

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
M. S. ELECTRICITY DISTRIBUTION CO.LTD.
(NAGPUR ZONE – RURAL) NAGPUR.**

Application/Case No. CGRF/NZ/Rural/ **34** of 2006

Applicant : M/S. Shriram Rice Mill,
Fulchur Road, Gondia.441-601
(M)9320810875 Fax-07182-222498

Non-applicants : 1.Executive Engineer/Nodal Officer, I.G.R.C.,
Circle Office,M.S.E.D.C.L., **Gondia.**
2.Executive Engineer,C.C.O&M Dn., M.S.E.D.C.L.,
Gondia.

Presence: 1.Shri N. J. Ramteke, Chairman
2.Shri M.G. Deodhar, Member
3.Shri S. J. Bhargava, Member/Secy.

Appearance. : 1. Shri Sanjay Khandelwal,
Representative of Applicant. .
3. Shri C.M.Khandalkar, E.E.
4. Shri S. S. Pahade,A.O.
For Non-Applicants.

O R D E R

(Passed this 2nd day of September, 2006)
(Per Shri N.J.Ramteke, CHAIRMAN)

Applicant presented this application on 19/7/2006 to this Forum in form Schedule 'A' of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2006 (hereinafter called the Regulations), against the order of the Internal Grievance Redressal Cell, Bhandara. Applicant sought relief from this Forum on the grounds that Rs. 134552.80 the lump sum debit as shown against him by the non-Applicant. On receipt of the present application, acknowledgement was given to Applicant, the parawise comments of non-applicants were called, copy of parawise comments was sent to Applicant, notices for hearing to both the parties were issued, the Forum heard both the parties. This procedure is required to be followed as laid down under the Regulations.

The facts in brief in this case are that the Applicant is a consumer of the M.S.E.D.C.L. with connection No. IP 243 433560000131 and Meter No. 6000103834. The non-applicants issued a bill of Rs. 2,27,790/- on 11/4/2003 (Record Page 6), showing the debit of Rs. 1,34,552.80 with interest of Rs. 18838.44 . The Applicant made various applications to the non-applicants protesting against debit amount as shown above (Record

pages 7 to 12). Applicant also approached the I.G.R.C. , Bhandara in form Schedule 'X' vide application dated 10/3/2006 . The I.G.R.C. under its letter dated 8/5/2006 justified the arrears of Rs. 1,34,552.80 as per audit report. The Applicant is aggrieved by this reply of the I.G.R.C. and, therefore, the present application.

The Forum followed the requirement as laid down under the Regulations in terms of the principles of natural justice by giving fair and reasonable opportunity of hearing to both the parties. The Forum heard Applicant and non-applicants on 24/8/2006. During the course of hearing, the Forum sought clarification in respect of peak period and the relevant circulars thereunder. Shri Khandalkar, E.E. requested the Forum for grant of time to produce the same. The Forum granted the time and again the case was fixed for hearing on this point on 31/8/2007. The Forum heard both the parties.

Shri Sanjay Agrawal, Representative of Applicant, made the submissions on behalf of Applicant. During the course of first hearing on 24/8/2006, Shri Sanjay Agrawal was also asked by the Forum to produce the documents about the closure of the rice milling during the relevant period. He promised to produce the same subject to production of the documents about the peak period by the non-Applicants.

The non-applicants produced the parawise comments in response to the present application on 10/8/2006.

The main contention of Applicant is that the billing department of M.S.E.D.C.L., Bhandara debited lump sum amount of Rs. 1,34,552.80 in the bill of April,2003. No calculation sheet or details about this amount have been shown by them despite several requests made by him under various letters (Record pages 7 to 12). Applicant also relied upon decision of the M.E.R.C. in the case of Rice Millers Association. Applicant further contended that the provisions under section 142 and 146 of Electricity Act, 2006 are also attracted. This amount is debited by the non-applicants for the reasons of peak period. This peak period and amount of arrears is imaginary and no calculation sheet is provided. The recovery is also barred by limitation as per Section 56(2) of the Electricity Act,2003.

The main contention of the non-Applicants is that the Dy. C.A.O. under his letter dtated 6/12/2002 (Record pages 38 & 46) worked out the peak period Nov,2000 to Mar,2001 and Nov,2001 to March,2002 for ten months on average units 4700, totaling units 47000 . 4821 units are deducted and, therefore, the bill of Rs. 134,972.80 has been shown in the bill of April, 2003. The Applicant in his applications has never informed protesting against the arrears as shown above. The amount of arrears as shown in the bill of April, 2003 and therefore, the section 142 and 146 are not attracted as the Electricity Act came into force in 2003. The I.G.R.C. has rightly decided the issue. The Forum is governed under the

Regulations of 2006 which came into force on 20 April, 2006 and therefore, this Forum has no jurisdiction to decide the present matter in terms of Regulation 6.6 of the Regulations. The parties have also submitted Xerox copies of documents as per the list at the time of 2nd hearing on 31st Aug,2006.

