

CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR (RURAL)

COMPLAINT NO. 356/2011

Shri Kishor Vasudevrao Potey
At- Post- Samudrapur,
Taluka Samudrapur,
District - Wardha.

.. Complainant

.,VS..

1. Executive Engineer,
MSEDCL, O & M Division,
Hinganghat.
2. Executive Engineer/Nodal Officer,
I. G. R. C., Circle Office,
MSEDCL, Wardha.

Respondents

Applicant Represented by Dr. N.N. Behre. .

Respondents represented by 1) Shri S.V.Fadanvis, Asstt.Engineer, Samudrapur.

CORAM:

Shri T. M. Mantri, Chairman.

Shri M. G. Deodhar, Member.

Ms. S. B. Chiwande, Member-Secretary.

ORDER

(Per Chairman Dtd. 26th March, 2012)

The complainant's grievance that he has submitted application for Residential Domestic Line but the Respondent Licensee Co. has wrongly given the demand for Rs. 15645/- towards Commercial Line which was required to be deposited and the Distribution Licensee on that basis only levied fixed charges of Rs. 180/-. The Respondent Licensee has incorrectly recovered the amount from 30.04.2007 to 30.04.2009, the same needs to be refunded with interest. Though approached was made to the I.G.R.Cell but till filing of the proceedings no order has been received hence approached to the Forum for Redressal of grievances.

2. As per the Rules, notice was given to the concerned office of the Distribution Licensee which in terms has filed parawise comments on 14/12/2011 stating that considering the application of the complainant estimate was prepared which was sanctioned on 06.01.2007 and accordingly it was necessary to deposit the entire amount. As per Demand Note the complainant has deposited the amount on 06.01.2007 and submitted Test Report on 7.2.2007. Under ORC Scheme entire expenses is to be borne by the consumer and no refund is allowed. Intimation there was given to the complainant. On 23.02.2007 the electric supply was provided. The complainant has submitted an application in May,2009 for changing category and accordingly the bill for Residential category was issued instead of Commercial. As per demand made by the complainant action was taken and the bills for the period from 23-02-2007 to April,2009 which was wrongly issued as Commercial, have been corrected to Residential. The excess amount recovered in these bills will be adjusted in the next bill. The correct bill is issued to the complainant, copy of which is enclosed and lastly pressed for dismissal of the complaint.

3. Heard Dr. Behre Representative for complainant & Ld. Shri S.V.Fadanvis, Asstt.Engineer on behalf of Distribution Licensee. It is pertinent to note that inspite notice no original documents have been produced by the concerned office of the Respondent Licensee. At the time of arguments a query was made in respect of A-1 form of the complainant so as to ascertain factual position but it was submitted by the Ld. Representative of the Distribution Licensee that the original A-1 form is not available. It is pertinent to note that photocopy of some of the documents have been produced, but no convincing ground is put forth for not producing the originals and more particularly A-1 form. As per settle legal position adverse inference needs to be drawn against it.

4. From the record and submission it is not in dispute that the application was for Residential Connection and amount of Rs. 15645/- has been demanded from the complainant and he has deposited the same. It is also admitted position that initial electric bills were issued at the Commercial rate and after complainant's raising objection, the same were corrected. For period of about 2 years the bills at the Commercial rate were issued and since May,2009 the same has been corrected for residential use. The Ld. Representative for Distribution Licensee has submitted that from Dec.,2011 bill total credit of Rs. 3409/- has been shown and from which Dec.,11 bill has been adjusted and still there is credit of Rs.2895/- to the complainant's A/c. It is clear that even for adjusting the credit amount the Respondent Licensee took period of more than 2½ years. No reason is put forth even for such abnormal delay. It is apparently clear that only after approaching

