

MAHARASTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

KONKAN ZONE RATNAGIRI

Consumer Grievances Redressal Forum Ratnagiri

Consumer case No. – 09/2014

Date :- 16.05.2014

**Smt. Sanika Satyawan Kotre
House No.917,Aashalata,
Karwanchiwadi
Post.Pomendi Budurk ,Ratnagiri
Tal .& Dist-Ratnagiri .**

Complainant

V/S

**Executive Engineer
Maharashtra State Elec.Dist.Co.Ltd.
Ratnagiri**

Opposite Party

Quorum of the Forum

- 1) Mr. D. S. Jamkhedkar
Chairman**
- 2) Mr. V.B.Jagtap.
Secretary Member**
- 3) Mr. J.P. Biwalkar
Member**

On behalf of consumer

- 1) Mr. Shashiknat Yashwant Vaidya
(Repreasantive)**

On behalf of opposite party

- 1) Mr. A.W.Mahajan,
Executive Engineer, Ratnagiri**
- 2) Mr.Surendra Dinanath Dange,
Assistant Engineer,
Ratnagiri Gramin -1**

Maharashtra State Electricity Regulatory Commission Consumer Grievance Redressal Forum and Ombudsman Regulation 2006 Vide Clause No.8.2

The consumer has come before this Forum to get quashed, the electric bill issued to her connection by applying commercial, LT-II tariff. She submitted her application in prescribed form 'A' to this Forum on dt. 16.05.2014

Facts of the case in brief are as follows.

- 1) The consumer smt. Sanika Satyawan Kotre is running small general store in the part of her house in which she is staying, with her husband. She is using the electric supply to this shop through the meter which is separately provided only for the shop. (Consumer No. 210260021880) This connection was released by mahavitaran on dt.14.09.2012 On her own request. As this connection is taken only for the purpose of the shop mahavitaran is charging the rate which is applicable for commercial installations. The electric supply for the rest of the house is utilized through the separate meter which is in the name of her husband (Consumer No. 210260021880) and Mahavitaran is charging residential tariff for this connection. She produced a chart showing details recorded by meter which is utilized for residential lighting and consumption recorded by meter provided for shop, for the various months from August 2012 to April 2014. With the analysis of the chart, she submitted before this Forum that the total electric consumption of the residence in which she is staying and the consumption of the shop is always below the 300 units per month.
- 2) Taking support of the order passed in the case no. 118 of 2012 by MERC Mrs. Kotre submitted before this Forum that she is eligible to get all the electric bills issued by Mahavitaran for her shop, only on the residential tariff. Hon. MERC ruled in that order as "Those consumers who consume less than 300 units a month would be applied the tariff L.T.I. (Domestic), subject to the conditions laid down in the tariff schedule".
- 3) To get resolved her issue she applied before concerned officer of Mahavitaran on 07.09.12 but Mahavitaran had not taken any action. Instead, Mahavitaran informed her to pay the bills failing which her supply will be disconnected.
- 4) On 19.01.2014 she submitted her grievance before I.G.R.C. Ratnagiri but I.G.R.C. also refused her grievance. Being aggrieved by the order passed by the I.G.R.C. Mrs. Kotre came before the Forum and submitted her application.

5) A notice of complaint was issued to Mahvitaran calling upon it, to file the say. Accordingly Mahvitaran has filed it's say.

It is submitted by Mahvitran that, after going through the order passed by MERC it is seen that, the contents of the order are applicable only for the residential consumers who are running their business in the part of the house and using electric supply from the meter provided for the said house, provided the consumption of the electricity should not exceed 300 units per month or 3600 units per year.

In the present case, Mrs. Kotre is using electricity from the separate meter which is provided for her shop and that too, the meter is provided only after receipt of her application. Electricity to the house in which she is staying with her husband is supplied through the separate meter which is in the name of her husband. Though the total consumption of both the meter is not exceeding 300 units per month, the order of M.E.R.C. is not at all applicable for the electric connection of the shop, as the scope of the order is only for the residential meter in the house in which small business is being run in part of the house.

6) A hearing was fixed on dt. 17.06.2014 both the parties advanced their argument Mr. Shashiknat Y. Vaidya, Representative of the consumer has submitted the written argument on behalf of the consumer, and Mr. A.V. Mahajan Ex. Engineer Ratnagiri Division, advanced his argument on behalf of licensee.

In view of the rival submissions and arguments by both the parties following points arise for our consideration and we have given findings against each of them for the reason given below findings.

Points

No.	Points	Findings
1.	Whether consumer is entitled to the benefit of the order of MERC in Case No.118/2012 and the circular issued by Mahavitaran in consequence there of ?	No
2.	What order	As per final order

Reasons

Point No. 1 :-

For considering this aspect of the matter we will have to take into consideration, the history of the matter and the reason for Grahak Sanghtana to file the Case No. 118/2012 before M.E.R.C.

