

CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR (RURAL)

COMPLAINT NO. 351/2011

M/s Jaydurga Parboiling Industries Fulchur,
57, Gourrakshan Market, Near Gandhi Pratima Chouk,
Gondia.

.. Complainant

.,VS.,

1. Superintending Engineer,
MSEDCL, O & M Division,
Gondia .

2. Executive Engineer/Nodal Officer,
I. G. R. C., Circle Office,
MSEDCL, Gondia.

Respondents

Applicant Shri Pralhad Badheja & his Representative Shri K.S. Parihar..

Respondents Representative : 1) Shri Y.D.Meshram, EE, O&M Dn., Gondiya
2) Shri A.V. Kurekar, Dy.E.E.

CORAM:

Shri T. M. Mantri, Chairman.
Shri M. G. Deodhar, Member.
Ms. S. B. Chiwande, Member-Secretary.

ORDER
(Per Chairman Dtd. 19th March, 2012)

The complainant has filed the present complaint in respect of his grievance about enhancement of load of 40 H.P. from the date of application, refund of M.D. penalty, restoration of electric supply and awarding of compensation, apart from the action taken under 126. According to complainant's application for extension of load from 67 HP to 107 HP was made on 06/04/2009 but till date it has not been sanctioned. M.D. Penalty has been imposed in the bills. So also by preparing false case under section 126 of Electricity Act,2003, the electric supply has been disconnected. Though grievance was made on 11/07/2011 but to no effect. On the contrary, electric supply has been disconnected in the evening 7 p.m. of 29/09/2011 requiring the complainant to file the present complaint. It is alleged that since last two years M.D. penalty charges have been included in the bills which have been remitted by the complainant. In spite thereof by making false allegation, bill of Rs. 1,05,860/- has been sent without giving any details. Hence the complaint for the grievance.

2. As per the Rules, notice was given to the Respondent Licensee who submitted reply to the complaint stating that energy bill towards assessment was issued for exceeding contract demand and details of monthly contract demand recorded for bill purpose for April to June,2009, Oct. to Dec.2009 & May,2011 are given, stating that the same is indulging in unauthorized use of electricity. As per prevailing practice, the procedure of Panchnama, inspection etc. is not required. The application of the complainant for sanction of additional load by 40 HP dtd. 6/4/2009 is not traceable but subsequent application dtd. 30/05/2011 is received after issue of the bill. Even the said application is incomplete and upon completion of formalities it will be considered. Reference of opinion of Chief Legal Adviser is made and lastly stated that the Forum has no jurisdiction.

3. Considering the submission and emergency, Interim Order was passed, in view of disconnection of the electric supply, upon depositing of 50% amount of assessment bill, with further direction not to pursue coercive methods. It has not been disputed that the amount accordingly was deposited.

4. Heard complainant's representative Shri Parihar and Shri Y.D.Meshram, EE, O&M Dn. Gondiya, Shri Kurekar, Dy.E.E. and Shri Bhedi, Jr.Manager on behalf of the Respondent Licensee. Admittedly the complainants unit was having sanctioned load of 67 HP. According to the complainant an application for enhancing load by 40 HP i.e. for total load 107 HP was made on 6/4/2009 but it has not been sanctioned till date but the M.D. penalty has been included in the bills, issued time and again. Whereas it has been disputed from the side of the Respondent that no such application dtd. 6/4/2009 was any time submitted. The complainant has relied upon Xerox copy of the application, which according to him bears signature of the recipient of the Respondent Licensee with date 6/4/2009. It has also submission that as nothing was done, again application for enhancement of such load was made on 30/05/2011. As already observed above the Respondent Licensee has seriously disputed the application dtd. 6/4/2009. Further admitted about filing of application dtd. 30/05/2011. The Respondent Licensee in support of such submission has filed Xerox copy of the inward register of its office for the period 1/4/2009 to 6/4/2009 on record and further submitted that there is no entry about any such application from the side of the complainant. Ld. Officers of the Respondent Licensee, by referring to the copies of applications filed by

