

BEFORE THE CONSUMER GRIEVANCE REDRESAL FORUM
M.S.E.D.C.L.,NAGPUR ZONE-RURAL,NAGPUR

Application/Case No. CGRF/NZ/Rural **13** of 2005

- Applicant : Shri Narendra Mahadeo Nile, Principal,
City Convent, Res.Krishnagar Ward,
Ballarpur. Dist.-Chandrapur. Pin-442701.
- VS -
- Non-applicants : 1. Executive Engineer(Admn)/Nodal Officer,
Internal Grievance Redressal Unit,
Circle Office, Chandrapur.
2. Executive Engineer, CCO&M Dn.,
MSEDCL, Ballarshah .
- Presence : 1.Shri N.J.Ramteke, Chairman.
2.Shri M.G.Deodhar,Member,
3.Shri M.S.Shrisat, Member/Secretary.
- Appearance : 1.Shri N.M.Nile, Applicant.
2.Shri B.D.Matte,Dy.E.E. O&M S/Dn.,Ballarshah.
(Representative of non-applicants.)

ORDER

(Passed this 21st Day of January,2006)
(Per Shri N.J. Ramteke, CHAIRMAN)

This is an application in Schedule "A" under Regulation 6.3 of MERC (CGRF&O) Regulations, 2003 (hereinafter called the Regulations). Applicant had made an application to the Internal Grievance Redressal Unit, Chandrapur in schedule 'X' on 6/10/2005 . The non-applicants sent the reply on this application on 2.11.2005. Applicant was not satisfied with the reply of the non-applicants and, therefore, he approached this Forum. He sought the relief from this Forum on the grounds that the Electricity/energy bill of 19-5-2004 on the basis of Audit Recovery Report for the period March,2000 to February,2001 , Rs. 19,183/- and the revised bill dated 10-2-2005 of Rs. 9050/- are not acceptable to him because the said bills are over and above 2 years. Both the bills are invalid and, therefore, he could not accept the same. He used to make the regular payments of electricity bills to the D.L. He is requested the that both the bills should be cancelled and the amount of Rs. 3020/- as paid by him under protest may be refunded to him with interest thereon.

On receipt of application in Schedule 'A' , the Forum issued the acknowledgement under Regulation 6.6 of the Regulations. The copy of the grievance application alongwith the enclosed documents was sent to the non-applicants (including the Nodal officer) as required under Regulation 6.7 and 6.8 of the Regulations. The non-applicants submitted their parawise reply alongwith the enclosed documents as per the list on 23.12.2005 (Record pages 14-16) . The copy of parawise reply was sent to the applicant

alongwith the enclosed papers. The notices were issued and served on both the parties as required under Regulation 6.9 of the Regulations for hearing.

The Forum heard the Applicant and non-applicants on 16.1.2005 . The Executive Engineer, CCO&M Dn. MSEDCL, Ballarshah authorized and deputed Shri B.D. Matte, Dy.E.E. to represent the non-applicants in this case. Shri N.M.Nile, Applicant presented his case and Shri Matte made the submissions before the Forum on behalf of the non-applicants at the time of hearing.

The facts in brief in this case are that the applicant is an electricity Consumer with Consumer Number 450020005675 and Meter No. 417439, Krishna Nagar Ward, Ballarpur, Dist.-Chandrapur. The non-applicants issued the bill on 19.5.2004 on the basis of Audit recovery for the period 3/2000 to 2/2001 of Rs. 19,183/- . The non-applicants issued a revised provision bill dated 3/2/2005 for the period 3/2000 to 2/2001 of Rs. 9050/- . Applicant paid under protest Rs. 3020/- (1/3rd amount of bill Rs. 9050/-) as per the bill dated 6.9.2005

The main contention of the non-applicants in their parawise reply and the oral submission made by Shri Matte at the time of hearing is that the said meter was out of order for the period Mar,2000 to February,2001. This meter was replaced in December, 2001 with No. 417439 . As per the reading of the new meter the revised bill required to be given to the Applicant as the reading was on higher side as per the actual consumption for the period August,2001 to August,2002 and the net chargeable amount comes to Rs. 9049.75. This is based on the audit recovery report. The non-applicants examined the meter on 8.6.2005 as per the application dtd. 15.3.2005 of the Applicant and found that there was no mistake in the meter. There is no injustice caused on the Applicant as the bill is charged for the period of faulty meter (out of order). The present application needs to be rejected.

At the time of hearing Shri Nile reiterated the grounds as mentioned in his application in schedule 'A' and the various application he has made to the non-applicants on 4.6.04 , 7.3.05 and 6.9.05. He emphasized on the provision under Section 56(2) of the Electricity Act,2003 and demanded that in light of this provision, he is no liable for making the payments to the D.L. as the bills are over and above 2 years from the first date of the due bill.

