

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM

M. S. ELECTRICITY DISTRIBUTION CO.LTD.

(NAGPUR ZONE – RURAL) NAGPUR.

Application/Case No. CGRF/NZ/Rural/ **19** of 2006

Applicant : Shri H.B.Ratod, Proprietor
M/S Mrudula Chemicals,Gondia

-- VS --

Non-applicant. : 1.Executive Engineer/Nodal Officer
Internal Grievance Redressed Unit, Circle Office,
M.S.E.D.C.L., Bhandara.
2.Exe.Engineer, CC O&M Dn. MSEDCL,Gondia .

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

Appearance. : 1. Shri Sudhir Rathod, Representative,
for Applicant
2. Shri V.P.Yaul, Exe.Engr. and
3. Shri B.A.Hiwarkar, Dy.E.E.
(Representatives for non-applicants)

ORDER

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

Applicant presented this application in schedule 'A' of MERC (CGRF&O) Regulations, 2003 . Applicant nominated Shri Sudhir Rathod as his representative in the present proceedings. Applicant sought relief from this Forum on the grounds that non-applicants to pay interest of Rs. 777/- for illegal utilization of their fund and thereby deprived them to utilize Rs. 8830/- . The non-applicants utilized their fund from 30.3.2005 to 17.1.2006 and, therefore, the interest amount comes to Rs.777/- . Applicant also demanded damages of Rs. 10,000/- in view of the fact that non-applicants served upon them a supply disconnection notice dt. 23.3.2005 which is totally illegal because the

Electricity Act and the MERC Regulations do not provide for such illegal notice. The non-applicants threatened them for disconnection of power supply though they are not in arrears of any electricity bill. Applicant also demanded the payment of cost of present litigation of Rs. 2000/- and the amount of damages and interest to be recovered from Shri J.M. Khairkar, A.E. for issuing illegal notice and excess demand bill.

The facts in brief in this case are that Flying Squad of the D.L. made inspection of Applicant's factory meter on 29/12/2004 with the inspection report No.162 that due to technical fault, the meter was not responding to one set of 3 C.T. and hence it was running slow. Assistant Engineer issued a notice dt. 15.3.2005 to Applicant alongwith bill of Rs. 17,660/- to make the payment within 15 days otherwise the electricity supply would be disconnected. Applicant objected to the above notice and paid amount of Rs. 17,660/- on 30/3/2005 under protest. Applicant also addressed detailed letter to the Chief Engineer and Superintending Engineer (Record pages 14 to 17). The Chief Engineer also responded to the letter dt. 2.4.2005 of the Applicant on 11.4.2005.

Shri K.N. Hinganikar, Meter Testing Unit, Gondia visited Applicant's factory on 30/4/2005 and tested the meter vide test report dt. 30/4/2005. As per this test report, all 3 C.Ts are functioning properly but the meter itself was not responding properly and, therefore, it was running slow by 31.71%. The meter testing unit advised for replacement of meter. The new meter was installed on 30/4/2005, in the factory of Applicant. Applicant approached Internal Grievance Redressed Unit, Bhandara by application in Schedule 'X'. The I.G.R.U. decided the matter and sent its reply on 22.12.2005 to the Applicant (record page 26). Applicant was not satisfied by the reply of I.G.R.U. Bhandara and, therefore, presented application in schedule 'A' to this Forum.

The main contention of the Applicant is that the meter belonged to the D.L. and, therefore, as per Regulation 14.4.1 of Supply Code Regulations, 2005, responsibility lies upon the D.L. for periodic testing and maintenance of the meter installed in the consumer's premises. As per Regulation 15.4.1, the consumer's bill can be adjusted for a maximum period of 3 months from the date of error and, therefore, the D.L. collected amount illegally of 6 months instead of 3 months. Applicant is entitled for refund of excess amount of Rs. 8,830/- . The demand notice with threat of disconnection was illegal as the Applicant was never in arrears of electricity charges. The amount of interest and damages as claimed by him to be recovered from Shri J.M. Khairkar, A.E. for issuing illegal notice and excess demand bill by terrorizing honest consumer.

The Forum received the application in schedule 'A' on 4.2.2006 . The Forum gave acknowledgement to Applicant as required under Regulation 6.6 of the Regulations. The copies of the application alongwith the set of documents as enclosed by the Applicant, were sent to the E.E. concerned and the Nodal Officer, Bhandara with the directions for submission of parawise comments as required under Regulation 6.8 . The Forum issued and served notices for hearing of both the parties as required under Regulation 6.9. The non-applicants submitted their parawise comments alongwith enclosed documents on 18/2/2006. The copy of parawise comments was sent to Applicant alongwith the notice for hearing. The Forum heard both the parties on 6/3/2006. Thus reasonable and fair opportunity of hearing was given to both the parties.

At the time of hearing, Shri Sudhir Rathod, representative of Applicant, reiterated the point as mentioned in the application. However, he emphasized on the grounds that the demand notice of Rs. 17,660/- with threat to Applicant for disconnection is illegal. The disconnection notice is issued when the consumer is in arrears. In this case

Applicant was never in arrears of electricity charges. He relied upon some judgements of Hon'ble Supreme Court and he submitted Xerox copies of the same. He stated specifically that the amount of interest and charges to be recovered from the concerned office of the D.L. who is responsible for issuing illegal notice.

