

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

Case No. CGRF(NUZ)/018/2007

- Applicant : The Additional DIGP
Group Centre (GC), CRPF
Hingna Road,
NAGPUR.
- Non-applicant : MSEDCL (erstwhile MSEB)
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 17.04.2007)

The present grievance application has been filed on
20.03.2007 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 wrong penalties amounting to Rs.40,00,403/- imposed on the applicant for the period from October, 1986 to January, 2001 towards excess connected load.

Before filing the present grievance application, the applicant had approached the Principal Secretary (Energy), Govt. of Maharashtra Mantralaya, Mumbai by his application dated 16.03.2005 with a request to refund the aforesaid penalties charges. The Principal Secretary replied him by his letter, being letter dated 20.01.2007, that it is an admitted position that the connected load of water pumps installed at Group Centre (GC), CRPF Nagpur for lifting water from Ambazari lake was 240 HP as against the sanctioned load of only 60 HP and that action of levying and recovering penalty amounts by the local office of the non-applicant was prima-facie correct. He also informed that intervention of the State Govt. in this matter is not desirable and also that the applicant may approach this Forum for adjudication upon the present grievance. Hence, the present grievance application.

The matter was heard on 13.04.2007.

It is the contention of the applicant that four motor pumps of 60 HP capacity each were installed in pump house at Ambazari lake, Nagpur way back in the year 1974-1975 from where the applicant was drawing water for daily use of the campus of CRPF and these motor pumps were running in shifts as per requirement and that only

one electric motor was being run at a time as per sanction accorded by the erstwhile MSEB (now MSEDCL). Provision for three stand-by pumps was made to ensure un-interrupted water supply to the applicant's campus. The water pipe lines provided to the campus from Ambazari lake were designed to sustain the water pressure of only one pump.

He added that the possibility of running more than one pump at a time was totally ruled out. According to him, there was no provision in any rules of MSEB to the effect that stand-by pumps / motors were also to be considered as connected load. The terms of supply of electricity by MSEB were modified during the year 1980 in which definition of connected load was incorporated. The applicant was neither made aware of the definition of the connected load nor did the MSEB authorities inform any thing about it to the applicant at any point of time after this amendment was made.

He continued to submit that during the year 1994, the MSEB, based on the inspection note of the Flying Squad, had objected to installation of four pumps against the sanctioned capacity of 60 HP and levied penalty towards capacitor and excess connected load amounting to Rs.26,65,461/- for the period from October, 1986 to March 1995 and again additional penalty amount of Rs.13,34,942/- was levied for the period from April 1995 to January, 2001. Since then, the matter was taken up with various authorities of MSEB for stoppage of imposing penalty and for getting refund of penalty amounts recovered. The MSEB stopped the recovery of penalty from February, 2002 after interlock system for the pumps was installed as suggested by them. However, the MSEB have refused to refund the penalty amount of

Rs. 40,00,403 on the erroneous ground that the existing rules do not permit such a refund.

He strongly contended that the penalty amounts charged were unjust, improper and illegal. He has, therefore, requested to refund the aforementioned penalty amounts already paid by him to the non-applicant.

He added that sanction for installation of High Tension line for the pump House was obtained way back in the year 1999. However, the work could not be executed immediately due to the dispute about land raised by the Forest Department. Subsequently, after settlement of the dispute, the HT line of the pump house was commissioned w.e.f. 01.10.2004.

The applicant has produced copies of the correspondence made with various authorities of MSEB and the State Government right from 28.09.1999 till 16.03.2005.

The non-applicant, on his part, had filed his parawise report on record. He has submitted that even the State Government has not accepted the claim of refund to the applicant vide Principal Secretary's letter dated 28.01.2007. He added that the applicant's claim for refund of the penalty amount is a stale claim and it is not at all tenable before this Forum. The action of claiming and recovering penalty amounts during the period from October, 1986 to January 2001 was in tune with Conditions of Supply of Electricity in force at the relevant time and further that all these amounts were already paid in the past by the applicant without raising any protest. According to him, the assessment amount already charged to the applicant can not be disputed at this belated stage.

He further submitted that in the absence of any challenge to the bills in question before any prescribed appellate authority in terms of Clause 31 (e) of Conditions of Supply then in force, the present grievance is devoid of any legality.

A forceful argument was made by the non-applicant that in terms of Regulation 6.6 of the said Regulations, the present grievance can not be entertained by this Forum since it is hopelessly time-barred.

He lastly submitted that the grievance application may be dismissed.

The applicant in his rejoinder dated 12.04.2007 has denied the contentions of the non-applicant.

The main point for consideration before this Forum is about the prima-facie admissibility or otherwise of the present grievance in terms of Regulation 6.6 of the said Regulations, the text of which is as under:.

“The Forum shall not admit any grievance unless it is filed within two years from the date on which the cause of action has arisen.”

It is an admitted position in this case that penalty amounts towards excess connected load were charged to the applicant during the period from October, 1996 to January, 2001. The applicant is disputing levy of these penal charges on the grounds already narrated by him in his written submission. The record shows that way back in 1995, the Chief Engineer, (Commercial) had communicated to the applicant that the bills issued towards excess connected load were in order and they were also as per MSEB's tariff rules and regulations. The Chief

Engineer had also then advised the applicant that for any additional load as per prevailing rules, the applicant has to avail the supply at High Tension and for this he should approach the local Chief Engineer. This indicates that the applicant's complaint made in March, 1995 in the context of allegedly wrong penalty amount charged consequent upon the Flying Squad's inspection which was done in the year 1994, was suitably replied way back in the year 1995.

The definition of words "connected load" made in clause (h) of condition No. 1 of Conditions of Supply of electrical energy effective from 01.01.1976 also makes it abundantly clear that stand-by devices were also included in connected load. The concept of connected load is now done away with w.e.f. 20.01.2005 after coming into force of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. It is, therefore, pertinent to note that mainly the dispute in question relates to the period from October, 1986 to January 2001 which, in turn, is much more older than the period of two years contemplated in Regulation 6.6 of the said Regulations.

It is, therefore, amply clear that the basic requirement of Regulation 6.6 of the said Regulations is not fulfilled in the present case. Hence, it is not legally permissible for this Forum to admit the present grievance.

The question of going into merits or de-merits of the case, therefore, does not arise.

It is a different matter that the applicant has approached this Forum as per the advise of the Principal Secretary (Energy). However, it is to be noted that the Principal Secretary had advised the

applicant to refer the present grievance to this Forum for adjudication.
This adjudication means adjudication as per legal provisions in force.

In the result, the present grievance cannot be admitted by
this Forum in terms of the aforesaid Regulation 6.6.

The same stands disposed off accordingly.

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.