

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

Case No. CGRF(NZ)148/2016

Applicant : Shri Darpan D.Agrawal
290, Bhandara Rd., Wardhamannagar
Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(D/F.) NUC, MSEDCL,
NAGPUR.

Applicant :- In person.

Respondent by 1) Shri Vairagade, EE, Nodal Office
2) Shri Tekam, AA, Nodal Office.
3) Shri Dahasahastra, SNDL Nagpur.
4) Shri Washim Ahamad, Asstt. Manager, SNDL

Quorum Present : 1) Shri Shivajirao S. Patil,
Chairman.

2) Shri N.V. Bansod
Member

3) Mrs. V.N. Parihar,
Member, Secretary

ORDER PASSED ON 26.09.2016.

1. The applicant filed present grievance application before this Forum on 07.09.2016 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. Applicant's case in brief is that applicant applied for electricity connection of the temporary meter for the purpose of construction of new building and construction

is going on for apartment. On 03-02-2016 non-applicant had issue illegal provisionally bill for Rs.301050/- under section 126 of Electricity Act 2003 on the ground of unauthorized use of electricity i.e. residential to commercial for the period January-2012 to January-2016. This bill is illegal and needs to be set aside. Supply of applicant is immediately disconnected on 20-05-2016. Therefore applicant is entitle for compensation of Rs.35000/- towards harassment, inconvenience and trouble caused by illegal disconnection, as lot of financial losses were caused and labour charges has to born and material got spilled.

3. Non applicant, denied applicant's case by filing reply dated 26.09.2016. It is submitted that supply is given to the applicant since 21-04-2011 for residential purpose. On 03-02-2016 flying squad of SNDL inspected this spot and found that there is unauthorized use of electricity for construction of commercial shop / unit. Therefore assessment bill for 22262 units for Rs.301050/- was issued under section 126 of the Electricity Act 2003. Notice issued under section 56 of the Electricity Act 2003 was it was served on the applicant.

4. Forum heard arguments of both the sides and perused record.

5. It is noteworthy that date of connection is 21-04-2011 during the period of MSEDCL. Therefore it was necessary for MSEDCL to file separate reply on record to ascertain for what purpose application A-1 Form was submitted by applicant. Temporary meter was given for construction purpose. However officers of MSEDCL did not file their own reply and neglected. It is noteworthy that Mr. Vairagade, Executive Engineer, Nodal Officer of MSEDCL was present on date of hearing but he also did not care to file written reply of MSEDCL and simply attended the forum.

Needless to say that it is not necessary for Nodal Officer simply to appear before this forum physically. Nodal Officer has to protect interest of MSEDCL. In this case MSEDCL did not file their written reply on record for what purpose they have issued connection on 21-04-2011. It is desirous that necessary instructions should be issued to Nodal Officer by his superior officer and for MSEDCL and Nodal officer should be careful in future.

6. Mr. Washim Ahamad, Assistant Manager, Vigilance Branch, SNDL was present but he can not satisfy the forum to show that there is prima facie case under section 126 of Electricity Act 2003.

7. We have carefully perused spot panchnama written in Marathi, it is on plain paper dated 03-02-2016 by Vigilance squad. It is noteworthy that there is no signature of consumer or his representative on this panchnama. At the bottom on this panchnama time of starting panchnama "10.30" and completed the panchnama i.e. "11.00" is written but it appears to be written later on by filling the black places. Therefore it appears that Marathi panchnama appears to be fabricated document prepared by flying squad subsequently therefore it is not legal and proper. It is not signed by the consumer. Copy of the same is not given to the consumer.

8. There is nothing on record to show that flying squad had taken any photographs or Video of the action. Therefore action under section 126 of Electricity Act 2003 appear to be illegal. In spot panchnama and report of vigilance squad it is mentioned that electricity for residential tariff energy meter is used for non domestic activity i.e. for construction of the house. We enquired Mr.Washim Ahamad, before this forum on what basis he is saying that energy was used for commercial purpose and Shri Washim Ahamad, Assistant Manager, Vigilance told that watchman of owner

present on spot orally told that construction of shops is going on. In our opinion it is not legal and proper to believe word of the watchman. It is admitted fact that construction of the building is going on today also therefore there is no completion certificate by NMC. There is no evidence record to show that electricity is used for commercial purpose. Construction of apartment is not commercial activity. Therefore section 126 of Electricity Act 2003 is not applicable to this case and initiated action under section 126 of Electricity Act 2003 is taken by Mr.Washim Ahamad, Assistant Manager, Vigilance Branch of SNDL with the view to give trouble to consumer to the reason best known to him.

