

CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR (RURAL)

COMPLAINT NO. 382/2012

Shri Raja Namdevrao Dudhbale,
Prop. Atharvaraj Hatcheries,
Survey No. 56, At Post Yelakeli,
Tahsil Selu, District Wardha.

.. Complainant

.,VS.,

1. Executive Engineer,
MSEDCL, O & M Division,
Wardha .

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

Respondents

Applicant Shri Raja Namdevrao Dudhbale.

Respondents Representative : 1) Shri A.P. Jirafe, EE, O&M Dn., Wardha
2) Shri A.V. Chote, Dy.E.E. Wardha.
3) Shri A.C. Kolte, A.E., Wardha Rural-II.

CORAM:

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

ORDER
(Per Chairman Dtd. 2nd April, 2012)

Complainant approached Forum in respect of his grievance about change of tariff and issuing of letters of disconnection of electric supply for non payment of the amount under change of tariff. His case in substance is that he has carrying out business in the name and style as ATHARVARAJ HATCHERIES. Electric charges have been paid regularly which were applicable to the poultry industry. On 3/8/2011 the Flying Squad visited Hatchery and arbitrarily issued additional bill of Rs. 10,49,063/- on the ground of use of electricity for commercial purpose. Not only this but the complainant was warned by the staffers of the respondent that if the payment is not made the electricity will be discontinued, by referring to letter No. 1293 with alleged bill. The complainant has then referred to the correspondence exchanged between parties and reference of order of stay granted to Balkrishna Hatchery in Writ Petition No. 2358 of 2011 is also made but to no effect. The complainant has referred to

the letters issued by the concerned office of the Respondent Licensee demanding various amount from time to time towards alleged orders and stated that he was forced to deposit Rs. 1,00,000/- on 25/11/2011 and thereafter on 28/11/2011. In spite there of concerned office of the Respondent Licensee is threatening of disconnection of electric supply. Reference is being made to order of C.G.R.F., Kalyan Zone in the matter of M/s Premium Hatcheries & Farm Pvt. Ltd. In spite making payment of Rs. 2,00,000/- the complainant apprehends not only of threat of disconnection but also requirement to pay again. The complainant is therefore, compelled to approach this Forum for Redressal of his grievance. Bunch of documents have been annexed with the complaint.

2. As per the Rules, notice was issued to the Respondent Licensee who in term has filed parawise comments on 30.01.2012 stating that bill was charged as per poultry tariff. Dy.E.E., Flying Squad inspected the spot on 3/8/2011. As per order of Electricity Ombudsman, Mumbai tariff was charged and revised bill was issued to the consumer who did not pay the bill within due date, thereafter temporary disconnection notices were issued. It is stated that in Writ Petition No. 2358/2011 filed by Balkrishna Hatcheries, the present complainant is not a party, therefore, order passed in this case is not applicable. The notice of disconnection have been issued as per due process of law for non receipt of full payment of the bill and lastly pressed for rejection of the complaint. Copy of the some documents have been filed with the reply.

3. Heard complainant in person and Shri Jirafe, Executive Engineer, Ld. representative of the Respondent Licensee. The facts which are not in dispute are that since 2006 the complainant is carrying of business of Hatchery and all through out till issuing of additional bill of Rs. 10,49,063/- on 23/08/2011, the bills used to be that of poultry, as per the tariff fixed by Hon'ble Commission. According to complainant Hatchery Unit an integral part of poultry unit in LT-HT-Agrl. category. However after the visit of the Flying Squad the additional bill for commercial use has been issued. Reference has been made to the said bill which is received by him on 23/08/2011 and in the bill the last date for payment shown as 25/08/2011. It is pertinent to note that there are no other details given and there is endorsement "Additional bill charged of conversion of category for Poultry Farming to commercial as spot inspected by the Dy.E.E., Flying Squad, Wardha dtd. 3/8/2011". Admittedly the complainant has made correspondence in that respect time and again, copies of which are in the record and not in dispute. By letter dtd. 14/11/2011 the complainant has

started that in view of stay by the Court in the matter M/s Balkrishna Hatchery the bills be issued to him as per old rate being identical matter. He has further stated that Judgment of Court will be binding on him and he has given so in writing on the stamp paper of Rs. 100/-. The record reveals that even thereafter the concerned office of the Respondent Licensee issued letters for depositing the amount mentioning therein, else face for disconnection. It is no in dispute that the complainant has deposited Rs. 2,00,000/- (Rs. 1,00,000/- on 25/11/2011 and Rs. 1,00,000/- on 28/12/2011) . According to him in spite thereof, the letter has been issued for paying the entire amount else the electric line will be disconnected hence he has to approached to the Forum. As against this, according to the Ld. representative for the Respondent Licensee the revision in the tariff bill is as per order of the Ombudsman, Mumbai which is applicable in the present case. According to him the Stay granted by the Hon'ble High Court is not helpful to the complainant as he is not party thereto.

