

**Before Maharashtra State Electricity Board's
Consumer Grievance Redressal Forum,
Nagpur Urban Zone, Nagpur.**

Case No. CGRF (NUZ)/011/2005

Applicant : 1) M/s. Uppal Surgical Industries
P.O. Uppalwadi,
NAGPUR.

Non-Applicant : Executive Engineer,
Civil Lines Division,
(NUZ), MSEB., Nagpur.

Quorum Present : 1) Shri S.D. Jahagirdar, IAS (Retd)
Chairman,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member, Consumer Grievance
Redressal Forum,
Nagpur Urban Zone, Nagpur.

ORDER (Passed on 16.04.2005)

The present application is filed before this Forum in the prescribed schedule "A" on 18.03.2005 as per Regulation No. 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 hereinafter referred-to-as the said Regulations.

Following are the grievances of the applicant.

- 1) The electricity bill dated 13.05.2004 showing recovery of arrear amount of Rs. 45,260/- is arbitrary improper & illegal.
- 2) The non-applicant's action of disconnecting electricity power supply to the applicant's small scale unit on 16.11.2004 is illegal.

The applicant has prayed in his grievance application that

- 1) the non-applicant be directed to restore the electricity power supply to the premises of the applicant immediately,
- 2) the electricity arrear bill issued by the non-applicant on 13.05.2004 be quashed alongwith interest thereon,
- 3) the applicant may be compensated towards mental agony, harassment, waste of working time, expenses incurred and monetary loss of the lease amounts and
- 4) the erring staff of MSEB may be punished appropriately for their negligence and careless attitude.

The matter was heard by us on 13.04.2005 when both the parties were present. They were heard by us. Documents produced by both the parties are also perused by us.

After receipt of the application is question, the non-applicant was asked to furnish parawise remarks on the applicant's application in terms of Regulation number 6.7 and 6.8 of the said Regulations. The non-applicant, accordingly, submitted his parawise remarks on 05.04.2005 before this Forum. A copy of this parawise report was given to the applicant on 13.04.2005 before taking up the case for hearing and opportunity was given to him to present his say on this parawise report also.

The applicant has contended that he was paying the electricity bills regularly till the receipt of the arbitrary bill dated 13.05.2004 showing arrear amount of Rs. 45,260/- for the first time and that this arrear amount is not only unjustified and arbitrary but it is also time-barred and illegal. The applicant had approached the non-applicant several times and also filed his applications dated 24.05.2004, 26.05.2004, 08.07.2004, 24.07.2004, 20.09.2004 but he received no reply from the non-applicant. He added that he received a letter, being letter number NUZ/EE/CLDn/RAV/Inspection Para/4743 dated 30.09.2004, for the first time informing him that the non-applicant has charged the arrear bill of Rs.45,260/- in his energy bill for the month of April – 2004 as per the audit para drawn by the Internal Audit Party for the year 1992-93 and further asking him to arrange to pay the energy bill containing the arrear amount of Rs. 45,260/- immediately. The applicant in reply sent his letter being letter dated 08.10.2004, to the non-applicant stating that the claim of MSEB was illegal,

unwarranted and un-justified and bad in law as per section 56(2) of the Electricity Act-2003. However, no cognizance of this letter was taken by the non-applicant and on the contrary to the surprise and shock of the applicant, the electricity supply to the applicant's unit was disconnected on 16.11.2004 illegally. The applicant thereafter was trying to get his grievance redressed but to no purpose. It is the contention of the applicant that he was put to monetary losses because of the illegal action of the non-applicant regarding disconnection of his power supply. The applicant has produced alongwith his grievance application copies of various letters sent by him to the non-applicant as also copies of electricity bills paid by him. The applicant has also produced a copy of his application dated 08.10.2004 addressed to the non-applicant informing him that the non-applicant has no legal authority to recover the time-barred claim of the arrear amount. The applicant has also produced a copy of letter dated 28.10.2004 addressed to him by the non-applicant asking the applicant to pay the outstanding bill of Rs. 51,707/- as on 28.10.2004 including the arrear amount of Rs. 45,260/- failing which the applicant's electricity supply would be disconnected without any intimation.

