

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

Case No. CGRF(NZ)/71/2016

Applicant : Shri Milan Y. Khara
Khare Building, 2nd Floor,
Sitabuldi, Nagpur-12.

Non-applicant : Nodal Officer,
The Executive Engineer,
Congress Nagar Dn.,MSEDCL,
NAGPUR.

Applicant :- In person.

Respondent by 1) Shri K.P.Bhise, EE, Congressnagar Dn.
2) Shri N.P.Choudhari, Adl.EE. S/Dn.

Quorum Present : 1) Mrs.V.N.Parihar
MEMBER/SECRETARY
& I/C. CHAIRMAN

2) Shri N.V.Bansod,
Member

ORDER PASSED ON 02.07.2016.

1. The applicant filed present grievance application before this Forum on 30.05.2016 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 14.06.2016.
3. Forum heard argument of both the parties and perused the record.

4. Applicant's grievance is for refund of Rs.40, 000/- deposited by him on dt.25-04-2016 and to waive off an additional bill of Rs.107201/- which was issued to him illegally.

5. According to the applicant, he is residing at Khare building, 2nd floor, Buti Gadikhana, Sitabuldi, Nagpur since 1972 as tenant of the owner Mr.Pradip R.Khare. There are 3 flats, 2 shop blocks, 2 Godown in the same building and all are tenant of Mr.P.R.Khare. In the same building, energy meter having no.9975948 was being used for running water pump motor from ground floor to overhead Tank for common use of all the occupants of the entire building.

6. According to the applicant on dt.22-02-2016, team of non-applicant visited the building. During their visit, applicant was not available and his wife who was alone at home, was asked to show the energy bills of the meter being used for his domestic use bearing no.9000105512 with consumer no.410010660835 and another meter bearing no 9975948.His wife gave energy bill of meter bearing no.9000105512 with consumer no.410010660835 but could not give bill for another meter bearing no 9975948, as she was not aware of the said meter. During the Inspection Building owner Shri. P.R.Khare was present but could not give any information as well as the documentary record of the meter bearing no. 9975948to.No record was available with both the tenant and owner.

7. During Inspection, Non-applicant charged Mrs Khara that, Mr. Milan Y. khara who is one of the tenants is using electricity illegally through the said meter bearing no. 9975948 and it is a private meter for which they are not paying the bill.

8. After panchnama, Non-applicant gave them 24 hours time to show documents related to the said disputed meter, otherwise, threatened to file the case with Police station, and during police action police will arrest him.

9. Non applicant removed the meter from the spot and carried it with them. In the evening, during discussion in the office of the Non-applicant, applicant tried to convince the non-applicant that, meter is neither privately installed by any tenants of khara bldg. or by owner. This can be verified from the fact that, on the side of meter MSEB and date 02-12-1976 is written, hence the said meter is not private but owned by erstwhile MSEB. It might have installed by erstwhile MSEB only, therefore MSEDCL must have record of the meter .But Non-applicant could not give the details of the meter as they also did not have any record of the same meter. But Non-applicant did not hear any contention put forth by him and threatened him of police action to arrest him in case he did not clear the provisional bill. Besides that, Non-applicant did not care to explain him the basis for the said calculation to justify the bill either verbally or gave any written statement.

10. Due to this unnecessary pressure put on him he paid Rs.40,000/- against provisional bill for Rs.107201/- dated 24-02-2016.

11. Aggrieved by this act of Non-applicant, Applicant filed his grievance with IGRC on dt.17-03-2016. But IGRC did not pass any order in the matter.

12. Unable to receive any relief from IGRC, applicant filed Grievance with the forum and prayed for refund of Rs.40, 000/- deposited by him on 25-04-2016 and waiver of additional bill of Rs.107201/- which was issued to him illegally.

13. Non-applicant in reply stated that, MSEDCL team inspected the Khare building on dt. 22/02/2016. During the inspection It was noticed that one 3 Phase Meter having make:Electric Construction equipment and control co. Ltd .bearing no. 9975948 is installed. Team observed that the Tenant Mr. Milan Y. Khara residing on the second floor is utilizing this meter for lifting water as on and off switch was in the premises of the Shri Milan Khara. Beside this Tenant Mr. Milan Y. Khara is getting supply for his residence through another meter in the name of Shri. Mohandas Arunchand having consumer no. 4100106608.Hence team asked for the energy bills of both the meters.Mrs. Khara produced only energy bill pertaining to meter being used for his domestic use bearing no.9000105512 with consumer no.410010660835 but could not produce the consumption recorded by the meter bearing no 9975948 Hence owner Mr. Pradeep R.Khare was asked for the energy bill of the said meter. But the owner refused under the pretext that, he does not reside in the building. Failure to submit documents neither by owner or tenant relating to this meter such as energy bill, Money receipt, new connection application, it was treated that, Shri M.Y.Khara is utilizing this 3 Ph meter unauthorizedly. Hence carried out the spot panchnama..

14. Non-applicant further stated that, meter reading was seen as 25561kwh, hence considering this as last reading, energy bill for total 25561 units is charged to them provisionally, for the duration of October-2001 to February-2016 i.e. 173 months.

15. After hearing both sides, it came to notice of the forum that, the premises is

having total 7 meters out of which 6 belongs to the occupants. When meter reader is visiting the same premises and the meter reading of these 6 meters is being carried out regularly., how could he missed out meter reading of this 7 th meter for such a long duration i.e. from October2001. That too when meter reading was clearly available. This shows the intentional callousness of the employees/or meter reader of the non-applicant who did not brought the fact to the notice of the higher authorities to issue the bill.

