1140/-. As against it, in the notification of bill, issued by Bill Desk, date of bill is, shown as 27/11/2011 and date of payment is shown as 12/12/2011. Grievance of consumer, is, pertaining to period of gap for paying due amount which is, shown less by four days. In this regard consumer precisely contended that there cannot be any such liberty to the Licencee, through Bill Desk, to reduce the said period and failure to mention therein the date for prompt

payment also affects the Regulation of MERC. Accordingly, it is contended that any arrangement brought in by Licencee, engaging Bill Desk for making recovery of bills, cannot be upheld and cannot be allowed to continue, if it is, in breach of MERC Regulation. In this light, it is contended that he is not required to comment, on the arrangement in between Licencee and Bill Desk. In other words, he submitted that Licencee cannot create any such arrangement which will be in conflict with the MERC Regulation by reducing time gap of date of bill and due date of payment and not mentioning the date available for prompt payment. The Officers of Licencee, have, their own contention, but we find, it is not a dispute which we are required to deal afresh. Already IGRC twice applied the mind, found force in the grievance of consumer and directed the Licencee not to take the grievance lightly and to ensure its compliance.

7] In view of the above discussion, this grievance is to be allowed and Licencee is to be directed to comply the order of IGRC dated 07/01/2014.

8] This matter could not be decided in time as the Officers of Licencee time and again sought accommodation as they were to discuss the aspect with their Higher ups in Head Office and lastly on 24/6/2014, submitted their say which is not a reply parawise to the contention of consumer, consumer submitted response to it on 30/6/2014 and then both argued the matter.

Hence the order.

ORDER

Grievance of consumer is hereby allowed.

Order passed by IGRC dated 7/1/2014, be complied by the Licencee in its spirit as discussed above ensuring that as per the MERC Regulation, appropriate material dates are reflected towards date of bill, due date of payment and date of availing prompt payment discount in the notification, issued by the Agency created by

Licencee i.e. 'Bill Desk'. Consequently, consumer is entitled to prompt payment discount if not provided due to such non reflection of dates from 28/11/2013 onwards till this date.

This order be complied by Licencee within 45 days from the date of receipt of this order and compliance be reported within further 15 days.

Kalyan

Dated: 21/07/2014.

I agree

I agree

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

(Chandrashekhar U.Patil)
Member Secretary
CGRF,Kalyan

(Sadashiv S.Deshmukh)
Chairperson
CGRF, 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.

Considering the rival contentions of both sides, following are the factual aspects, just to be borne in mind:-

- a] Consumer is having supply to its commercial establishment.
- b] On 17/4/2002, theft case was noted by Officers of Licencee, pertaining to supply of consumer. Accordingly he filed FIR in Police Station which bearing C.R.No.II-57/2002, under the provision of Electricity Act, 2010, Sections 39 and 44. Said matter reached in Criminal Court and it is registered as per Reg. Criminal Case No. 427/2002 on 30/4/2002.
- c] It is a fact that towards the said criminal case, consumer has deposited amount of Rs.55,550/- and payment towards it is done under three different receipts of Rs.1000/- Rs.,54,000/- and Rs.150/-. There is no dispute about this total amount deposited. The said criminal case is tried by Hon'ble Judicial Magistrate, 1st Class, Ulhasnagar and recorded acquittal of consumer/accused on 30/4/2002.

5] After acquittal, consumer approached the Officer of Licencee on 20/6/2013. Thereafter said Officer has sought guidance from his Executive Engineer by writing letter dated 20/3/2014. In between there is correspondence and ultimately Chief Engineer Commercial intimated to the Officers on 19/8/2013 that there is no mention in the order of J.M.F.C.Court for refund of said amount and hence there cannot be any such refund, it be intimated to the consumer.

6] It is a fact that consumer found it fit to went to his feelings about grievance, addressing it to Chief Justice of Bom. High Court, Chief Secretary, Government of Maharashtra, Managing Director of Licencee and other concerned. Even he had approached IGRC, but there was no any order as such dealing the grievance. Accordingly, consumer approached this Forum on 30/6/2014.

7] The stand of Licencee is made known in the reply dated 14/7/2014 and 15/7/2014.

8] On the basis of these aforesaid aspects, now reason raised up due to the acquittal of consumer in J.M.F.C. Court. The case lodged by Licencee, the amount deposited on the allegation of theft to the tune of Rs.55,550/- is to be refunded with interest as claimed by consumer. Before dealing the aspect of merit, it is necessary to **address** first objection raised by Licencee as to whether this grievance is tenable as per Clause 6.7 (d) and 6.8 (b) of MERC (CGRF & Ombudsman) Regulation 2006.

5] During the course of hearing, we have gone through the order of Hon'ble Ombudsman Nagpur in Representation No.59/2013 dated 24/7/2014, M/s. M.M.Brothers Grah Udyog V/s. The Superintending Engineer MESDCL, Nagpur, wherein facts were of similar nature as seen in this matter. In that case, Licencee had refused to pay amount deposited therein. However, in Para 15 of Order of Hon'ble Ombudsman considered the position and observed that when there is acquittal, it is a conclusion that there is no theft and there is no question of any Civil liability. It is further held that if there is no civil liability and once consumer is acquitted from the charge of theft, he was not liable to pay assessed amount. Further, it is observed that

Grievance No. K/E/778/936 of 2013-14 consumer is entitled to said refund and ultimately directed refund of amount with interest as per prevailing Bank Rate. We brought this particular precedent to the notice to both sides.

Hence, on the basis of above, we find, in this matter, consumer has approached Licencee for refund of the amount on **20/6/2013**, and amount deposited by him refunded on **30/4/2002**, but interest was not paid him. Hence, we find that consumer is entitled to interest on the amount of Rs.55,550/- from the date of demand i.e. from 20/6/2013. Hence Licencee is liable to pay interest from 20/6/2013 to 7/3/2013 on the said amount of deposit as per Bank Rate. On this count, this grievance is to be allowed. Hence the order.

ORDER

Grievance of consumer is partly allowed.

Consumer is entitled to the interest on the amount of Rs.1,85,603/- as per prevailing RBI rate of interest from 6/7/2012 to 7/3/2013.

The Licencee is directed to pay the above said amount of interest to the consumer within 30 days from the date of receipt of this order and report compliance within further 15 days.

Dated: 03/05/2014.

I agree

I agree

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

(Chandrashekhhar U.Patil)
Member Secretary
0 CGRF,Kalyan

(Sadashiv S.Deshmukh)
Chairperson
CGRF, Kalyan

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Grievance No. K/E/778/936 of 2013-14

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