



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/232/257 OF 2009-2010 OF
SHRI RAHUL B. PUNAMIA, VASAI REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
EXCESSIVE BILLING.

Shri Rahul B. Punamia
Gala No. 06, Agarwal Udyog Nagar
Ext. 2, Behind Bldg. No. 5,
Village – Waliv, Sativali Road,
Vasai (East), Dist. Thane

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Vasai Road (East) Sub-Dn.
Vasai, Dist. Thane.

(Here-in-after
referred
as licensee)

- 1) 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. This 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 is a L.T.-V above 20 KW consumer of the licensee with C. D. 54 KVA. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 23/04/2009 for Excessive Energy Bills. The details are as follows: -

Name of the consumer :- Shri Rahul B. Punamia

Address: - As given in the title

Consumer No : - 001840853451

Reason of dispute: Excessive Energy Bills

- 3). The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/373 dated 23/04/2009 to Nodal Officer of licensee. The licensee through Dy. Executive Engineer, MSEDCL Sub/Dn. Vasai Road (East) filed reply vide letter No. DYEE/VSI/(E)/B/3981, dated 15/05/2009 in the form of letter addressed to the consumer with a copy to this Forum.
- 4) The consumer has raised these grievances before the Executive Engineer (O&M) Division, MSEDCL, Vasai Division, on 17/02/2009. The said Internal Redressal Cell did not give any hearing to the consumer & also did not send any reply resolving the said grievances to the consumer. Therefore, the consumer has registered the present grievance before this forum on 23/04/2009.
- 5). The Forum heard both the parties on 15/05/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri Harshad Sheth, representatives of

the consumer, & Shri B. D. Shidore, A. E., 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 each party in respect of each grievance shall be referred while deciding each of the grievances to avoid repetition.

- 6). The following grievances raised by the consumer in its letter dated 17/02/09 sent to the concerned Executive Engineer of which copy the consumer has attached with the grievance made before this forum, arise for consideration, and considering the reply dtd. 15/05/09 with CPL filed by the licensee, record produced by the parties, and submissions made by the parties, the finding or resolution on each of such grievance is given against it, for the given reasons.
- 7). As to grievance No. (1) – Regarding refund of excess amount recovered by applying MD based tariff, PF penalty etc. - The Consumer Representative (CR) submits that the licensee has charged MD based tariff to the consumer without 100% metering and its such action is illegal. He relies on zerox copy of operative order dtd. 20.6.08 of MERC in case No.72 of 2007, MSEDCL circular No.81 dt.7.7.08 in support of his such contention. He further submit that as per order dated 12.9.08 of MERC in case 44 of 2008, the licensee can not impose MD based fixed charges, PF penalty and demand penalty/incentive without MD based tariff being made applicable to the concerned consumer but in the instant case, the licensee has applied the above charges or penalties without MD based tariff being applicable to it and hence such action of licensee is illegal. He further submit that thus the licensee has violated the Act, rules and orders of MERC and hence is liable for action under section 142 and 146 of the Electricity Act 2003. He further submits that therefore the licensee be

directed to refund the amounts of such illegally recovered charges together with interest at the rate which it applies to the defaulting consumer. The CR submits that the consumer claims refund of an amount of Rs. 1700/- towards the difference in between the fixed charges as per MD based tariff and HP based tariff and refund of PF penalty of Rs. 46935.61 on this count. ---As against above contention, the LR submits that the licensee has applied MD based tariff from Aug.08 on completion of 100% TOD metering and as per directives given in Clause 10.5 of Com. Circular No.81 dt.7.7.08. He therefore submits that whatever charges based on MD based tariff, are recovered by the licensee from the consumer are correct and legal and therefore the question of refunding the same to the consumer does not arise.

- 8). While deciding the question regarding the applicability of MD based tariff to the LT above 20 KW industrial units, the Hon.Electricity Ombudsman vide order dated 6.5.09 in representation No.33 of 2009, M/s. Crystal Industries V/S MSEDCL, relying on the MSEDCL's circulars dtd. 05.02.09 held that the MSEDCL has suo moto decided to start MD based tariff for LT V consumers from April 09 inspite of 100% installations of MD meters completed in Aug.08 and therefore the MSEDCL is liable to refund the excess fixed charges and PF penalty recovered from such consumer. Therefore following the above referred decision, the licensee is directed to refund the amount of MD charges collected over and above the fixed charges recoverable as per HP based tariff and the PF penalty recovered from the consumer in the period prior to April 09, together with interest at the Bank rate of RBI within 30 days from the date of this decision.
- 9) As to grievance No. (2) - Regarding bill adjustment : The consumer claims that the licensee has added the debit bill adjustment charges of