The applicant had also approached the Executive Engineer (Adm), In charge of the Internal Grievance Redressal Unit by filing his application in schedule "X" as per Regulation No. 6.3 of the said Regulations on 10th January 2005. However the Internal Grievance Redressal Unit did not

provide any remedy to his grievance within the prescribed period of two months there by compelling the applicant to approach this Forum for redressal of his grievances.

The non-applicant has stated in his parawise report dated 04.04.2005 that the applicant's meter, being meter number 09513138, was faulty since February – 1991. During the course of verification of the applicant's meter card, remarks of reverse creeping were seen to have been recorded on the meter card. The meter reading recorded for Feb.-1991 was 11420 units while the same was 11389 units for the month of April 1991, 11393 units for the month of June 1991, 11377 units for the month of August-1991 and so on. The meter was replaced in March, 1993. As the meter was faulty since February 1991, the Audit Inspection Party intimated the non-applicant to charge the recovery as under.

- 1) February 1991 to May 1992 ----- 2488 Units per month for 16 months, Amount of Rs. 41,798=40
- 2) June 1992 to October 92 ----- 2488 Units for five months, Amount of Rs. 13,684/- + 850 (fixed charges).
- 3) February 1993 ----- 2488 Units Amount of Rs. 2816.80.

Thus, a total amount of Rs. 59,149.20 was shown as recoverable by the Audit Party against which the amount already billed was Rs. 13,888.40/- Quoting these details, the

non-applicant stated before us that the net arrear amount recoverable from the applicant was Rs.45,260/- and, accordingly, the non-applicant charged debit of Rs. 45,260/- to the applicant in his electricity bill in the month of April 2004. The non-applicant stated that since the consumer-applicant failed to pay this amount, his electricity power supply was disconnected on 16.11.2004.

The non-applicant also argued that the applicant had approached the Consumer Disputes Redressal Forum at Nagpur and had filed his complaint, being complaint number 341/2004. This complaint case was dismissed by the Consumer Disputes Redressal Forum, Nagpur on 15.12.2004. The non-applicant, relying on the observations of the Audit Party and the order passed by the Consumer Disputes Redressal Forum at Nagpur, contended that the applicant has no case and that his action was correct. The non-applicant also produced a copy of the Consumer Personal Ledger in respect of the consumer-applicant showing the electricity bill amounts charged to the applicant from the December 1997 to Nov. 2004.

We have carefully gone through the entire record of the case, all the documents produced by both the parties as also all the submissions made before us by them.

There is no dispute that the Inspection Audit Party asked the non-applicant to recover from the applicant arrear amount of Rs. 45,260/- which is pertaining to the

period from February 1991 to February 93. There is also no dispute that the applicant's meter was faulty since February 1991. There is also no dispute that this amount of Rs. 45,260/- was shown as recoverable by the non-applicant in the electricity bill dated 13.05.2004. The arrear amount of Rs. 45,260/- was no doubt shown as recoverable for the first time in the bill dated 13.05.2004 issued by the non-applicant. This amply demonstrates that the arrear amount of Rs. 45,260/- pertaining to the period from February 1991 to February 93 was shown as recoverable much after the period of two years from the date on which this sum became first due. In the instant case it is clear that the Audit Party has shown this arrear amount as due from February 1991 to February 93. The applicant has, time and again, approached the non-applicant informing him that the non-applicant has no legal authority to recover this amount in view of the legal provision, contained in section 56(2) of the Electricity Act-2003. The applicant has vehemently argued before us that as per this legal provision the arrear amount cannot be recovered. The applicant's contention according to us, is not only correct and proper but it has also the legal support of section 56(2) of the Electricity Act-2003. The text of section 56(2) reads as under.

“ Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless

such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity”.

