

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

Case No. CGRF(NUZ)/018/2005

Applicant : Shri Mithlesh K. Sanghvi
At-Post Kapsi Kd,
Tq. Mouda, Dist. Nagpur.

Non-Applicant : The Assistant Engineer,
MSEB, O & M Dn,- I,(NUZ)
Nagpur.(The Nodal Officer
representing MSEB)

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 18.05.2005)

The present application is filed before this Forum in the prescribed schedule "A" on 21.04.2005 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 withdrawal of penalty charged to him on account of alleged un-authorized use of electricity by him.

The matter was heard by us on 18.05.2005 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 18.05.2005. A copy of this parawise report was given to the applicant on 18.05.2005 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 his premises were checked by the Flying Squad on 04.08.2001 and following irregularities were pointed out by the Flying Squad.

- 1) Actual connected load was found to be 66 HP against the sanctioned load of 55 HP.
- 2) Capacitators were found to be disconnected.
- 3) Meter "Y" phase was found to be stopped.

The applicant has vehemently denied the report of the Flying Squad. According to him, certain items of

machinery were lying in the premises of the applicant which were not actually connected. The applicant has also denied that the capacitors were disconnected.

It is the contention of the applicant that the bill towards the penalty in respect of the alleged irregularities amounting to Rs. 21,731.26 is totally illegal. This bill was issued on 16.08.2002 by the non-applicant. It is also his contention that the amount of Rs. 20,790/- shown as arrear in the bill issued on 10.02.2005 is also not recoverable since this amount is pertaining to the period from January 2002 to September 2002. According to him, this arrear amount of Rs. 20,790/- was shown as recoverable after lapse of two years' period and that the entire action of the non-applicant is unjust, improper & illegal.

The applicant had approached the Superintending Engineer Nagpur Rural Circle, MSEB, Nagpur by filing his application dated 21.04.2005 requesting their-in to withdraw the penalty charges imposed upon him as aforesaid. He has produced a copy of this application which is among the case papers. The applicant has added that the bill amount can not be recovered in view of the provisions of section 56 (2) of the Electricity Act, 2003.

The non-applicant has stated in his parawise report that the Flying Squad checked the premises of the applicant on 04.08.2001 and detected un-authorized use of electricity by the applicant. The Flying Squad pointed out the following irregularities.

- 1) Actual connected load was found to be 66 HP as against the sanctioned load of 55 HP.
- 2) Capacitators were found to be disconnected.
- 3) Meter "Y" Phase was found to be stopped thereby recording 1/3 less consumption of electricity.

The non-applicant has produced a copy of the report of the Flying Squad which is among the case papers. On the basis of the report of the Flying Squad, a bill, being bill dated 16.08.2002 for Rs. 21,731.26 was served on the applicant towards the penalty in respect of capacitators and also towards un-authorized extension of load. A separate bill was issued as aforesaid on 16.08.2002. The applicant-consumer did not pay the amount. The bill amount of Rs. 21,731.26 was for the period from August 2001 to September 2002. From October 2002 to November 2002, fixed charges of 66 HP load were included in the regular bill for Rs. 3630/-. However, as per the Junior Engineer's subsequent report, the connected load was found to be 55 HP. Hence the regular bill was revised for 55 HP and credit for the recovered amount of Rs. 3630/- was given in the bill for December 2002. After December 2002, bill for 55 HP

connected load was issued. The non-applicant has further stated that the Internal Audit pointed out certain discrepancies and proposed recovery of Rs. 20,790/- for the additional load for the period from January 2002 to September 2002. Accordingly old arrears of this extended load were shown in the regular bill of January 2005. The non-applicant has contended that the entire matter is regarding un-authorized use of electricity by the applicant and hence there is no justification in the contentions raised by the applicant.

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 both of them.

The grievance of the applicant is regarding withdrawal of penalty charges inflicted upon him by the non-applicant. He has disputed the electricity bill of Rs. 21,731.26 dated 16.08.2002 as also the amount of Rs. 20,790/- towards additional recovery as pointed out by the Audit. It is pertinent to note that the Flying Squad checked the premises of the applicant on 04.08.2001 and there-upon the non-applicant issued the bill amount of Rs. 21,731.26 towards penalty charges on account of disconnection of capacitors and also un-authorized use electricity. According to the non-applicant, the instant case is a case of pilferage assessment since the applicant has made un-authorized

use of electricity. The applicant, on his part, has disputed the assessment made by the non-applicant towards the un-authorized use of electricity etc. for the first time on 21.04.2005 when he submitted his application dated 21.04.2005 to the Superintending Engineer, Nagpur Rural Circle, MSEB, Nagpur. The applicant has not produced any documentary evidence in support of his contentions. The Flying Squad checked the premises of the applicant way back on 04.08.2001. The non-applicant served the bill of Rs. 21,731.26 on the applicant on 16.08.2002 towards the un-authorized use of electricity and still there was no action taken by the applicant to dispute this amount till 21.04.2005 when he approached the Superintending Engineer for the first time. The applicant, during the course of hearing contended that he met MSEB Engineer one Shri Deshmukh, who verbally told him that the penalty would be withdrawn. However mere say of the applicant is of no use in the absence of any cogent and convincing proof. The fact remains that the entire case of the applicant is pertaining to un-authorized use of electricity made by him and hence his grievance application is not at all tenable before this Forum as per Regulation number 6.4 of the said Regulations.

A point has been made by the applicant that the provisions of Section 56 (2) of the Electricity Act, 2003 are attracted in the instant case in as much as the arrear amount of Rs. 20,790/- pertaining to period from January 2002 to September 2002 was shown by the non-applicant as

recoverable after lapse of two years' period in the bill dated 10.02.2005. However, this contention of the applicant can not be accepted by us in view of the fact that the proposed recovery of Rs.20,790/- is pertaining to the un-authorized use of electricity made by the applicant. The entire case of applicant is regarding un-authorized use of electricity made by him. As laid down in Regulation No. 6.4 of the said Regulations, this Forum does not have jurisdiction to entertain the applicant's grievance.

In view of above, the grievance application of the applicant is disposed of, it being prima-facie not tenable before this Forum.

(Smt. Gauri Chandrayan)
MEMBER

(S.D. Jahagirdar)
CHAIRMAN

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