Initially Maha Veej Grahak Sanghtana filed case No. 127/2011 for making residential tariff applicable to small commercial activities being run in residential premises. This was so done by Sanghtana to protect the interest of the residential consumers who are using part of their residential premises for running small business, to earn the livelihood. Previously either these consumers were booked under Section 126 of Electricity Act 2003 or the commercial tariff used to be made applicable to such consumers. So to safe-guard the interest of such consumers carrying small business activities, the petition came to be filed.

In response to the petition, the Hon. Commission refused to fix tariff and directed Mahavitaran to consider plea and fix the tariff accordingly.

Then Mahavitaran filed Tariff petition No. 19/2012 with a proposal to charge residential tariff to residential consumers running small business in part of the house with the consumption limit of 100 units.

The stakeholder and organizations have requested to raise limit of units to 300 units per month irrespective of tariff category.

The Hon. Commission ruled on 16 Aug. 2012 and decided that residential tariff be made applicable to residential consumers who consume less than 300 units and this would be applicable to all consumers. i.e. L.T.-II (Commercial) LT-V-Industrial and LT- X (Public Services) who are running small business in the same house.

In consequence of the Hon. Commission's order, MSEDCL issued Tariff order dated 16.06.2012 under circular No. 175/05.09.2012 and LT-I tariff was made applicable to household consumers who run small shops, workshop office, library etc. and included other categories also. But again issued circular on 25/09/2012 and excluded consumer in LT-V and LT-X and also imposed other conditions. Such as N.O.C. from Gram Panchayat, Municipal council etc.

The organization found fault with the circular dated 25/09/2012 and hence present petition No. 118/2012 came to be filed with the main grievance that the circular is repugnant to the directions issued by Hon. Commission in petition No.19/2012.

If we go through the grievance of organization and the order issued by MERC then we find that the benefit is to be given to the LT-I (Domestic) consumers who are running small business activities in their residential premises. So the concept of mixed load is considered, provided the total consumption is up to 300 units.

So one thing is crystal clear that the benefit is to be extended to LT-I (Domestic) consumer and to none else.

So far as the present case is concerned, the complainant consumer is not LT-I (Domestic) consumer, but LT-II Commercial consumer. She is running business in separate room, no doubt in residential house of her husband, but is having a separate electric meter for her shop premises. So the benefit which is expected to be extended to residential consumers running small business activities in residential premises cannot be extended to her, being LT-II Consumer.

In fact MSEDCL had, given her option to surrender the commercial connection and to use original residential connection for her business and to have advantage of the circular by keeping consumption within permissible limits. But she was adamant enough to say 'No' and insisted that her commercial connection be charged with residential /Domestic LT-I tariff and excess amount recovered be refunded to her.

From earlier order, it reveals that it was neither the intention of Grahak Sanghtana to claim benefit for the consumers having commercial connection nor it was ever whispered by Hon. Commission in its order. The petitions and the orders there on certainly contemplates mixed load ie. One residential and other, either commercial, industrial etc.

So it must be said that being commercial consumer and having commercial meter, applicant is not entitled to get benefit of the circular and cannot claim that her commercial meter/connection be charged with residential tariff.

So the point deserves to be answered in the negative and it is answered accordingly.

Point No.2:-

In the result, the claim deserves rejection. Hence we proceed to pass following order.

Order

- 1) **The Claim petition stands dismissed with no order as to costs.**
- 2) **In case consumer desires to appeal against this order She could file her appeal to the following addresses.**

**Secretary,
ELECTRICITY OMBUDSMAN,
Maharashtra State Electricity Regulatory Commission,
606/608, Keshava Building,
Bandra Kurla Complex,
Mumbai – 400 051.
Phone No.022 – 2659 2965.**

**D.S.Jamkhedkar
Chairman ,C.G.R.F.
Konkan Zone**

**V.B.Jagtap
Ex.Engineer,C.G.R.F.
Konkan Zone**

Date : 18.07.2014

Place : Ratnagiri

Dissenting Opinion

I, Shri. Jayant Purushottam Biwalkar, as a member of CGRF Ratnagiri observe that the findings of the Forum are not acceptable and convincing to me. I, therefore, do not agree with the order of the majority.

The reasons for disagreement are enumerated below.

- 1) The MERC order No. 19/2012 dt. 16.08.2012 allowed differential treatment to small businessmen & directed to apply domestic tariff instead of commercial/industrial tariff subject to following two conditions.
 - a) Business activity run from portion of the residence of the businessman.
 - b) The total consumption should be less than 300 units per month.Relevant part of the Hon. Commission's Ruling is reproduced here under.

