

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

Case No. CGRF(NUZ)/0117/2006

- Applicant : Shri Ramesh Mansuklal Agrawal,
House No. 557, Malviya Road,
Opp. I.T.I. School, Malviya Road,
Sitabuldi,
Nagpur
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Congressnagar Division,
Nagpur representing the MSEDCL.
- 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.

ORDER (Passed on 28.04.2006)

The applicant has filed this present grievance application on 03.04.2006 as per Regulation 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 limited grievance of the applicant is about the erroneous inclusion of arrear amount of Rs. 6,343=75 included in his energy bill dated 22.12.2005 against his meter, being meter no. 8001356165, consumer no. 410016042114.

Before filing this grievance application, the applicant had submitted his complaint application being, application dated 21.01.2006 addressed to the Executive Engineer, Regent S/Dn, MSEDCL, NUZ, Nagpur, complaining about the excessive amount of his energy bill dated 22.12.2005. A similar application was also submitted by him to the Executive Engineer, Congressnagar Division, MSEDCL, Nagpur. However, no remedy, whatsoever, was provided to him by the non-applicant within the prescribed period of two months as laid down in Regulation 6.3 of the said Regulations. The requirement of the applicant approaching the Internal Grievance Redressal Unit under said Regulations stands dispensed with in view of the fact that the applicant had already approached earlier on 21.01.2006 to the competent authority who neither resolved the applicant's complaint nor his complaint application was sent to the Internal Grievance Redressal Unit for disposal as laid down in the said Regulations. Such a dispensation is also confirmed by the MERC.

Both the parties were heard by us on 24.04.2006. A copy of the non-applicant's parawise report submitted before this Forum as per the said Regulations was given to the applicant before the case was taken up for hearing and he was given opportunity to offer his say on this parawise report also.

Documents produced on record by both the parties were also examined and considered by us.

The applicant stated before us that he is a consumer of the non-applicant Company having consumer no. 410016042114 receiving electricity supply to his rented shop through electric meter, being meter no. 8001356164. He has been paying all his energy bills regularly as and when received. However, to his shock and surprise, he received energy bill dated 22.12.2005 for the period from 25.11.2005 to 23.11.2005 in which suddenly past un-paid arrear amount of Rs. 6344/- was shown as recoverable from him which, according to him, is unjust, improper and illegal. He vehemently argued that he is not liable to pay this un-paid arrear amount because it pertains to the past period during which he was never the beneficiary of supply of electricity. This arrear amount was outstanding against the third person namely M/s. Delhi Cycle Agency, Proprietor Gurjeet Singh Narulla, Ramdaspeth, Nagpur.

He added that the non-applicant does not possess any right or authority to recover this amount from the present applicant.

According to him, the non-applicant ought to have recovered this un-paid amount from the consumer who accumulated this arrear.

He also added that after he occupied the premises in question as a new occupier, he had applied to the non-applicant for release of a new electricity connection and the same came to be released to him for which he had already

incurred expenditure of more than Rs. 10,000/-. It is his say that no idea was given to him about the arrear amount in question at the time of release of new connection to him. He lastly stated that the non-applicant's action of claiming the arrear amount in question is unjust, improper and illegal and prayed that the arrear amount in question be withdrawn from recovery.

The non-aplicant has admitted in his parawise report that energy bill dated 22.12.2005 for the month of December, 2005 was showing inclusion of past consumption charges amounting to Rs. 6,343/-. It is his say that the present applicant is his consumer and he was running an establishment under the name & style as M/s. Delhi Cycle Agency in the same premises vide consumer no. 410010662528. This account had gone in arrears and the present applicant failed the make payment thereof.

He added that the two connections having consumer no. 410016042114 and the previously disconnected connection having consumer no. 410010662528 belong to the same person namely the present applicant. The said liability came to be rightly transferred in the live account of the applicant vide consumer no. 41006042114. He denied that the said arrear amount was not in respect of the same premises.

He further submitted that merely because the meter was removed from the said shop on account of non-payment of arrears, his recovery right is not taken away and further that by exercising the right of disconnection, he is entitled to recover the said amount.

