

**Before Maharashtra State Electricity Board's
Consumer Grievance Redressal Forum,
Nagpur Urban Zone, Nagpur.**

Case No. CGRF (NUZ)/002/2004.

- Applicant :- 1) Shri Vinay Kunte
2) Shri S.P. Shirsao
“Vrindavan”
BharatNagar, Nagpur.
- Non-Applicant :- Executive Engineer,
Civil Line Dn., (NUZ), MSEB.,
Nagpur.
- Quorum Present :- 1) Shri S.D. Jahagirdar, IAS (Retd.)
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 14.02.2005.)

The present application is filed by the applicants before this Forum according to the Regulation No. 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 hereinafter referred-to-as the said Regulations. The applicant in the their application dated

20.12.2004 have raised their grievance in respect of the following.

- 1) Tempering of their electricity meter No. 9102632401 by M.S.E.B.
- 2) Incorrect and excessive billing.
- 3) Non adjustment of Rs. 8000/- from their bill of arrears.

History in brief of the case is as under :-

The applicant Shri Vinay Kunte, Secretary of Dwarka Co-op. Hsg. Society Limited had filed in June,2000 his complaint under section 12 of the Consumer Protection Act, 1986 before the Nagpur Distt. Consumer Grievance Redressal Forum hereinafter referred-to-as the District Forum mentioning that he received on 25.01.2000 excessive electricity bill of Rs. 1,18,882/- for 23 months for the period from February 1998 to January-2000 which was not corrected by the non-applicant despite his repeated efforts and complaints made from time to time to the non-applicant. He requested the District Forum to cancel the excessive bill and to direct the non-applicant to issue correct bill in lieu thereof. He also demanded compensation of Rs. 15,000/- and costs on account of the litigation before the District Forum. The District Forum decided the case on by

26.12.2001 by its order dated 26.12.2001. The District Forum partially accepted the applicant's complaint application and cancelled the disputed bill of Rs.1,18,882=63 and also another corrected bill of Rs. 58,218/- for 8 months for 2544 units given to the applicant in July, 2000. The District Forum further ordered that the non - applicant should issue a revised bill to the applicant based on the average drawn in respect of actual readings of the meter. The District Forum also awarded compensation of Rs. 500 /- to be paid to applicant. Since the non – applicant did not execute this order, the applicant filed before the District Forum another application under section 27 of the Consumer Protection Act, 1986 with a request to order execution of the District Forum's order dated 26.12.2001. This application is numbered as miscellaneous application number 46/2002 which came to be decided by the District Forum on 29.07.2002. The District Forum has observed in its order that the non – applicant has since complied with the District Forum's order 26.12.2001 by issuing a revised bill to the applicant. The application was, therefore , disposed off , it

being infructious. The applicant Shri Kunte thereupon filed revision application being revision application number 86/2002 , before the Consumer Disputes Redressal Commission , Maharastra State hereinafter referred-to-as the Commission against the order dated 29.07.2002 passed by the District Forum. This revision application was rejected by the Commission on 04.12.2002. The applicant, it seems , was not satisfied with the order passed by the Commission and hence he went to the 8th Jt. Civil Judge Jr. Division Nagpur by filing a the Civil suit. The case before the Civil Court is numbered as regular Civil Suit number 1792/2002. The applicant also prayed the Court to grant temporary injunction. The Civil Court granted temporary injunction which was subsequently revoked by it on 21.01.2003. The Civil Suit filed by the applicant was ultimately dismissed on 16.07.2004.

