

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

Case No. CGRF(NUZ)/021/2008

Applicant : Mrs. Dr. Smita Uday Gupte
At "Madhav Niwas"
Opp. Hingna Naka,
Hingna Road,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Congressnagar Division, NUZ,
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 09.04.2008)

This grievance application is filed on 18.03.2008
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 allegedly illegal recovery of outstanding dues of energy charges in respect of the premises of the applicant and also in respect of allegedly illegal disconnection of her power supply. The applicant has also demanded compensation on account of harassment caused to her due non-restoration of electricity supply to the applicant's premises for over a past period of ten months. The applicant has also requested for awarding cost of the proceedings.

Before approaching this Forum, the applicant had filed her grievance on the same subject matter before the Internal Grievance Redressal Cell (in short, the Cell) and, upon inquiry and hearing, the Cell informed the applicant by its letter, being letter no. 1002 dated 11.02.2008, that the arrear of Rs.63,204/- outstanding against the premises of the applicant will have to be paid by her so as to enable the non-applicant to release power supply to her. It is against this decision of the Cell that the applicant has filed the present grievance application under the said Regulations.

The matter was heard on 04.04.2008 and 05.04.2008.

The applicant's case was presented before this Forum by her nominated representative one Shri Arvind Vasudeo Erendolkar while the Executive Engineer, Congressnagar Division, MSEDCL NUZ, Nagpur and his Dy. Executive Engineer represented the non-applicant Company.

The applicant's representative contended that the applicant purchased the premises being block no. 219 at Shreevardhan Commercial Complex from one Shri Surjit Nath Banerjee as per registered sale-deed on 07.06.2006. Shri Banerjee had earlier purchased this property from one Dr. Mukewar. The previous owner Shri Banerjee had informed her that no electricity consumption charges are outstandingly against the said premises and the electricity meter installed in the said premises was working alright. The electricity meter, being meter no. 8003412994, was installed in the premises in question some time in the month of May, 2006. To the shock & surprise of the applicant, she received the energy bill dated 21.10.2006 for the current bill period from 13.09.2006 to 11.10.2006 for 300 units containing the current bill amount of Rs.1037.93 and also a huge erroneous arrear amount of Rs. 62,286=28. The gross amount of disputed bill is Rs.64,820/- which was payable before 26.10.2006. The applicant's representative strongly contended that the applicant is liable only to pay the current bills amounts w.e.f 07.06.2006 the date on which she purchased the property and any unpaid arrear amount prior to this date was not her liability at all. The said bill issued by MSEDCL was neither in accordance with law nor was it in respect of consumption of electricity by the applicant in her premises. The non-applicant ought to have recovered the past arrear amount from the erstwhile owners of the premises. The applicant's representative showed his willingness to make payment of all the electricity charges against meter no. 8003412994 w.e.f. 09.05.2006 when this meter was installed at the premises at the initial reading of 18

units. The current bills amounts were not paid by the applicant so far since the date of purchase of property because the MSEDCL did not accept the current bill amounts though requested for from time to time. Instead, the MSEDCL insisted upon the applicant to make payment of entire arrear amount as well. This action of the non-applicant, according to him, is unjust, improper and illegal.

He added that in spite of explaining the facts and circumstances of the case to the non-applicant, the applicant's meter no. 8003412994 was permanently disconnected on 18.03.2007. This action of the non-applicant was also illegal. After lot of persuasion, MSEDCL informed the applicant by its letter dated 18.04.2007 that out of total arrear of Rs.63,204/-, a sum of Rs.11,911/- is towards the electricity consumption charges from June 2006 to 18.03.2007 and in addition arrear amount payable is of Rs.51,293/- pertaining to period prior to June 2006 i.e. prior to the applicant's purchasing the premises in question. The applicant's representative submitted that this bifurcation indicates that the applicant's liability to pay the consumption charges was only to the extent to Rs.11,911/- as on 18.03.2007 and the residual amount of Rs.51,293/- was not her liability at all since this was relating to the period prior to June 2006 during which she had no concern, whatsoever with the premises in question.

He continued to submit that the applicant's request for restoration of power supply was rejected by MSEDCL on the erroneous ground of non-payment of the past unpaid amount. This was improper and illegal. He, therefore, prayed that her power supply may either be restored

immediately or a direction may be issued to the non-applicant to sanction a new meter to the applicant upon payment of quantum of amount which is her own liability.

