



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/359/403 OF 2010-2011 OF MRS.
REENU MOHANDAS ULHASNAGAR : 421002 REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT EXCESSIVE ENERGY BILL.**

Mrs. Reenu Mohandas
U. No. 63/8 Chalta No. 63,
S. No. 67, Near BK 581
Ulhasnagar : 421 002

(Here in after
referred to
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its Dy. Executive
Engineer, Ulhasnagar Sub/Dn No. II

(Here in after
referred to
as Licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "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 (MERC) 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 Three phase LT Industrial consumer (Power Loom) of the Licensee. The Consumer is billed as per Industrial tariff. The consumer registered grievance with the Forum on 01/07/2010 regarding the Excessive Energy Bill. The details are as follows: -

Name of the consumer : Mrs. Reenu Mohandas

Address: - As above

Consumer No : 021510398014

Reason for Dispute : - Regarding Excessive Energy Bill

- 3) The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/305, dt. 01/07/2010 to the Nodal Officer of the Licensee, and the Licensee through Dy. Executive Engineer MSEDCL Ulhasnagar Sub-Division No. 2 filed reply vide letter No. DYEE/UIh-2/Billing/1013, dt. 12/07/2010.

- 4) Since the power supply of the consumer was disconnected, as per his request an emergency hearing was held on 02/07/2010 at 14.30 hrs. in the meeting hall of the Forum. Member Secretary and Member of the Forum heard both the parties. Shri Roopkumar Menghrajani consumer, Shri R. D. Masane, Nodal Officer and Shri A. S. Saluke Dy. Ex. Engr. representatives of the licensee attended hearing. After hearing Forum issued Interim Order vide No. 308, dt. 02/07/2010 and directed the licensee to reconnect the electricity supply of the consumer within 24 hours. Again final hearing was fixed on 27/07/2010 at 16.00 hrs. The Members of the forum heard both the parties at length on 27/07/2010 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri Roopkumar

Menghrajani Consumer, Shri R. N. Gawande Dy. Ex. Engr. Representative 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 the parties in respect of grievance since already recorded will be referred to avoid repetition.

- 5) Electric meter No. 6000008840 was installed in the premises of the consumer in the year 1985 of which multiplying factor was One. This meter was replaced by meter No. 603169358 in the month of July 2005 of 50/5 capacity and Current Transformer (C.T) connected ratio 100/5 Amps giving supply of electricity. The overall Multiplying Factor (M.F.) for calculating energy consumption of units of this meter was 'Two'. The consumer was however billed considering the M.F. as One instead of Two from July 2005. As such the consumer was billed for half of units actually consumed. Licensee raised bill on 15/04/10 of the amount Rs. 06,64,270/- for the period July 2005 to April 2010 considering M.F. Two. According to consumer he was receiving monthly energy bill of the amount of Rs. 8000/- however, all of a sudden he received bill dt. 15/04/10 of the high amount of Rs. 06,64,270/- without giving details thereof and that without giving intimation officials of the licensee disconnected his supply on 30/06/2010 illegally. Consumer requested the licensee to restore electricity but not responded. It is contended that licensee based on M.F. Two cannot claim the amount as mentioned in the bill as per the provisions of the Limitation Act, therefore he is not liable to pay the amount as per the bill which is barred by limitation. Consumer brought this to the notice of Executive Engineer Ulhasnagar by letter dt. 30/06/10 but nothing is done, therefore consumer lodged

this grievance with prayer to direct the licensee to withdraw the bill hopelessly time barred and to restore electricity disconnected illegally. He also requested for Interim Relief of restoration of supply and prayed to grant installments to make the payment if any found due.

