

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

Case No. CGRF(NUZ)/016/2005

- Applicant : M/s. Maharashtra Distillers
Sahu Estate, Kamptee Road,
Nagpur.—represented by its
nominated representative
Shri D.D. Dave
- Non-Applicant : The Executive Engineer,
Civil Lines Division, 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 04.05.2005)

The present application is filed before this Forum in the prescribed schedule "A" on 12.04.2005 as per Regulation No. 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of arrear bill amount in Rs. 4,60,939/- charged to him in the regular bill for the month of June 2003 issued in July 2003 after lapse of 15 years which, according to the applicant, is improper, unjust and illegal. His grievance is also in respect of electricity charges of Rs. 7877/- raised against him by the non-applicant as differential amount for the period from 1988 to 1993.

The matter was heard by us on 02.05.2005 when both the parties were present. Both of them were heard by us. Documents produced by both the parties are also perused by us.

After receipt of the grievance application, the non-applicant was asked to furnish parawise remarks on the applicant's application in terms of Regulation numbers 6.7 and 6.8 of the said Regulations. The non-applicant, accordingly, submitted to this Forum his parawise remarks on 21.04.2005. A copy of this parawise report was given to the applicant on 02.05.2005 before the case was taken up for hearing and opportunity was given to him to present his case on this parawise report also.

The applicant has contended before us that an electricity bill for a total amount of Rs. 4,84,710/- was issued by the non-applicant on 11.07.2003 in which arrear amount

of Rs. 4,60,939/- was also included alongwith interest arrear of Rs. 1140=20. This bill showing recovery of arrear amount of Rs. 4,60,939/- relates to the period from August, 1988 to February, 1993 as pointed out in the Audit Inspection Para and it was shown as recoverable for the first time in July 2003 i.e. after lapse of 15 years' period, which according to applicant, is unjust, improper and illegal. The applicant, during the course of hearing, pointed out to us that such a recovery of arrear amount is not at all permissible under the provisions of section 56 (2) of the Electricity Act, 2003. He further contended that this arrear amount was arrived at by the non-applicant without verifying authentic documents of his Unit although it was specifically pointed out by the Audit to verify the production details etc. of the applicant's Unit. He added that no opportunity was given to him by the non-applicant before issuing this bill. It is his contention that he was compelled to remit an amount of Rs. 2,44,500/- by the non-applicant and he paid it on 02.01.2004 under protest with a view to restart the electricity supply to his Unit which was disconnected by the non-applicant earlier. The electricity supply to the applicant's Unit was restored on 03.01.2004 on the applicant making payment of this amount of Rs. 2,44,500/-. The applicant further argued that he had approached the Executive Engineer (Adm) and Head of Internal Grievance Redressal Unit of MSEB, NUZ, Nagpur by his application dated 05.02.2005 requesting for

withdrawal of unrealistic demand of Rs. 4,60,939/- raised against him in the electricity bill for the month of June 2003 issued in July 2003. This application was duly received by this Internal Grievance Redressal Unit on 10.02.2005. The applicant further submitted that no remedy was provided by this Unit to him within the prescribed period of two months as laid down in the said Regulations. He has produced a copy of his application dated 05.02.2004 which is among the case papers. The applicant has also drawn our attention to the following applications submitted by him to the non-applicant and also the Chief Engineer, NUZ, MSEB., Nagpur.

- 1) His application dated 17.11.2003 addressed to the non-applicant.
- 2) His application dated 03.12.2003 addressed to the non-applicant.
- 3) His application dated 26.12.2003 addressed to the Chief Engineer, NUZ, MSEB, Nagpur.
- 4) His application dated 02.01.2004 addressed to the non-applicant.
- 5) His application dated 07.02.2004 again addressed to the non-applicant.
- 6) Another application dated 25.02.2004 addressed to non-applicant.
- 7) His application dated 30.04.2004 addressed to non-applicant.

