



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

No. K/DOS/031/995/2014-15

Date : 6/09/2014

FURTHER ORDER IN THE GRIEVANCE NO. K/DOS/031/995 OF 2014-15 IN RESPECT OF M/A. BHAGWANDAS ISPAT PVT. LTD. H. NO.20, MIDC ADDL. MURBAD, VILLAGE KUNDAVALI, DIST. THANE, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING THE NOTICE ABOUT DICONNECTION OF SUPPLY.

M/s. Bhgwandas Ispat Pvt Ltd. H.20
MIDC, Addl. Murbad,
Village Kundavali, District-Thane.

.... (Hereafter referred as Consumer)

Consumer No.018019201150-HT)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
MSEDCL, Kalyan Circle-II

.... (Hereinafter referred as Licencee)

Appearance : For Consumer – Shri B.R.Mantri-Consumer's representative.
For Licensee- Shri Khan – Nodal Officer
Smt.P.P.Kale- 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] Consumer bearing No. 018019201150-HT, is, having Industrial supply from 20/7/2001. It was served with notice u/s. 56(1) of Electricity Act dated 22/8/2014 and it claimed that it received on 25/8/2014. As per the said notice, 15 days time, was, granted for paying dues which are quantified to the tune of Rs.1,54,81,227.75 Ps and on receiving the said notice, on the very next day, consumer addressed letter to the Licencee on 26/8/2014, seeking extension of time up to 15/9/2014 and mentioned therein that notice dated 22/8/2014, issued u/s. 56(1) of Electricity Act, received on 25/8/2014. However, on 30/8/2014, supply of consumer is disconnected. Hence, it approached this Forum on 2/9/2014.

3] Considering the aspect of disconnection, in spite of notice, period was yet to be over, which was issued u/s. 56(1) of Electricity Act, this taken up for emergent hearing and issued notice to the Nodal Officer, vide letter of this Forum No. EE/CGRF/Kalyan/330/ dated 3/9/2014.

In response to the said notice, Nodal Officer along with Accountant attended, filed reply.

4] Both sides in tune with their contentions, in the grievance, as well as reply, made submissions.

5] On the basis of grievance application, reply filed by Licencee, arguments advanced, following factual aspects, are, disclosed:-

- a] As noted above, facts are clear up to the letter of consumer dated 26/8/2014, seeking extension up to 15/9/2014.
- b] On behalf of Licencee, it is submitted that there were dues of June-2014 month as per the bill issued in July 2014 and in that regard on 22/7/2014, notice was issued u/s. 56(1) of Electricity Act and dues were to the tune of Rs.71,91,040/-

and as per said notice, time of 15 days, was, granted for paying it and informed that failing which, consumer is to face disconnection of supply.

- c] In the light of said notice dated 22/7/2014, consumer approached Chief Engineer (Commercial) Head Office 24/7/2014 and sought time to pay the said bill. Accordingly matter placed before Competent Authority and Competent Authority, granted time till 25/8/2014.
- d] It is contended that as consumer has not stuck up and complied payment as per the extended date up to 25/8/2014, it was given 48 hours time issuing letter by Superintending Engineer, Circle-II, Kalyan on 26/8/2014 for paying Rs.71,91,040/- within two days, failing which informed about action of disconnection.
- e] It is contended that in spite of said letter issued and served on the consumer on 26/8/2014, it was not complied and hence ultimately on 30/8/2014 supply is disconnected,
- f] It is the contention of the consumer that notice was issued on 22/8/2014. resorting to Section 56(1) of Electricity Act, time of 15 days time was granted for payment of Rs.1,54,81,227.75 Ps. which covers the arrears shown in previous notice dated 22/7/2014. It is contended that when time for payment of said total amount granted for 15 days, which was to expire on 9/9/2014, but action is taken on 30/8/2014, which is not as per the Law. Accordingly, it is contended disconnection, is, illegal act and it ought not have disconnected when valid notice dated 22/8/2014, served on the consumer, on 25/8/2014 was effective and subsisting and time available till 9/9/2014.

