

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/E/807/966 of 2014-15

Date of Grievance: 18/06/2014

Date of order : 18/11/2014

Period Taken : 154 days.

**IN THE MATTER OF GRIEVANCE NO. K/E/807/966 OF 2014-15 IN RESPECT OF NRC LIMITED, VILLAGE MOHONE, TAL. KALYAN, DISTRICT-THANE PIN- 421 102 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING EXTRA CHARGES ON ACCOUNT OF MD IN THE MONTH OF JUNE 2005.**

NRC Limited,  
Village Mohone,  
Tal. Kalyan,  
District-Thane.

(Consumer No. 020169009628 HT)

.... (Hereafter referred as consumer)

Versus

Maharashtra State Electricity Distribution  
Company Limited through its

Executive Engineer, Kalyan –Circle-1, Kalyan .... (Hereinafter referred as Licensee)

Appearance : For Consumer–Shri Killedar -General Manager

Shri Tulsidas Manager-

Consumer's Representatives.

For Licensee Shri Lahamge- Nodal Officer and Executive  
Engineer,

Shri Barambhe – Dy.Exec. Engineer

Shri Sakpal-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, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014.’

2] This grievance is brought before us by consumer on 18/6/2014, aggrieved by order of IGRC dated 26/2/2014. Grievance is pertaining to past arrears of Rs.10,27,48,929/- shown in the bill dated 7/11/2013.

3] In this matter on receiving the grievance, it’s copy along with accompaniments sent to the Nodal Officer vide this Office Letter No.EE/CGRF/0234 dated 18/6/2014.

In response to it, Licencee appeared through it’s Officers and submitted reply on 2/7/2014 therein it is contended that aspect is subjudice before the Hon’ble Supreme Court, hence no order can be passed.

4] The previous chronology of the disputed matter, as submitted by both sides is as under: -

- i] Licencee had worked out arrears against consumer around Rs. 1101.10 lakhs, towards its non payment supply was disconnected. On this count consumer approached Hon’ble High Court filing Writ Petition No. 5279/2002 and in the High Court consumer deposited partial amount to the extent of about Rs.73.61 lakhs without prejudice to it’s rights then supply was restored. Said

writ petition was disposed off by the High Court and directed consumer to approach MERC.

Accordingly consumer approached MERC by filing case No.31/2002. MERC decided the said matter on 21/5/2004 and upheld the claim of consumer. These details are seen from the copy of order of MERC pertaining to case No.31,33,34,35/2002 and 49/2003 dated 21.5.2004. It is clear that claim of consumer along with others dealt by MERC.

Against the said order of MERC Licencee approached Hon'ble High Court, but Hon'ble High Court directed the Licencee to approach Appellate Tribunal of Electricity. Licencee filed appeal No.29/2007 with ATE. ATE decided the said appeal on 3/5/2007 and it is dismissed.

Against said dismissal order of ATE, Licencee approached Hon'ble Supreme Court filing a Appeal Civil. Initially it was allotted with Diary No.23912/2007 and subsequently, it is converted to Appeal Civil No. 4304/2007. Relevant papers pertaining to said diary Number and conversion is placed on record. Order passed in said Appeal Civil by Hon'ble Supreme Court dated 14/9/2007 is placed on record, it reads as under:-

'List on 14/9/2007

The contempt proceedings, if any, shall stand stayed till then'..

Accordingly, it is made clear by both sides, on the basis of papers placed before us by the Licencee, that matter is pending in Hon'ble Supreme Court and there is no stay to the order of MERC/ATE.

5] In the light of aforesaid chronological events, consumer claimed that inspite of MERC and ATE upheld the objection of consumer, Licencee continued it's act of showing the liability in the bill as outstanding. It is contended that when there is order of MERC/ATE such mention in the bill is unwarranted and it is against the order of MERC/ATE.

6] Licencee contended that as matter is subjudice before Hon'ble Supreme Court, the disputed amount shown in the bill cannot be deleted till amount is paid or till Hon'ble Supreme Court passes the order.

7] Both sides argued in tune with their respective contentions . However, it is clear that as per section 90 and 95 of Electricity Act, State Commission invested

with powers to pass orders and nature of those orders or powers of State Commission are clearly set out in those sections. Similar is the provision pertaining to the order of ATE u/s. 120 (3)(4)(5) of Electricity Act. U/s. 142 and 149 breach of orders of MERC are dealt and it's powers are clarified. Further it is seen when orders are passed by MERC or in appeal by ATE those are required to be obeyed, implemented or given effect to by the concerned.

However, U/s.42 as per the powers vested in it, Maharashtra Electricity Regulatory Commission (MERC) prepared regulations i.e. Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation of 2006 hereinafter referred as MERC Regulations. As per the introduction in the said regulation the purpose and effects of regulations are stated. In Clause 2.1 (c) '**Grievance**' is defined and second part therein pertains to the grievance in respect of non compliance of **any order** of commission or any action to be taken in pursuance thereof, jurisdiction to deal with such grievances is provided to the CGRF, having jurisdiction over the area. Accordingly, it is clear that even orders of Hon'ble MERC, if not complied can be dealt by this Forum when grievance is made by the consumer. However, it is necessary to consider regulation Clause No.6.7 (d), it read as under:-

6.7, 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'.

On reading this Clause, it is clear that if any order is passed on the representation of consumer by MERC. From the aforesaid chronology it is clear that consumer with a specific plea on circular issued by Licencee and liability raised there under, approached MERC, MERC passed order ATE confirmed it and matter is

pending in Hon'ble Supreme Court. No doubt, there is no any stay to the order of MERC/ATE by Supreme Court. However, if any contempt proceedings are pending those are stayed by Hon'ble Supreme Court. Under such circumstances, on the basis of 'order' of MERC, consumer is seeking deletion of remark of outstanding dues. It is nothing but seeking enforcement of order passed by MERC. As stated above MERC is having it's own powers, but powers of this Forum are limited. When there is an order of MERC, confirmed by ATE, then giving effect to it, is an aspect, to be dealt by Licencee. If it is not being given effect to, then till matter is pending before Hon'ble Supreme Court it is MERC/ATE can consider the prayer of consumer which is made before this Forum, as order is passed by those authorities which are yet to be finalized by Hon'ble Supreme Court and subjudice before Hon'ble Supreme Court. Even before Hon'ble Supreme Court, appropriate direction can be sought by consumer wherein it is party. Allowing the prayer by this Forum as sought by consumer, will amount to acting against the sprit of the legal provision. Under such circumstances, we find no any relief can be granted by this Forum at this stage.

8] This matter could not be decided in time as Officers of Licencee were to clarify the position pertaining to matter pending in Supreme Court, which they clarify on 30/9/2014 and thereafter.

Hence the order.

**ORDER**

As per reasons recorded above , grievance of consumer is hereby disposed off  
Dated:18/11/2014.

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:-**

- 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.