

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

Case No. CGRF(NUZ)/014/2008

- Applicant : Shri Hanumantrao Gajbhiye
At 83, Shriramnagar,
Jankinagar Road,
Manewada Ring Road,
NAGPUR.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Mahal Division, NUC,
Nagpur.
- Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 3) Shri S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 27.03.2008)

This grievance application is filed on 03.03.2008 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of charging the applicant for consumption of electricity erroneously holding that the applicant's usage of electricity was for commercial purposes when actually usage of electricity was only for residential or domestic purpose. This, according to him, has resulted in the recovery of excess amount from the applicant since the year 2001. The applicant's grievance is also in respect of illegal disconnection of his power supply on 27.02.2008.

The applicant has requested for refund of excess amount charged to him for past period of 8 to 9 years and also for restoration of his power supply.

Before approaching this Forum, the applicant had filed his grievance before the Internal Grievance Redressal Cell (in short, the Cell) under the said Regulations. The Cell, upon inquiry, informed the applicant by its letter, being letter no. 0395 dated 18.01.2008, that the applicant has taken power supply for commercial usage i.e. for General Stores and he has been using this connection for domestic purposes also. The Cell advised the applicant to apply for a second new meter for usage of electricity for domestic purpose. The Cell also held that billing done to the applicant in the past since the year 2001 was proper and correct. In respect of the applicant's particular grievance of excessive billing made before the Cell for the months of October 2007 and

November 2007, the Cell informed the applicant that the electricity bill of Rs.3360.15 for 482 units given to the applicant has since been revised by giving credit of Rs.2077.40.

The applicant, being not satisfied with the Cell's order, has filed the present grievance application under the said Regulations.

The matter was finally heard on 25.03.2008.

Here, in the context of the applicant's request for immediate restoration of power supply and for issuing an interim order to that effect, upon hearing both the parties on 10.03.2008, this Forum was given to understand by the non-applicant that the applicant's power supply was restored on 07.03.2008 before 10.03.2008 the date on which the matter was posted for hearing. The applicant also confirmed that his power supply has been restored on 07.03.2008. An interim order was accordingly passed on 10.03.2008.

The applicant contended that he applied to the non-applicant for releasing a new connection for domestic purposes in the year 2001 and accordingly, a new connection was sanctioned and supply released on 28.01.2001. However, since this date, commercial tariff has been charged to the applicant erroneously when actually there was no usage of electricity for any commercial purpose. He emphatically stated that he had applied for sanction of a new connection for domestic purpose and not for commercial purposes. However, the non-applicant wrongly issued demand note meant for commercial usage of electricity and also that no remedy was provided to the applicant in this respect although he had complained to the non-applicant firstly on 13.03.2002 followed by his subsequent several complaint applications. He submitted that the porch constructed in his

house has been converted into a General Stores Shop in the year, 2007 for which a loan of Rs.70,000/- under P.M.R.Y. scheme was obtained on 27.02.2007 in the name of his daughter from Allahabad Bank, Nagpur. He continued to submit that there was no such shop constructed or existing till the year 2007 and the supply of electricity already sanctioned in the year 2001 was being continuously used only for domestic purpose. He, however, admitted that supply of electricity already sanctioned is being used for General Stores Shop also from the year 2007 and as such, till the year 2007 tariff meant for commercial usage of electricity was wrongly applied and recovered from the applicant against the existing electric connection. He has produced on record copies of various applications made by him before different officers of the non-applicant Company right from the year 2002. He strongly submitted that no reply, whatsoever, was given to the applicant to any of his complaints. He has also produced a copy of communication dated 05.03.2008 issued by Allahabad Bank, Nagpur in support of his contention that a loan of Rs.70,000/- in the name of his daughter was sanctioned on 27.07.2007 under P.M.R.Y. scheme. He also contended that the non-applicant intermittently disconnected his power supply in the past also and he was forced to pay electricity bill amounts meant for commercial usage of electricity. His supply was also restored immediately after payment of the bill amounts in the past despite the fact that no attention was paid by the non-applicant to his several complaint applications made in respect of wrong application of tariff rate.