4. It is not in dispute that the tariff is approved by Hon'ble Commission. During course of submission it has also came on record that the Poultry Breeders Welfare Association has approached the Hon'ble Commission in view of sudden change of tariff at commercial rate by the Distribution Licensee, without giving advance intimation and the matter is yet to be heard by the Hon'ble Commission. It is not in dispute that tariffs are fixed by the Hon'ble Commission so also revision therein. It is admitted the position that since last about 5 years the complainant has been charged tariff of LT-Agrl. category. According to the Distribution Licensee in view of order of Ombudsman, Mumbai in the case of Balkrishna Hatchery the tariff has been changed to commercial category and therefore, additional bill for 10,49 thousand & odd has been issued. No doubt complainant has referred to certain documents as referred to above alongwith certificate of Maharashtra Animal & Fishery Sciences University so also that of District Dy. Commissioner of Animal Husbandry, Nagpur in support of statement that Poultry Hatchery is an integral part of Poultry Farming. However suffice to say that these certificate were also referred before C.G.R.F., NUZ, Nagpur. It has been submitted that the said matter is also under challenge and subjudice before the competent Forum. As already observed above it is for the Hon'ble Commission to fix/revise tariff and the related matter of similar points are pending before different Forums including Hon'ble High Court and Hon'ble Supreme Court. In view thereof this Forum is of view that it will not be proper to decide the controversy here, but to await the verdict of the competent Forum/Court.

5) However the factual position can not be ignored that of issuing of bills for years together and repayment thereof by the consumer, then all of sudden change the tariff i.e. commercial category, that too, retrospectively not only causes inconvenience but harassment to the consumer. It disturbs its entire working. Had the consumer made aware that from particular date tariff will be at the commercial rate, then he could have made arrangement including selling cost of the products and could have saved him from unnecessary loss. The consumer has sold products on the basis of expenses incurred by him, including electricity charges and now issuing him letter to deposit the changed tariff charges amounting to Rs. 10,49 thousand & odd for the past period i.e. from June,2009, else face the disconnection of electric supply, does not appear to be just and proper. As per the rules the arrears for 2 years can be claimed. Here admittedly there was no arrears but there is revision in the tariff, resulting in issuing of additional bill. Asking the consumer to deposit such amount of Rs. 10,49,00/- and odd within few days else the electric line will be disconnected can not be said to be proper and reasonable. At the most the demand for last two years could have been made and, that too, by giving reasonable installments, subject to the decision on the controversy by the competent Forum, as observed above. It is hard for anybody to pay such amount in single installment. Even according to the Respondent Licensee the additional bill is for the period June,2009 onwards till Aug.,2011. So it would have been just and proper to grant at least monthly installments for two years i.e. 24 installments, for making such payment, as admittedly the complainant has been regularly paying his electric bill. If such mode had been undertaken by Respondent Licensee, the complainant would not have been put to such harassment and pressure. Here it is pertinent to note that even in the letter dtd. 08.12.2011 issued by Chief Engineer(Commercial) of M.S.E.D.C.L., Mumbai, in the last para it has been stated that "Also it is requested to grant installments for payment for supplementary bills raised due to application of HT-II (HT-Commercial) tariff w.e.f. June,2008 to the respective consumers". From the said letter it is clear that granting of installments in such cases wherein the bills have been revised, is made. Needless to say that here in the present case the complainant has already deposited Rs. 2,00,000/- as stated above towards the additional bill delay so the same needs to be considered while fixing the installments of the complainant. Giving of letters of disconnection for such bill would might have been resulted in closure of the industry which is neither in the interest of the complainant nor Respondent Licensee. Considering the pros & cons and different views in the matter this Forum is of the view that way of via media till decision of the controversy between the parties by the competent Forum, in terms of above it will be just & proper to grant installments subject to such decision. Hence proceeds to pass following order.

ORDER

- (1) The controversy between the parties about change in electricity tariff to be decided by the competent Forum and till then the additional bill amount shown in the bill of 23/08/2011 is to be paid by 24 monthly installments which is to fix by the Distribution Licensee. Needless to say that this will be subject to decision by the Competent Forum. Respondent Licensee to issue the monthly bill alongwith amount of installments in terms of this order.
- (3) Compliance report is to be submitted within stipulated time.
- (4) In the circumstances, parties to bear their own cost.

Sd//
MEMBER

Sd/-
MEMBER SECRETARY

Sd/-
CHAIRMAN

CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR (RURAL)
(Order Per Chairman Dtd.: 2nd April, 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. 382/2012 is
enclosed herewith.**

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

To,

Shri Raja Namdevrao Dudhbale, Prop.M/s Atharvaraj Hatcheries, Survey No.56, At Post Yelakeli,
Tahsil Seloo, 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, Wardha.
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.