the complainant submitted that they are identical in all respect, except signature and date “6/4/2009”, on the first application and “30/05/2011”, on the second application of giving of such application. The record reveals that the complainant has also filed copy of Test Report in respect of load extension which bears seal and signature of Jai Lahari Electropower Co., Govt. Electrical Contractor and S.R. Waghade, Electrical Supervisor mentioned therein that the test was undertaken on 05/04/2009, But the fact remains that nothing in furtherance of the said application has been done by the complainant. At this stage it is worth while to note that in Aug., 2006 also similar type of application for enhancement of load of 40 HP was submitted from the side of the complainant. This has not been disputed from the side of the Respondent Licensee. However the fact remains that the said application was not persuaded by the complainant for the reasons best known to it. So record clearly reflects that the complainant has been making only application for enhancement of load but not pursuing the same. If it was really interested in getting the load enhanced it would have persuaded in 2006 when the first application was submitted. Even assuming that in April, 2009 the complainant has submitted application, which is disputed from the side of the Respondent, even in that case also it is clear that it was not persuaded at all and no further steps taken by the complainant in spite the fact that in the bill subsequent thereto M.D. Penalty charges have been levied by Distribution Licensee and in the bills it was so specifically mentioned. The complainant has undisputedly got received these bills but has also deposited the payment there under, from time to time. It is not even the case of the complainant that it was not aware that the electricity consumed by it is exceeding sanctioned load. At the same time it is also pertinent to note that at no point of time the concerned office of the Distribution Licensee or any concerned Officer has taken any steps or made any communication in writing in that respect with the complainant. Additional charges have been mentioned in the bills and same have been recovered. It is thus clear that both the parties have allowed this, for the reasons best known to them. The reliance of the Distribution Licensee on few pages of inward register in view of such circumstances can not be of any help. In any case the recitals there in also clearly shows that some of the letters of Mar., 09 say 7/3, 27/3 etc. have been received on or about 8/4/2009 as per the said register. No explanation has been put forth as to why further pages of the said register have not been produced. In any case as already observed above both the parties have allowed the things to go on, without making any correspondence or grievance in that respect. The record clearly shows that there are laches and lacunas on the part of both the parties.

5. Here it is pertinent to note that letter dtd. 26/05/2011 has been issued by the concerned officer of the Respondent Licensee alongwith assessment bill as of April,2011 for Rs. 1,05,000/- and odd. In the said letter it is mentioned, the bill for difference amount is enclosed and the amount accordingly be deposited. So also it is mentioned that the application of enhancement of load be filed. The assessment bill is without any details i.e. period etc. It is also admitted position that on behalf of complainant, application for enhancement of load dated 30/05/2011 then came to be filed. For the first time the concerned office of the Respondent Licensee by letter dtd. 16/07/2011 informed that the said application for the load extension is not proper and it is returned for further process. This practice was not followed earlier say in 2006 or any time thereafter. It is not made clear by both the parties whether the compliances were fulfilled or not but fact remains that application dated 30.05.2011 is after receipt of the letter dtd. 26.05.2011 from the concerned office of the Respondent Licensee. The long silence on the part of the both parties clearly shows that the complainant simply filed the applications for enhancement of load and not taken any steps, whereas the concerned office of the Respondent Licensee has neither pointed out deficiencies in the application nor taken any other action except billing and recovering M.D. penalty charges. For the first time by letter dtd. 26.05.2011 the Respondent Licensee has made communication about utilizing of more energy than sanctioned load, that too since last about 2 years. In such background and the fact that the complainant has already deposited 50% of the amount of the above referred assessment bill the interest of justice will be served in giving directions to both the parties in appropriate manner i.e. for Distribution Licensee to sanction the load upon fulfillment of the requirements on the part of the complainant as early as possible. Needless to say that the amount deposited by the complainant is towards the inaction, latches on its part. Had the load would have been as per first application of the complainant, naturally the complainant required to pay more charges than as per existing sanctioned load. There seems to be substance in the submission made on behalf of the Respondent Licensee that the complainant is raising the issue of submission of earlier application to avoid payment of such more charges. When it suits it, the complainant is trying to press about submission of earlier application. At the same time the latches and inaction on the part of the concerned office of the Distribution Licensee needs to be taken note of. Had the said office taken immediate action after receipt of the first application of 8.8.2006, the bill for the enhanced load would have been issued Non raising of any objection or making any communication in writing to the complainant for period of about 2 years by the concerned office of the Respondent Licensee clearly shows that it also allowed the things to go on. In

view thereof now it can not be permitted to say that the complainant alone is at fault. Copy of the Test Report dated 5/4/2009 as referred to above is on record and copy is given to the Distribution Licensee. It has not disputed nor any submission made in that behalf from its side. There was no reason forgetting such Test done from the Electrical Contractor named above. This slightly goes in favour of the complainant. But the fact remains that there was no persuasions at all from its side. More over neither inspection nor panchanama was made prior to issue the assessment bill and the complainant was asked to deposit the amount and to submit application for enhancement of the load, by letter dtd. 26.05.2011. Admittedly the matter was not heard & complainant was not given opportunity of hearing so also final assessment was not made. All such things clearly shows that even there is no compliance of the provisions. In view thereof the submission on behalf of the Respondent that this Forum has no jurisdiction can not be accepted as by its action/inaction it has allowed the complainant to pay bills with M.D. penalty charges for quite sufficient time and thereby given implied consent therefor.

