

Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 11/10/2013
Date of Order : 20/11/2013
Period Taken : 40 days

IN THE MATTER OF GRIEVANCE NO. K/E/736/877 OF 2013-14 OF MANKOOS PLASTIC COMPANY (SHRI KULDEEP SINGH MANKU) OF ULHASNAGAR-3, DIST-THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL

M/s. Mankoos Plastic Company
(Shri Kuldeep Singh Manku),
House Opp. Barrack No.729,
Ulhasnagar – 421 003, Dist-Thane
Old Consumer No.(3-ph Industrial-15 HP) –362174
New Consumer No.(3-ph Industrial-15 HP)-021510137458

(Here-in-after
referred
as Consumer)

v

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Exe. Engineer, Ulhasnagar-S/Dn-II.

(Here-in-after
referred
as Licensee)

Appearance :- For Consumer - Smt. Satwant Kaur, Consumer's Representative
For Licensee - Shri A.N. Khan, Executive Engineer cum Nodal Officer,
Shri S.H. Nemade, Dy. Exe. Engineer

(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 was having Industrial as well as Commercial connections but his Industrial connection resulted in P.D. and other connection continued. However, P.D. dues of Industrial connection were diverted and shown in the Commercial connection and aggrieved by it, the Consumer filed grievance before this Forum on 11/10/2013.
3. Letter was sent to Nodal Officer bearing no.EE/CGRF/Kalyan/0447 dated 18/10/2013 to which he appeared and endorsed the reply dated 25/10/2013, submitted by Dy. Exe.Engineer, Ulhasnagar S/Dn-II.
4. On the basis of material placed on record and arguments advanced, following factual aspects are disclosed:-
 - a. Consumer was provided with electric supply on 17/3/1971. Those were two connections. One connection was on three-phase for Industrial purpose of 15 HP load bearing Consumer no.362174 and subsequently allotted with Consumer No. 021510137458 (PC-8). Second connection on the same day was single phase for commercial purpose bearing Consumer no. 362172 and subsequently allotted with Consumer no. 021510136940 (PC-4). Billing units for both these meters were different; meters were provided in the same premises.
 - b. Industrial meter resulted in P.D. but the exact date of P.D. is not known. As contended by the Officers of Licensee it might have been in the month of April & May 1996 and they contended that as on the date of P.D. arrears were to the tune of Rs.45,626.38 and interest thereon was of Rs.11,613.21.

This particular amount is sought from Consumer after the visit of the Accounts Officer, Kalyan Zone in March 2004 who directed that this liability of P.D. connection be diverted to the Consumer's Commercial connection. Letter pertaining to said aspect dated 31/7/2004 of Chief Accountant, Kalyan Zone is placed on record. Accordingly, when this amount was demanded the Consumer raised objections to the contentions of the Licensee. To that effect Consumer has addressed letters to the Exe. Engineer of the Licensee dated 22/6/2004, 17/12/2004, 22/11/2005, 3/2/2007 & 6/3/2007. None of these letters are replied or complied by the Licensee. Even the Consumer addressed letter on that count to the Nodal Officer on 1/8/2007 to which there is no reply. Even the Consumer approached IGRC on 31/10/2007 and 19/12/2012, there are no orders passed by IGRC. There is no any response even in this matter pertaining to the result of those matters taken to IGRC. Simply, it is seen that towards the dues as pointed out by the Accounts Officer in the year 2004 amount is added in residential connection of Consumer which is separate one and carried forward and towards that total dues, letters are written demanding the said sum and in default to face action.

- c. It is contended by the Licensee that their total correspondence prior to July 2005 is totally damaged during heavy rains on 26/7/2005. On the other hand, in reply the C.R. submitted that bills issued prior to the P.D. are not available as there was an incident of fire and the total records burnt. No any action was taken by the Licensee from the year 1996 to 2004 to recover the amount of P.D. resorting to the different modes available, including Recovery Suit.
5. Now short question for consideration is whether the liability of P.D. meter which was existing in 1996 as alleged, can it be transferred in the year 2004 to

the other Consumer no. of same person pertaining to another supply which is towards commercial use.

6. It is contended on behalf of Licensee that utilization of energy prior to 1996, i.e. prior to the P.D. is not disputed and hence this amount is required to be paid by the Consumer who was using it in the same premises and is having another supply in the same premises. They submitted that legitimate dues are denied and hence there is no any defect of objection or illegality in transferring the dues to the Consumer no. which is alive.

On the other hand on behalf of Consumer it is contended that the so called dues worked out towards P.D. meter are in dispute right from the year 1992, the dispute was raised about defect in the meter which is not addressed and it is submitted that as record is burnt, the Consumer is not able to lay hand on the said complaint. Same is position of the Licensee who submitted that this record destroyed in the year 2005 due to heavy rains, hence their record is not available.

Accordingly, this is the position of allegation from both sides but position is clear that long back in the year 1996 as contended by Licensee meter resulted in P.D. no recovery was sought within eight years; but on the inspecton of Accounts Officer, Kalyan Zone, as per his direction amount of said P.D. connection, transferred to the live commercial connection of Consumer. Now legal position is required to be considered as to whether in such fashion it can be diverted and can it be insisted for payment giving threat of disconnection. Admittedly, towards existing residential supply, bills are regularly paid and there is no any default in paying the charges but the dispute is only of liability of P.D. meter. Only liability of P.D. meter diverted to Consumer No. of residential supply.

