

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

Application/Case No. CGRF/NZ/Rural 2 of 2005

Applicant : Shri Dinanath Balkrishna Dhapade,  
At & Post: Wadegaon, Tahsil- Tiroda  
District – Gondia.

-- VS --

Non-applicants : 1. Executive Engineer(Admn)/Nodal Officer,  
Internal Grievance Redressal Unit,  
Circle Office, Bhandara.  
2. Executive Engineer, CCO&M Dn.,  
MSEB, Gondia. .

Presence : 1.Shri N.J.Ramteke, Chairman.  
2.Shri M.G.Deodhar,Member,  
3.Shri M.S.Shrisat, Member Secretary.

Appearance : 1.Shri Dinanath Dhapade, .  
2.Shri Umakant D Dhapade  
3.Shri R.J.Palewar,A.E..  
(Representative of non-applicants.)

**ORDER**

(Passed this 3rd Day of May, 2005)  
(Per Shri N.J. Ramteke, CHAIRMAN)

(1) Applicant presented an application in Form “A” before this Forum for redressal of the grievance as mentioned in his application. He wants redressal on the grounds of discrepancy in meter reading , average bill and starting electric supply. This application was received in this Forum on 4.4.2005. An acknowledgement was given to the applicant as required under M.E.R.C.(CGRF& Ombudsman) Regulations, 2003 ( hereinafter called the Regulations). Applicant approached the Internal Grievance Redressal Unit by making an application in Form “X” on 30.11.2004. No remedy was provided by the M.S.E.B.-Distribution Licensee, Bhandara . Hence the present application.

The Forum gave acknowledgement as required under Regulation 6.6 of the Regulations. The copy of the application was forwarded to the Nodal Officer designated by the D.L. for his parawise comments. The copy of the same was also forwarded to the Executive Engineer, CC O&M Dn., Gondia for his comments. The record was called from the D.L. The non-applicants(D.L.) submitted their comments under letters dated 12.4.2005 and 26.4.2005. Copies of the parawise comments are given to the applicant. The notices were issued to both the parties for hearing . Sufficient advance time was given to both the parties for submission of their respective position. The Forum heard both the parties. A fair and reasonable opportunity of hearing was given to both the parties.

Shri Dinanath Dhapade, Application was present with his Representative , Shri Umakant D Dhapade. Shri Umakant Dhapade made submission on behalf of the Applicant. The main contention of the applicant is that he made an application to the Internal Grievance Redressal Unit on 30.11.2004 but no action was taken by the non-applicants. The non-applicants failed to make parawise comments. The non-applicants have not given any information about the appeal pending before the Consumer Disputes Redressal Commission, Maharashtra State, Mumbai. A revised bill was not given to him. At the initial stage the D.L. gave a bill of Rs. 1,74,600/- and later on a revised bill of Rs. 78,622.40 on 5.7.2004 through the post which was not received by him. This shows that the revised bill is not correct as there is discrepancy between the first and the second bill. In Dec,2001 he received suddenly a bill showing 36334 units which is exorbitant. For this D.L. is responsible. He was ready to make the payment as per average bill which was not accepted by the D.L. and disconnected the electric supply. The Applicant further submitted that he is ready to make the average payment of 24 months. His electric connection should be started within 8 days.

The non-applicants contended in their parawise comments dated 12/4/2005 and 26.4.2005 that the District Consumer Disputes Forum, Bhandara passed the order in this regard in Complaint No.UTP 155/2002 on 26.2.2003. The D.L. made an appeal against this order before the Consumer disputes Redressal Commission, Maharashtra State, Mumbai. The appeal No. is 441/2003. The Commission granted the stay to the Order passed by the District Forum. The non-applicants further submitted that initially a energy bill of Rs. 1,74,600/- was given to the Applicant which was revised to Rs. 78,622.47 and sent to the Applicant through post on 5.7.2004. The Applicant failed to make the payment and , therefore, electric supply has not yet been started. Shri Palewar, Asstt.Engineer submitted at the time of hearing that spot panchnama was made about the meter. At present the electric supply is temporarily disconnected. The average bill of 122 months has been given to the Applicant . The Applicant has not made any payment . If the meter was faulty, it was the duty of the Applicant to get it corrected . Shri Palewar admitted that the faulty meter should have been corrected in time for correct reading of the energy consumed. This shows the fault of the then concerned Officer. Shri Palewar informed the Forum that if Applicant makes the payment as per average bill of 2 years, the D.L. may consider his request for re-starting the electric supply. He also admitted about the suitable instalments for payment of this amount as per mutual understanding between the Applicant and the D.L.

The Forum perused the record and the papers submitted by the Applicant . It is a matter of fact that Applicant is an electrical consumer with Consumer No.431080440091 of Wadegaon. Before deciding the present application on merits, certain vital points are necessary to be considered. The District consumer Grievance Forum decided the application filed by the present Applicant under its order dated 26.2.2003 in complaint No. UTP 155/2002. The District Forum decided the matter in favour of the Applicant. Full and complete relief was given to the Applicant as per his request to the District Forum . The D.L. being an aggrieved party approached the State Commission in appeal. The State Commission granted interim stay in appeal No.441/2003 under order dated 29/4/2003. It is seen from the copy of the said order of the Commission that the counsel of the present Applicant was present before the Commission. It means, Applicant was aware of the appeal as filed by the D.L. The Forum does not agree with his contention that the D.L. failed to intimate him about

the appeal. Thus a competent Authority i.e. District Consumer Disputes Forum, Bhandara already decided the grievance of the Applicant and gave suitable relief to him. It has been laid down under section 175 of Electricity Act, 2003 that the provisions of this Act (E.,A.2003) are in addition to and not in derogation of any other Law for the time being in force. The District Forum has already decided the same issue between the same parties under the consumer Protection Act,1986. Thus this Forum cannot decide the issue again between the same parties. The Electricity Act, 2003 cannot override the provisions under Consumer Protection Act, 1986 . The principle of Res. Judicata envisages that the earlier decision of the same question cannot be re-opened if that decision is not arbitrary or perverse, if it has been arrived at after due enquiry, if no fresh facts are placed before the Authority giving the later decision, if the authority deciding the earlier decision has taken into consideration all material evidence. This Forum is not applying this principle merely on the technical ground but considers that justice to be done to both the parties. In short, the matter has already been decided by the District forum , Bhandara on considering the evidence and submissions of the parties. This is also challenged in appeal by the D.L. before the State Commission and stay is in operation. There is no scope for this Forum to re-open the issue to decide the matter again between the same parties since the adequate relief has been given by the District Forum to the Applicant . The Applicant cannot agitate again before this Forum for redressal of his grievance.

In view of the above position , the Forum unanimously decided that the present application needs to be rejected.

### **ORDER**

- (1) **This** application is rejected .
- (2) There is no order about cost.

CHAIRMAN

MEMBER

**CONSUMER GRIEVANCE REDRESSAL FORUM (NZ-RURAL)**

**M.S.E.D.C.L ; N A G P U R**

-o0o-

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

Copy forwarded to:

1. Shri Dhapade
2. The Executive Engineer(Admn)/Nodal Officer, Internal Grievance Redressal Unit,Circle Office, MSEB,Bhandara.
3. The Executive Engineer, C.C.O&M Dn.,MSEB, Gondia.

MEMBER,  
C.G.R.F.N.Z.(R),MSEB,  
NAGPUR