Shri V.P.Yaul made the submission on behalf of the D.L. and reiterated the points as stated in the parawise reply dt.18/2/2006. Shri Yaul was assisted in the present proceeding by Shri B.A.Hiwarkar,Dy.E.E. Shri Yaul submitted that revised bill has been issued to Applicant as per MERC Regulation in the month of Jan,2006 and was credited in the consumers energy bill for the month of Jan,2006. Since the matter has already been settled and sufficient relief is given to Applicant , the question of payment of damages and interest does not arise ?

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 A.E. issued a notice alongwith bill of Rs. 17,660/- on 15/3/2005 to Applicant for payment otherwise the electric connection would be disconnected. The perusal of this notice shows that this is not correct notice as Section 26(2) of Electricity Act, 2003 is relied upon for issuing this notice. Section 26 of the Act does not pertain to the notice for recovery. It means, no care has been taken by the non-applicants in issuing notice. Section 56(1) of Electricity Act, 2003 deals with disconnection of supply in default of payment. It has been laid down under this sub/section that where any person neglects to pay any charge for electricity . Here no negligence is found on the part of Applicant. Applicant is not in arrears of electricity charges. It is also not the case of non-applicants to show Applicant as defaulter. No justification is forthcoming from the non-applicants for issuing of this notice. The Flying Squad detected certain technical fault and the demand bill of Rs. 17,660/- was

issued to Applicant , it was not necessary and required to issue notice dt. 15/3/2005 (Record page 11). Thus this notice is itself illegal and, therefore, it is squashed.

The non-applicant issued a revised bill for the month of Jan,2006 and shown the credit in favour of the Applicant but the demand of Applicant remains that the D.L. utilized the amount of Rs. 8830/- from 30/3/2005 to 17.1.2006. Applicant has rightly claimed interest of Rs. 777/- and he is entitled for the same. The Forum agreed with the non-applicant that there is no evidence of threatening and terrorizing the Applicant. However, the question remains that non-applicants issued illegal demand notice alongwith the bill. It may be a routine and common practice as adopted by the officers of D.L. but they are expected to work within the framework of law and Regulations framed thereunder.

The regulation 14.1.1. deals with supply and cost of meter. The D.L. provides the meter to the consumer on security deposit for the price of the mater in accordance with Section 47(1) of the Electricity Act. Section 47 deals with power to require security. Here the meter is belonging to the D.L. and, therefore, it was its duty to maintain it in proper condition. Regulation 15 deals with the period of billing as laid down under regulation 15.1.1. Thus Applicant was making regular payment to the D.L. and he may not be called as defaulter for issuing the notice as done by the non-applicant.

The Hon'ble Supreme Court in civil application No. 7633 of 2002 in Gazhiabad Development Authority Vs. Balbirsingh held that in any case the law has always maintained that the public authorities who are entrusted with statutory function cannot act negligently. In the instant case the non-applicants have acted negligently. Hon'ble Supreme Court further held that when the court directs payment of damages or compensation against the state the ultimate sufferer is a common man. It is the taxpayers money which is paid for inaction of those who are entrusted under the Act to discharge

their duties in accordance with law. In view of this law as laid down by Hon'ble Supreme Court , the Forum is of the opinion that Shri J.M.Khairkar, A.E. acted negligently and issued illegal notice to Applicant and, therefore, he is held responsible for payment of interest. The Forum directs that the amount of Rs. 777/- to be recovered from Shri J.M.Khairkar,A.E.

Applicant was in constant correspondence with the D.L. and he had also approached I.G.R.U. Bhandara . Thus he definitely incurred expenditure on the present litigation and, therefore, he is entitled for cost of the case of Rs. 500/- . His demand of Rs. 2000/- as cost of case is not acceptable to the Forum.

There is no direct loss or the damage caused to the Applicant and, therefore, his demand for damages of Rs. 10,000/- cannot be accepted. There is no justification for payment of compensation and damage of Rs. 10,000/- . The Forum rejected this demand of compensation and damages .

In short, the Applicant is entitled for interest of Rs. 777/- and and cost of case Rs. 500/- to be recovered from Shri J.M. Khairkar,A.E.

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

ORDER

1. Application is partly allowed.
2. Rs. 777/- as amount of interest and Rs. 500/- as cost of case totaling to Rs. 1277/- to be recovered from Shri J.M.Khairkar,A.E. and paid to Applicant within 2 months from date of receipt of this order.
3. The claims of compensation and damage are rejected.

CHAIRMAN

MEMBER

MEMBER/SECY.

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

CGRF/NZ/R/ of 2006/

Date:

Certified 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. Mrudula Chemicals, Ashirwad, Powser House Road, Ramnagar, Gondia.
2. The Chief Engineer, NZ, MSEDCL, Nagpur.
3. The Exe.Engineer/NO, I.G.R.U., Circle Office, Bhandara.