



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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No. K/E/811/980 of 2014-15

Date of Grievance : 28/07/2014

Date of order : 25/08/2014

Period Taken : 28 days.

**IN THE MATTER OF GRIEVANCE NO. K/E/811/980 OF 2014-15 IN RESPECT OF M/S. SACHIN STONE CRUSHER, S.NO.149, PHALEGAON, TAL.KALYAN, DISTRICT-THANE, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING WRONG ASSESSMENT AGAINST FAULTY METERING AND NOTICE FOR DISCONNECTION.**

M/s. Sachin Stone Crusher,

S.No.149, Phalegaon,

Tal. Kalyan, Dist. Thane

(Consumer No.LT:021510726607)

..... (Hereinafter referred to as Consumer)

**Versus**

Maharashtra State Electricity Distribution

Company Limited though its

Nodal Officer/Dy.Executive Engineer,

MSEDCL,

Kalyan Circle-II, Construction Sub/Divn.

..... (Hereinafter referred to as Licencee)

Appearance for Consumer : **Shri B.R.Mantri-Consumer's representative.**

**For Licencee : Shri Watpade - Addl.Executive Engineer,**

(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 before Forum on 28/7/2014. Consumer had already approached the Officers of Licencee, but his grievance was not considered and he is served with notice u/s. 56(2) by Junior Law Officer dated 23/6/2014. He was asked to pay an amount of Rs.7,89,750/- and if it is not deposited within 15 days from the date of notice, then supply will be disconnected.

3] On receiving this grievance pertaining to threat of disconnection ,it's copy along with accompaniments sent to the Nodal Officer vide this Office Letter No.EE/CGRF/Kalyan/0286 dated 30/07/2014.

In response to it, Officers of Licencee appeared and filed reply on 13/8/2014. In the said reply claim of consumer is resisted, contending that from 7/10/2013 onwards, till meter was replaced i.e. on 14/5/2014, two CTs i.e. R-Phase and Y-Phase were showing consumption 0 (Zero) and it was a defect thereby treating failure of those two CTs, the short fall in noting the units, is, worked out as 66.66%. On the basis of reading noted for remaining one CT and hence there is no legality in the demand.

4] In this matter, we heard both sides. We have gone through the documents and papers placed on record. At this stage, following factual aspects are noted:-

a] Consumer is having supply to it's stone crusher. Till 6/10/2013 there was no dispute about the billing. On 3/5/2014, consumer informed the Licensee about smell

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noticed from the meter box and hence Officers of Licensee acted and on 14/5/14 replaced the said meter. Replacement report is placed on record.

b] After replacing meter, it was sent for testing to Licensee Divn. No.II and meter was tested there. Said authority submitted testing report dated 29/5/2014 and noted that 'R' phase and 'Y' phase shown 0 (zero) current and voltage from 10/3/2014. Further it was mentioned that exact percentage of less recording due to CT failure cannot be determined since Y and B phase voltage are not consistent. Further it was observed that previous data is not available.

c] On receiving said report previous data was made available by Licensee to it's Testing Division vide letter dated 29/5/2014. Thereafter again testing was done and Testing Division gave report, stating the same things as noted in the above report (b) and communicated that failure was, from 7/10/2013.

d] On the basis of these two reports, Officers of Licensee, i.e. Assessing Authority prepared the bill and provided to the consumer. One bill in handwriting dated 26/3/2013, speaks about the quantum Rs. 4,35,380/-, whereas letter dated 23/6/2013 signed for Junior Law Officer, speaks that liability was Rs. 7,89,750/- and it's demand is made u/s. 56(1) giving time of 15 days and cautioned that if amount not paid in time supply will be disconnected.

5] On getting threat of said connection, consumer approached this Forum by filing grievance dated 28/7/2014 on it's registration, Nodal Officer as stated above, served and matter is heard.

6] During the course of hearing, it is disclosed that admittedly two CTs i.e. R-Phase and Y-phase found not giving the correct/exact percentage of less recording, but mentioned that current and voltage for these two phases it is shown as 0 (zero). Though two reports are on record, first report covers the period from 10/3/2014 and further report speaks about the period from 7/10/2013. Accordingly, consumer is, charged from 7/10/2013 till meter was replaced on 14/5/2014. Quantum is clear, from the aforesaid notice issued and served on the consumer. It is of Seven lakhs and odd.

7] Though, as per testing reports CTs were not showing appropriately percentage of less recording but current voltage from those phases noted as 0 (zero) during testing, Assessing officer proceeded on the assumption that these two CTs were

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totally defective i.e. 100% defective and treating failure of CTs @ 33.3% per phase. On this basis that bills issued from 7/10/2013 till 14/3/2014 adding 66.6% consumption and hence adding that particular consumption quantified the bills and issued to the consumer. Precisely dispute is now revolving whether such method of recovering arrears in case of defect noted can be from 7/10/2013 i.e. from the date when defect commenced. Second question comes up whether the Licencee can charge the consumer for 66.6% for failure of these two CTs though in the testing report, there is mention that 'exact percentage of less recording due to CT failure cannot be determined since Y and B phase voltages are not consistent'.

8] Admittedly, this particular matter attracts clause 15.4 of Supply Code, it pertains to relevant portion of the clause applicable to this case reads as under:-

**15.4.1:** Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer's bill shall be adjusted, for a **maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken** subject to furnishing the test report of the meter along with the assessed bill.'