The present applicants approached afresh the Internal Consumer Grievance Redress Unit headed by the Executive Engineer (Adm) in the Office of the Chief Engineer , NUZ , Nagpur as per Regulation No. 6.3 of the said Regulations and filed their application,

being application dated 16.10.2004. This application was received by this Unit on 16.10.2004. Here also, he raised the same grievance of tampering of meter, incorrect & excessive billing. The Unit did not provide any remedy within 2 months' period as contemplated in Regulation number 6.3 of the said Regulations. Thereupon the applicants approached this Forum by filing on 20.12.2004 their application in the prescribed Schedule "A" as per Regulation No. 6.3 of the said Regulations. The applicants' application in schedule "A" was sent to the non-applicant and he was asked to submit parawise remarks as per Regulation number 6.7 of the said Regulations. The non-applicant submitted his parawise remarks by his report 31.12.2004 . A copy of this report was provided to the applicant with a view to enabling him to offer his say on this report also.

The matter was heard by us on 13.01.2005 and 31.01.2005 when the applicant Shri Vinay Kunte and the non – applicant were present . Both of them argued the matter on these dates.

It is the contention of the applicant Shri Kunte that the MSEB had given him exorbitant bill of Rs.1,18,882=63 on 14.02.2000 showing in the bill past meter reading as 14 and present meter reading as 24659 i.e. a jump of 24659 units. A question is raised by the applicant as to why a revised bill of 320 units per month 23 months from February 98 to January 2000 was issued by the non – applicant when he had already paid his earlier two bills of Rs. 557/- and Rs. 94/- respectively issued by the non - applicant on 27.09.1999 and 22.11.99 for the period from 08.02.1998 to 02.09.1999 and from 09.02.1999 to 02.11.1999. He added that no account is shown and clarified by the non-applicant in respect of the amount of Rs. 8000/- paid to the non – applicant by him on 09.01.2001 . He alleged that his electricity meter was clandestinely removed by the MSEB without informing him in Nov ./ Dec. – 1999 and that the electricity meter was tampered by the non-applicant and put back in place and that , as a result of this, an exorbitant bill of Rs. 1,18,882 = 63 dated 29.01.2000 came to be given to him on 14.02.2000. According to him, the non -applicant should have deducted Rs.8000/- which

was paid by him on 09.01.2001 from the total amount of the bills . He added that the non-applicant should return the excess amount paid by him out of the bill for Rs. 57,790/- dated 21.01.2003 with 15 % interest payable from 04.02.2003. He also referred to the communication dated 04.02.2003 addressed to the Chief Engineer NUZ Nagpur , a copy of which is available in the record of the case. He informed the Chief Engineer by this letter that he is paying the bill amount of Rs. 57,790/- under protest. The applicant in this letter has also referred to a chart which was sent to the Chief Engineer, NUZ, Nagpur and also another letter dated 07.08.2002 stating that the actual amount payable by him for electrical energy consumption from March-2000 to January – 2003 comes to Rs. 25,506/- as against the bill amount of Rs.57,790/- shown by the non – applicant . Thus according to him , an excess amount of Rs. 32,284/- has been recovered from the him by the non-applicant. The applicant requested for the refund of the this excess amount alongwith interest . A copy of chart referred to in the applicant's letters mentioned above is available among the case papers. It is also the contention of the

applicant that the figures of units consumed and the amount charged in the respective bills as shown in his chart tallied with the figures shown by the non-applicant in the respective bills for the period from March-2000 to January – 2003 . It is his grievance that no satisfactory explanation was ever given by the non - applicant to various letters issued by him in respect of the grievance in question.

The non-applicant has filed his parawise remarks on the applicants' application in question. Following things are clarified by the non - applicant in this report :

- 1) Complaint of the applicant, being application number 328/2000, filed by the applicant before the District Forum was partially accepted by the District Forum and the bill of Rs.1,18,882=63 for 23 months from February 98 to January 2000 was cancelled by the District Forum. The District Forum ordered the non-applicant to give revised bill to the applicant based on the average in respect of the units of electrical energy consumed by the applicant.
- 2) The non - applicant accordingly issued a revised bill of Rs. 40,345/- by his letter on 21.05.2002.
- 3) The execution preceeding filed before the District Forum in miscellaneous application number 46/2002 before the District Forum

was also dismissed by the District Forum holding that the non-applicant has since issued the revised bill of Rs. 40,345/- according to the directions given to the non-applicant by the District Forum.

- 4) Since the applicant Shri Kunte was not satisfied with the order passed by the District Forum on 29.07.2002 in miscellaneous application number 46/20002 in complaint application number 328/2000, he filed a revision application before the Commission. The revision application was also rejected by the Commission on 04.12.2002.
- 5) The applicant was still unhappy and, therefore, he filed a Civil suit, being regular Civil suit number 1792/02 before the 8th Jt. Civil Judge Jr. Division, Nagpur on 24.12.2002. Although temporary injunction was issued in this Civil suit for some period by the Civil Court, this injunction was revoked subsequently by the Civil court on 21.01.2003. The Civil Court finally dismissed the Civil suit filed by the applicant on 16.07.2004.
- 6) The amount of Rs. 8000/- paid by the applicant by cheque dt. 09.01.2001 which is referred to by the applicant is duly accounted for in the applicant's account on 09.04.2001. The non-applicant has contended that although the bill of Rs. 1,18,882=63 was issued for a period of 23 months from February 98 to January 2000 on 29.01.2000, credit of Rs. 77,213=46 is given to the applicant in July-2000. Additional credit of Rs.36,288.59 is also given to the applicant in May-2002 as against the bill of Rs. 1,18,882=63.

The non -applicant during the course of hearing, contended the a total credit of Rs. 1,13,502=05 is already given to the applicant as against the disputed bill of Rs. 1,18,882=63 and that the amount recovered from the applicant for the period February – 98 to January-2000 i.e. for 23 months is only Rs. 5,380=58 as against the disputed bill of Rs. 1,18,882=63. This was done by the non – applicant as per orders issued by the District Forum . It is the contention of the non-applicant that the order issued by the District Forum was duly & fully complied with . He added that the record reveals that the applicant has consumed 10765 units of electrical energy against his meter number 9102632401 for the period from March – 2000 to January – 2003. As per the

non-applicant, the applicant has paid of Rs.8000/- on 09.01.2001 which is already accounted for in his account & further that the applicant has also paid the subsequent bill of Rs. 57,790 /- as against the electricity used + Interest & DPC charged due to non-payment of the bills . According to the non - applicant, the grievance of the applicant is already removed and now there is no

case at all in his favour . The non-applicant has denied that the electricity meter , being meter number 9102632401, was ever tampered by MSEB. He vehemently refuted this allegation made against him by the applicant . It is also his say that the applicant's meter was not faulty.

We have carefully gone through all the submissions made by both the parties , the entire record of the case and the various documents filed by both the parties during the course of arguments . There is no dispute that an excessive bill of Rs. 1,18,882=63 was issued by the non - applicant to the applicants on 29.01.2000. There is also no dispute that the applicant being rightly aggrieved by this exorbitant bill approached the District Forum in complaint application number 328/2000. There is also no dispute that this exorbitant bill and another bill of Rs. 58,218/- given to the applicant were cancelled by the District Forum and further that the District Forum while accepting partially the grievance of the applicant directed the non-applicant to issue a revised bill.

The order issued by the District Forum on 26.12.2001 was not acceptable to the applicant and hence he filed execution proceedings before the District Forum under section 26 of the Consumer Protection Act, 1986. However, in the meantime the non-applicant complied with the orders passed by the District Forum by issuing a revised bill of Rs. 40,344=97 dated 21.05.2002 to be paid by the applicant upto March-2002. A detailed letter, being letter dated 21.05.2002, is issued by the non – applicant addressed to the applicant clarifying the details of the payments to be made and credit adjustments done by the non-applicant. The non-applicant also issued a cheque of Rs. 500/- to the applicant as compensation as ordered by the District Forum. The record also reveals that the revision application, being revision application number 87/2002, was filed before the Commission by the applicant. This revision application was rejected by the Commission by its order dated 04.12.2002. The Commission has clearly mentioned in its order that it was the applicant who approached the District Forum for execution of District Forum's order dated 26.12.2001 in complaint number

328 /2000. Hence the applicant was not entitled to file a revision application against the District Forum's order dated 29.07.2002 . The Commission seems to be of the view that the applicant's conduct of approaching the District Forum for execution of its own order which was favourable to the applicant passed by the District Forum on 29.07.2002 and his subsequent conduct of filing a revision application against the Distt. Forum's order dated 29.07.2002 passed in the execution proceedings are contradictory to each other. The order passed by the District Forum on 26.12.2001 was acceptable to the applicant and hence he approached the District Forum for execution of this order since the non -applicant had not executed the District Forum's order dated 26.12.2001 till the filing of the execution proceedings by the applicant. However, in the meantime the non-applicant seems to have complied with the District Forum's order and hence the execution proceeding before the District Forum were disposed off being infructious. It is also an undisputed fact that the applicant had also approached the Civil Court and there also he could not succeed . The Civil Suit filed by him

came to be dismissed by the Civil Court. This sequence of events shows that the action taken by the non – applicant in executing the District Forum's order dated 26.12.2001 , was correct & hence the higher authorities also did not interfere with it.

In the instant case it is also necessary to have a close look to the contents of the schedule "A" prescribed by the Regulation No. 6.5 of the said Regulations. There is an item, being item number 9, in Schedule "A" in respect declaration to be made by the consumer . The applicant has to understand , give and sign a declaration on as many as five things . One of them is stipulated at item number "(e)" the text of which reads as under.

“ The subject matter of my / our grievance has not been decided by any Authority, Court, or Arbitrator”. In the instant case the applicants have signed the entire declaration including the declaration at item no 9“(e)”. This means that the applicants understandably declared that their grievance has not been decided by any Court / Authority / Arbitrator. The record, however, shows and even the applicant admits

that the subject matter of applicants' grievance was finally decided by the District Forum and the Commission and further that the applicants have also lost their case in the Civil Court. The intention of the makers of the said Regulations in prescribing this declaration in the format of grievance application i.e. schedule " A " seems to be this that the Consumer Grievance Redressal Forum constituted in terms of Regulation number 4 of the said Regulation can not sit in Judgment against the decision given by any Authority /Court / Arbitrator in the same subject – matter of grievance.

The alternative part of the declaration in item number " 9 (e) " is also important. Here, information in respect of pendency, if any, of any proceedings in the subject – matter of the same grievance before any Authority / Court / Arbitrator is solicited from the applicant. The cumulative meaning of the declaration prescribed in item number 9 (e) of schedule "A" is that a consumer may avail of remedy provided to him under said Regulations before the Consumer Grievance RedressForum even if proceedings in respect of the

same subject -matter of grievance is pending before any other Authority / Court / Arbitrator. However, it also amply clarifies that if the subject-matter of the same grievance is already decided by the any Authority / Court / Arbitrator , then the consumer's grievance application before the Consumer Grievance Redressal Forum constituted under the said Regulations does not become tenable In the instant case, the subject matter of the applicants' grievance is already decided by the District Forum and confirmed by the Commission. The District Forum & the Commission are the legally constituted authorities under the Consumer Protection Act, 1986 . The Civil Court has also dismissed the Civil Suit filed by the applicant . On this count , the application filed by the applicants can be termed as misconceived and untenable . Apart from whatever has been stated by us above , the applicant now does not seem to have any case from merits point of view also.