16. The calculation sheet prepared by Non-applicant shows the unit consumption from October-2001 to February-2016.In absence of any record related with this disputed meter available with applicant and non-applicant, it is seen that period considered by non-applicant is arbitrary. Beside this fact, this say of non-applicant is against the provisions of the Electricity Act 2003 and MERC (Electricity supply code other condition of supply) Regulation 2006.

17. Non-applicant on page no.2 of the panchnama mentioned that assessment is as per "*Indian Electricity Act*" and "*Rules of the company*". During the argument, forum raised the query about a provision of "*Indian Electricity Act*" and company's Rules and The Electricity Act 2003 and MERC Regulation 2006 & 2014 which justify modus operandi carried out by them during the whole inspection and provisional calculation for 173 months as well as threatening of police action. The non-applicant present could not reply the query. This shows the non-applicant is totally ignorant about The Electricity Act 2003 and provisions of MERC Regulations while inspecting such cases .and they have wrongly quoted Indian Electricity Act and company's Rules in the Panchnama.

18. Non-applicant on 24-02-2016, as per inspection on 22-02-2016 issued the bill of Rs.107201/- for October-2001 to February-2016 i.e. 173 months after taking into account imaginary month as October-2001. Whereas there is no record to justify this imaginary month with the both party.

19. The applicant under pressure of possible police action paid Rs.40,000/- against provisional bill of Rs.107201/-. This action of non-applicant is against the provision of The Electricity Act 2003 as well as MERC Regulation. In such type of situation it was obligatory on the part of non-applicant to act as per section 56 of the Electricity Act 2003 under which non-applicant is entitle to recover the billing amount only for 24 months when such sum becomes first due. Secondly it was possible for non-applicant to disconnect the supply with statutory notice under section 56 but action of Non-applicant for disconnection of supply as well issuance of provisional hefty bill and pressuring the applicant for payment is totally illegal and not as per provisions of MERC's rules and regulations. Hence the action of the non-applicant against tenant is totally illegal. Therefore amount of Rs.40, 000/- paid by the applicant deserves to be refunded to the applicant as per section 62(6) of the Electricity Act 2003.

20. During the inspection of the non-applicant, owner of the building was very well present and the meter which was inspected was in his building premises. Hence it was possible for non-applicant to issue provisional bill as per section 56 of the Electricity Act 2003 to the owner. The non-applicant ignoring the owner indirectly by putting his name below applicant, threatened the applicant of police

action and under pressure of police action ,applicant paid Rs.40,000/- as narrated above. This shows complete ignorance and lack of knowledge of non-applicant's inspection team who inspected the premises. about various rules and regulations prescribed by MERC while dealing such cases. It is totally justified to detect the leakage of revenue but then they should have acted as per the Provisions of the act. This action of non-applicant shows the Misfeasance in the public offices.

“Non-applicant is state within article 12 of the constitution must act fairly and bonafied , It cannot act for a purpose which is wholly unauthorized not Germane for achieving the object it professes whether under the statue otherwise.

21. MSEDCL's claim for provisional assessment bill of Rs.107201/- for the period from 1-10-2001 to February-2016 for 173 months is barred by limitation and according to section 56 of the Electricity Act 2003, Energy bills for only 24 months preceding date of inspection 22-02-2016 which is within limitation of 2 years should have been recovered from the owner of building.

22. Thus bill of October-2001 to 22-02-2016 is time barred and cannot be recovered from Shri. Milan Y. Khara who is one of the Tenant of Khare Building. This is only due to negligence of employees of MSEDCL who are not taking monthly reading of the meter installed by them. Competent authority may conduct departmental enquiry against responsible employees who were not taking monthly

reading for such a long period, and did not issue monthly bill causing the Revenue loss to the MSEDCL. Therefore the time barred amount shall be recovered from the salary of negligent responsible MSEDCL employees.

23. As per information given on the meter, it was an established fact that, meter belongs to MSEDCL. But in spite of the fact that said meter belongs to erstwhile MSEB as can be seen from the copy of panchnama, Non-applicant could not give the details of the meter as they also did not have any record of the same meter. Hence, the order of IGRC as well as bill of Rs.107201/- for the period 1st October-2001 to February-2016, deserves to be quashed and set aside. Forum is of the opinion that amount of Rs.40,000/- deposited under pressure of police action should be refunded to the applicant as per section 62(6) of The Electricity Act 2003.

24. Hence this order.

ORDER

- i) Grievance application is partly allowed.
- ii) Non-applicant is directed to refund Rs.40, 000/- to the applicant with interest as per provision under section 62(6) of the Electricity Act 2003 by cheque.
- iii) Non-applicant is directed to cancel illegal bill of Rs.107201/- issued in the name of applicant's tenant.
- iv) Non-applicant shall recover unpaid charges towards disputed meter, according to section 56 of the Electricity Act 2003, energy bills for

only 24 months preceding date of inspection 22-02-2016 which is within limitation of 2 years. It should be recovered from the owner of building as per rules and regulations only.

- v) Competent authority of MSEDCL, Nagpur is directed to conduct departmental enquiry against negligent employees who did not take monthly meter reading since October-2001 to February-2016 and did not take any action for recovery of time barred bill for the period October-2001 to February-2016 and further requested to take action in accordance with law and rules, to recover amount of this time barred bill from responsible employees of MSEDCL and Non-applicant shall submit its Compliance Report within 30 days from the date of this order.
- vi) No order as to cost.

Sd/-
(Shri.N.V.Bansod)
MEMBER

sd/-
(Mrs.V.N.Parihar),
MEMBER/SECRETARY
& I/C. CHAIRMAN