



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/074/0084 OF 06-07 OF
SHRI ACHARYA GUL K REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT WRONG BILLING.

Shri Acharya Gul K. (Here in after

Shree Talkies, Plot No. 18, 'D' cinema referred to

'D' Scheme, K B Road, Ambernath 421501 as consumer)

Versus

Maharashtra State Electricity Distribution (Here in after
Company Limited through its Deputy Executive referred to

Engineer Ambernath Sub-Division West 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 commercial tariff. The consumer registered grievance with the forum on dated 11/01/2007.

The details are as follows: -

Name of the consumer: Shri Acharya Gul K.

Address: - As above

Consumer No: - 021520215694.

Reason of dispute: -Arrears claim of Rs1,96,71/- in the billing month of August 2002 for 29599 units of the period from April 01 to August 01.

3) The batch of papers containing above grievance was sent by forum vide letter No.0781 dated 11/01/2007 to Nodal Officer of licensee. The letter, however, remained unreplied.

4) All three members of the forum heard both the parties on 08/02/2007. Shri Ramesh Patil, Shri Ravi Anand, Shri S.W. Pasarkar and Shri S.W. Deshmukh representatives of consumer & Shri M.S.N. Murthy, Nodal Officer, Shri P.S. Date Assistant Engineer, Shri J.T. Ingle Deputy Executive Engineer and Smt Deshpande (UDC) representatives of the licensee attended hearing.

5) Shri Pasarkar, Shri Deshmukh & Shri Ravi Anand took part in hearing. They made certain submission. Later Shri Pasarkar submitted a written statement covering their oral submission. Brief summary of submissions made in consumer's application & above said statement, which have relevance & direct bearing in the matter of grievance, are reproduced.

i) Consumer is running a cinema named Shree Talkies at the given address at Ambernath. The sanctioned load of cinema upto August 2001 was 0.2 Kw as the theatre was non air-conditioned. He applied for additional load of 32.4 Kw for getting theatre air-conditioned. Licensee sanctioned additional load of 32.4 Kw & on submission of load test report in August 2001 by consumer his sanctioned load became 32.2 Kw.

j) Consumer use to receive bill upto billing month of August 2001 as per consumption recorded on meter number 100601 installed at his cinema. The billing month of October 2001 & December 2001 showed meter status as meter changed & the meter number on respective months were shown as 100601 & 4948. From the billing month of February 2002 the meter number shown was 92149584.

k) Licensee inspected the premises of consumer on 15/2/02 & included arrears of Rs 1,96,171/- in the billing month of August 2002.

l) Consumer approached licensee on various occasions from May 2002 to December 2005 as the said arrears was not acceptable to him. The matter, however, remained unsettled.

m) Licensee disconnected supply of consumer on 26/11/05 without serving 15 days notice of their intention to cut off the supply. The

supply was reconnected on 30/11/05 when consumer deposited Rs 50000/- as per directives of Executive Engineer of licensee.

- 6) Consumer made following prayers in his application & statement submitted to forum during hearing.
- i) Quash the amount of Rs 1,96,171/- with delayed payment charges & interest levied on it.
 - j) Refund the money paid against above with interest @ 12 %
 - k) Compensate consumer with Rs 50000/- for disconnection of supply without notice.
 - l) Penalize the concerned officer of licensee for disconnecting supply without notice & take action as per section 146 of Electricity Act, 2003.
 - m) Licensee be directed to correct the sanctioned load of 32.2 Kw to 32.6 Kw
- 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 Ingle, in response to submission of applicant about disconnection of power supply without notice, agreed that power supply of consumer was disconnected on 26-11-2005 without serving notice of disconnection to consumer. He said that the supply was restored on 30-11-2005 after consumer deposited Rs 50000/- as per directives of Executive Engineer.

- 9) Shri Ingle, in response to submission of applicant about wrong charging of arrears of Rs 1,96,171/- in the billing month of August 2002, could not submit any satisfactory reply. He only submitted copy of B-80. The remark on B-80 states "Existing meter is replaced on 14-10-2001. Arrears statement of last 6 months has been prepared as per trend of consumption of new meter less consumption already charged as per old meter. This arrears statement is prepared as per Deputy Executive Engineer's inspection report dated 15-02-02.
- 10) National Consumer Dispute Redressal Commission New Delhi in Revision Petition No 604 of 2003 dated 29/09/03 in a petition of Chandrakant Mahadeo Kadam against Assistant Engineer MSEB Atpadi & others has held that compensation need to be given to consumer for disconnecting electric supply for no reason. In the present case consumer was paying bills regularly. Higher amount bill including arrears of Rs 1,96,171/- was presented to him in the billing month of August 2002 when such higher amount was not due from him. Consumer approached licensee but with no result. Licensee accepted the mistake of disconnecting supply of consumer on 26/11/05 without serving notice of disconnection to him. Consumer's supply was reconnected on 30/11/05. Thus consumer remained disconnected for 4 days. Needless to say that there was gross deficiency in service & the negligent staff is accountable for the harassment done by disconnecting supply of consumer. We take serious view of the default committed by the officers of licensee. It is certainly not a good situation. In our view there is clear mis-carriage of justice and we would grant the compensation of Rs 2500/- to consumer.