8) His application dated 21.06.2004 addressed to non-applicant

The applicant, relying on all these applications, vehemently argued that he had approached the non-applicant several times and pointed out that the demand of arrear amount of Rs. 4,60,939/- raised against him was not only unrealistic, arbitrary, unjust & improper but also patently illegal. The applicant has also produced copies of electricity bills issued to him from time to time to show that every time the amount charged was on a higher side resulting into excess payment made to the non-applicant. He has also produced a copy of the Audit para drawn by the Audit Inspection Party which is among the case papers. Referring to the contents of this Audit Inspection Para, the applicant argued that the Audit had instructed the non-applicant to review the case of the applicant on the basis of production details and other related record, number of workshifts, actual connected load etc. from August 1988 onwards and to work out the consumption and to accordingly bill the consumer-applicant. It is the contention of the applicant that although he had produced all the requisite details as pointed by the Audit to the non-applicant, the non-applicant arrived at the erroneous arrear amount of Rs. 4,60,939/-. The Audit has also pointed out that the non-applicant did not make available to the Audit Party

reports on the basis of which credit was being offered to the applicant. The applicant paid an amount of Rs.34,926=99 against the electricity bill for February 1989 on 10.04.1989. The applicant has also produced a copy of the receipt, being receipt number 003669 dated 10.04.1989, showing payment of this amount. The Audit had pointed out that every bill issued to the consumer after 10.04.1989 was issued as a credit bill and the Audit wanted to know the basis on which these credit bills were issued to the applicant. He stated that the Audit could not check this aspect for want of record. The applicant further contended that he was regularly paying all the electricity bills issued by the non-applicant from time to time.

The applicant lastly prayed that the entire record may be examined thoroughly and that the un realistic and illegal demand of Rs. 4,60,939/- raised against him may be cancelled. The applicant has also prayed that the amount of Rs. 2,44,500/- already remitted by the applicant under protest out of the total amount of Rs. 4,60,939/- may be refunded to him alongwith interest @ 18% per annum. The applicant has also requested that expenses amounting to Rs.78,000/- may be ordered to be paid to him since the applicant was required to incur heavy expenditure on the expertise imported from Banglore etc. The applicant had initially requested in writing that the excess amount of Rs. 7,877/- charged to him on account of average billing on

higher side during the disputed period from 1988 to 1993 may also be refunded to him. However, the applicant has stated before us during the course to hearing that he is withdrawing this request and that he would be satisfied even if the amount of Rs. 2,44,500/- paid by him is refunded to him.

The non-applicant has stated in his parawise report that the demand of Rs. 4,60,939/- was raised against the applicant as per the inspection para of the Audit Party. The Audit Party had carried out the inspection during the year 1992-93. This demand was raised against the consumer number 410013075348 i.e. the applicant. However, since the applicant disputed this recovery and did not pay the amount, electricity supply to the applicant's Unit was disconnected. There was yet another CT meter, being meter number 419993075346 of the applicant, to which this arrear amount of Rs. 4,60,939/- was transferred. The applicant paid 50% amount i.e. amount of Rs. 2,44,500/- on 02.01.2004. The non-applicant has further stated that he had prepared an Office-Note on 31.07.2004 giving all the relevant details and also the meter testing report of the Executive Engineer (Testing) and sought orders from the Chief Engineer, NUZ, MSEB, Nagpur for allowing him to charge arrear amount of Rs. 1,07,502/- only as against the amount of Rs. 4,60,939/- already charged. The non-applicant has produced a copy of this Office-Note. The non-applicant has further contended

that the Chief Engineer's approval to this Office-Note is still awaited.

When asked by us as to how the arrear amount of Rs. 4,60,939/- is recoverable in terms of section 56(2) of the Electricity Act, 2003, the non-applicant admitted that since the arrear amount was shown as recoverable in one lump sum in the applicant's electricity bill issued on 11.07.2003 after 15 years' period, the law does not permit such a recovery. The non-applicant, however, contended that the Electricity Act, 2003 has come into force with effect from 10.06.2003 and that these provisions were not known to him when the bill dated 11.07.2003 for a total amount Rs.4,84,710/- was issued to the applicant. The non-applicant further stated that supply of electricity has been restored to the applicant on 03.01.2004 immediately after the applicant remitted 50% amount i.e. amount of Rs.2,44,500/-.