various amounts such as Rs. 693.28, Rs. 1817 and Rs. 2690.43 i.e. total Rs. 5200.71 in the bills for the billing periods Sept. 07, Aug. 07 and March 07 respectively. The licensee should justify such adjustments and refund if the same are not justified. The licensee claims that all said bill adjustments are taken as per the programme prepared by H. O. IT as per MERC rules and regulations. In view of the facts as discussed above, the licensee is directed to obtain necessary information in respect of above all bill adjustment amounts from the H. O. IT and other record and give the same in writing together with explanation to the consumer within a period of 30 days and refund the excess amount if any, recovered as above together with interest at the bank rate of RBI, by giving it's credit to the consumer in the ensuing bill after 30 days.

- 10) As to grievance (3) – Regarding refund of SD interest for the year 2006-2007 : The consumer claims that in the bill of Sept. 2007, SD interest for 2006-2007 is written. However, credit of the said amount has not been given to the consumer. Therefore, the licensee be directed to give credit of the amount of Rs. 1170 as interest for 2006-2007. As against this, the licensee claims that credit for Rs. 1170 as interest on SD for 2006-07 is given to the consumer in Sept. 07 and the said fact can be ascertain from the CPL.
- 11) There is a entry about giving credit of the amount of Rs. 1170 as interest on SD in the CPL for Sept. 07. In the CPL for the said month, there is a entry of Rs. 1863.28 as the amount of TOSE adjustment. If the amount of Rs. 1170 is deducted from Rs. 1863.28, it comes to Rs. 693.28 and such amount is duly mentioned as the amount of bill adjustment in the bill for the month Sept. 07 (Annex. 2-a). An amount of Rs. 0.32 as interest arrears is mentioned below the above referred amount of bill adjustment in the said

bill and the said two amounts together make Rs. 693.60. The said amount of Rs. 693.60 is duly mentioned as the amount of adjustment in the column of various charges in the said bill (Annex. 2-a). Thus the consumer has already been given credit of Rs. 1170 as the amount of interest on SD for the year 2006-2007 in the month of Sept. 2007 as contended by the licensee and hence it's such contention is accepted and this grievance of consumer is rejected.

- 12) As to grievance No. (4) – Regarding refund of SD & interest : The consumer claims that the licensee has given the connection to it on 26/05/2001. During the said period, the licensee has collected Rs. 19,500/- + Rs. 11,700/- = Rs. 31,200/-- as SD while giving connections to the new industrial consumers. Therefore, the consumer treats the said amounts as Security Deposits for it's connection also. However, bill shows SD of Rs. 19,500 only. Therefore, the consumer has requested for refund of Rs. 11,700 and interest of Rs. 4899 till March 2009. As against this, the licensee claims that the SD has been paid at the time of taking connection on 26/05/2001. The Security Deposit of Rs. 19,500/- has been displayed on bill but Rs. 11,700 is not displayed on bill. The interest will be paid as per rules on Rs. 11,700. In view of the above contentions of the parties, the licensee is directed to verify the correct amounts of SD from time to time from its record and the record with consumer, display the correct amounts of SD, calculate the proper SD at this stage & refund the excess amount of SD & the interest at Bank rate of RBI on such amounts of SD at the prevailing rate, by giving it's credit to the consumer, in the ensuing bill after a period 30 days.
- 13). As to grievance No. (5) - Regarding refund of difference of MD based charges and HP based charges from Oct.06 to Mar 07 : The consumer

has claimed refund of an amount of Rs. 3518.81 out of the total difference of Rs. 11,584.13 after deducting the amount of Rs. 8065.32 of such difference being already refunded as alleged by the licensee in the case of M/s. Crystal Industries, on this count as the charges of the relevant period were reverted back to the HP based tariff from MD based fix charges, due to non completion of installation of MD meters in entire Maharashtra. The licensee claims that it has refunded an amount of Rs. 8065.32 in the month of May 07 and some amount in other month which will be intimated after confirmation from the higher authority. The licensee has also not made clear as to in which other month it has given credit of any other amount on this count to the consumer. Therefore, the licensee is directed to verify the total amount of such difference to which the consumer is entitle and the amount if any refunded by it to the consumer and inform about it in writing to the consumer within 30 days and refund excess amount if any, together with interest at the Bank rate of RBI, to the consumer by giving it's credit to the consumer in the ensuing bill after 30 days from the date of decision in this case.