6. According to Ld. Secretary of this Forum it is a case of unauthorized use of electricity attracting 126. The Distribution Licensee has issued letter dtd. 26/05/2011 alongwith the assessment bill of Rs.105860/- for excess recorded demand in which it is clearly mentioned that the consumer is entitled to file objections, if any within 30 days to the assessing officer and also suggested to apply for load extension.

The consumer has then applied for extension of load of 40 HP on dtd. 30/05/2011 i.e. after issuing of assessment bill by Distribution Licensee.

It is observed that the consumer has not raised any objection within 30 days to the assessing officer, however he submitted a letter dtd. 11/07/2011 stating that he applied for additional load of 40 HP on date. 06/04/2009 (which is strongly disputed by the Distribution Licensee) and again on dtd. 30/05/2011 which is submitted after issuing of assessment bill. He further states that KVA MD has never been exceeded more than 100 KVA from last 2 years. In the same letter it has been written that the matter is personally discussed with E.E. Shri Meshram, assessing officer on dtd. 12/07/2011.

The consumer again submitted a letter dtd. 22/08/2011 to E.E., Gondiya requesting for withdrawal of final assessment bill of Rs. 1,05,860/- under section 126 of I.E.Act,2003 alongwith 15 days notice.

In SOP Regulation, 2005 Reg.5 Quality of Supply & System of Supply.

Reg.5.3 the Classification of installation is laid down.

- 1) A.C. 3 Ph. 4W - sanctioned load not exceeding 80 KW/100 KVA (107 HP).
- 2) A.C. 3 Ph. 11KV/22KV - all installations with contract demand above 80 KW/100KVA (107 HP).

It is true that the consumer has paid the penalty against excess demand. However in present case the Dist. Licensee has raised the assessment bill to the consumer wherever he exceeded the recorded demand for more than 100 KVA. The consumer existing load is 67 HP, even assuming that he applied for extension of load of 40 HP, his total load is 107 HP, however the consumer exceeds the demand for more than 100 KVA for which there exist a separate tariff category (System of supply on 11KV). The Distribution Licensee has therefore issued him the assessment bill under section 126 for unauthorized use of electricity.

In view of above, there exist, prima facie, material on record showing the unauthorized use of electricity covered under section 126 of the Electricity Act, 2003 which is not within the purview of the Forum as stipulated under Regulation 6.8 of C.G.R.F. Regulations. In my opinion, the Forum is neither authorized nor expected to go into details of the alleged acts of the unauthorized used of electricity. The matter is not maintainable before the Forum in terms of Regulations 6.8 for lack of jurisdictions.

However for the reasons recorded above this Forum by majority passes the following order.

ORDER

- (1) The Complaint No. CGRF/NZ-R/351/2011 is hereby partly allowed.
- (2) The Respondent Licensee to consider the application. 06.04.2009 filed by the complainant for enhancement of the load upon fulfillment of the necessary requirement and then to take further steps, appropriately.
- (3) The amount of Rs. 52930/- deposited by the complainant has to be treated towards the liability payable by complainant for user of the energy without sanctioned load and fulfillment of the compliances as necessary without making any persuasion in that regard.

- (3) Compliance report is to be submitted within three months from the date of receipt of order.
- (4) In the circumstances, parties to bear their own cost.

Sd/-

Sd/-

Sd/-

MEMBER MEMBER SECRETARY CHAIRMAN
CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR (RURAL)
(Order Per Chairman Dtd.: 19th March, 2012)

CONSUMER GRIEVANCE REDRESSAL FORUM
NAGPUR ZONE (RURAL) M. S. E. D. C. L.
 Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,
NAGPUR – 440 013

Shri T.M.Mantri
 Chairman
 (Mb)9673215771

(O) 0712- 2022198

Shri M.G.Deodhar,
 Member
 (M)9422805325

NO. CGRF/NZ/R/

Date :

Certified copy of order dtd 19th March,2012 in Case No. 351/2012 is enclosed herewith.

Member-Secy/ Exe.Engineer,
 C.G.R.F.(NZ-R)MSEDCL
N A G P U R

To.

M/s Jaydurga Parboiling Industries Fulchur, 57, Gourrakshan Market, Near Gandhi Pratima Chouk, Gondia.

Copy S.W.Rs.to :-

1. The Chief Engineer,Nagpur Zone (Rural)MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.
2. The Superintending Engineer, MSEDCL, O&m Circle, Gondiya.

Copy F.W.Cs.to:

1. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Gondiya.
 2. The Executive Engineer,C.C.O&M Dn., MSEDCL, Gondiya.
- for information and necessary action.

Address of **the Electricity Ombudsman** is given as below.

Office of - **The Electricity Ombudsman,**
 12, Srikrupa, Vijay Nagar,
 Chhaoni, Nagpur-440 013
 Ph.No.0712-2022198.