On hearing both the parties and perusal of the record, the Forum come to the conclusion and decide unanimously as under :

It is a matter of fact that the non-applicants issued the bill of Rs. 19,183/- to the Applicant on 19-5-2004 on the basis of audit recovery for the period 3/2000 to 2/2001. It is also surprising to know that the non-applicants themselves revised the bill of Rs. 9050/- on 3.2.2005 (Record page 7). It is also a matter of fact that the non-applicants accepted 1/3rd amount (of Rs. 9050/-) Rs. 3020/-. On one hand the non-applicants are relying on the audit report for the first bill of Rs. 19,183/- but on the other hand after a lapse of more than 9 months, they have revised the bill. In the note (Record page 27) the non-applicants have given the reasons that the average 456 units per month as worked out by the Dy. Chief Accounts Officer is revised to 275 units per month for the period March, 2000 to February,2001. There is no base or the convincing ground for revision of this bill . Shri Matte could not through any light on this point and he merely stated that it is a matter of audit recovery and, therefore, the bills were issued to the Applicant.

The meter went out of order in December, 1999 but the D.L. kept silent till October, 2001. Why the D.L. kept silent for almost 2 years ? Shri Matte could not throw any light on this point. He also could not explain and clarify before the Forum on what authority of the law or standing instructions of the D.L., the electricity charges were worked out for 12 months on the installation of the new meter. The Forum asked a pertinent question whether the charges are to be worked out when the meter is out of order on the basis of preceding 6 months or the forwarding 6 months? He could not produce any authority on this point. The Forum brought to his notice para 4.5.1 , Chapter IV – meter reading Code of Commercial Instructions 1966 of the D.L. It has been specifically and clearly mentioned in these instructions that in the event of meter being out of order for any reason during any month, the consumption for the month will be determined on the basis of the average consumption over preceding 3/6 months period and the bill for the month will be prepared accordingly. It has also been laid down under these instructions that the faulty meter will be replaced by another one in good working order immediately or the same will be replaced and re-installed as expeditiously as possible. In the instant case the meter belonged to the D.L. and, therefore, it was its duty to replace the faulty meter. But unfortunately the non-applicants kept silent for almost 2 years.

It is obvious from the record that the bill became due in March,2000 whereas the first bill was issued on 19.5.2004. The Applicant has rightly sought the relief under Section 56(2) of the Electricity Act, 2003. It has been clearly laid down under this sub-section that no sum due from any consumer under this section shall be recoverable after the period of 2 year from the date when such sum became first kdue unless such sum has been shown continuously as recoverable as arrears. It is a matter of fact in the instant case that the non-applicants have not issued any bill to the Applicant till 19.5.2004 whereas the first bill became due in March,2000. The non-applicants are relying on the audit report. But the audit report cannot supercede the provisions under the Act. The non-applicants also failed to show the necessary details in both the bills dated 19/5/2004 and 3.2.05 . The bill dated 3.2.05 is a provisional bill against the audit recovery . It is not understood how it can be a provisional bill though it was issued 5 years after the first bill became due.

The non-applicants produced a Xerox copy of the order dated 8/2/2002 of National Consumer Disputes Redressed Commission, New Delhi (Record page 30) . The Matte could not explain how this order is applicable in the instant case. It is obvious that the Electricity Act, 2003 came in force in June,2003 whereas the order of N.C.D.R.C., New Delhi is of 8.2.2002 . Thus the non-applicants cannot rely on this order in light of the provisions under Section 56(2) of the Electricity Act, 2003. In view of the commercial instructions as mentioned above the non-applicants cannot work out the electrical charges bill for the forwarding months. The non-applicants should have considered the electrical charges for the preceding months of December, 1999. They failed to do so.

The Applicant wants the refund of Rs. 3020/- with interest as he paid to the D.L. under protest. But this relief cannot be given to him as he utilized the electricity for this period . At the most the amount can be adjusted in the future bills.

In view of above circumstances and position, the Forum order as follows:

ORDER

- 1) Application is allowed.
- 2) Both the bills Rs. 19,183/- dt. 19.5.04 and 9050/- dt. 3.2.05 are cancelled.
- 3) The D.L. is directed to adjust the amount of Rs. 3020/- in the future bills.
- 4) Parties to bear their own cost.

CHAIRMAN MEMBER MEMBER/SECRETARY
CONSUMER GRIEVANCE REDRESSAL FORUM (NZ-RURAL)
M.S.E.D.C.L., NAGPUR.
-000-

NO.CGRF/NZ/Rural/13/2005/13

dt. 27.1.2006.

Certified that this is the true and correct copy of the above order.

MEMBER
C.G.R.F., N.Z.-RURAL,
M.S.E.D.C.L.,NAGPUR

Copy forwarded to:

- 1) Shri N.M.Nile, Ballarpur.
- 2) The Chief Engineer(NZ)MSEDCL,Nagpur
- 3) The Executive Engineer/Nodal Officer, IGRU, Circle Office,
MSEDCL,Chandrapur
- 4) The Executive Engineer, CC O&M Dn., MSEDCL,Ballarshah