On the point of disconnection of his power supply recently on 27.02.2008 on the ground of non payment of arrear amount of

Rs.4359/- for the months of October, November, December 2007 and January 2008, the applicant's contention is that he did not pay this amount because wrong tariff rate was applied and also because no attention, whatsoever, was paid by the non-applicant to his previous several complaint applications. He also stated that no notice of any kind was served upon the applicant before disconnection of his power supply on 27.02.2008. According to him, this disconnection of his power supply was thus improper and illegal.

He lastly prayed that he should be charged for consumption of electricity since the year 2001 according to the tariff rate meant for domestic or residential usage of electricity till the year 2007 and that excess amount recovered since the year 2001 should be refunded to him. This refund amount pertains to past 8 to 9 years.

The non-applicant has filed his parawise report dated 14.03.2008 which is on record. It has been stated in this report as well as in the oral submissions of the Executive Engineer, Mahal Division, NUZ, MSEDCL, Nagpur representing the non-applicant Company that a new electricity connection was sanctioned and released some 8 years back and an amount of Rs.8000/- was recovered that time as service line charges. The applicant had applied on 27.03.2000 for sanctioning a new connection for domestic purpose. However, electric connection meant for commercial usage of electricity came to be sanctioned and supply released on 28.01.2001. That time, it came to the notice of the concerned officers that the applicant had constructed a shop on the site and hence, a demand note of Rs.11,200/- came to be issued and this demand was meant for commercial usage of electricity. He submitted that the demand note amount of Rs.11,200/- was also duly paid on

04.12.2000 by the applicant without raising any protest. The applicant has also paid all electricity bills as per commercial usage of electricity till September 2007. These bill amounts were also paid by the applicant without raising any protest. The last bill paid by the applicant was of Rs.780/- on 22.10.2007. However, the applicant did not pay current bill amounts for the months of October, November and December 2007 and also January 2008. The arrear amount accumulated to Rs.4369/- during these four months. Hence, the applicant's power supply was disconnected temporarily on 27.02.2008. It is his strong submission that before temporarily disconnecting the power supply, a notice was sent to the applicant on 10.01.2008 asking him to pay the arrear amount of RS.3060.15 accumulated against his service connection no. 410014975784 within 15 days failing which his power supply would be disconnected. He also stated that the applicant refused to take delivery of this notice. Hence, there was no other alternative before him than to disconnect the applicant's power supply. Accordingly, his supply was rightly disconnected on 27.08.2007. The billing done to the applicant throughout was also correct and proper.

As regards the applicant's complaint about his current bill amounts for the months of October and November 2007 in which a faulty status of the applicant's meter was indicated in the bills, his submission is that a revised bill was issued to the applicant after giving credit of Rs.2046.14 and the applicant was informed accordingly on 18.01.2008. He further submitted that the applicant's power supply is already restored on 07.03.2008 during the pendency of this grievance application.

He lastly prayed that the grievance application may be rejected.

In this case, the point to be decided is whether the billing done to the applicant since the year 2001 was proper and correct and if not, the tariff rate that ought to have been applied.

The record shows that the applicant had applied for sanctioning a new connection for domestic purpose on 27.03.2000 vide his application no. 3149. However, instead of sanctioning a connection meant for domestic purpose, the non-applicant sanctioned connection and power supply released on 28.01.2000 meant for commercial usage of electricity. It is the non-applicant's contention that though the applicant had applied for sanction of a new connection for domestic use of electricity, it came to the notice of the non-applicant that the applicant had constructed a shop on the site and that accordingly, a demand note of Rs.11,200/- meant for commercial usage of electricity was issued and also that this amount was paid by the applicant on 04.12.2000 without raising any protest. However, it is not understood as to why, in the year 2001, before sanctioning a new connection to the applicant, the non-applicant did not inform the applicant that though the applicant had applied for sanctioning a new connection for domestic use of electricity, it could not be sanctioned as the proposed use of electricity was for commercial purpose. No such intimation was given at that time and instead, a demand note of Rs.11200/- meant for commercial use of electricity came to be issued unilaterally. If the non-applicant was of the view that there was a shop existing on the site, he should have rejected his application which was meant for domestic use

of electricity and the applicant ought to have been asked to amend his application accordingly.