the complaint to Forum that has been done. Apart from that it is clear that the charges of Rs. 14645/- has been recovered from the complainant apart from Rs. 1000/- as Security Deposit. The explanation given for the same on behalf of Respondent Licensee is that Rs. 14645/- were under ORC Scheme and it has been submitted that the consumer has to borne the expenses which will not adjustable. Nothing has been brought on record to point out that the complainant has any time agreed for such condition specially in the year 2007. Admittedly the M.E.R.C. Regulation,2005 cam in force in 2005 and the present matter i.e. application for A-1 form by the complainant is subsequent thereto. In the M.E.R.C. Regulation,2005 the charges for such Residential connection are fixed. Then how such exorbitant amount could have been demanded from the complainant. Such amount has been collected from the complainant without there being anything in support. In the present matter, raising of defence of acceptance of ORC Scheme by the non complainant, does not appear to just and proper. At this stage it is pertinent to note that the complainant had been making demand for refund of the amount since March,08, copy of the letter dtd.3.3.2008 there is seal and signature of the Receipt Clerk of the same office of the Respondent Licensee, is on record. It is further clear from the record even thereafter the complainant has made correspondence in writing with the concerned office of the Respondent Licensee but no convincing reply have been given except letter dtd. 25/07/2011. The complainant then approached to I.G.R.Cell but to no effect. As already observed above firstly there is no documentary evidence brought on record to substantiate the defence of the Respondent and in view of the above observations made in respect of applicability of provisions of M.E.R.C. Supply Code Regulation,2005, no submission has been made from the side of the Respondent Licensee in that regard. Consequently it appears that there is substance in the grievance made on behalf of the complainant about payment of excess amount of Rs. 14645/- The complainants demand for refund of the same needs to be considered. On behalf of the complainant the Ld. Representative has submitted that the excess amount be refunded to the complainant. The same has been opposed from the side of the Respondent Licensee. From the record it is clear that only after receipt of grievance by the complainant certain steps have been taken from the side of the Respondent Licensee of showing adjustment from the bill of Dec.,2011 as referred to above. Had the complainant not raised the grievance the same attitude and practice of recovering excess charges would have been continued. Already the excess payment recovered from the complainant in the bills is being adjusted. In view there of it will be just and proper to direct the Respondent Licensee Co. to refund excess amount of Rs. 14645/- in four installments, else it is liable to pay interest at the same rate which is being charged against consumer.

5. According to the Ld. Member Secretary of this Forum the complainant is not entitled for refund of Rs.14645/- as it was towards ORC charges. According to the Ld. Member Secretary the Hon'ble Supreme Court in Appeal No. 20340 of 2007 has stayed the decision and matter is pending before it, unless the matter is decided by the Hon'ble Supreme Court the complainant is not entitled for refund even as expressed by the Hon'ble Commission in 100 & 101 of 2010 so also by Hon'ble Ombudsman in Representation No. 99 of 2010. According to the Ld. Member Secretary bill of commercial charges having been corrected by showing adjustment of the excess amount recovered from the complainant, nothing remains in the complaint,

6. However the fact remains in the present matter is that the A-1 form, which is even according to the Respondent Licensee is an agreement between the parties is not produced in spite repeated demands. It has been found that mistakes have been committed initially by paying and recovering bills at commercial rate. For resident connection demanding of such excessive amount so about 14645/- without giving any hint or knowledge to the complainant, the Respondent Licensee now can not say that complainant is not entitled for refund on the pretext as referred to above in view of different facts & controversy involved in present case than others referred to. In view of the above observations and findings this Forum is passing the following order by majority.

ORDER

- (1) The Complaint No. CGRF/NZ-R/356/2011 is hereby partly allowed.
- (2) The Respondent Licensee is directed to refund amount of Rs. 14645/- to the complainant in four installments else it shall be liable to pay interest at the same rate which is being charged against the consumers.
- (3) 3 months time from the receipt of the order is granted for the compliance.
- (4) Compliance report be submitted accordingly.
- (5) In the circumstances, parties to bear their own cost.

**MEMBER MEMBER SECRETARY CHAIRMAN
CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR (RURAL)**

(Order Per Chairman Dtd.: 26th 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 26th March,2012 in Case No. 356/2011 is enclosed
 herewith.**

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

To,

Shri Kishor Vasudevrao Potey, At - Post- Taluka-Samudrapur,Dist. Wardha

Copy S.W.Rs.to :-

1. The Chief Engineer,Nagpur Zone (Rural)MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.

Copy F.W.Cs.to:

1. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Wardha, --
 2. The Executive Engineer,C.C.O&M Dn., MSEDCL, Hinganghat
 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.