- 14). As to Grievance No. (6) - Regarding refund of excess ASC recovered in Oct.06, billed in Nov. 06 : The consumer claims that for the month of Oct. 06, the consumption was 7990 units only which is less than Benchmark consumption (BC) i.e. 18924 units. Hence the ASC is not applicable because it's consumption was less than the BC in the said month. Therefore, the excess cost recovered for 959 units amounting to Rs. 1102.85 should be refunded by the licensee to it. As against this the licensee claims that as per tariff order 2006-07 case No. 54 of 2005, ASC charges were 12%. The consumption for the month of Nov. 06 was 7990

units and it's 12% comes to 959 units. Hence ASC charges charged are correct and there is no question of refund.

- 15) It is also noted by Forum that it is clear from the chart on page No. 158 of MERC's order dt. 20th Oct. 06 in case No. 54 of 2005, that 9% of the consumption was to be charged as additional supply charges in the other regions in respect of LT-V general motive power category industry during the period from Oct. 06 to April 07 if consumption is more than BC., and from the example given on page No. 159 of the said order, it appears that in case the concerned unit reduces the consumption by 5% than the BC, then the ASC is to be charged on 4% of the total consumption of the said month. Therefore the licensee is directed to recalculate the ASC to be charged to the consumer for the month Oct. 06 billed in Nov. 06 as per MERC's order dt. 20/10/06 in case No. 54 of 2005 and keeping in mind the above principal or manner of calculating ASC and refund the excess charged ASC, together with interest at the Bank rate of RBI to the consumer by giving it's credit to the consumer in the ensuing bill after 30 days from the date of this decision in this case.
- 16) As to Grievance No. (7) – Regarding refund of excess ASC charged in the bills for April 08 and May 08 and compensation of Rs. 5000 : Consumer claims that BC is given as 11094 units in the bills for April 08 and May 08. The bill for April 08 has been issued with average consumption and the bill for May 08 has been issued for the total consumption of 23371 units as the consumption of the period 03/03/08 to 05/05/08 but while calculating the ASC, the benefit of cheap power units for one month only has been given, as a result of which the licensee has recovered excess ASC to the extent of Rs. 13,428.64 from the consumer and therefore, the licensee be directed to refund the said amount together with interest and compensation of Rs.

5,000 for committing such intentional mistake. As against this the licensee claims that the average bill charged in April 08 has been credited in May 08. However, the ASC charged in the bill is being reviewed and action will be taken accordingly.

- 17) It is clear from the bill for the month April 08 that it has been issued for average consumption of 10663 units as the meter was allegedly locked. It is also clear from the bill for the month of May 08 that the said bill has been issued for total consumption of 23371 units as per the meter readings for the period 03/03/08 to 05/05/08 and therefore, naturally the consumer was entitle for the cheap power to the extent of 89% for each of the said two months. Therefore, the licensee is directed to review the bills for April & May 08 and recalculate the ASC to be charged in the said two months by giving benefit of 89% of cheap power in each of the said two months as per the tariff at that time and refund the excess ASC recovered during the said two months together with interest at the Bank rate of RBI to the consumer by giving it's credit to the consumer in the ensuing bill after a period of 30 days from the date of decision in this case.
- 18) However, considering the facts and circumstances of the case and the fact that the licensee is already directed to refund any excess charges against ASC due to average billing for two months to the consumer, in our opinion it is not a fit case for granting of compensation of Rs.5000/- on this count to the consumer and therefore consumer's such request is rejected.
- 19) In view of the findings on the grievances of the consumer as above, the forum unanimously passes the following order.

O-R-D-E-R

- 1) The grievance application is partly allowed.

- 2) The licensee to comply the directions given in above para Nos. 08, 09, 12, 13, 15 and 17.
- 3) Grievance No. 3 is rejected as observed in para No. 11.
- 4) The compensation of Rs. 5000 as demanded by consumer is rejected as observed in para No. 18.
- 5) The Compliance should be reported to the forum within 90 days from the date of decision.
- 6) 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 Building, Bandra Kurla Complex, Mumbai 51”

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

- 5). Consumer, as per section 142 of the Electricity Act, 003, 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”

Date : 10/06/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan