

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

Case No. CGRF(NUZ)/0118/2006

- Applicant : Dr. Shyam Keshao Babhulkar
At Shop No. 16, 1st Floor,
Nikalas Tower, Ramdaspath,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Congressnagar Division,
Nagpur representing the MSEDCL.
- Quorum Present : 1) Shri S.D. Jahagirdar, I.A.S. (Retd.),
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 3) Shri M.S. Shrisat
Exe. Engr. & Member Secretary,
Consumer Grievance Redressal Forum,
NUZ, MSEDCL, Nagpur.

ORDER (Passed on 26.04.2006)

The present grievance application is filed on
03.04.2006 under 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 applicant's grievance is that his meter, being meter no. 8000267818, installed at shop no. 16, 1st floor, Nikalas Tower, Ramdaspath, Nagpur was changed by the non-applicant without his knowledge and without serving any notice on him and that his energy bill dated 19.08.2004 for Rs.20,100/- showing consumption of 4473 units over a period of 18 months is abnormally excessive. His grievance is also in respect of the energy bills generated by his new meter, being meter no. 8000580574, which according to him, are unjust & excessive. He has further complained that his second meter was disconnected without giving him any mandatory notice to him under law and that his meter may be re-installed without charging any fees to him. The applicant has also demanded compensation because of illegal disconnection.

Before filing the present grievance application, the applicant had made a complaint to the Executive Engineer, Congressnagar Division, MSEDCL, Nagpur by his letter dated 06.10.2004 raising therein his grievance that he has received an excessive bill of Rs.20,100/- dated 19.08.2004 despite the fact that his premises in question was closed. This was followed by another application, being application dated 06.11.2004, addressed to the Executive Engineer again complaining about the erroneously excessive consumption reflected by his second meter also. No satisfactory remedy was provided to him by the non-applicant within the prescribed

period of two months as laid down in the said Regulations and hence, he filed the present grievance application.

Since the applicant had earlier filed his complaint application before the Executive Engineer, the requirement of the applicant approaching the Internal Grievance Redressal Unit under Regulation 6.3 of the said Regulations stands dispensed with. Such a dispensation has also been confirmed by the MERC. Hence, filing of the present grievance application by the applicant before this Forum is quite in order.

The matter was heard by us on 21.04.2006.

A copy of the parawise report submitted before this Forum by the non-applicant in terms of the said Regulations was given to the applicant on 21.04.2006 before the case was taken up for hearing and he was given adequate opportunity to offer his say on this parawise report also.

The applicant's contention is that he had purchased the premises in question in December, 2002. A meter, being meter no. 800267818, was then installed thereat.

He added that since the time he had purchased these premises, they were never used by him at all and the premises were under lock and key. The applicant received his first bill dated 19.06.2004 for Rs. 2170/- which was a bill towards fixed charges of his meter for 16 months. He paid this bill on 08.07.2004, he has no complaint about this bill.

Subsequently, to his shock & surprise, he received second energy bill dated 19.08.2004 for the period from 07.06.2004 to 06.08.2004 for a huge amount Rs. 20,100/- which, according to him, is excessive, erroneous, unjust and

improper. It is his strong contention that abnormally excessive consumption of as many as 4473 units has been shown in this energy bill in one go covering a period of 18 months. This bill is showing his meter number as 8000580574 which was a new meter installed by the non-applicant replacing his old meter, being meter no. 8000267818. Here, his submission is that his previous meter was changed without his knowledge and without giving any notice to him, and that this action is illegal. After receipt of this disputed bill, he enquired about the discrepancies in the bill with the concerned authority at Congressnagar Office of MSEDCL. He assertively added that he was then given an explanation that his original meter was faulty and had to be replaced by a new meter.

The applicant had filed an application, being application dated 25.09.2004, addressed to the Executive Engineer, MSEB, Regent S/Dn., NUZ stating therein that the premises in question was not in use by him and that only minimum charges may be applied against the meter, being meter no. 8000267818. This was followed by another application dated 06.10.2004 in which the applicant had disputed the erroneous energy bill dated 19.08.2004 for Rs.20,100/-. He requested for allowing him to pay this bill amount in four installments that too, under protest since his premises was closed since beginning and were not in use at all. He again requested the Executive Engineer to issue minimum possible bill. He has so far paid a total amount of Rs. 10,050/- in two installments under protest respectively on 12.10.2004 and 05.11.2004.

The applicant further submitted that he has been receiving excessive energy bills against his second meter No. 80005874 also. He referred to his energy bill dated 20.10.2004 against this meter which is showing consumption of 1264 units in just two months during the period from 06.08.2004 to 07.10.2004, which according to him, is very excessive.

On receiving excessive energy bills, he visited the concerned offices of the non-applicant Company on several occasions in order to know the reasons for excessive billing. Ultimately, an Engineer from the non-applicant Company inspected his second meter and identified the fault and reported that the Capacitor installed next to the meter was faulty and hence the exorbitant bills. It is his strong contention that the Capacitor developed defect after the first meter was replaced by a new one.

His excessive bills were not revised and ultimately his connection was disconnected in November-2005 without any notice to him as required by law.

Stating these events, the applicant vehemently argued that the energy bills issued from time to time since beginning are excessive, unjust and illegal.

He lastly prayed that his grievances in question may be removal and compensation, as deemed fit, may be awarded.

The non-applicant, on his part, has stated in his parawise report that the applicant's allegations are false and baseless. The applicant's first connection came to be sanctioned and meter, being meter no. 8000267818, was

installed at the applicant's premises in the month of November, 2002 at initial reading of 00007. He admitted that due to some clerical error, the first bill could not be issued for a long time. It was issued in June, 2004. This bill was meant only for fixed charges and not for the actual consumption of electricity by the applicant. In June, 2004, a verbal complaint was received from the applicant that his premises is not in use and still the meter is recording consumption. Thereupon, his premises was checked and found to be not in use and hence the meter was replaced. The final reading of the first meter, being meter no. 8000267818, was 3382 units, at the time of its replacement. Hence, the applicant was charged for $(3382 - 7 =)$ 3375 units over a period of 16 months against his first meter. A new meter, being meter no. 8000580574, was installed in June, 2004 with initial reading of 7 units. This meter generated an energy bill for 1098 unit in the month of August 2004 as per metered consumption. That time, the final reading of this new meter was 1105 units as on 06.08.2004 while initial reading thereof at the time of its installation was 7 units as on 07.06.2004. Hence, a total bill amounting to Rs. 19,740/- was issued for a total of $3375 + 1098 = 4473$ units for 18 months between November, 2002 to August, 2004 pertaining to both the meters. This new meter again recorded consumption of 1264 units during the period from 06.08.2004 to 07.10.2004 and accordingly, energy bill dated 20.10.2004 for 1264 units was issued in which the previous outstanding amount of Rs.20,096=15 was included since the same was legally recoverable.

He added that looking to the applicant's repeated complaint that his premises was not in use and still the meter was recording consumption, an Engineer was deputed to test the meter on the spot and also to see whether if anybody was un-authorisedly drawing power from it. On detailed investigation, it was found that the Capacitor Banks installed by the consumer were connected to the supply and that these Capacitor Banks were faulty and were consuming power. He strongly submitted that since the Capacitor Bank is installed after the point of supply, the applicant himself is responsible for its functioning and also that the MSEDCL is no way concerned with it in the event of any defect developed in it. The Capacitor Banks were found to be faulty and this has resulted into drawal of excessive power for which the non-applicant cannot be held responsible. According to him, the energy bills generated by the meter were absolutely correct and there was nothing wrong in the functioning of the meter since it was correctly recording the actual consumption of the applicant.

He added that it was faulty Capacitor Banks which are responsible for consumption of excessive power and that both the meters installed at the applicant's premises were not faulty.

He further submitted that the applicant was advised immediately to disconnect the faulty Capacitor Unit which he did and that Zero energy consumption was recorded by the meter, being meter no. 580574 after disconnection of the Capacitor Unit by the applicant at his premises. He relied

upon the entries in the applicant's Consumer Personal Ledger in this regard.

He further stated that MSEDCL is not responsible for faulty instrument or equipment installed by the applicant after the point of supply.

He lastly submitted that there is no substance in the grievance application and that the same may be dismissed.

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

It needs to be decided in this case whether the two meters, namely, meter no. 8000267818 and meter no. 8000580574 installed at the applicant's premises were fault-free or not.

As regards the first meter, being meter no. 8000267818, the contention of the applicant is that the same was defective and hence exorbitant bill of Rs. 19,740/- / Rs. 20,100/- came to be issued showing abnormal consumption of 3375 units over a period of 16 months prior to 07.06.2004. It is also his contention that his premises was never used by him since beginning and that this fact has also not been denied by the non-applicant. The un-disputed fact is that this meter was changed by the non-applicant some time in the month of June, 2004. Here, the basic complaint of the applicant is that his meter was changed without giving any intimation about the proposed change of meter to him, In other words, the applicant's contention is that his meter was changed behind

his back. The other contention of the applicant is that no explanation was given to him by the non-applicant as to why this meter was changed. The non-applicant's reply in this respect is that the meter was changed because of the verbal complaint received from the applicant to the effect that his premises was never in use and still the meter was recording the consumption.

Looking to this factual position, it needs to be seen whether the non-applicant's action of changing the first meter was proper and transparent and whether the meter came to be replaced because of any defect in it.

The non-applicant has made a statement that it was within the knowledge of the applicant that his first meter was being changed. The applicant, on his part, has strongly denied this contention of the non-applicant further stating that he has every right as a consumer to know the reason for replacement of his first meter.

The non-applicant has not produced any proof to show that the applicant was having the knowledge about replacement of his first meter. His mere say that it was within his knowledge that his meter was being changed is of no use.

The non-applicant has also admitted in his parawise report that due to some error, the first bill was not issued and the same was issued in the month of June, 2004 but it was meant for fixed charges only and the same was not including the actual consumption charges.

It is also a matter of record that energy bill dated 19.08.2004 for Rs. 19,740/- / Rs.20,100/- was issued for the first

time to the applicant in which consumption of 3375 units against the first meter was shown and that this consumption was pertaining to a total period of 16 months. The fact, therefore, remains that bi-monthly energy consumption bills were not diligently issued to the applicant over a period of 18 months. The first cumulative energy bill came to be issued only on 19.08.2004. It is also pertinent to note that this bill was issued much after the applicant's first meter was replaced by a new meter, being meter no. 8000580574.

Now, it needs to precisely go into the reason for changing the applicant's first meter. If according to the non-applicant, his first meter was fault-free, a prudent question arises as to why, then, this meter was changed ?. No plausible and convincing explanation is forth-coming from the non-applicant's side as to why the applicant's first meter was changed. That the premises in question were not in use cannot be an acceptable reason for changing the applicant's meter. In this context, the applicant has made a statement that when he enquired about the discrepancies in his excessive energy bill dated 19.08.2004, he was given to understand that the original meter was faulty and hence it was replaced by a new meter. The applicant's dispute has throughout been this that his first energy bill dated 19.08.2004 was exorbitant, unjust and improper because of the faulty meter. He had requested at the appropriate time to issue energy bills considering the minimum charges. He did raise a dispute on 06.10.2004 about the erroneous bill generated by his first meter. This means that the applicant had lodged his complaint about

malfunctioning of his first meter on 06.10.2004. This dispute is still live.

It now needs to be seen as to which provisions of law are applicable to such a dispute.

The MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 have come into force w.e.f. 20.01.2005. The matter before us pertains to a period prior to 20.01.2005 and hence the provisions of the Supply Code Regulations will not come into play. Hence, what is applicable is the MSEB's Conditions of Supply which were in force prior to 20.01.2005. Clause 20 thereof refers to section 26 of the Indian Electricity Act, 1910 for the purpose of redressal of such a dispute. As laid down in Section 26 of the Indian Electricity Act, 1910, a dispute as to whether any meter referred to in Sub-Section (1) of Section 26 of the Act is or is not correct or it is inherently defective or faulty not recording correctly the electricity consumed, has to be decided by the Electrical Inspector upon application made by either of the parties under Sub-Section (6). If there is an allegation of fraud committed by the consumer in tampering with the meter or manipulating the supply line or breaking the body seal of the meter resulting in not registering the amount of energy supplied to the consumer or the electrical quantity contained in the supply, such a dispute does not fall within the purview of Section 26 (6). If the Electrical Inspector comes to the finding that the meter is faulty and due to some defect it has not registered the actual consumption of electrical energy, then the Inspector will estimate the amount of energy

consumed and will fix the amount to be paid in respect of such energy consumed within a period not exceeding six months. But pending the determination of the dispute as to correctness of the meter by the Electrical Inspector, the State Electricity Board is neither competent to prepare and send a supplementary bill in respect of energy consumed by the consumer nor competent to issue notice to the consumer threatening disconnection of supply of electricity for non-payment of the supplementary bill. It is also to be noted that where the consumer disputed the claim of the Board regarding meter reading, it was for the Board to get the dispute decided by the Electrical Inspector which alone was the course open to the Board in view of Section 26 (6). The Board could not have by itself decided that the meter installed was not recording the actual consumption because such a decision could only be given by referring the dispute to the Electrical Inspector.