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

As per the jurisdiction of the Forum in terms of Regulation 6.6, it is made clear by the Forum to both the parties at the time of hearing that in present case the cause of action is the decision dated 8/5/2006 of the I.G.R.C. and, therefore, the contention of the non-applicants can not be taken into consideration on this point. The cause of action means violation of any legal right of any person or consumer. In the present case the Applicant is aggrieved by the decision of the I.G.R.C. and, therefore, he has a right to approach this Forum to seek redressal in respect of his grievance. The provision under section 142 and 146 of the Electricity Act,2003 are not attracted as there is no violation or non-compliance of the order of the M.E.R.C. Shri S.S.Pahade made the submissions on behalf of the non-applicants. He could not produce any circular, standing instructions of the D.L. about the calculation of peak period and the method thereunder. It is not understood how the peak period is worked out. It appears to be hypothetical calculations made by the Dy.C.A.O. The report of audit can not be taken into consideration and it can not be the final authority unless supported by convincing documents. The non-applicants failed to submit such documents and also failed to convince the Forum in support of their case. The Forum noted that the Dy.E.E., Flying Squad made a spot inspection on 30/7/2004. This report reveals that the condition of the meter was positive and the general observation is normal. The relevant period under dispute is Nov, 2000 to Mar, 2001 and Nov, 2001 to Mar, 2002. When Applicant claimed specifically that the rice milling operations were stopped for two three years and he has submitted the supporting documents of different authorities, it was the duty of the non-applicants to prove the contrary of the claim of the Applicant. Unfortunately, the non-Applicants failed to prove before the Forum in this regard. The District Marketing Officer, Gondia in his certificate dated 30/8/2006 as produced by the Applicant, has shown that rice milling operation for the period 2000-2001, 2001-02, 2002-03, 2003-04, 2004-05 were stopped.

The Forum noted that the meter of the Applicant was OK, it was not tampered or not having any defect. Shri Pahade admitted specifically before the Forum that there was no any defect in the meter and it was in order. The Forum noted with surprise that the meter was OK then how the question of peak period arises. It means the Applicant was getting energy bills as per the reading of the meter. The C.P.L. as produced by Shri Pahade also reveals that

there was no defect in the meter and Applicant was getting the regular bills as per reading. It is also surprising to note that no checking was made by the non-Applicants of the same meter when they are relying upon the peak period. The bill about peak period can not be accepted as the non-Applicants could not prove the claim of the audit in respect of peak period. It is also a matter of fact that Applicant was making regular payment of the current bills. The non-applicants have shown the debit of Rs. 1,34,972.80 in the bill of April,2003, whereas the peak period pertains to Nov,2000 to Mar,2001 and Nov,2001 to March,2002 . Though this amount is based on audit report, it can not be taken into consideration as the same is not supported by any document as on record. It is also a matter of fact that this amount is of peak period and peak period is calculated hypothetically. This hypothesis can not be a base to determine the arrears of above amount. The above discussion reveals that the calculation of the peak period is imaginary as rightly claimed by the Applicant.

The Electricity Act, 2003 came into force on 10th June, 2003, whereas the arrears under subject matter for ten months were shown in the bill of April, 2003. As per the section 56(2) of the Electricity Act, 2003, no sum due from any consumer under this section shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied. Moreover, this sub-section speaks about “Electricity Supplied”. In the present case the arrears are about the peak period and this peak period is already treated as hypothetical. The provisions under section 56(2) of the Electricity Act, 2003 are not attracted and, therefore, can not be applied.

In view of the above position and circumstances, the Forum pass the order unanimously as under.

ORDER

- 1) Application is allowed.
- 2) The Energy bill showing Rs. 1,34,552.80 about the peak period is quashed.
- 3) There is no order about the cost of the case.

CHAIRMAN

MEMBER

MEMBER-SECY.

CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., NAGPUR ZONE (RURAL) NAGPUR.

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No. CGRF/NZ/R/ **142**

Date: **4TH SEP, 2006**

This is to certify that this is the true and correct copy of the above order.

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

Copy to :

1. M/S. Shriram Rice Mill, Through : Shri Sanjay Agrawal, Fulchur Road, Gondia.
2. The Chief Engineer, Nagpur Zone (Rural) MSEDCL, Vidyut Bhavan, Katol Road, Nagpur.
3. The E.E., C.C.O&M Dn., MSEDCL, Gondia for information and necessary action.

Address of - Electricity Ombudsman is given as below.

Office of - The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606-608, Keshava Building,
Bandra-Kurla complex,
MUMBAI- 400 051

TEL.- 022 - 26592965 (Direct)
022 - 26590339 (Office)