The applicant has referred to the chart prepared by him in respect of number of units consumed and the respective bi - monthly bill amounts for the period from March – 2000 to January 2003 and claimed

that he is entitled to get refund of Rs. 33,150/- as against the bill amount of Rs. 57,790/- as shown in non-applicant's bill dated 21.01.2003. The applicant Shri Kunte's say is that the figures given in his chart tally with the figures given in the respective bills of the non-applicant. The number of electrical energy units consumed by the applicant as per bills issued from March-2000 to January 2003 i.e. for 38 months as per the non – applicant is 10765 while the total number of units shown to be consumed by the applicant for the period March -2000 to January-2003 as per the applicant's chart comes to 10236 . The applicant Shri Kunte seems to have not included in his chart 489 units consumed by the him as shown in the non-applicant's electricity bill issued in the month of March-2000. If this figure is added to the figure of total units shown in the chart then the total comes to 10725. There is still a difference of 40 units. This difference of 40 units can be located in the non-applicant's electricity bill issued in May-2000. The number of units shown as consumed as per bill issued in May-2000 by the non - applicant is 570 while the

applicant's chart shows this figure as 530. The Consumer's Personal Ledger (CPL) produced by the non - applicant shows all relevant details of electricity bills issued in the month of March,2000 and onwards. A bill is issued in the month of March - 2000 means that it is the bill pertaining to the units of electrical energy consumed during part month of January -2000 + full month of February 2000 + part of March-2000. According to the applicant's chart , the total amount comes to Rs. 33,506/- The applicant, it seems, has indicated in his chart only amounts of bare electricity charges over a period of 34 months. He does not seem to have included in it charges other than the bare electricity charge like duty charge , interest , DPC etc. The Consumer Personal Ledger (CPL) (DB-57/02) in respect of the present consumer shows that a total the amount of Rs. 57,790/- is payable as per bill issued in March,2003. It is pertinent to note from the CPL that an amount of Rs. 8000 /- is shown to be received in the bill issued in May, 2001 . This amount is duly accounted for in the applicant's account on 09.04.01. The arrears mounted up and were not recovered because of the

interim injunction of the Civil Court which was operative from 09.01.2001 till 21.01.2003 when the Civil Courts temporary injunction granted earlier was revoked by it . The amount of interest and DPC liable to be paid by the applicant was not actually recoverable till then. It seems , thus , that the bill amount of Rs. 57,790/- was paid by the applicant , may be under protest , because of vacation of stay by the Civil Court. The non - applicant has rightly charged the bill amount of Rs. 57,790/- payable for the period from January – 2000 to March –2003 as per bills issued in the month of March,2000 & onwards . The contention of the applicant that the non – applicant has not adjusted in his account the amount Rs. 8000/- paid by him in January-2001 is not correct . The CPL produced by the non-applicant shows that this amount of Rs. 8000/- has been duly accounted for on the receipt side on 09.04.2001. The grievance of the applicants in respect of excessive bill Rs. 1,18,882=63 has also been settled adequately by the non-applicant. The CPL produced by the non-applicant shows that a credit of Rs. 77,213=46 is given to the applicants in the bill issued in July-2000. Similarly

credit for additional amount of Rs. 36,288=59, is also given to him by the non-applicant in the bill issued in May-2002. Thus, a total credit of Rs. 1,13,502=05 is given to the applicant as against the bill of Rs. 1,18,882=63 for a period of 23 months from February-1998 to December – 1999 inclusive. Thus the amount actually recovered from the consumer applicant for this period of 23 months comes to Rs. 5380.58 only as against the disputed bill amount of Rs. 1,18,882=63. We are, therefore, not inclined to interfere with the settlement already done as per District Forum's orders.

An application dated 10.03.2003 addressed by the applicant to the Chief Engineer, NUZ, MSEB, Nagpur is on record. The applicant has stated in this application that the dispute in the District Forum was regarding a bill for 8 months only i.e. for March-2000 to September – 2000. As a matter of fact, if the text of the order passed by the District Forum on 26.12.2001 is seen it clearly reveals that the dispute raised by the applicant before District Forum was not only regarding the bill for the period of 8 months but it was also for the excessive bill of Rs.1,18,882=63 given to him by the non-applicant

for a period of 23 months from December-1998 to December-1999.

