

3. A notice was given to the respondent. The respondent was directed to submit parawise reply. The respondent submitted parawise reply under no.EEG/CC/CGRF- dated 31-05-2014. The case was fixed for personal hearing on 02-06-2014. Shri Nilesh Kothari, applicant himself and Shri D.D.Dave, his authorized representative were present. Shri P.G.Shastrakar, Assistant Engineer, Gondia represented the respondent. Both the parties were heard.

4. Shri Dave, the representative argued that the applicant is an agricultural consumer. He took the connection for agricultural purpose. He used to get the electricity bill on quarterly basis till September 2013. The applicant received the bills as per agricultural tariff. It is true that the godown is constructed in the same premises. It is used to store LPG Cylinders. As per safety norms use of electricity is not permissible in the godown. There is neither a bulb / tube light nor the wiring in the godown. The transaction of receipt & delivery of the Cylinders took place during the day time only. So the applicant did not require electricity supply for this LPG Cylinders godown.

The applicant received a bill in January 2014. The tariff applied in the bill was commercial one. The arrears of Rs.36,423/- were also mentioned in the bill. There were no details regarding the arrears in the bill. The applicant is utilizing the electric supply for gardening, plantation & horticultural use. So the commercial tariff applied by the respondent was wrong. The applicant approached the IGRC Gondia. At the time of hearing only he came to know that the respondent initiated action under section 126 against the applicant. However the applicant never received any notice, provisional

assessment, spot inspection report etc. So the alleged action under section 126 is wrong & baseless.

The applicant requested i) to declare that the action under section 126 is illegal, unnecessary and unwarranted. ii) The respondent may be directed to issue the bill with agricultural tariff for the period from September 2013 onwards. iii) The respondent may be directed to refund the excess amount deposited by the applicant as directed by the interim order of this office dated 29-04-2014. iv) suitable compensation as per SOP Regulations may be awarded to the applicant.

5. Shri Shastrakar referred to the parawise reply dated 31-05-2014. It was further stated that the Dy.Executive Engineer, flying squad, visited the premises of the applicant on 13-11-2013. The flying squad noticed that though the connection is granted for agricultural purpose the power supply was being used for commercial purpose. So the flying squad directed the Assistant Engineer, Gondia to change the tariff and to issue the bill. Accordingly the power tariff was changed and the bill was issued. The applicant failed to deposit the amount of the electricity bill. So the Junior Engineer, Fulchur issued a disconnection notice of 15 days on 18-02-2014. The applicant refused to accept the notice. So his power supply was temporarily disconnected on 10-03-2014. The Junior Engineer issued a notice giving 8 days time for permanent disconnection on 11-03-2014. However it was found that the notice was wrong. So another notice was issued on 11-03-2014 itself. Thereafter on 29-03-2014 the electricity supply of the applicant was

permanently disconnected. As per the order of the Forum the power supply was restored on 05-04-2014.

The connection was released for agricultural purpose. However the applicant used the supply for commercial purpose. So the action taken by the respondent is legal and proper. The application has no force. It may be dismissed.

6. The Member and the Technical Member of the Forum submitted a note as under,

We have gone through the documents on record & submissions made by both the parties, the grievance of the applicant is that he is using electricity for gardening, plantation & horticulture use from his Ag. connection No.43135003452 at Dawa. The respondent wrongly booked him under section 126 alleging that the supply was being used for Gas godown activity by changing agricultural tariff into commercial tariff & issued the assessment bill for Rs.36423/-. The applicant has contended that the respondent had not given copy of inspection report, provisional assessment hence deprived him to file appeal in this matter under section 127.

The respondent however maintained that they have issued the assessment copy but no one was ready to acknowledge the same.

It is observed from the available record that the applicant stressed on the point that as per the norms & conditions of the explosive Acts & license condition the gas godown functions from 9.30 to 6.00 p.m. and no electric wiring etc. are permitted in this godown. In this context, the condition 13 reads as under,

13. No shed used for storage of flammable gases shall be opened and no handling of the gas cylinders shall be permitted between the hours of sunset and sunrise, except where approved electric lighting is exclusively used.