In the present case, a dispute was raised by the applicant at appropriate time and complaint about excessive bill lodged with the non-applicant. The dispute about the accuracy of meter was not resolved by the non-applicant by following the provisions laid down in the MSEB's Conditions of Supply. This dispute is still live.

As stated above, in the first place, the applicant's first meter should not have been changed at all if it was not defective as claimed by the non-applicant. There has to be some reason behind the change of this meter and the reasons could only be only this that the meter must be defective.

The contention of the applicant that his first meter was changed behind his back without any notice to him is also correct.

Normally, as per procedure, while changing any such meter, a meter replacement report is drawn and his signature is also taken thereon. In the present case, no such replacement report is brought before us by the non-applicant. There is also no report on record to show that this meter was ever sent to the Testing Laboratory and also to show that the meter was tested for its accuracy. As a matter of fact, this at least should have been done by the non-applicant and appropriate report should have been kept on record. The non-applicant's action of changing the applicant's first meter was, therefore, not transparent at all. The non-applicant ought to have considered the applicant's complaint about his first meter recording excessive consumption keeping in view that his premises was not in use and thereupon, ought to have sent his first meter for testing purposes which precisely has not been done.

Since this has not been done, the decision on this point goes in favour of the applicant. He gets the benefit of doubt.

In the result, the applicant's energy bill dated 19.08.2004 showing consumption of 3375 units against the applicant's first meter deserves to be revised. In that, as stated above, the applicant will have to be charged for a maximum period not exceeding six months prior to 07.06.2004 since it was during this time that the applicant's first defective meter

was in position. Interest charged subsequently on the excess amount for 10 months should also be waived. Similarly, the fact that the applicant has already paid under protest a total amount of Rs. 10,500/- on 12.10.2004 and 05.11.2004 should also be kept in mind by the non-applicant while issuing a revised bill.

The applicant's second complaint is about excessive bills issued to him against his new meter, being meter no. 8000580574. This new meter was installed in June, 2004. The first bill generated by this meter was for 1098 units and the second bill was for 1264 units. The applicant's contention is that the bills generated by the new meter are also excessive and that they may be revised. However, in this respect, the non-applicant's submission that this second meter was fault free and that it was the Capacitor Banks that led to recording of actual consumption as per the supply is quite correct. Installation of Capacitor Bank is the responsibility of the consumer. If there is any fault in the Capacitor Bank, it may draw excessive energy which is recorded by the meter. Hence, in such a case, the fault is not attributable to the meter since the Capacitor Bank is installed after the point of supply. The second meter was fault free is further demonstrated by the fact that the applicant's meter started showing zero consumption after the Capacitor Bank was disconnected. The applicant's CPL confirms this position. Hence, we are inclined to hold and do hold accordingly that the applicant's second meter was not faulty and as such, the energy bills generated by the second meter needs no correction or revision.

The other grievance of the applicant is that his power supply to his second meter was disconnected without giving him any mandatory notice.

Section 56 (2) of the Electricity Act, 2003 which has come in force w.e.f. 10.06.2003 requires that a clear 15 days' notice should be served upon the consumer before his power supply is disconnected. No such notice seems to have been given to the applicant. Even the non-applicant has admitted orally that such a notice was not served upon the applicant. He, however, stated that his power supply is not permanently disconnected and that the same is disconnected only temporarily.

Since the non-applicant's action of disconnection of power supply to the applicant's premises is ab-ini-tio void and illegal, the same should be restored forthwith free of any charges.

The applicant has also demanded compensation in his grievance application. However, no justification is given by the applicant in this regard. It is also an undisputed fact that the applicant's premises was not in use at all throughout. Hence, no direct loss is substantiated by him. His request for award of compensation cannot, therefore, be granted. The same is, hence, rejected.

In the result, the applicant's grievance application is allowed by us partially and in that, we direct the non-applicant to revise the applicant's energy bill dated 19.08.2004 against the applicant's first meter, being meter no.

8000267818, keeping in view the directions given in this Order.

The applicant's grievance application thus stands disposed off accordingly.

The non-applicant shall report compliance of this order to this forum on or before 26.05.2006.

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| Sd/- | Sd/- | Sd/- |
| (M.S. Shrisat) | (Smt. Gouri Chandrayan) | (S.D. Jahagirdar) |
| Member-Secretary | Member | CHAIRMAN |

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