11) We now take up the matter to decide whether the action of the licensee to claim the arrears of Rs 1,96,171/- in the billing month of August 2002 is correct or otherwise. Consumer 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 judgement 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 has also not approached Electrical Inspector for decision. However, our disagreement with the view of consumer does not lead us to conclude that action of licensee in claiming arrears of Rs 1,96,171/- in the billing month of August 2002 is justified.

12) Licensee's record reveals that meter number 92149584 was put in service at consumer's premises on 14/10/2001 & licensee has claimed arrears of Rs 1,96,171/- for 29599 units in the billing month of August 2002 of the period from April 2001 to August 2001. This claim has been made on the assumption of large variation noticed in consumption after installing of new meter number 92149584 on 14/10/2001. This claim is of the period from April 2001 to August 2001 when meter number 100601 was in service at consumer's premises. This claim of licensee does not hold any water for the following reasons.

- i) The record of licensee does not indicate that meter number 100601, when in service at consumer's premises, was faulty. On the contrary consumer personal ledger indicates that meter number 100601 was recording consumption.
 - j) The consumption, when meter number 100601 was in service at consumer's premise, was as per sanctioned load of 0.2 Kw while the consumption recorded on meter number 92149584, which is taken as base for claiming arrears, is as per sanctioned load of 32.2 Kw.
 - k) Maharashtra Electricity Regulation in its order in case number 19 of 2004 dated 23/2/2005 have ruled that "Several instances have come to the Commission's notice of so-called "amendment", "supplementary" or other such bills being raised by some licensees to consumers, often several years later, on a basis other than the actual meter reading for the relevant period, when large variations in consumption are noticed, or for other reasons. The electricity statutes (in the past and at present) provide inter alia that, in case of metered consumers, energy consumption charges have to be billed on the basis of meter readings. Moreover, the licensee, and not the consumer, is responsible for maintaining, rectifying, or having such meters replaced where necessary. Thus, no "amendment" bills of the kind referred to above can be raised, and any additional billing has to follow due process and the provisions of law.
- 13) We are, therefore, of the opinion that said arrears bill of Rs 1,96,171/- needs to be withdrawn.

14) After taking review of entire situation forum unanimously decided to pass the following order.

O-R-D-E-R

1. We grant compensation of Rs 2500/- to consumer. Licensee to pay this compensation to consumer within 90 days from the date of this order.
2. The claim of arrears of Rs 1,96,171/- included by licensee in the bill of consumer in the billing month of August 2002 for 29599 units of the period from April 2001 to August 2001 is, hereby, set aside & quashed.
3. A credit of interest & delayed payment charges, if charged any, for non payment of arrears of Rs 196171/- should be given to consumer in his bill. Similarly credit of amount paid against this claim of Rs 1,96,171/- should also be given in to the consumer in his future bills on or before next two billing cycles.
4. Action taken against concerned person for disconnecting supply of consumer without serving disconnection notice should be intimated to the forum within 60 days.
5. No order is passed for granting interest on amount of Rs 1,96,171/- paid by consumer to licensee.
6. The power to impose penalty as per Section 146 of Electricity Act, 2003 rests with courts and as such forum is not competent to impose penalty & take any action.
7. The sanctioned load of consumer prior to release of additional load of 32.4 Kw by licensee was 0.2 Kw. Thus the sanctioned load became 32.6 Kw after release of additional load by licensee. The sanctioned load shown in consumer's personal ledger from December 2001 is 32.2

Kw. Licensee to correct this sanctioned load on or before two billing cycles, after verifying load test report submitted by consumer.

8. 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 order.

9. Consumer, as per section 142 of Indian Electricity Act 2003, can approach Maharashtra Electricity Regulatory Commission at the address

Maharashtra Electricity Regulatory Commission,
13th floor, World Trade Centre, Cuffe Parade, Colaba, 400005.

for non-compliance, part compliance or delay in compliance of this decision issued under "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressed Forum & Ombudsman) Regulation 2006".

Date: - 12/02/07

(Sau V.V.Kelkar)

Member

CGRF Kalyan

(I.Q.Najam)

Chair person

CGRF Kalyan

(D B Nitnawre)

Member Secretary

CGRF Kalyan