6] On behalf of Licencee, it is vehemently contended that it is the consumer who received bill for June 2014, approached Chief Engineer (Commercial) for seeking time and Licencee was pleased to consider and the reasonable time was granted, till 25/8/2014. But there was no payment from consumer during that period. Accordingly, Licencee gave 48 hours by issuing letter on 26/8/2014 and demanded arrears shown in the notice dated 22/7/2014, issued u/s. 56(1) of Electricity Act. It is claimed that in spite of consumer's representation accepted by Higher Authority, time granted till 25/8/2014 and even 48 hours time extended by Officers of Licencee, consumer has not paid the amount and hence action is taken for disconnection, which cannot be said to be illegal. Licencee is to take care of recovery of payment which is due for this purpose, reasonable time, was, granted and if, consumer inspite of availing it, not paying amount, it amounts to taking undue advantage of the situation, only because

notice dated 22/8/2014, issued and time is granted for 15 days. In this fashion, Officers of Licencee supported action of disconnection.

7] The aforesaid facts and contentions are crystal clear, legal action, resorting to section 56(1) of Electricity Act , was, initiated on 22/7/2014, it was not taken to it's logical end, but at the request of consumer time, was, extended up to 25/8/2014. However, Licencee again found it fit to take recourse action to Section 56(1) of Electricity Act and issued notice through Law Officer on 22/8/2014, wherein total arrears including arrears of June 2014 with bill of July 2014 are sought within 15 days receipt of notice and informed, failing which supply will be disconnected.

Admittedly, said notice is received by consumer and it is claimed that said notice was received on 25/8/2014. Not only, he claimed, but in the letter dated 26/8/2014, addressed to the Licencee, clarified that aspect of notice received on 25/8/2014. Accordingly, as per contents of notice dated 22/8/2014 and as per the spirit of Section 56(1) Electricity Act, 15 days time will come to an end on 9/9/2014. However, consumer faced action of disconnection on 30/8/2014 itself. Now, the question comes up whether this action is legal. No doubt, Licencee granted breathing time to the consumer at the request of consumer to pay the amount up to 25/8/2014, pertaining to bill of June 2014. Said amount was not paid till that date. Even further two days time was granted by Officers of Licencee in that period also amount is not paid and hence, it is contended that action of disconnection is taken.

8] We find, notice dated 22/8/2014 is not taken into consideration when two days time was granted vide letter dated 26/8/2014, addressed to the consumer, because legal implication is of utmost importance, which cannot be ignored. Once notice dated 22/8/2014 is issued exercising the option which is statutory one , then the said spirit of statutory provision required to be maintained by Licencee, It is the exceptional additional remedy available to the Licencee, to ensure recovery of dues coercively and if, these are not paid in time, within 15 days after receiving the notice issued u/s. 56(1) Electricity Act, the consumer is bound to face action of disconnection This is a independent additional remedy available to the Licenee to ensure recovery by

resorting to the coercive method and when such exceptional remedy is resorted to then almost all its ingredients requirements, are to be followed. Unfortunately, notice dated 22/7/2014 issued but its effect is brought to an end by further notice issued on 22/8/2014 and again time of 15 days given which cannot be withdrawn and there is no any such provision. In the notice dated 22/8/2014, there is no any Clause about saving the effect of notice dated 22/7/2014. Accordingly, disconnection is fit u/s. 56(1) of Electricity Act and hence disconnection dated 30/8/2014 cannot be upheld. In the result Licencee is to be directed to restore the supply forthwith.

Hence the following order.

ORDER

Grievance of consumer is hereby allowed.

Licencee is directed to reconnect the supply forthwith within 24 hours and to submit compliance report within one week.

Though, now restoration of supply is directed, it is clear that disconnection of 30/8/2014 till this date remained illegal. The effect of notice issued on 22/8/2014 was up to 9/9/2014 and hence this illegal disconnection period is to be considered and 15 days time of that notice, in this light is to be now treated as 15/9/2014. Accordingly, if amount stated in the notice dated 22/8/2014 not paid by consumer till 15/9/2014 then very well, Licencee can resort to the action of disconnection. This particular date of 15/9/2014 is on presumption that Licencee is reconnecting the supply within 24 hours i.e. up to 2.20 p.m. on 5/9/2014.

Dated:04/9/2014

I agree

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

I agree

(Chandrashekhar U.Patil)
Member Secretary
CGRF,Kalyan

(Sadashiv S.Deshmukh)
Chairperson
CGRF, Kalyan

(This order is dictated in presence of both sides on 4/9/2014 and after transcribing it is signed. Already operative order's copy was provided to the parties forthwith as soon as order was passed on 4/9/2014).

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

- c) 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”

- d) 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.



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No. K/DOS/031/995/2014-15

Date of Grievance : 02/09/2014

Date of Order : 04/09/2014

Total days : 2 Days.

IN THE MATTER OF GRIEVANCE NO. K/DOS/031/995 OF 2014-15 IN RESPECT OF
M/A. BHAGWANDAS ISPAT PVT. LTD. H. NO.20, MIDC ADDL. MURBAD, VILLAGE
KUNDAVALI, DIST. THANE, REGISTERED WITH CONSUMER GRIEVANCE
REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING THE NOTICE ABOUT
DICONNECTION OF SUPPLY.

M/s. Bhgwandas Ispat Pvt Ltd. H.20

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Village Kundavali, District-Thane.

.... (Hereafter referred as Consumer)

Consumer No.018019201150-HT)

Versus

Maharashtra State Electricity Distribution

Company Limited though its

MSEDCL, Kalyan Circle-II

.... (Hereinafter referred as Licensee)

Appearance : For Consumer – Shri B.R. Mantri-Consumer's representative.

For Licensee- Shri Khan – Nodal Officer

Smt. A.S.Kale-Asst. Accountant.

OPERATIVE ORDER

Grievance of consumer is hereby allowed.

Licensee is directed to reconnect the supply forthwith within 24 hours and to submit compliance report within one week.

Though, now restoration of supply is directed, it is clear that disconnection of 30/8/2014 till this date remained illegal. The effect of notice issued on 22/8/2014 was

up to 9/9/2014 and hence this illegal disconnection period, is, to be considered and 15 days time of that notice, in this light, is, to be now treated as 15/9/2014. Accordingly, if amount stated in the notice dated 22/8/2014 not paid by consumer till 15/9/2014 then very well, Licencee can resort to the action of disconnection. This particular date of 15/9/2014, is on presumption that Licencee is reconnecting the supply within 24 hours i.e. up to 2.20 p.m. on 5/9/2014.

Dated:04/9/2014

I agree

I agree

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

(Chandrashekhhar U.Patil)
Member Secretary
CGRF,Kalyan

(Sadashiv S.Deshmukh)
Chairperson
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NOTE

Grievance No. 995/2014-15 is decided on 4/9/2012, at 2.20 p.m. Total Order with reasoning was dictated in presence of both sides. Operative of the said order was made available to both sides forthwith and acknowledgement of both sides obtained on the order. Transcription of said order was to be completed which was taken on 5/9/2012. On 5/9/2012, no matters were kept for hearing , hence Forum was not holding sitting. However, Hon'ble Secretary Mr. Patil, called on me at 13.40 hours which I responded at 13.55 hours. Secretary made me aware that there is request being filed for seeking reasoned copy of order and time for reconnection towards compliance of order as it intends to approach Hon'ble High Court. He made me aware that as soon as such written request come to him, he will be reading over those contents. Accordingly at 15.16 hours, Secretary made me aware of the letter submitted by Licencee for the aforesaid reliefs. Hence, it is decided to keep the matter today at 12.30 hours to which I conceded. Accordingly he sent me SMS at 16.35 hours. I did enquire with my Stenographer about the transcription at 15.30 hours. She replied that transcription is over.

Dated: 6/9/2014

(Sadashiv S.Deshmukh)
Chairperson
CGRF, Kalyan Zone



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For Licensee- Shri Khan – Nodal Officer

Smt. A.S.Kale-Asst. Accountant.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

This matter is decided on 4/9/2014 and time was granted to the Licencee to reconnect the supply within 24 hours and on such connection till 15/9/2014 supply was to continue and if consumer failed to pay the amount till then as cited in the notice dated 22/8/2014, then Licencee is entitled to disconnect the supply. It's compliance was sought within 7 days after such reconnection.

Before completion of time of 24 hours which was to over on 5/9/2014 at 2.20 p.m. Licencee approached this Forum with application for extension of time for

reconnection of electric supply by 7 days. Considering this application, consumer's representative was made aware of it and matter decided to take up today. Accordingly, today Consumer's representative attended, he placed on record, letter conveying the non compliance of order. Officers of Licencee attended. Both sides made submissions.

2] On the basis of submissions made, it is clear that Licencee is seeking extension of time of 7days for reconnecting the supply that too on the ground that Licencee intends to challenge this order before the Hon'ble High Court. It is a fact that reasoned order dated 4/9/2014 was dictated fully in presence of both sides and operative order was made available to them as soon as it is transcribed on the very day. However, total order was yet to be transcribed, total order with reasoning is sought by Licencee vide their letter dated 5/9/2014. Accordingly, today matter is taken up, both sides are provided with the copy of order with reasoning and this matter is heard.

3] On behalf of licencee, it is contended that matter is intended to be taken to Hon'ble High Court, hence time be extended . On behalf of consumer, it is claimed that already there is disobedience in the order passed by this Forum and supply is not connected and hence, there is no question of extending the time.

4] During the course of discussion, we tried to find out the powers of this Forum to entertain such application and to extend the time. In the Mah. Electricity Regulatory Commission, there is no such express provision. But in Regulation there is mention of power to the Forum to pass the order as it is found proper in the circumstances. However, even, it is noted that there is order of MERC passed on 11/10/2006, in Case No.23/2006 which is made known to both sides. Wherein there is observation that this Forum can consider and deal the non compliance of the order.

5] Accordingly, one fact is clear that consumer can approach this Forum, if there is non compliance, if, it is so, question comes up whether Licencee can

approach, seeking extension of time which is granted by this Forum. This aspect is argued by Licencee's side, contending that only for challenging the order in Hon'ble High Court, time is being sought for reconnecting of supply hence it can be considered. On the other hand, consumer's representative submitted that no such extension of time, can be granted by the Forum to the Licencee, as there is no provision in the matter when there is non compliance of order.

6] Considering the fact that order is passed by this Forum, giving 24 hours time for reconnection of supply and before completion of said period, Licencee approached for extension of time of 7 days , as it intends to approach Hon'ble High Court, this needs to be considered in appropriate spirit. As right of Licencee to challenge the order in the Hon'ble High Court, cannot be disregarded. Secondly, the provision of Regulation referred above are speaking about powers of this Forum to pass appropriate orders and even Hon'ble Ombudsman in Case No.23/2006 clarified that towards implementation of order passed by CGRF, CGRF can entertain and ensure the enforcement. If the orders can be enforced by this Forum , then very well, when any relief is claimed by Licencee praying for, time to approach the Hon'ble High Court, this cannot be refused if found fit, relief can be granted.

7] As noted above, supply is disconnected on 30/8/2014, consumer approached this Forum on 2/9/2014. Notice was issued to other side on 3/9/2014 and heard and decided on 4/9/2014. Accordingly within two days matter is decided finally. Accordingly, consumer took time of three days to approach the Forum and Forum dealt the matter is within two days, but Licencee intends to approach challenging the order before the Hon'ble High Court and is seeking seven days time. We find, considering the legitimate right of Licencee to approach the Hon'ble High Court, seven days time to reconnect the supply as prayed, is to be granted. Said seven days time if considered from this date i.e. from 6/9/2014, then time of seven days will be up to 12/9/2014, hence time till that date is to be granted. As time of further seven days is

being granted and time is sought before completion of 24 hours, there is no question of dealing the matter towards it's breach, as pointed out by the consumer vide letter dated 6/9/2014. Such aspect can be considered, further if any such situation comes. ***It is made clear that this extension of time of seven days in no way will keep the notice dated 22/8/2014 as valid.***

Hence order.

ORDER

Time of seven days granted to the Licencee to reconnect the supply to the consumer from this date i.e. from 6/9/2014 till 12/9/2014. This time is granted as Licencee intends to approach Hon'ble High Court. This extension in no way will keep the notice dated 22/8/2014 as valid.

Dated: 06/09/2014

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: -

- e) 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.

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- f) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
g) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

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