Commission's Ruling:

Many consumers and consumer representatives have suggested accepting this proposal with the modification that the upper limit for shifting to commercial Category for such consumers should be 300 units instead of 100 units. The Consumers have also suggested including such consumers in residential category in entire license area of MSEDCL instead of only those consumers which are located in gram panchayats. The Commission agrees with MSEDCL's submission that consumers running small businesses from households may be provided relief from high Tariffs of Commercial categories, since this will cause a large impact on their livelihood. Taking into account the various suggestions from consumers, the Commission is of the view that for consumers who consume less than 300 units a month need not be subject to different tariffs. Hence, the Commission has decided that categories of consumers who consume less than 300 units a month would be applied the tariff of LT-I (Domestic), subject to conditions laid down in the Tariff schedule.”(Emphasis Added)

It is clear from the ruling appearing under para 8.8 'Tariff for small shops operated from home' that the consumers were provided relief from tariff of commercial category & were to be applied LT-1 (Domestic) tariff meaning thereby that the consumers under consideration were those other than domestic consumers. In other words, it is the commercial /Industrial category of consumers which is the beneficiary (subject to conditions) & NOT the domestic category.

Forum's contentions that benefit is to be given to domestic consumers is, obviously incorrect.

- 2) Though separate meter for commercial use and domestic use are now not necessary because of parity of tariff, the order of Hon. commission has not barred the eventuality of more than 1 meter. Hon. Commission's order is silent on this point. It is, therefore, unauthorised modification of the commission's order if the stipulation about closure of pre-existing connection is added by the licensee.
- 3) Mrs. Kotre has submitted orally & also is writing that prior to June 2012 she was running the same shop at the same residence & very small quantity of electricity supply through domestic meter was used for the shop. Her husband in whose name the domestic connection stands, was booked u/s.126 by MSEDCL even for negligible commercial use. As a result she was forced to obtain separate

electricity connection for the shop which was then housed in a part of the residence & even now continues there.

Mrs. Kotre has submitted a chart showing separately monthly consumption for shop and residence. It shows that TOTAL Monthly consumption both of shop & residence ranges from 94 units to 150 units. It, thus, establishes beyond doubt that she fulfills both the conditions for differential treatment viz; activity in the portion of residence & monthly consumption of less than 300 units.

Mahavitaran officials have not disputed this factual position.

- 4) The order of the Commission dated 16.07.2013 relating to the petition of Grahak Sanghathan has reiterated the earlier ruling contained in order No.19/2012. So reference to Grahak Sanghathan's claim has no relevance in this matter.
- 5) Mahavitaran has issued guidelines to its staff vide commercial circular No.207 dated 02.09.2013 based on the order of Commission dated 16.07.2013. The instruction No.1 in said circular clearly says that LT-1 residential tariff is applicable to consumer operating small business or any other activity from part of the residence. The instruction primarily refers to business/activity NOT residence.

The Instruction No.2 reads as under

‘The above categorization as LT -1 should be done with retrospective effect from 01.08.2012.....’

This wording clearly shows that pre-existing category is other than LT-1 as otherwise categorization as LT-1 would not be necessitated. It, naturally, flows from this instruction that more than 1 connection is visualised to be existing.

- 6) Para 22 on page no.15 of the Commission's order no.118/2012 again reiterates the contention that applicability of preferential tariff to small shops operated from home was decided. Para 8.7 of the order dated 16.08.2012 i.e. ‘Rationalization of tariff categories’ once again confirms that small businessmen operating from households are to be billed at LT-1 tariff.

Forum's contention that the benefit is to be given to LT-1 (domestic) consumers runs contrary to the intention & decision of the Commission.

- 7) Mrs. Kotre, the consumer stays with her husband & runs a small shop from part of the residence. Though she can claim LT-1 tariff for her own consumption in the shop she has voluntarily & honestly given her consent to combine consumption of other connection for the purpose of her billing. Adding unit consumption of both the meters & issuing bill therefor is possible. Instructions for such type of billing have already been given by Mahavitaran vide Commercial circular No.123 dated 14.10.2010 pertaining to billing of more than 1 meter in common facilities in commercial/residential complexes.
- 8) Mahavitaran & Commission have taken to positive step with a noble intention to reduce financial burden which causes large impact on the livelihood of small businessmen. In its reply to show-cause notice of the Commission, Mahavitaran

submitted that it is implementing the order of the commission in letter & spirit. Against this background it does not stand to reason that the benefit of domestic tariff is denied to Mrs. Kotre on flimsy ground.

- 9) Mahavitaran's representative vehemently argued that the complaint cannot be entertained by the Forum as it is relating to determination of tariff which is beyond the purview of the Forum. This argument is really misplaced & deserves to be dealt with appropriately. But the Forum has not made even a passing reference to it.
- 10) In view of foregoing discussions I am of the firm opinion that Mrs. Kotre is eligible for benefit of LT-1 tariff with effect from 01.08.2012.

Date : 18.07.2014
Place : Ratnagiri

J.P.Biwalkar
Member,C.G.R.F.
Konkan Zone