

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redresses Forum
Nagpur Zone, Nagpur**

Case No. CGRF(NZ)/107/2017

Applicant : Smt. Premila N. Chandel,
Janta Saw Mill, Teacher Colony,
Wardha Road, Kondhali-441103.

Non-applicant : Nodal Officer,
The Executive Engineer,
O&M Division Katol, NRC,
MSEDCL, Katol.

Applicant represented by : 1) Shri. Abhijitsingh Chandel,

Non-applicant represented by: 1) Shri S. G. Nanotkar, Dy.Ex.Engineer,

Quorum Present : 1) Shri Vishnu S. Bute,
Chairman.
2) Shri N.V.Bansod,
Member
3) Mrs. V.N.Parihar,
Member Secretary.

ORDER PASSED ON 06.01.2018

2. The applicant presented this grievance application feeling aggrieved by the order passed by the IGRC, Nagpur Rural Circle in case no. 481 2017-18 on 20-11-2017. It is the contention of the applicant that the relief given by the respondent was not sufficient. So she approached this forum under the provisions contained in Regulation 6.4 of the MERC (CGRF & EO) Regulation 2006.

A notice was given to the respondent. The respondent submitted parawise reply. On 29-12-2017 the case was fixed for hearing. Both the parties were present. They were heard.

3. Shri Abhijitsingh Chandel, a representative was present for the applicant. He argued that the applicant got excessive bill in the month of September 2015. So she gave a complaint to the respondent. The MSEDCL checked the meter and installed another meter in series. It was noticed that the applicant's meter was three times faster. So the MSEDCL officials removed the defective meter and it was sent to MSEDCL laboratory for checking. As per the laboratory report also the meter was three times faster. So the respondent revised the electricity bills of the applicant for the period from April 2015 to November 2015.

The applicant prayed that the meter was installed in his premises in the year 2003. The MSEDCL should have revised all the bills from 2003.

4. Shri S. G. Nanotkar, Dy.Executive Engineer, Kondhali, replied that acting upon the complaint of the applicant her meter was checked on the spot. It was noticed that the meter was defective. So it was sent to the MSEDCL testing laboratory in November 2015. The laboratory reported that the meter is three times faster. So the electricity bills of the applicant were revised from April 2015 to November 2015. The respondent has taken the action properly. The instant application has no force, it may be dismissed.

5. The case was heard on 29.12.2017. After the hearing was over the case was discussed and it was concluded that the application deserves to be dismissed. The order was drafted accordingly. The Chairperson and the Member Secretary put their signatures on the order.

On 4-1-2018 Shri Naresh Bansod, Member (CPO) orally stated that he desires to give a dissenting note. He gave the undated note which reads as under.

(1) We have perused the record. We have heard the arguments advanced by both the parties.

(1) Para No. 5 of the aforesaid order is as under.

It reveal that the applicant submitted complaint in September 2015. The meter was removed from the premises of the applicant in November 2015. It was noticed that the meter is three times faster. So the respondent revised the bills for eight months preceding November 2015. As per the request of the applicant, the bills even prior to April 2015 may be revised.

However Regulation 6.6 of the MERC (CGRF & EO) Regulations 2006, reads as under.

6.6 The forum shall not admit any Grievance unless it is filed within two(2) years from the date on which the cause of action has arisen.

In view of the above we are of the opinion that the applicant cannot be given a relief in the electricity bill prior to April 2015. Application is dismissed.

(2) As regards to Cause of action, I wish to refer the order of The Electricity Ombudsman, Nagpur dated 4-8-2017 in representation No. 17/2017 Smt. Varsha Lalwani v/s The Executive Engineer O&M Division, MSEDCL, Gondia, in which Hon'ble Electricity Ombudsman considered two High Court Judgements. I also rely on the same.

"I rely on the Judgment dated 18-7-2017 of the Bombay High Court, Nagpur Bench, Writ petition No. 3997/2016. (MSEDCL v/s E.O. & M/s. Shilpa Steel & Power Ltd.), where in the Hon'ble court has upheld the view that "grievance of the respondent No.1 was within limitation as cause of action has arisen from the date of rejection of grievance by IGRC".

Also the Division Bench of the principal Bench of the Bombay High Court in M/s. Hindustan Petroleum Corp. Ltd. v/s MSEDCL and others in Writ petition No. 9455/2011 had accepted that, "cause of action for submitting the grievance should arise when the IGRC rejects the grievance of a applicant".

(3) In this case IGRC, vide order dated 20-11-2017 disposed of the grievance for which Applicant is not agreeable. In view of the clear findings of the Bombay High Court as well as reliance by The Electricity Ombudsman, Nagpur, the cause of action has arisen in this case on 20-11-2017 and hence the Application deserves to be allowed.

(4) Applicant stated the warranty of the meter is 5 years only.

