

**MAHARASTRA STATE ELECTRICITY DISTRIBUTION CO. Ltd.
KONKAN ZONE RATNAGIRI
CONSUMER GREVANCE REDRASSAL FORUM**

Consumer case No. – 37/2009

Date: 08/04/2009

1) Grahak Panchayat
shri. J.P. Bivalkar
Narhar vasahat,
Shivagi Nagar
Tal-Dist.-Ratnagiri
Pin No. 415639

Complainant

V/S

1) Executive Engineer,
Maharashtra State Electricity Dist.
Company Ltd. Ratnagiri Division,
Ratnagiri.

Opposite Party

Quorum of the Forum

- 1) Mr.D. S. Jamkhedkar
Chairman
- 2) Mr. J.L. Sonswane
Secretary/ Member
- 3) Mr. N. A. Kulkarni
Member

On behalf of consumer

1) Shri. J.P. Bivalkar
On behalf of Grahak
Panchayat Ratnagiri.

On behalf of opposite party

**1) Shri. D.S. Kamble
Ex.Engineer
Division office, Ratnagiri.**

**2) Shri. N.V.Ajgaonkar
Assistant Engineer
O & M Division Office,
Ratnagiri.**

**Maharashtra State Electricity Regulatory Commission Consumer
Grievance Redressal Forum and Ombudsman Regulation 2003
Vide Clause No. 8.2**

The grievances regarding levy of service line charges (SLC) are filed by the Grahak Panchayat Ratnagiri on 08.04.2009 under the prescribed format along with all the particulars and the same is in order. A letter bearing No. 470 dated 9th April 2009 was issued to E. E. Ratnagiri Dn. calling for the explanations / and such other particulars regarding the issues involved, which is responded by MAHAVITRAN vide letter No. 2423 dt.18th April 2009 under copy endorsed to Grahak Panchayat Ratnagiri.

A notice for personal hearing was served vide No. 479 dt 21.04.09 and the case was heard on 8th May 2009. The parties argued the case and as asked by Grahak Panchayat time was allowed to file the submission and accordingly Grahak Panchayat could file the submission on 27th May 2009.

The Grievances of Grahak Panchayat, Ratnagiri are regarding the levy and further recovery of S.L.C. by Mahavitran. The said recovery needs to be refunded along with Interest. In order to get the appropriate relief, they approached to E.E. I.G.R.U. vide application dt 02.02.09 and the same was not redressed but replied by IGRU vide letter No. 1728 dt. 24.03.2009. Having dissatisfied with this 'Grahak Panchayat' approached to this FORUM for appropriate relief.

During the course of hearing parties present advanced their argument and Grahak Panchayat further filed its submission on the issue of Maintainability on 27th May 2009. The Dn. office of Mahavitran also filed its submission vide letter No. 3062 dt. 20.05.2009 confirming the factual position of the consumer involved and the correct amount payable by the respective sub-Division including Ratnagiri Rural & Urban Sub. Dn.

On the basis of particulars furnished, documents filed and the argument advanced by both the parties FORUM is of the firm opinion that the grievances are in accordance with the provisions of law and they are of specific Nature. However Grahak Panchayat Ratnagiri is not a consumer under the provisions of Elect. Act 2003, and they are not empowered to represent various

consumers. Thus the issue arises as to the Maintainability of the grievances filed, on the basis of 'Locus stand'.

It is also observed that the particulars are collected under the 'Right to Information' and the issue is further pursued with the appropriate authorities in view of the order of Hon MERC and the Commercial Circular No. 43 of Head office dt. 27.09.2006. Thus the Mahavitran is under obligation not to recover such charges and on the contrary, the recovered amount needs to be refunded. The authorities of Mahavitran have not acted upon, nor any further steps are initiated by them however they agreed for the refund of such recovery of S.L.C.. It is there-fore suggested that upon reconciling, Mahavitran should refund the recovery of S.L.C. as per the accounting practice followed by them immediately and appropriate adjustments should also be carried out in the respective cases of consumers. The particular and such other statement filed by the 'Grahak Panchayat' is the outcome of the application under the provisions of Right to Information Act and a consumer who suffered never approached either to 'MAHAVITRAN' nor to Grahak Panchayat. The collective grievances are also not filed. The said consumer organization is under the impression that they are covered under the definition, 'Consumer'. The submission filed by the Grahak Panchayat and considering the relevant provisions of Elec. Act 2003 it is concluded that the consumer organization is not at all empowered for such representation nor it is provided under the respective provisions.