After going through the conditions mentioned at sr.no.1 to 17, it is no where mentioned that electric lighting is not permitted in the premises. Hence the applicant says about action of the respondent for implementation of section 126 in above case is totally wrong has not been established.

The applicant has not provided any documents to substantiate the fact that he is using electricity exclusively for Ag. pump. Except saying he could not establish the point with any documents that he is using electric supply for agricultural activity.

The respondent in the inspection report clearly mentioned that the applicant's activity for storing LPG cylinders is in the premises adjoining to the already existing connection. They further contended that the supply is used outside the godown where the filled & empty cylinders are loaded, unloaded & then stored in a shed. The existing supply from Ag. connection was being used for above mentioned activity which clearly indicates that the applicant is using electricity for the purpose other than for which the usage of electricity was authorized & hence this activity comes under section 126 of E.A. Act 2003. The respondent says that they had served the copy of inspection report & provisional assessment bill. It is true that there is no any acknowledgement on either report from the applicant. However it is shown in panchanama copy that the applicant or his representatives has refused to sign on paper. It is also confirm that the applicant received the bill in January-2014 alongwith arrears Rs.36240/- & change in tariff

category. In spite of that the applicant had not raised any objections to the respondent till the disconnection of his supply. It is not known why he remains silent despite receiving bills with commercial tariff. It is only after disconnection of his supply. He wrote to the respondent & filed grievance before IGRC. We therefore inferred that the applicant himself delayed the matter. Had he been raised the matter as soon as he got the bill with commercial tariff along with arrears, he could have been appealed in this matter under section 127 within stipulated time period.

In view of above, there exist, prima facie, material on record showing the unauthorized use of electricity covered under section 126 of the E.A. 2003 which is not within the purview of the Forum as stipulated under Regulation 6.8 of CGRF Regulations. In our opinion the Forum is neither authorized nor expected to go into details of the alleged acts of the unauthorized use of electricity. The matter is not maintainable before the Forum in terms of Regulation 6.8 for lack of jurisdiction.

7. We have perused the record. We have heard the arguments advanced by both the parties.

8. According to the applicant he uses the power exclusively for watering the plants, garden and vegetables. The applicant admitted that there is a godown in the same premises where LPG Cylinders are stored. However as per the safety norms the use of electricity is not permissible in the godown. Secondly, the transaction of receipt and the delivery of the Cylinders is done in the sunlight i.e. 9.30 a.m. to 6.00 p.m. There is nothing to doubt about the aforesaid submission.

On the contrary the Nagpur region flying squad, unit Gondia, carried out the spot

inspection under no.DD/NR/Sr.No.433 dated 13-11-2013. The copy of the report is on record. At sr.no.7 the squad recorded the observation as under,

7. Type of installation & nature of work carried out there – godown of Gas Agency.

At sr.no.17 the squad recorded the observation as under,

17. Irregularities observed – on checking, the said connection is utilized for commercial purpose but the connection is billed under agriculture. The consumer is utilizing unauthorized use of electricity from agricultural connection.

One xerox copy of the inspection report dated 13-11-2013 is also on record. The observations recorded in the report are as under,

... [kksyhp; k vkar ikg.kh dsh vl rk fl y ykoysysforjhr djko; kps xll fl ymj rl p fouk fl y fjdkes ijr dj.; kr vkysys, p-ih; ; k xll dā uhips fl ymj Boysys vk<Gys ; k [kksyhe/; s dkskrgh oht okij vk<Gup vkys ukgh-

l njpk oht ijgobk d"kh oht okijkdjhrk vl Y; kus riki uh dsh vl rk okly dEi kmMP; k vkar dkskr; kgh idkjpk d"kh @ 'krh l dkhP; k ckch t l s /kku&'krh fadok brj fi ds?kr vl Y; kckcr dkskr; kgh ckch vk<Gup ; s ukgh-rl p fBdfBdk.kh fo | q fnos vkokj l tkovh djhrk tkM.kh dshys vk<Gys

l nj ckcrhr vl sfnl q ; s dhj tkxk ekyd ; kah T; k vf/kdr dkj.kkLro l njpk oht ijgobk ?kr-syk vkgs R; k dkj.kko; frfjDr brj dkj.kkcdjhrk oht ijgob; kpk okij djhr vkgs-----

Except the aforesaid vague observations, there is nothing on record to show the purpose for which the electricity was being used.