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 by both of them before us.

The main point that needs to be decided in this case is whether recovery of the arrear amount of Rs. 4,60,939/- shown as recoverable for the first time in the electricity bill dated 11.07.2003 after lapse of 15 years is permissible in terms of section 56 (2). It is, therefore,

necessary to have a look at the text of Section 56 (2) which 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”.

In the instant case, it is crystal clear that the arrear amount of Rs. 4,60,939/- is shown to be recoverable for the first time by the non-applicant in the electricity bill issued on 11.07.2003. It is also not disputed even by the non-applicant that this arrear amount is pertaining to the period from August 1988 to February 1993. This is also evident from the text of the Audit Para a copy of which is produced by the applicant. It is also very clear that this arrear amount is claimed by the non-applicant after lapse of 15 years looking to the date viz 11.07.2003 of the electricity bill in question. It is also an un-disputed fact that this arrear amount has not been shown continuously as recoverable as arrear of charges for the electricity supplied. Since the arrear amount had become due as per audit para for the first time way back during the period from August 1988 to February

1993, it is evident that the arrear amount of Rs.4,60,939/- raised against the applicant can not be claimed and recovered in terms of section 56 (2) of the Electricity Act 2003. The contentions raised by the applicant in this respect are all convincing and they have support of law also. The non-applicant, on his part, has also admitted that the arrear amount in question cannot be claimed and recovered in view of legal provision of section 56 (2). A point has been raised by the non-applicant about ignorance of provisions of the Electricity Act, 2003. However, ignorance of law is no excuse. The Electricity Act, 2003 has come into force on 10.06.2003 and hence provisions of section 56 (2) have also come into force with effect from 10.06.2003. The disputed electricity bill in question is issued by the non-applicant on 11.07.2003 i.e. much after the date on which the Electricity Act, 2003 has come into force. It is, therefore evident that the demand of arrear of Rs. 4,60939/- was illegal.

The applicant has already paid an amount of Rs. 2,44,500/- under protest out of the amount of the disputed electricity bill dated 11.07.2003. It, therefore, follows that the amount already paid under protest by the applicant needs to be refunded to the applicant alongwith interest.

The entire record shows that the applicant had tried his best to convince the non-applicant about the genuineness of his grievance for which he had submitted

several applications to the non-applicant and also to the Chief Engineer,NUZ, MSEB, Nagpur. However, it is noted with regret that no cognizance thereof was taken by the non-applicant. The Internal Grievance Redressal Unit headed by the Executive Engineer, (Adm) in the office of the Chief Engineer, (NUZ), Nagpur has also failed miserably by not providing any remedy to the applicant's genuine grievance.

It is pertinent to note that the non-applicant has admitted in his Office-Note that erroneous excess recovery of Rs. 3,53,437/- was shown against applicant. However, the fact remains that the claim of total arrear amount of Rs. 4,60,939/- as per bill dated 11.07.2003 was, in itself, unjust, improper & illegal.

Although the applicant has earlier raised grievance about excess amount of Rs. 7,877/- charged to him on account of average billing on higher side during the disputed period from August 1988 to February 1993, the applicant has withdrawn this grievance during the course of hearing. Hence, no order is required to be passed by us in this respect.

The applicant has claimed expenses of Rs.78,000/-. However, no details, whatsoever, of the expenses incurred by him are produced before us. Hence, we are not inclined to award any amount towards expenses.

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

The claim of recovery to the tune of Rs. 4,60,939/- by the non-applicant against the applicant is illegal and hence, the non-applicant shall forthwith refund the amount of Rs. 2,44,500/- to the applicant alongwith interest @ 9% per annum to be calculated from the date of its payment till the date of actual refund.

The above order shall be complied with diligently by the non-applicant and he shall report compliance of this order to this Forum on or before 30.05.2005.

(Smt. Gauri Chandrayan)
MEMBER

(S.D. Jahagirdar)
CHAIRMAN

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