The preamble of the said Act also states about protecting interest of consumers and according to the sec. 2, sub. cl.(15) the Grahak Panchayat, Ratnagiri cannot be termed as 'Consumer' for and on behalf of various consumer they are barred to file the representation.

'section'2.15:-

"Consumer' means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be".

Thus the plea of the organization on this point deserves to be rejected. The rules and regulation of Supply Code & SOP are in respect of 'Occupier' and 'Grievance'. The grievance shall have the meaning ascribed to it in the Consumer Grievances Redressal Forum and Ombudsmen Regulations and or/or other as may be specified by the Commission under the provisions of cl.(r) and (s) of sub. section (2) of section 181 of the Ele. Act. 2003. Thus no provision is made in the rules & regulations of Regulatory Commission. The intention of the legislature is to protect the interest of consumer and at the same time to encourage and to educate them for the redressal of their own grievances or otherwise provision would have been made in the definition itself. The said provision is made in the Consumer Protection Act 1986 and such other organization are already covered for which they are deemed 'Consumer'. Under these circumstances and in the absence of specific, provision the contention of Grahak Panchayat cannot be accepted, and needs to be rejected.

A submission has also been made by complainant Grahak Panchayat, that under the Rules and regulations, a power has been conferred on ombudsman to entertain the grievance filed by Grahak Panchayat and so the same provision is mutatis mutandis applicable to C.G.R.F. and this forum can entertain the complaint.

There are no doubts that in the definition clause and S.2(15), the definition of word consumer is given and any organization is not included in it as in the case of consumer protection Act. There is no other provision either in the Electricity Act- 2003 or Rules and Regulation under it, allowing Grahak Panchayat or any such organization to file grievance before C.G.R.F. The wisdom of Legislatures can not be subjected to scrutiny nor this forum can usurp the powers of any other authority in absence of any provision. It is the noble and legal principle that the jurisdiction can never be divested or vested unless there is specific provision.

Under these circumstances, the submission of Grahak Panchayat, to usurp the power conferred upon ombudsman can never be accepted. On this background also, we hold that this forum has no jurisdiction to entertain the issue.

However to safeguard the interest of consumer in all respect it would be advisable to suggest 'Mahavitran' and to further initiate appropriate steps so far as refund of SLC is concerned. It is therefore suggested to Mahavitran to settle this issue immediately upon reconciliation and to intimate to respective consumers which will be according to the procedures / orders and directives of MERC as well as H.O. of Mahavitran. In view of above finding of this Forum the followings order is passed.

ORDER

- 1) In the absence of specific provisions of the Elect. Act 2003, the grievances of Grahak Panchayat Ratnagiri stands rejected. However it is suggested to Mahavitran to refund the recovery of SLC, upon reconciliation or to adjust the respective refund against the bills issued to consumer for the month of July & August 2009 along with interest as applicable.
- 2) No order as to the cost or compensation.
- 3) In case consumer desires to appeal against this order he may file the same to the below mentioned authority within a period of 60 days (sixty days).

**Secretary- OMBUDSMAN Maharashtra State Electricity Regulatory
Commission, 606/608 Keshava building, Bandra Kurla Complex
Mumbai- 400051.
Phone No. 022-26592965**

J.L. Sonawane
Ex. Engineer
Secretary Member
Consumer grievance
Redressal Forum
Konkan Zone
Ratnagiri.

D.S. Jamkhedkar
President
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Redressal Forum
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N.A. Kulkarni
Member
Consumer grievances
Redressal Forum
Konkan Zone
Ratnagiri.

Place: Ratnagiri

Date: 22.07.09