He further contended that the applicant has suffered to a great extent on account of non-availability of electricity in her premises for a period of more than 10 months and, therefore, he requested that reasonable compensation may be awarded to the applicant. He has also prayed that reasonable cost of the proceedings may also be awarded.

He has produced on record copies of correspondence entered into by the applicant with MSEDCL.

The non-applicant has filed his parawise report dated 01.04.2008 which is on record. A copy of this report was given to the applicant's representative and he was given opportunity to offer his say on this parawise report.

The non-applicant has stated in this report as well as in his oral submissions that the applicant is liable to pay the entire arrear amount of Rs.63,204/- since these are the unpaid charges relating to the premises in question. The service connection, being S.C. no. 41001226851, was sanctioned in the name of Dr. Shrikant B. Mukewar for the premises in question in the past and his name continued as a registered consumer in the record till the date of disconnection. Though as stated by the applicant's representative that this premises is purchased by the applicant in June 2006, the applicant never got the said connection transferred in her name at any point of time. The registered consumer of the non-applicant Company was Dr. Mukewar throughout and as such, the applicant cannot be treated as a consumer of

MSEDCL. Hence, it is his submission that the present applicant has no locus-standi to make a grievance before this Forum and that on this count only, the grievance application is liable to be dismissed.

He added that the averment made by the applicant that, at the time of purchase of the said premises by her by a registered sale-deed on 07.06.2006, her predecessor-in-title Shri Banerjee had assured her that there were no outstanding arrears of electricity charges against him is unwarranted and is of no consequence. The plea taken by the applicant on this count is not tenable at all. The applicant cannot avoid the legal liability of the previous owner also as the unpaid arrear amount is outstanding against the premises. According to him, the applicant is not entitled to either for restoration of power supply or for that matter to get a new service connection in her name unless she pays this amount. In this respect, a notice issued on 24.10.2007. A detailed convincing reply was also given on 23.10.2007 to the applicant by the non-applicant's counsel in reply to the applicant's letter dated 09.10.2007.

On the point of the applicant's demand for award of compensation, his submission is that there is no question of causing any loss or suffering or hardship or inconvenience to the applicant for the reason that there is no privity of contract or service between the applicant as a consumer and MSEDCL. Hence, there is no deficiency of service on the part of the non-applicant and question of awarding any compensation or of any cost of proceedings does not arise.

He lastly prayed that the grievance application may be rejected.

The limited point to be decided in this case is whether the applicant is liable to pay the arrear amount in question outstanding against the premises for the past period and if so, the extent to which the applicant's liability is limited.

During the course of hearing, on being questioned by us, the non-applicant clarified that the old meter, being meter no. 834859, was replaced by a new meter, being meter no. 268848, at initial reading of 0010 in October 2005 and effect of change of meter was not given in the energy bills pertaining to the premises till March, 2006 inadvertently. The consumption of electricity at the premises during the period from October 2005 till March 2006 was of 9235 units after considering the final reading of 9245 of the meter no. 268848. This is the reason as to why the CPL of consumer Dr. Mukewar is showing consumption of 9235 units over a period of 5 months in the billing month of March, 2006. Because of this position, the consumer was charged for consumption of 9235 units in the billing month of March, 2006. Evidently because of this position, the net bill amount of Rs.50829.79 is seen to be reflected in the CPL of service connection no. 41001268851 in the billing month of March 2006. This was the arrear amount which remained unpaid in the subsequent months also. Therefore, the fact remains that the accumulated arrear amount went on increasing from March, 2006 onwards. The non-applicant has clarified on record that the arrear amount prior to June 2006 i.e. prior to the applicant's purchasing the premises in question is of Rs. 51,293/- as on 18.03.2007 and the arrear amount accumulated since June

2006 till 18.03.2006 comes to Rs.11,911/- thus making a total unpaid charge of Rs.63,204/-.

Moreover, it is pertinent to mention here that the meter, being meter No. 268848 was also tested in the testing unit of Congressnagar Division on 29.05.2006 and it was found to be Ok. The testing report is among the case papers.