This mandatory provision is undoubtedly applicable to the applicant's case. The details shown by the non-applicant in his parawise report dated 04.04.2005 clearly show that 1) the arrear amount of Rs. 45,260/- is shown as recoverable much after the period of two years from the date on which this sum became first due and 2) the arrear amount was not shown continuously as recoverable as arrear of charges for the electricity supplied to the applicant. In fact the record shows that the arrear amount in question was shown as recoverable after an abnormally long period of more than ten years from the date on which the sum became first due. The non-applicant is trying to take shelter of the audit note for his actions which are ab-initio illegal. He could have pointed out to the Audit Party that the Law does not allow him to demand and recover the arrear amount of Rs.45,260/-. This seems to have not been done by him neither any record is shown to us by the non-applicant to show that he did point out the legal provision to the audit. The Law is supreme and nobody is above Law, not even the Audit Organisation..

It is also evident from the various applications addressed by the applicant to the non-applicant that the non-applicant did not bother to reply the applicant's various communications for a long time and that no cognizance was taken by him of the legal provision pointed out to him by the

applicant. The power supply of the applicant was disconnected on 16.11.2004. Since the non-applicant's action to demand arrear amount of Rs. 45,260/- was ab-initio illegal, it follows that his action of power disconnection was not only improper, unjustified and arbitrary but it was also patently illegal. The applicant's contention submitted by him in this respect is perfectly correct in terms of section 56(2) of the Electricity Act, 2003. His contention that the arrear amount of Rs.45,260/- can not become recoverable is also correct looking to the mandatory provision contained in section 56(2) of the Electricity Act, 2003. Since all the actions on the part of the non-applicant were illegal, the applicant's grievance that he was put to avoidable hardship and harassment etc is also genuine.

The non-applicant has contended that the Court of Consumer Dispute Redressal Forum at Nagpur has dismissed the applicant's complaint on 15.12.2004 and hence the applicant has no case. A copy of this order is produced by the applicant during the course of hearing and it is taken on record. Perusal of the text of this order shows that the Consumer Disputes Redressal Forum at Nagpur did not hold the applicant as a consumer and hence his complaint was dismissed. Therefore the order passed by the Consumer Disputes Redressal Forum at Nagpur cannot be construed to prevent the applicant to approach this Forum and seek relief since the applicant is a consumer of electricity in terms of section 2 (15) of the Electricity Act, 2003. As a matter of fact the non-applicant has also accepted the applicant as a

consumer of electricity and he has also allotted a consumer number, being consumer number 410011856323 to the applicant. In view of this position, the non-applicant's contention that the applicant has no case in view of dismissal to his complaint by the Consumer Disputes Redressal Forum at Nagpur cannot be accepted.

The record shows that the applicant had approached the Internal Grievance Redressal Unit headed by the Executive Engineer, (Adm) in the Office of the Chief Engineer, (NUZ), MSEB, Nagpur by filing his application before this Unit. However, it seems that this Unit failed to provide any remedy to the applicant within the prescribed period of two months as contemplated in Regulation number 6.3 of the said Regulations. Since the applicant's power supply was disconnected on 16.11.2004, it was incumbent upon the Internal Grievance Redressal Unit to consider and give relief to the applicant looking to the merits of his case. However, it is regretfully noted that the this Unit had shown complete apathy towards the applicant's grievance by not providing any remedy. The non-action on the part of the Internal Grievance Redressal Unit is also responsible for forcing applicant's Small Scale unit to continue to remain without power supply during the prescribed period of two months which was available to the Internal Grievance Redressal Unit.

In the light of above, we accept the grievance application of the applicant and pass the following order.

- 1) The arrear amount of Rs. 45,260/- alongwith interest there on shall not be recovered by the non-applicant.
- 2) The non-applicant shall restore electricity power supply to applicant's unit within 24 hours from the date & time of receipt of this order by the non-applicant failing which compensation of Rs. 100/- per week or part thereof shall be payable to the applicant as per Regulation number 12 of the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005
- 3) The applicant shall also not be subjected to pay for any reconnection charges since his power supply was disconnected illegally.
- 4) The non-applicant shall pay an amount of Rs.5000/- as compensation to the applicant.
- 5) The non-applicant shall comply with this order diligently and intimate compliance to this Forum within a period of one month from the date of this Order.

(Smt. Gauri Chandrayan)
MEMBER

(S.D. Jahagirdar)
CHAIRMAN

**M.S.E.B.'S CONSUMER GRIEVANCE REDRESSAL
FORUM, NAGPUR URBAN ZONE, NAGPUR.**