



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. K/E/809/978 of 2013-14

Date of Grievance : 03/07/2014
Date of order : 18/09/2014
Period Taken : 75 days.

IN THE MATTER OF GRIEVANCE NO. K/E/809/978 OF 2014-15 IN RESPECT OF M/S. BIKANER IRON & STEEL INDUSTRIES PVT. LTD., PLOT NO.K-16, ADD. MUBAD MIDC, MURBAD, AT VILLAGE KUDAVALI, TAL. MURBAD, DISTRICT-THANE, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING REFUND OF SECURITY DEPOSIT AMOUNT WITH INTEREST AND SOP.

M/s.Bikaner Iron & Steel Industries Pvt.Ltd.,
Plot No.K-16,
Addl. Murbad MIDC,
Murbad, At village Kudavali,
Tal.Murbad, District-Thane
Consumer No.001840851091

.... (Hereafter referred as Consumer)

Versus

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

.... (Hereinafter referred as Licensee)

Appearance : For Consumer – Shri B.R.Mudliyar.

For Licensee - Shri Khan –Nodal Officer / Executive Engineer,
Shri T.C.Bhoir –Dy.Manager (F & A)t.

(Per Shri Sadashiv S.Deshmukh, Chairperson)

1] This grievance is in continuation of Grievance No. K/E/756/911/2013-14 decided on 9/4/2014. As per the said order, Licencee was ordered to refund the security deposit amount and it was to be complied within 15 days from the date of order., Compliance was to be submitted, thereafter, within 15 days. Payment of interest, was

directed which Licencee was to pay it within 30 days from the date of order and compliance was to be given thereafter within 15 days.

2] In respect of interest, compliance is not reported. Consumer on that count again approached this Forum on 3/7/2014. It is a fact that even prior to it consumer had approached Licencee, by addressing a letter dated 21/4/2014, which was not complied.

3] Though this application is presented on 3/7/2014, but with very honest intention this Forum was waiting for compliance or reaction of Licencee which was sought by our Secretary, contacting the concerned, but as there was no any sign of compliance notice dated 30/7/2014 bearing letter No.EE/CGRF/Kalyan/0284 was issued to the Nodal Officer.

4] In fact, on the first date i.e. on 5/8/2014 Licencee was to give reply, but reply not filed. Nodal Officer tried to point out the progress of the matter, stating that already in respect of payment of interest, matter is, submitted to the Head office on 6/8/2014.

5] We noted, matter had it's own merit, one thing was clear that consumer had approached IGRC long back on 11/1/2012 and approached this Forum on 28/1/2013 and after order of this Forum dated 9/4/2014 consumer had approached Licencee on 21/4/2014. Accordingly persuasion was there but consumer could not succeed in having compliance of order of this Forum towards interest. As per the order of this Forum, security deposit was to be paid within 15 days of the order of this Forum and said date for payment of Security Deposit was 24/4/2014. However, as per the record now available cheque dated 21/4/2014, Licencee issued for refund of SD amount of Rs. 7,39,400/-. Accordingly part of the order pertaining to refund of SD complied which is not disputed by consumer. However, interest amount as per the order passed by this Forum on 9/4/2014 was to be paid within 30 days from the date of order and hence said date of payment was on or before 9/5/2014. Amount of interest was not paid and it is how consumer approached Licencee on 21/4/2014, then approached this Forum on

3/7/2014. Ultimately, Nodal Officer was directed during the first date of hearing to place before the Forum para-wise reply about not complying the order along with progress of the matter date-wise. Even he was directed to place on record the names of concerned Officers who dealt the matter and delay is caused.

6] On behalf of Licencee, reply dated 25/8/2014 was placed on record and clarified therein about refund of interest, Office note was put by Asst. Accountant (HTB), Kalyan Circle –II towards refund of interest on 25/4/2014 and said notice was audited by Sr. Manager (F & A) Kalyan Circle-II and sent it to SE Kalyan Circle –II for approval on 15/7/2014. Said note was approved by SE on 17/7/2014. Then letter was put up by Account / Audit Section for sparing funds towards it addressed to the Manager (Wm0 Section Head Office, for requirement of funds. Accordingly, it is clear that when payment of interest was done on or before 24/5/2014, it was pending with the Sr. Manager (F & A) from 25/4/2014 onwards, who cleared it on 15/7/2014. Secondly, it is seen on behalf of Licencee that letter dated 10/9/2014 submitted before this Forum and clarified that interest on security deposit of Rs.2,97,062/- after deducting TDS of Rs.29,704/- paid , the balance amount of Rs.2,67,356/- vide cheque dated 5/9/2014. This factual aspect of cheque issued is admitted even by consumer's representative. However, it is contended that this interest was payable on or before 24/5/2014, but cheque is issued on 5/9/2014. Hence, there is delay of about four months and hence, on said amount consumer is entitled to interest which is denied. This particular interest for the delayed payment of interest is claimed on the ground that in spite of demand, persuasion, it was not paid and consumer was made to run from pillar to post.