- 6) Licensee contended that on 08/04/2010 Flying Squad visited the premises of consumer and on inspection it is found capacity of the meter installed there was 50/5 and C.T. connected ratio 100/5 Amps. however bills were raised applying M.F. One as per the old meter. As per the spot inspection report concerned official directed to check the M-12 report and to make recovery accordingly. On the basis of this report officials of the licensee in the light of CPL vide letter dated 08/04/2010 informed that the consumer's C.T. operated meter was MF Two therefore from the date of installation of new meter i.e. from July 2005 billing to be made considering M.F. Two instead One. Accordingly licensee raised the bill on 15/04/10 for the amount of Rs. 06,64,270.90. This happened due to use of wrong M.F. and not due to wrong CTPT meter. Consumer received the said bill on 17/04/10, however he avoided to pay the bill and eventually on repeated requests paid only Rs. 8080/-. Since consumer did not pay the entire bill amount giving him 15 days notice his supply was disconnected on 24/06/10. However, as per the order of the Forum dt. 02/07/2010 supply has been restored from 03/07/2010. It is the contention of licensee that as per old meter installed in the year 1985 bills were raised applying M.F. One and this continued eventhough new meter installed in July 2005 of M. F. Two. Flying Squad noticed the said error and pointed out to rectify the same, therefore bill under dispute raised and issued on 15/04/2010. Consumer avoided to make the

payment therefore his supply was disconnected. It is contended consumer is liable to pay the entire bill amount and on this background grievance being devoid of substance be dismissed.

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

Points	Findings
a)Whether consumer is liable to pay the entire amount mentioned in the bill dated 15/04/2010 ?	NO
b)How much amount consumer is liable to pay to Licensee ?	As per Order below
c)Whether consumer is entitle for installments to make the payment found due ?	YES
d)What Order ?	As per Order below

Reasons

- 8) Licensee placed on record spot inspection report dt. 08/04/10. This report indicates meter installed in the premises when accuchecked was having 50/5 capacity and Current Transformer (C.T) connected ratio 100/5 Amps giving supply of electricity M.F. Two. Concerned Flying Squad Officers advised to check the M-12 to know the M.F. On checking M-12 in the light of CPL it is noticed bill was raised applying MF One instead of Two thereby bill assessed was less 50%. Based on the report the Dy. Executive Engineer made proposal to assess the bill and recover amount from the installation of new meter i.e. July 2005 till the date of inspection i.e. April 2010 applying MF Two and accordingly licensee raised bill dt.

15/04/2010 of Rs. 6,64,270/-. Consumer challenged the said bill on the ground that details thereof were not enclosed and that it was hopelessly timebarred. Consumer shown inability to pay the amount in lump-sum and prayed for installments.

- 9) On careful scrutiny of CPL filed on record from the date of installation of old meter No. 6000008840 indicates old meter was of M.F. One and that new meter was installed in July 2005 of M.F. Two. Consumer continued to bill as per old meter of which M.F. was One. This mistake continued till the inspection of Flying Squad. This happened due to use of wrong M.F. and not due to wrong CTPT meter. Considering this meter's capacity billing was required to be made applying MF Two, however unfortunately due to sheer negligence on the part of concerned officials of licensee MF Two remained to be fed to computer and the billing was made as per the old meter's MF One, thereby licensee was put to loss.
- 10) Flying Squad noticing the capacity of the meter and C.T. ratio on 08/04/2010 apprised to check the M-12 in the light of CPL and to make recovery. As stated above CPL mentions installation of new meter of the capacity to which MF applies Two however, bills were assessed applying MF One therefore obviously consumer was and is liable to pay bill applying MF Two instead One. In this context licensee raised and issued the bill under reference dated 15/04/2010 running in lacs. Point crops on here as to whether licensee can demand bill amount from April 2005 i.e. more than the period of two years. Consumer challenged the bill on the ground of limitation. Learned representative for the consumer relying on Section 56 (2) of I.E. Act urged that the licensee though under the

pretext of mistake cannot recover any sum for the period more than two years.

Section 56 (2) of the I. E. Act 2003 states "Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."