The applicant's representative's contention is that the applicant is liable to make payment of electricity charges only after she became the owner of the premises in question i.e. after June 2006 and that the arrear amount outstanding against the premises prior to her possessing the property cannot be recovered from her.

In this respect, Regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 hereinafter referred-to-as the Supply Code Regulations is applicable. This Regulation provides that any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner / occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner / occupier of the premises, as the case may be: Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be

restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.

It is crystal clear from the aforesaid provision that the applicant in this case is liable to pay the quantum of unpaid charges restricted to a maximum period of six months of the unpaid charges. The applicant purchased the premises in question on 07.06.2006. In the billing month of June 2006, the net bill amount was Rs.55,616.49/- inclusive of arrears. Hence, according to us, the applicant's liability will be restricted to the past period of six months from December 2005 to May 2006. The applicant will not be liable to make payment of past unpaid charges prior to December 2005. The non-applicant has demanded total arrear amount pertaining to the period from October 2005 till and inclusive of May 2006. This covers a period of eight months. The non-applicant has clarified in his letter dated 18.04.2007 addressed to the applicant that an arrear amount of Rs.51,293/- is outstanding as on 18.03.2007 against the premises prior to June 2006. This arrear amount seems to be pertaining to 8 months prior to June 2006. In view of this position, out of this amount, the applicant will be liable to make payment of unpaid charges restricted to six months' period as aforesaid. The non-applicant will have to work out this amount and carve out the applicant's liability out of the total arrear amount of Rs.51,293/-. As regards the current bill amounts after June 2006, it is an undisputed fact that the applicant will have to pay all the current bill amounts till the date of disconnection of power supply alongwith interest. The applicant's

representative has also agreed to pay the electricity consumption charges from June 2006 and onwards.

A point has been raised by the non-applicant that the applicant has no locus-standi to file this grievance application since she is not the consumer of the non-applicant Company. However, we do not agree with this claim of the non-applicant for the simple reason that the applicant was the lawful recipient of electricity at her premises since 07.06.2006- the date of which she purchased the premises in question by a legal sale-deed from the erstwhile owner. Hence, in terms of definition of word "Consumer" made in clause (15) of Section 2 of the Electricity Act, 2003, the applicant will have to be treated as the non-applicant's consumer.

A grievance has been made by the applicant that her power supply was disconnected illegally. However, we are unable to accept this contention. The reason is that the applicant has neglected to pay the electricity consumption charges from June 2006 on wards and hence her supply came to be temporarily disconnected in or about March 2007 followed by permanent disconnection in September 2007. This is clear from entries in the CPL meant for consumer no. 41001268851 of the premises in question. The applicant before disconnection could have paid the electricity charges under protest and could have challenged the non-applicant's action of demanding entire arrear amount in question. However, since this was done, the her power supply came to be disconnected rightly. It is also not the applicant's contention that procedure laid down in Section 56 (1) of the Act was not followed by the

non-applicant before disconnection. No fault, whatsoever, can be attributed to the non-applicant on this count.

The question of awarding any compensation or for that matter awarding any cost also does not arise in view of the facts and circumstance of the case and in view of the particular fact that the applicant was liable to pay not only the current electricity charges since June 2006 but also a portion of the past unpaid charges as held above.

The other points raised do not survive.

In the light of above, the order passed by the Cell on 11.02.2008 stands set-aside. The non-applicant is now directed to workout afresh the applicant's liability in terms of this order and communicate the same to her. The applicant shall be entitled to get a new connection only after she makes payment of the amount that will be communicated to her by the non-applicant subject to the applicant fulfilling other terms and conditions of getting a new connection.

The applicant's request of restoration of power supply to her is devoid of any merits and it stands rejected.

In view of above, the applicant's grievance application is partly allowed and it stands disposed off accordingly.

This order is passed without prejudice to the non-applicant's right to recover the arrear amount by filing a suit in terms of Section 56 (1) of the Electricity Act, 2003.

Both the parties shall carry out this order and report compliance to this Forum on or before 30.04.2008.

Sd/-	Sd/-	Sd/-
(S.J. Bhargawa)	(Smt. Gauri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	MEMBER	CHAIRMAN

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

Member-Secretary
Consumer Grievance Redressal Forum,
Maharashtra State Electricity Distribution Co.Ltd.,
Nagpur Urban Zone, NAGPUR.