9. Date of connection is 21-04-2011. Since then construction is going on. Date of inspection is 03-02-2016 therefore during the span of 5 years how SNDL could not understand about alleged unauthorized use of electricity and surprisingly assessment bill from January-2012 to January-2016 for 4 years is issued which is barred by limitation according to 56(2) of Electricity Act 2003.

10. Not only this, Mr.Washim Ahamad, Assistant Manager, Vigilance Branch of SNDL issued disconnection notice dated 10-05-2016 calling upon the applicant to pay Rs.301050/- on or before 25-05-2016 failing which supply shall be disconnected on 26-05-2016 after expiry of 15 days notice. According to the applicant he received the notice on 11-05-2016 i.e. on the next day of the notice. Even if it is presume that disconnection notice was received to the applicant on the date of notice dated 10-05-2016 even then 15 days period expired on 25-05-2016 and supply can be disconnected on 26-05-2016. But according to applicant his supply is disconnected on 20-05-2016 i.e. before 5 days of 15 days notice period and therefore disconnection is illegal. SNDL did not submit in their reply dated 24-09-2016 on what

date supply was disconnected and date of disconnection is intentionally suppressed by SNDL. Therefore we believe word of the applicant that there was disconnection on 20-05-2016 and therefore disconnection is illegal and disconnection notice is also illegal. Therefore applicant is entitle to reconnect electricity supply forthwith. According to applicant supply is illegally disconnected on 20-05-2016. Therefore there is unnecessary harassment, inconvenient and trouble to the applicant. There was lot of financial losses i.e. construction stopped, labour charges had to be born and material was west. Therefore applicant claimed compensation of Rs.35000/- for this harassment and trouble. Applicant argued that as there is no electricity supply he has to proceed with to the work on oil engine etc. Considering facts and circumstances on record, in our opinion applicant is entitle for compensation of Rs.10000/- from SNDL for illegal disconnection, for harassment, inconvenient and economic loss. Record shows that Mr.Washim Ahamad, Assistant Manager, Vigilance Branch of SNDL took the law in to his own hand and acted contrary to the law. He unnecessarily took baseless action under section 126 of Electricity Act 2003 against the applicant and prepared bogus spot panchnama. He illegally disconnected supply before expiry of notice period. Therefore it is necessary that the Business Head of SNDL shall take disciplinary departmental action against him and take legal action in accordance to the law and to submit report.

11. For these reasons we hold that application of the applicant must be allowed.

12. Hence the following order.

ORDER

1. Application is allowed.

2. Action of Assistant Manager Vigilance side of SNDL under section 126 of Electricity Act 2003 against applicant is illegal and therefore set aside & cancelled.
3. Provisional assessment bill issued by vigilance squad of SNDL under section 126 of Electricity Act 2003 dated 03-02-2016 & 04-02-2016 is set aside & cancelled. Furthermore final assessment bill dated 10-06-2016 is set aside & cancelled.
4. Disconnection notice dated 10-05-2016 is illegal therefore set aside & cancelled.
5. It is hereby declared that disconnection of the applicant is illegal therefore SNDL shall immediately reconnect supply of the applicant forthwith.
6. SNDL is directed to pay compensation of Rs.10000/- to the applicant for negligence, inconvenient, harassment, economic loss under Regulation 8.2(c) & (d) of MERC (CGRF & E.O.) Regulation 2006.
7. Business Head of SNDL is directed to initiate disciplinary inquiry against Shri Washim Ahamad, Assistant Manager, Vigilance Branch of SNDL & to take action in accordance of law and to submit report to this forum.
8. Chief Engineer(NZ) Nagpur is requested to issue direction to the Nodal Officer that in the cases in which there is concern period of MSEDCL, in such cases MSEDCL shall file separate reply on record alongwith the document and to argue the matter and to protect interest of MSEDCL in future.

9. Office of CGRF is directed to send copy of judgement to Chief Engineer(NZ) Nagpur and Business Head, SNDL, Nagpur.
10. MSEDCL & SNDL are directed to submit compliance report within 30 days from the date of this order.

Sd/-
(N.V.Bansod)
MEMBER

sd/-
(Mrs.V.N.Parihar)
MEMBER/SECRETARY

sd/-
(Shivajirao S. Patil),
CHAIRMAN