The Forum specifically asked whether the copies of these reports were given to the applicant. The respondent admitted that the copies were not given before.

The spot inspection report did not bear the signature of neither the applicant nor his representative.

Naturally any action initiated by the respondent on such vague observations is void as well as unwarranted.

In parawise report dated 31-05-2014 the respondent nowhere stated that an action under section 126 is initiated against the applicant. However from the documents submitted by the respondent it reveals that an action under section 126 has been initiated on the ground that the applicant uses the power supply for the purpose other than it was originally sanctioned.

Clause (b) to explanation of section 126 clarifies the unauthorized use of electricity. In clause (iv), it is mentioned, " for the purpose other than for which uses of electricity was authorized ".

9. According to the applicant the power supply is used for watering plants, garden & vegetables. There is nothing on record to show that the applicant is not using the power supply for the aforesaid purpose. The spot inspection report in this regard is vague. Naturally there can be the only conclusion that the action initiated by the respondent was unwarranted & unnecessary. There is no evidence on record to show that the action under section 126 was invocable in the instant case. As such the action taken by the respondent needs to be quashed & set aside.

We have perused the order passed by the IGRC Gondia dated 21-04-2014. The IGRC recorded the observation as follows,

“ In j duD'kuph riki .kh midk; Bkjh vfhk; ark fQjrs iFkd ; kuh riki uh vgoky dz433 fn-13-11-2013 i ek.ks
 dsys vI q ohtps okij xW , tUl hpk xkMkmul kBh 10; ol k; hdfjR; k½ djhr vI Y; kps vk<Gys“ On this only
 observation the IGRC confirmed the action taken by the respondent. However the order
 is prima facia wrong for two reasons, (i) As per the applicant for safety reasons the use
 of electricity is not admissible in the godown. Secondly (ii) The flying squad recorded
 the observation that there was no use of electricity in the godown. In view of the above,
 the order passed by the IGRC Gondia needs to be set aside. So we set aside order
 dated 21-04-2014.

10. As per the provisions of Regulation 8.1 of the MERC (CGRF & EO) Regulations
 2006, the order is to be passed by majority of votes of the members. In the case in
 hand the Chairman is of the opinion the action initiated under section 126 is wrong,
 illegal & unnecessary. However the member and the technical member recorded their
 opinion that the action initiated by the respondent is just and proper. So we pass the
 order by majority of votes.

11. In view of the aforesaid discussion, we pass the following order, by majority.

ORDER

- i) Application No.44 of 2014 is hereby dismissed.
- ii) The parties to bear their own cost.

Sd/- (Adv.Gauri D.Chandrayan) <u>MEMBER</u>	Sd/- (Ms.S.B.Chiwande) <u>MEMBER SECRETARY</u>	Sd/- (Vishnu S. Bute) <u>CHAIRMAN</u>
<u>CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR ZONE NAGPUR</u> <u>(Nagpur Dtd. 02nd day of June, 2014)</u>		

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

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(O) 0712- 2022198

NO. CGRF/NZ/

Date :

Certified copy of order dated 02nd June, 2014 in Case No.44 / 2014 is enclosed herewith.

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

To,
Shri Nilesh Ramjibhai Kothari, Opposite Indira Gandhi Stadium, Dist.Gondia.

Copy s.w.r.to :-

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

Copy f.w.cs.to:

1. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Gondia
2. Executive Engineer,C.C.O&M Dn., MSEDCL, Gondia.
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
0712-2596670