According to him, the law permits him to transfer the said arrear amount in the applicant's live account and to recover to same from him. The limitation period of three years for recovery purpose is not applicable to such cases.

He has also relied upon a judgment reproduced at page no. 369 under A.I.R. 1978 (Bombay) in support of his contentions.

We have carefully gone through the record of the case, all documents produced on record by both the parties as also all submissions, written & oral, made before us by both of them.

The limited point to be decided in this case is whether the arrear amount in question shown as recoverable in the applicant's energy bill dated 22.12.2005 is permissible for recovery from the present applicant.

The applicant has denied this liability on the ground that this amount pertains to past period during which he was not occupying the said premises and that the amount is pertaining to M/s. Delhi Cycle Agency while the non-applicant has submitted that the same is recoverable from the applicant under law since the arrear amount pertains to the same premises. Against this back ground, it needs to be seen as to which provision of Law / Regulations comes into play in such a case.

According to us, the legal provision contained in Regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 which have

come into force from 20.01.2005 is applicable to the present case.

This Regulation 10.5 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.

Proviso to this Regulation further states 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.

The non-applicant has made a submission during the course of arguments that both the connections vide consumer no. 410016042114 i.e. the live connection being used by the present applicant and the other connection vide consumer no. 4100106638 which was permanently disconnected belong to one and the same person i.e. the applicant. However, copies of the CPL produced by him in respect of these two connections clearly indicate different names of consumers for these two connections. The name of M/s. Delhi Cycle Agency is recorded as a consumer in the CPL of consumer no. 4100102528 while the name of the present

applicant appears as consumer vide consumer no. 410016042114 in his CPL. It is, therefore, not understood as to on which basis the non-applicant is making a statement that both the connections are belonging to one and same person. The applicant, on his part, has strongly denied that he is in any way concerned with M/s. Delhi Cycle Agency. It seems that the shop which was previously occupied by M/s. Delhi Cycle Agency came to be occupied by the present applicant as a new occupier of the premises.

Since the applicant is a new occupier, as laid down in the proviso to Regulation 10.5, his liability of payment is restricted to a maximum period of six months of the un-paid charges in question.

There is no dispute in this case that the arrear amount in question pertains to the period from 20.08.1997 to 19.01.1999 i.e. about 1½ years. Hence, the non-applicant's claim of recovering the full arrear amount in question is nullified by Regulation 10.5

What is permissible for recovery in this case is the charges for a maximum period of six months of the un-paid charges. The rest of the charges older than six months cannot be recovered from the present applicant.

The non-applicant has relied upon a judgment re-produced in A.I.R. 1978 Bombay at page no. 369. However, he has not produced the relevant extract of this judgment. What is produced before us as a copy in this respect is totally different from the one quoted by him.

The applicant, on his part, during the course of hearing relied upon a decision given by the Bombay High Court bench at Aurangabad in the writ petition no. 2362 of 2005 decided on 20.07.2005 in the case of ETCO SPINNERS PVT. LTD and another Vs. State of Maharashtra and others. This judgment relates to Section 24 of the Indian Electricity Act, 1910. It has been held that the MSEB have a statutory duty to supply electricity to the petitioner and that the petitioner cannot be saddled with liability to clear arrears of electricity charges payable by the erstwhile consumer. Since the decision pertains to Indian Electricity Act, 1910 which has since been repealed w.e.f. 10.06.2003 by the Electricity Act, 2003, the citation produced by the applicant is not applicable to the present case.

In the result, the applicant's grievance application is allowed partly and in that, we direct the non-applicant to revise the applicant's energy bill in question in terms of observations made by us in this order and to issue a revised bill accordingly.

Needless to say that interest charged, if any, on the amount held as inadmissible for recovery by us in terms of this order shall also not be recoverable from the applicant.

The grievance applicant, thus, stands disposed off accordingly.

The non-applicant shall report compliance of this order to this Forum on or before 31.05.2006.

Sd/-	Sd/-
(Smt. Gouri Chandrayan)	(S.D. Jahagirdar)
Member	CHAIRMAN
CONSUMER GRIEVANCE REDRESSAL FORUM	
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's	
NAGPUR URBAN ZONE, NAGPUR	