(A) As per Notification of "Central Electricity Authority" (Published in the Gazette of India, Extraordinary, Part III, Section iv) New Delhi dated the 17th March 2006,

(B) Clause 18(2) is as under "The testing the consumer meters shall be done at site at least once in five years".

(C) MERC (ESC & OTS) Regulation 2005.

14.4 - Testing and Maintenance of meter.

14.4.1- The Distribution Licensee shall be responsible for the periodic testing & maintenance of all consumer meters.

Section 55 of the Electricity Act. 2003.

i.e. use, etc 3 of meter.

(1) No licensee shall supply electricity after expiry of 2 years from the appointed date except through installation of a correct meter in accordance with regulations to be made in this behalf by the authority.

In view of the above legal position, Non Applicant totally failed to act as per The Electricity Act 2003, Electricity Supply Code Regulations 2005 as well as Notification of the Central Electricity Authority, to maintain meter of the consumer & resulted in 3 (Three) times fast and same is admitted by Non Applicant as is as per Lab. Test. Hence as per request of the Applicant, the bills even prior to April 2015 deserves to be allowed minimum period of 5 years prior to April 2015 as more amount is received by Non Applicant and further deserves to be

refunded as per Section 62(6) of The Electricity Act. 2003 at the bank rate from the date of receipt of the amounts.

In above aforesaid order of The Electricity Ombudman, Nagpur dated 4-8-2017, it was directed to the charge consumption from 21-10-2010 onwards at industrial rate and excess amount paid by Appellants should be refunded to him with interest at the bank rate and full amount be paid to him by cheque immediately.

Hence application deserves to be partly allowed.

ORDER

- (1) Non Applicant is directed to revise the bill of the applicant for 5 years prior to April 2015 and adjust excess received amount with interest at bank rate to the applicant in future bill.
- (2) IGRC order deserves to quash & set aside.
- (3) The compliance of this order shall be done within 30 days from the date of the order.

**Member (CPO)
Naresh Bansod**

On careful perusal of the note, following discrepancies are noticed at the first instance.

- (1) Proviso to Regulation 8.4 of the MERC (CGRF & EO) Regulations 2006 reads as follows.

Provided that where the members differ on any point or points the opinion of the majority shall be the order of the forum.

The opinion of the minority shall however be recorded and shall form part of the order.

In the note given by the member he assessed the order drafted and approved by the majority (The Chairperson and The Member Secretary).

As per the provisions contained in Regulation 8.1 of the above said Regulations.

“..... the forum shall take a decision by a majority of the members of the forum and”

However the member himself passed the order on behalf of the forum. The order is totally against the legal provisions.

Now coming to the dissenting note, the member submitted that, “Cause of action for submitting the grievance should arise when the IGRC rejects the grievance of the applicant” and he proposed that the respondent MSEDCL may be directed to revise the bills of five years prior to April 2015. In support of the submission the judgments of Hon. Bombay High Court, Nagpur Bench, W.P. No. 3997/2016 dt. 18-7-2017 MSEDCL v/s EO and M/s. Shilpa Steel and Power Ltd and W.P. No. 9455/2011 M/s. Hindustan Petroleum Corp. Ltd v/s MSEDCL & Others were quoted.

Regulation 6.6 of the above said Regulation reads as under.

6.6 The forum shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.

As per the member the cause of action arose when the IGRC rejected the grievance of the applicant. He relied upon the judgment given in Writ Petition 3997/2016 dt. 18-7-2017 and Writ Petition 9455/2011.

However we disagree with the member, because neither of the party made any statement about the limitation or condonation. We think it proper to keep our discussion limited to the submissions of the parties. Further more we are not aware of the facts and circumstances of the cases quoted above. So we think it will not be proper to apply those cases in the instant case.

The member raised other points also however those points do not affect the final order and no relief to the applicant is proposed therein so we simply put those on record.

6. We have perused the record. We have heard the arguments advanced by both the parties. It reveals that the applicant submitted complaint in September 2015. The meter was removed from the premises of the applicant in November 2015. It was noticed that the meter was three times faster. So the respondent revised the bills for eight months preceding November 2015. As per the request of the applicant, the bills even prior to April 2015 may be revised.

However Regulation 6.6 of the MERC (CGRF & EO) Regulations 2006, reads as under.

6.6 The forum shall not admit any Grievance unless it is filed within two(2) years from the date on which the cause of action has arisen.

In view of the above we are of the opinion that the applicant can not be given a relief in the electricity bill prior to April 2015. So the order passed by the IGRC is just and proper. It need no interference. We pass the following order by majority.

ORDER

Order passed by the IGRC is hereby confirmed.

Application no. 107/2017 is dismissed.

(Mrs. V. N. Parihar),
MEMBER SECRETARY

(N. V. Bansod)
MEMBER(CPO)

(Vishnu S. Bute),
CHAIRMAN