On close reading of this clause, it is clear that in case of defective meter, liability is to be levied on the consumer only for three months prior to the month in which the dispute has arisen. In this matter, no doubt, it is the consumer who brought to the notice of Licencee, on 3/5/2014 about some smell noticed from meter box. Then Officers of Licencee acted and replaced the meter on 14/5/2014. Said replaced meter then tested on 24/5/2014 and thereafter reports of testing submitted on 29/5/2014 and 19/6/2014. Accordingly, these dates are important.

Admittedly, it is the duty of Licencee to maintain the meter in working condition and all things are required to be ensured that there is no defect. It is the responsibility of the Licencee to verify, inspect the said meter. There is no any duty cast on the consumer to monitor and report, about the defect in the meter. Liability of

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consumer arises only when he is not acting as required i.e. if he is engaged in theft of electricity or unauthorised use of electricity for which he is appropriately required to be dealt u/s. 126 and 135 of Electricity Act, of which provisions are of peculiar nature, attracting penalty or punishment. Accordingly, in this matter only because consumer intimated the Officers of Licencee on 3/5/2014, it cannot be said that it is the date of dispute.

Then date of dispute is to be traced, on the basis of exact cause or exact defect noticed. In this matter, on testing, reports are given on 29/5/2014, 19/6/2014 and defect is, noted. Though defect is, noted on those dates, said meter was, taken out from the consumer's premises on 14/5/2014. Hence defect noted during testing is, to be attributed to the date 14/5/2014 and that will be the month of dispute. Accordingly, month of dispute is, 14/5/2014. Precisely, it is falling in the billing month of June 2014, hence any liability if at all to be levied on the consumer, as per the aforesaid clause 15.4.1 of Supply Code, it will be for three months prior to that month of dispute and hence recovery will be only for the billing month of March to May 2013. Hence consumer charged from 7/10/2013 by Licencee is not correct. It is to be restricted only for these three months.

9] In respect of second part, it is clear that though two CTs are found defective, the testing Authority, in clear words maintained that 'exact percentage of less recording due to CT failure cannot be determined since Y & R phase voltage are not consistent.' However, in the initial observation, it is reported by the testing Authority that R phase and Y phase current and voltage and Y phase current is 0 (zero) since 7/10/2013. Accordingly, these are the two aspects required to be read and

one thing is to be made clear that testing authority has not given the exact percentage of less recording due to failure of these two CTs. No doubt, on behalf of Licencee, it is vehemently contended that when there is failure of two CTs and there is observation of 0 (zero) current and voltage even noted by testing Authority. It is to

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be treated as total failure and treating so, bill is, issued, hence calculation on that count is correct.

10] We find aforesaid clause of Supply Code, clearly speaks that the report of testing is, more important and it is to be based. It is to be read totally and not separately or partially. Accordingly, we find Assessing Officer opted to read the said report partially and quantified the short recording as 66.6% (33.3 + 33.3 for both these CTs). But we find that exact percentage is not ascertained or could be ascertained is an aspect noted by Testing Authority, needs to be considered. If, Assessing Officer would have perceived that this observation of Testing report is not clear, he ought to have sought opinion or clarification from the Testing Authority, which is not done. It may happen that there may be some other test available to come to conclusion of exact percentage if available. But it is not resorted to and we find precedence is to be given to the testing report and opinion of meter testing Officer. In this light, we find that two CTs failed, but as per the testing report, exact percentage of less recording due to failure of these two CTs, not ascertained. Accordingly, we find the assumption of Assessing Authority, treating that due to failure of these two CTs 66.6%, such consumption is based, cannot be accepted.

11] If once, it is concluded that liability can be only for three months prior to the month of dispute, then liability as noted above will be for the billing month of March to May 2013. In respect of working out of quantum as per aforesaid Clause of Supply Code, it depends on result of testing. The result of testing is not clear, exact percentage not worked out. Then question comes up for failure of these two CTs what can be the method to charge the consumer. We find there is clue available from the said Clause itself in second proviso which pertains to charging consumer for stopped meter and it refers to the mode of quantifying taking into consideration

previous 12 months average. Accordingly we find it is worth considering. Secondly, previous of healthy consumption is a mode which can be resorted to, but it is a fact that if 12 months average considered, then it will take care of it. If only healthy period is to be considered, then question comes which period will be healthy and

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which will be unhealthy. It is just not proper to go for finding out highest recording for particular months and to accept that one. It is just and proper to follow the principal of average to be worked out of previous **undisputed period** of 12 months. Accordingly, we find, in this matter for three months liability as stated above, the average is to be worked out of 12 months prior to 7/10/2013, which is undisputed period. Accordingly, disputed bills prepared or liability worked out by Licencee against this consumer is to be set aside and Licencee is to be directed to reset and correct it as per above discussion. Accordingly, this grievance is to be allowed.

Hence the order.

### **ORDER**

Grievance of the consumer is hereby allowed.

The liability worked out by Licencee for Rs.7,89,750/- as per the letter dated 23/6/2014 of Junior Law Officer of Licencee is hereby set aside.

Officers of Licencee are directed to work out the liability, only for three months prior to the month of dispute i.e. it is to be worked out for month of March to May 2014 and liability is to be made limited only for these three months and said quantum of liability be worked out by considering average consumption of consumer for 12 months prior to 7/10/2013. The bills already paid prior to March 2014 needs no any interference already paid

The liability so worked out is to be recovered deducting the amount already paid by the consumer for the month of March 2014 to May 2014. Billing already done in routine, before March 2014 to remain as it is.

Above compliance be done within 30 days from the date of this order and compliance report be submitted thereafter within 15 days.

Dated:25/8/2014

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.