It seems that the applicant is apprehending non adjustment of amount of Rs. 8000/- paid by him to the non-applicant by cheque on 09.01.2001. The CPL produced by the non-applicant clearly dispels this apprehension of the applicant.

The applicant, during the course of hearing, produced letters written to MSEB by Shri M.B. Pendse, Secretary of the Society on 18.03.1992 and another letter dated 10.10.98. Relying on these letters, the applicant has stated that the record presented by the non-applicant for 23 months from February-98 to January-2000 is totally false. He has further stated that false record is created by the non-applicant by tampering his meter. We are not convinced about these allegations. No cogent proof is given by the applicants to adequately substantiate these allegations. The non-applicant has denied that the meter of the applicant society was tampered. The CPL produced by the non-applicant gives a clear picture of the number of electrical units consumed by the applicant for the period

from January-2000 and onwards. The number of electrical units shown to have been consumed by the applicant in the electricity bill issued in the month of March-2000 and onwards seem to be consistent throughout and there is no reason to disbelieve the CPL produced by the non-applicant. As regards the exorbitant bill of Rs. 1,18,882=63, the matter is already settled by the District Forum and the Commission. The applicant has also not succeeded in the Civil Court. The average number of units shown to have been consumed by the applicant per month is 320 for the period from February-1998 to December-99 i.e. over a period of 23 months. This figure of 320 units per month is much less than the number of units consumed by him beyond January-2000. As a matter of fact the figures of energy consumption units from January-2000 onwards are about more than one and half times the figure of 320 units. An amount of Rs. 5,380=50 is only charged to the applicant over a period of 23 months. The contentions of the applicant are, therefore, unfounded and hence can not be accepted.

The applicant Shri Kunte has also produced, during the course of hearing, copies of decisions given by the National Consumer Disputes Redressal Commission, New Delhi. Relying on these citations, the applicant has contended that the non-applicant could not have charged more than 6 months' bill as provided in section 26 (6) of the Electricity Act, 1910. In the instant matter, there is no case of the applicant's meter being defective. Section 26 of the Electricity Act, 1910 applies to the case of defective meters. The applicants' contention in this respect can not, therefore, be accepted.

The applicant Shri Kunte has, by his application dated 13.01.2005, produced copies of notices issued to him by the non-applicant. Referring to these two notices which, according to him, are issued on one & the same date viz. 17-12-2002, the applicant stated that the non-applicant did not give seven days' notice for disconnection of electricity supply and thereby caused harassment to him. The non-applicant pointed out that a notice dated 10-12-2002 was issued to the applicant stating that he owes arrear amount of Rs. 52,410=00 to the non-applicant, that the Commission has rejected his

revision application and further that if this arrear amount is not paid within 7 days, the non-applicant would take action of disconnecting supply of electricity. The non-applicant showed to us the original copy of this notice which is no doubt dated 10.12.2002. The non-applicant argued that the applicant Shri Kunte did some overwriting on the figures of the date to show that the non-applicant failed to give 7 days' notice. After seeing the original copy of the notice in question, we are convinced that the first notice was issued on 10.12.2002 and that the applicant's contention that two notices referred to by him were issued on one & the same day is not correct. The figure of 10 in the date 10th December, 2002 is clearly seen to have been overwritten with a view to make believe that the same is 17 & not 10.

As stated above, the decisions given by the District Forum and the Commission amply clarify that the grievance of the applicant has already been settled adequately. The entire record of the case goes to show that there is now no merit in the applicant's contentions made before us in these proceedings.

In the light of above we are of the view that the present application of the applicants is untenable, misconceived and unfounded.

In the result, the applicants' grievance application stands rejected.

(Smt. Gauri Chandrayan)
MEMBER

(S.D. Jahagirdar)
CHAIRMAN
M.S.E.B.'S CONSUMER GRIEVANCE REDRESSAL
FORUM, NAGPUR URBAN ZONE, NAGPUR.