7. From the aforesaid factual aspects, it is clear that Licensee claims about Consumer's Industrial connection resulted in P.D. in the year about 1996. Said year is not in dispute but Consumer has sought details from the Licensee about the payments done by him during the period from 1992 to 1996. There is no reply to his letter. Even he has made a grievance that meter was faulty from 1992 and he has complained. About it, there is no any plausible reply from Licensee side, except contending that record prior to 2005 is damaged during heavy rains in July 2005. On the other hand, Consumer claimed that due to fire in his premises, bills showing payment done are also not available.

Mute question now comes up whether after the said P.D. any attempt is done to recover the amount. Admittedly, till March 2004, there was no any such move. For the first time, in Aug. 2004, those dues are added in the other connection, i.e. residential connection of Consumer. Said residential connection was entered in the record in June 2004 but actually it was effected in Oct. 2003. It was a conversion from Commercial to Residential. Accordingly, whatever is the demand is reflected in the statement of dues placed before us, is, from Aug. 2004 which is added to the residential connection which is separate one, in the name of the same Consumer. At the cost of repetition it is to be said that dues from 1996 of P.D. connection not recovered till Aug. 2004, no any Suit was filed, and this speaks that claim is not agitated within three years of due and there is a bar to recover such amount resorting to a Regular Suit in the Civil Court. Consequently, it is clear that when such claim is barred, can it be added following the peculiar mode, transferring it to the Residential supply of the Consumer. Residential supply is having separate Consumer No. Though Consumer is one, two connections are given to him, at no point of time, those connections are clubbed. Unless there is any valid material to show that there is a valid clubbing, any such change, if at all to be done by diverting the dues, it requires some rule or some provision in the Act which the Officers of Licensee

were not able to lay hand. We are also not able to find any such provision which enables the Licensee to transfer those dues after period of three years when claim under the civil remedy is barred. These observations are on presumption that dues were there. Consumer has reiterated that his payment from 1992 to 1996 is not explained to him. Even he had claimed that defect in the meter though agitated from 1992, it is not addressed. It is clear that so called damage of record due to heavy rains, is on 26/7/2005. Consumer has sought relief towards defective meter in the year 2004 but there is no explanation to it. If there would have been an explanation in time, then definitely it would have been a ground available for both sides to effectively place before us the position but this inaction led to the development that there is no material about the grievance of the Consumer towards defective meter. Even there is no material available like that of CPL but it is explained that during the disputed period provision of CPL was not there. Accordingly, the claim of the Licensee is based on the arrears reflected in the year 1996 but what was the position of payment done from 1992 to 1996 and thereafter till 2004 is not forthcoming and this is a vital aspect which creates some doubt about the dues.

8. In view of the above, we find when the claim of the Licensee towards recovery of P.D. dues from the year 1996 to 2004, not followed, then said claim stands barred for recovery and even for transfer to other Consumer No. No doubt, when two connections are given, may be for different purposes, in the same premises and if one of the connections results in P.D. it is independent one to the extent of its use and ultimately resulting in P.D. Its liability is to be discharged by the Consumer and said liability can be recovered by the Licensee. But none of the rules permit for transferring such dues to other Consumer No., may be of same person. We at this stage refrain from referring to any other aspect about the recovery of such P.D. dues as the material towards said dues itself is in dispute. Licensee is not able to throw light on what is the recovery

from the period 1992 to 1996 and 1996 to 2004. Accordingly, we find that diverting the dues of P.D. on the live residential connection of the Consumer after eight years is not supported with any legal provision, hence it is not correct.

As noted above, commercial connection of the Consumer which was existing right from beginning is converted to residential in Oct. 2003 and given effect in the record in June 2004. This aspect of dues pertaining to Industrial supply could have been noted and on its basis, Officers would have acted which is not done.

Time and again, Consumer has taken pains to address his grievance with the Officers of Licensee, even to the IGRC, but there is no any response, except leaving him to run from pillar to post. Consumer has given vent to his feelings on this aspect, in his complaint. He elaborated how he suffered due to abrupt meter of Industrial connection was taken out as per the direction of Departmental Head, Mr. Gurunani, nothing was made known to him about the defect in the meter; at that time, he was required to take care of his family with growing children, heavy responsibility. He claimed that as meter was taken out, Industrial activity could not be continued, he was not able to appropriately support the family and this disrupted his total family life. He added plight of his and wife's lives who are seriously ill and of advanced age.

9. In the light of above, we find that the Licensee is not entitled to divert the said P.D. dues, as it was of more than eight years old and when the dues itself were not supported with any material, more particularly in the light of the dispute raised by the Consumer about faulty meter and absence of record about recovery done from 1992 to 2004. Now this grievance is to be allowed.

Hence the Order.

O-R-D-E-R

- a) The Grievance of the Consumer is hereby allowed.
- b) The P.D. dues covering the previous dues up to 1996 which are added in the year 2004 to the Consumer No. of the Consumer's Residential supply found not legal and proper . Now the Licensee to delete the said added portion of dues and interest thereon shown in the monthly bill of the Consumer pertaining to Residential connection. Licensee is not entitled to divert the said dues to the Residential connection and recover it using any coercive mode, i.e. under threat of disconnecting existing residential connection.
- c) The Licensee to ensure that none of its Officers are approaching the Consumer treating as if Industrial connection is existing.
- d) The Consumer be issued with regular electricity bills for Residential connection henceforth without adding any dues of P.D. connection.
- e) The Licensee to report compliance of this Order within 45 days of receipt of this Order.

Date : 20/11/2013

I Agree

I Agree

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

(Chandrashekhar U. Patil)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan

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.