In the case in hand due to mistake on the part of the officials of the licensee bill was assessed applying M.F. One though the meter was installed there in July 2005 was of M.F. Two. Section 56 (2) balances the interest of both the licensee and the consumer. On one hand it empowered the licensee to disconnect the supply of electricity in case of neglect to pay. On the other hand responsibility is casted on the licensee to claim and recover the arrears within two year from the date when such a sum becomes first due. Two years is an adequate period available to the licensee to raise the bill towards the arrears if remained unclaimed for any reason which in this case was due to manual error. In such a situation it would be unreasonable to interpret the provision of Section 56 (2) in a manner to give a blanket authorization to the licensee without any time limit to claim the old arrears if any. Moreover, upon issue of bill in keeping with the provision of Section 56 (2) the licensee is free to recover the same by the remedy permitted under the Law i.e. by way of suit. This gives sufficient latitude to safeguard the interest of the licensee. This indicates the claim of the licensee does not extinguish the period of limitation but only the remedy gets barred.

- 11) Licensee has raised the bill under dispute on 15/04/2010 for the period from July 2005. Licensee can claim the arrears for a period of two years as per the provisions referred to above preceding the demand i.e. for a period beginning from April 2008 to March 2010 only and not before. This finds support from the observations made by Hon. High Court and the orders passed by the Hon. Electricity Ombudsman. Hon. Ombudsman in Representation No. 60 of 2009 dated 01/07/2009 clarified that Distribution Licensee is not entitled to recover past arrears raised by way of bill for more than two years preceding the date of demand. Relying on the decision supra the case in hand in which licensee has claimed the recovery for the period more than two years will have to be quashed and that consumer is liable to pay the sum for the period of two years only.
- 12) It is seen from the reply given by Dy. Executive Engineer Ulhasnagar dated 12/07/2010 for non payment of arrears consumer's supply was discontinued on 24/06/2010, however this Forum by Order No. 308, dated 02/07/2010 restored electricity on 03/07/2010. According to consumer he is regularly paying electricity bill. Applying MF Two bill amount will be doubled i.e. approx. Rs. 16,000 to 18,000/- and in the given position it is rather difficult for him to pay the double amount in lump-sum. We find force in this contention of consumer. On going through the records and the circumstances referred to above, we find proper to allow the consumer to pay the arrears within five equal monthly installments.
- 13) It is thus clear consumer is not liable to pay the entire amount mentioned in the bill under dispute and that he is liable to pay the arrears for past

two years only by installments. In view of the position discussed supra, grievance application will have to be partly allowed and points are answered accordingly.

- 14) While parting with the matter it is relevant to mention that the old meter of which M. F. was One has been replaced long back in the year 2005 and that in the year 2010 i.e. after about five years when the Flying Squad inspected the site noticed the meter installed there was of M.F. Two and thereafter officials of the licensee raised bill under dispute. Had Flying Squad not visited the site, error would not have been noticed resultantly licensee would have suffered heavy loss and that in fact as seen from the bill licensee suffered loss running in lacs. It is utter negligence on the part of the officials concerned in as much as update CPL clearly indicates meter No. 6003169358 having capacity of Two MF installed in July 2005 only. It is therefore high time to check the erring officials to avoid mistakes in future, therefore the licensee will have to be directed to find out the erring persons and to take appropriate action against them and to report compliance. Hence the order :

ORDER

- 1) Grievance application is partly allowed.
- 2) Bill raised by the licensee dated 15/04/2010 is quashed in so far as the recovery for the period more than two years.
- 3) Licensee is directed to rework the arrears in the light of the discussion supra for the period from April 2008 to March 2010 within 45 days from the date of receipt of this order.

- 4) Consumer to pay the arrears within five equal monthly installments and the first installment shall be paid by the end of October 2010.
- 5) Licensee to enquire and to take appropriate action against the erring officials and to report compliance.
- 6) Compliance should be reported within 60 days from the date of receipt of this order.
- 7) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”

Representation can be filed within 60 days from the date of this order.

- 8) Consumer, as per section 142 of the Electricity Act, 2003, can approach Maharashtra Electricity Regulatory Commission at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

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” within 60 days from the date of this order.

Date : 17/08/2010

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan