



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

IN THE MATTER OF GRIEVANCE NO.K/E/073/0083 OF 06-07 OF
SHRI VISHINDAS OTNADAS CHHABRIA REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE,
KALYAN ABOUT SUPPLEMENTRY/AMMENDMENT BILL.

Shri Vishindas Otandas Chhabria

(Here in after

Factory at Fakkar Mandali,

referred to

Shamshan Bhoomi Road Ulhasnagar II.

as consumer)

Versus

Maharashtra State Electricity Distribution

(Here in after

Company Limited through its Deputy Executive

referred to

Engineer Sub-Division II, Ulhasnagar III

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 vide powers conformed 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 L.T. consumer of the licensee connected to their 415-volt network. Consumer is billed as per industrial tariff. The consumer registered grievance with the forum on dated 11/01/2007.
The details are as follows: -
Name of the consumer: Shri Vishindas Otandas Chhabria.
Address: - As above
Consumer No: - 021510713921
Reason of dispute: - Amendment bill of Rs 2,04,538/- of 13042 units for the period from April 2000 to September 2000 on the basis of 72% slow recording on CT operated meter number 9234 as per meter testing report dated 21/11/2000 of licensee.
- 3) The batch of papers containing above grievance was sent by forum vide letter No.0780 dated 11/01/2007 to Nodal Officer of licensee. The letter was replied by licensee vide letter dated 20/1/07.

- 4) All three members of the forum heard both the parties on 01/02/07 & 22/02/2007. Shri Vishindas Chhabria consumer and Shri Anand Chhabria, Shri Ravi Anand, Shri S.W. Pasarkar and Shri S.W. Deshmukh representatives of consumer and Shri M.S.N. Murthy Nodal Officer, Shri V.B. Wani Deputy Executive Engineer, Shri. S. Pashupati Assistant Accountant & Shri R.N. Kher UDC representatives of the licensee attended hearing on 01/02/2007. All above person except Shri Murthy & Shri Kher also attended hearing on 22/02/07.
- 5) Shri Pasarkar, Shri Deshmukh & Shri Ravi Anand took part in hearings on 1/2/07 & 22/2/07. They made certain submissions. Shri Pasarkar on 1/2/07 submitted a written statement covering their oral submissions. Brief summary of submissions made in consumer's application & above said statement, which have relevance & direct bearing in the matter of grievance, are reproduced.
 - a) Consumer is engaged in a business of manufacturing plastic items.
 - b) Licensee inspected the premises of consumer on 21/11/2000 & found that meter number 9234 in service was 72 % slow. The consumer was not present at the time of testing & testing was done in presence of his employee.
 - c) In the month of January 2001 consumer received a bill of Rs 2,04,538/- of 13042 units for the period from April 2000 to September 2000. Licensee also threatened to disconnect supply of consumer for non payment of above bill.
- 6) Consumer made following prayers in his application & statement submitted to forum during hearings.
 - i) Quash the bill & amount of Rs 2,04,538/- demanded by licensee as it is bad in law.

- j) Rs 50000/- paid against above bill to be credited in his future bills with interest @ 12 %.
 - k) Licensee be restrained from disconnecting electric supply.
- 7) Consumer in his submission has also claimed that this case pertains to period prior to June 2003 i.e. prior to Electricity Act, 2003 coming into force. He submitted that the Indian Electricity Act, 1910 was in force during the period of claim of arrears & licensee ought to have approached Electrical Inspector for ascertaining accuracy of meter before raising claim of arrears. Some court cases were cited by consumer in the matter of section 26 of Indian Electricity Act, 1910.
- 8) Shri Murthy & Shri Date during hearing & licensee vide letter mentioned in Para 3 above made submissions. The abstract of submissions are given below.
- i) Consumer filed a Civil Suit No.18 in 2001 in the court of Civil Judge, Civil Court (SD) Kalyan (hereinafter court) on 25/1/01 for temporary injunction against licensee & their staff restraining them to recover the said amount of Rs 2,04,538/- till final disposal of suit & to declare & decree the suit that licensee has no right to recover the said amount.
 - ii) Consumer also filed an application in the said court on same date for mandatory injunction making a prayer to direct the licensee to restore electric supply. Copy of above said application & court order thereon was submitted to forum.
 - iii) As per above order of the court on the application of consumer, licensee accepted Rs 50000/- as deposit on 25/1/01 & restored supply of consumer.

- iv) The said court dismissed the suit No 18 of 2001 on 25/4/05 & the matter stands disposed off.
- 9) Shri Pasarkar consumer's representative in his submission has pointed out that this is a case of period prior to Electricity Act, 2003 coming into force. He said that as per section 26 of the erstwhile Indian Electricity Act, 1910, licensee ought to have approached Electrical Inspector for ascertaining accuracy of meter before raising claim of arrears. We are unable to endorse this view of consumer as in one of the judgments of Supreme court in the case of Utter Pradesh Electricity Board versus Atma Steels (case quoted by consumer in his submission) the apex court held that it is mandatory form & it mandates that any dispute, relating to any meter is correct or not has to be decided upon an application to be made by either party, by an Electrical Inspector. This clearly indicates that the consumer who was an aggrieved party in this case had also not approached Electrical Inspector for decision but opted to approach court.
- 10) The Forum, during hearing on 1/2/07, directed licensee to submit copy of court order dated 25/4/05 in suit No 18 of 2001. The licensee submitted copy of said order on 14/2/07.
- 11) The order passed on 25/1/01 by court in application mentioned in Para 8 (ii) is as follows.

Application is allowed. Defendant (licensee) shall restore electricity supply forthwith on depositing Rs 50000/- with defendant. If the defendant is aggrieved of this order, they are at liberty to move the court by giving 24 hours notice to the plaintiff (consumer).

Issue show cause notice to the defendant as to why exparte temporary injunction should not be confirmed, returnable on 1/2/01.

12) The order passed on 25/4/05 by court in Civil Suit No 18 of 2001 mentioned in Para 10 above is as follows.

Today this suit is fixed for order of dismissal due to no adducing evidence by the plaintiff. Today the plaintiff & his counsel absent since 11.00 a.m. till 3.30 p.m., when called out repeatedly. The plaintiff failed to adduce his evidence, no reason to adjourn the matter without any application placed on record from the plaintiff. The counsel for defendant present. Therefore, the suit is dismissed in default.

13) Shri Date, during hearing on 22/1/07, said that in view of above situation Forum cannot entertain grievance as per regulation 6.7 (d) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

14) Shri Pasarkar submitted that the court has neither passed an order in favor nor against consumer & simply dismissed the suit. The consumer has now decided to approach forum for decision.

15) Now let us take a look to the provision of regulation 6.7 (d) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006. It reads.

***The Forum shall not entertain a grievance,
(d) where a representation by the consumer, in respect of the same grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or***

a final order has already been passed by any such court, tribunal, arbitrator or authority.

16) The matrix of the case has generated following questions, which need to be answered before taking a decision.

a) Is any suit or representation in respect of this grievance has been filed by consumer in any court? If so give details.

b) Is the said suit is still pending before the court?

c) Is the final order has already been passed by the court? If so give details.

17) The answers to the above questions are :-

a) Yes. The consumer has filed a Civil Suit No.18 in 2001 in the court of Civil Judge, Civil Court (SD) Kalyan on 25/1/01 for temporary injunction against licensee & their staff restraining them to recover the said amount of Rs 2,04,538/- till final disposal of suit & to declare & decree the suit that licensee has no right to recover the said amount. Consumer has also filed an application in the said court on same date for mandatory injunction making a prayer to direct the licensee to restore electric supply.

b) No.

c) Yes. The court has already passed final order on 25/1/01 on an application as detailed in Para 10 above. Similarly court has also passed final order on 25/4/05 in above suit as mentioned in Para 11 above.

18) Considering the sequence of events & material on record the forum is of the opinion that this case is outside the ambit of forum as per regulation 6.7 (d) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman)

Regulations, 2006. Thus application of grievance filed by the consumer with forum & registered on 11/1/07 stands disposed off without any order.

- 19) Consumer can file appeal against this decision with the Ombudsman at the following address.

Maharashtra Electricity Regulatory Commission, 606/608,

Keshav Building, Bandra Kurla Complex, Mumbai 51

Appeal can be filed within 60 days from the date of this decision.

Date: - 1/03/07

(Sau V.V.Kelkar)

Member

CGRF Kalyan

(I.Q.Najam)

Chair person

CGRF Kalyan

(D B Nitnawre)

Member Secretary

CGRF Kalyan