It is an admitted position that the demand note amount was paid by the applicant on 04.12.2000 without raising any protest at that time. May that the case be, the applicant did raise his dispute regarding billing for the first time on 13.03.2002 stating that there is no commercial usage of electricity against the sanctioned connection and that his energy bills should be revised appropriately considering actual use of electricity for domestic purpose. This complaint was followed up by the applicant through his several applications filed by him after 13.03.2002. Hence, the dispute in this respect was first filed on 13.03.2002 and this dispute is still continuing and hence, it is live. It is also an admitted position that no reply was ever given by the non-applicant to the applicant's application dated 13.03.2002 or for that matter to his subsequent applications. Hence, we are of the firm view that the charges recovered from the applicant till 13.03.2002 need no revision because they were paid without raising any protest. However, the fact remains that energy bills issued after 13.03.2002 will come within the ambit of appropriate revision. The CPL of the applicant also confirms that the applicant was charged for his consumption since the year 2001 considering use of electricity for commercial purpose. There is no documentary proof produced on record by the non-applicant to prove that a shop was constructed existing by the applicant in the year 2000-01 when the new connection was to be sanctioned to him. Mere entries recorded in vague terms in the register without production of related papers is of no use. The applicant's strong submission is that only a porch was constructed along with the house on the site and no

shop of any kind existed on this site in the year 2001. It is because of this position that an application that time was made by the applicant for sanctioning a new connection for domestic purpose. The applicant's submission is that the porch constructed in the past was converted into a General Stores Shop that too in the year 2007 and a loan there for was obtained from the Bank. The Bank's letter dated 05.03.2008 specifically mentions that a loan of Rs.70,000/- was availed of by the applicant's daughter under P.M.R.Y. scheme on 27.02.2007. When asked by us, the applicant explained that this loan amount was meant for providing furniture in the shop constructed. Hence, it boils down to this that the usage of electricity at the applicant's premises was of domestic or residential purpose till the year 2007 and further that the General Stores shop constructed by the applicant in the year 2007 was getting supply of electricity from the existing service connection. This means that the applicant has made use of electricity for domestic purposes and also partly for commercial purpose from the year 2007 and not before.

The non-applicant's contention that the applicant paid his past energy bills without raising any protest and as such, his grievance about excess billing is devoid of any merit cannot be accepted for the reason that though the applicant paid the bills, he had filed his written complaint in this respect on 13.03.2002 for first time followed up by his subsequent several complaint applications.

In the circumstances of the case, this Forum holds that commercial tariff made applicable and recovered from the applicant after the date 13.03.2002-the date of his first complaint application till the end of December 2006 was wrong. The non-applicant ought to have

charged tariff meant for domestic purpose only to the applicant during this period.

Hence, the non-applicant is directed to workout the excess amount wrongly charged to the applicant during this period and refund this amount by way of giving credit to the applicant in his future energy bills.

The commercial tariff already recovered w.e.f. 01.01.2007 till this date needs no revision since the applicant himself has admitted that supply of electricity was used for the shop constructed by him in the year 2007. In order to set-right the applicant's dispute in right earnest. we advise the applicant to get a new meter sanctioned for his house and in that case, the existing meter can be exclusively used for his shop. The Cell has also advised accordingly. This will set right the things properly.

In respect of the applicant's grievance about illegal disconnection of his power supply, we hold that the non-applicant did not serve disconnection notice dated 10.01.2008 on him properly. The non-applicant's mere statement that the applicant refused to take delivery of notice is of no use. In that, he ought to have affixed a copy of this notice on the applicant's house under a proper panchnama. This has not done in this case. The applicant has also stated in his submission that he did not receive any such notice.

It, therefore, follows that the disconnection of applicant's power supply was illegal. The applicant's power supply is already restored on 07.03.2008.

In the light of above, we partly allow the applicant's grievance application and dispose it off accordingly in terms of this order.

It is made clear that in the event of the applicant failing to make payment of the energy bill amounts hereafter, the non-applicant is free to take action of the disconnection of the applicant's power supply after properly following procedure laid down in Section 56 (1) of the Electricity Act, 2003.

The non-applicant shall carry out this order and report compliance to this Forum on or before 30.04.2008.

Sd/-
(S.J. Bhargawa)
Member-Secretary

Sd/-
(Smt. Gauri Chandrayan)
MEMBER

Sd/-
(S.D. Jahagirdar)
CHAIRMAN

**CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.**