7] Legal position in this matter is clear as per MERC (CGRF & Electricity Ombudsman) Regulation 2006, Clause No. 8.7, there is a provision about compliance of the order passed by the Forum that too within the stipulated period as contained in the order of Forum. Even copy of that Regulation is placed on record by the consumer's representative. We came across order of Hon'ble MERC in Case No.23/2006 dated

11/10/2006, wherein Hon'ble MERC referring to the above clause of Regulation at the end of Para No.7 observed as under:-

‘Consumer grievance redressal Forums had all necessary powers to entertain representation, requiring it to examine whether any party has complied with it's order. The Forum can adduce evidence on affidavit. The Forums are empowered to call for any record and /or required the attendance of any person in connection with any matter before it. The Forum may also initiate any proceeding *suo motu* and give such orders and directions as may be deemed necessary, including, interalia, for service of notices to the affected parties and invite reply on the issues involved in the proceedings in such form as the Forum may direct.’

Further at the end of Para No.9 Hon'ble MERC observed as under:-

‘9] -----In fact, the said Regulation empowered the concerned CGRF to take suitable action, not being in consistent with the E. A, 2003 or rules and regulations made there under.’

In view of the above, it is clear that orders of Forum are required to be complied in proper sprit within the prescribed time. In this matter in fact compliance report was to be submitted suo motu by the Licencee as per the contents of the order itself. However, such compliance report not submitted and only in reply to the present grievance about non compliance details are stated that too when this Forum directed to place on record. Those details are also not completed. Delay in paying interest is not of few days but it runs in months, it is of merely four months. No doubt, submissions are made on behalf of Licencee that all attempts were done to comply the order in time and delay this time be condoned and every care will be taken in future to avoid it. Though, Officers of Licencee tried to seek condonation of this delay but question comes up whether there is any sufficient ground to condone it. No doubt, every effort was done from this side to allow the Licencee to comply the order but, there was no response at all. Even for registration of this matter, with a bonafide intention, delay is caused from this

side and it was only with the intent that let the Officers of Licencee perceive it's sanctity and comply it. Fairly, our Member Secretary has done attempts to cure the situation but unfortunately, there was no any option left then to register the matter and to take a hearing. Consumer right from beginning is facing the odds for refund of security deposit as it was not paid by Licencee it approached the Forum. In spite of the order of the Forum there was no compliance in time, consumer tried to persuade the Officers of Licencee and as a last resort approached this Forum. Even this Forum as a last resort opted to register this matter and heard. Aforesaid chronology of delayed payment is self speaking, delay covers period of 1/3rd year and hence we find it is necessary to ensure that unless there is some pinch to the concern there will not be any sensitization about the importance of compliance of the order of the Forum, establishment of which is as per the statute. In this light, we tried to have a calculation from Officers of Licencee about the quantum of interest @ 6% on the due amount of interest which was not paid. It is quantified to the tune of Rs. 7,426/- for this period of four months or so. We find, considering the submissions of consumer's representative by way of compensation for not paying the dues in time pertaining to interest as per Clause 8.2 (c/e) of above Regulation which is reproduced as under:

- [c] to pay such amount as may be awarded by it as compensation to the consumer for any loss or damage suffered by the consumer,
- [e] any other order deemed appropriate in the facts and circumstances of the case.'

Licencee is to pay an amount of Rs.5000/-. Within 45 days from the date of this order and this amount Licencee is entitled to recover from concerned who are at fault for not paying the interest amount in time.

8] In view of the above, this grievance is to be allowed.

9] This matter could not decided in time as Officers of Licencee were in the process of ensuring the compliance of payment which they succeeded by paying the cheque towards interest dated 5/9/2014.

Hence the order.

ORDER

Grievance of consumer towards non compliance of order of this Forum to the extent of paying interest on security deposit is hereby allowed. Already interest amount as prayed by the consumer and as directed by this Forum is paid during pendency of this grievance on 5/9/2014. There is delay for not paying the amount of interest from 24/5/2014 till 5/9/2014, for this delay Licensee is directed to pay sum of Rs.5000/- to the consumer within 45 days from the date of this order. Licensee is at liberty to recover said amount of Rs.5000/- from concerned Officers who are responsible for delaying the compliance of the order of this Forum. Compliance about payment of Rs.5000/- be reported within 60 days from the date of this order.

Dated:18/9/2014.

I agree

I agree

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

(Chandrashekhhar 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.

