

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

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**Case No. CGRF(NUZ)/029/2010**

- Applicant : Smt. Kalyani S. Buti  
Near Toll Naka,  
Kalamna  
NAGPUR.
- Non-Applicant : The Nodal Officer-  
Executive Engineer,  
Gandhibag Division,  
Nagpur.
- Quorum Present : 1) Smt. Meera Khadakkar  
Chairman,  
Consumer Grievance Redressal  
Forum,  
Nagpur Urban Zone,  
Nagpur.
- 2) Smt. Gouri Chandrayan,  
Member,  
Consumer Grievance Redressal  
Forum,  
Nagpur Urban Zone,  
Nagpur.
- 3) Shri D.G. Gawnar  
Executive Engineer &  
Member Secretary,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone,  
Nagpur.

**ORDER (Passed on 03.05.2010)**

The present grievance application has been filed on 19.03.2010 as per Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The consumer has filed an application raising the following grievances.

- 1) That the electricity bill for the period of January, 2009 to October, 2009 is wrongly given.
- 2) The MSEDCL officials have wrongly charged that the consumer is using electricity for construction purpose.
- 3) The provisional bill of Rs.2,18,527/- is unlawful.

The consumer's contentions is that the non-applicant has changed the tariff illegally, the consumer has also applied for new connection for construction purpose. It is submitted that the consumer has conducted construction activity by using personal generator set for power. They have not used the electricity for construction purpose. The non-applicant's action under section 126 of the Electricity Act, 2003 is without basis and is liable to be set-aside.

The non-applicant has filed its reply on 07.04.2010, the non-applicant has submitted that the consumers premises was inspected on 18.11.2009. The construction activity was going on. It was found that the building construction was carried out through residential meter. Action under section 126 of the Electricity Act, 2003 was proposed and provisional bill was issued to the consumer.

The non-applicant has submitted that now the construction tariff is charged as commercial tariff, the tariff applied to the consumer is correct as per activity. New connection cannot be given during the pendency of proceeding of under Section 126 of the Electricity Act, 2003.

There is no harassment to the consumer, hence consumer is not entitled to claim any compensation.

Heard both the parties. It is an admitted position that the non-applicant has issued electricity bill for the period of January 2009 to October 2009 for the first time. It is consumer's contention that he was not given slab benefit.

In view of this position it is necessary to revise the bills from the date of connection by giving slab benefit and other benefit to the consumer.

The consumer's premises was inspected on 18.11.2009. It is the non-applicant's contention that the consumer was using electricity through residential meter for construction purpose. The consumer has stated that in view of frequent load shedding. It was mentioned in the agreement for construction which was executed before the starting of the construction that the consumer would use personal generator for the construction activity. The consumer has filed a letter of Civil Contractor dated 30.11.2009 which clearly mention about use of generator which supports the consumer's contention, the consumer has also filed copies of receipt of payment of diesel charges. It is pointed out by the non-applicant that the construction activity is going on at school campus on the land situated at Kalmana for which diesel is purchased at Sitabuldi. According to the non-applicant the bills submitted are false.

In our opinion there is no substance in this contention because the building contractor is conducting the construction activity through out the city of Nagpur. There is

no reason to disbelieve the bills issued by the reputed dealer of Nagpur on the background of letter referred above.

The learned Member Secretary has given his opinion. According to the Member-Secretary, the non-applicant has passed the final order of assessment of electricity charges as per Section 126 of the Electricity Act, 2003. It is the responsibility of the applicant to deposit amount equal to 1/3 of the assessed amount by way of cash to prefer appeal in the matter. However the applicant failed to do so.

According to the non-applicant, the applicant has not filed any supporting documentary evidence for utilizing generator for construction activity. Legally no consumer is allowed to use his generating plant of capacity exceeding 10 KW without written approval of the Electrical Inspector in this regard. The applicant has also failed to comply with the Section 127 of the Electricity Act, 2003.

The majority of the Forum is of the opinion and is satisfied from the documents filed on record that the consumer has not used the electricity for construction purpose. The observation of the learned Member-Secretary about the permission of use of generator is not attracted as there is no statement that the consumer is using generator of capacity existing 10 KW.

It is argued by non-applicant that in view of action under Section 126 of the Electricity Act, 2003. This Forum cannot consider the present grievance. It is the opinion of this

Forum that the provision of Section 126 of the I.E. Act, 2003 are attracted only when there is unauthorized use by the consumer prima-facie. This Forum has come to the conclusion that the consumer has not use the electricity as allegedly by the non-applicant.

It is now settled position that mere action under Section 126 of I.E. Act, 2003 will not take away the jurisdiction of the Forum to decide the grievance.

The Forum is empowered to consider the grievance. In case the Forum is of the opinion that the action under section 126 of the I.E. Act, 2003 is without any substance or based in present case. This forum has considered this aspect and has come into conclusion that the action under section 126 of the I.E. Act, 2003 is without any substance.

It is submitted by the consumer that they had applied for 3 phase connection for the school. He was getting electricity bills as residential tariff though vide MERC order tariff for the school is change as commercial. The non-applicant has not taken any step for change of tariff. The consumer is not responsible for change in the tariff. The consumer had applied for electricity for business purpose. It is true that the non-applicant has not changed the tariff after the tariff order is issued by MERC.

In view of observation of the Forum that the consumer has not used the electricity for construction purposes. The non-applicant's action under section 126 of the Electricity Act, 2003 is apparently incorrect.

Consequentially the bill of Rs.2,18,527/- is also incorrect, the bill is liable to be revised as per rules.

After considering the arguments of both the parties as well as documents on record the following order is passed.

### Order

The grievance application is partly allowed.

The non-applicant is directed to revise the electricity bills of the consumer for the period of January, 2009 to October, 2009.

The non-applicant is directed to revised the bill of Rs.2,18,527/-.

In view of above observation that the non-applicant's action under section 126 of the Electricity Act, 2003 is without any substance.

The non-applicant shall carry out this order and report compliance of this order to this Forum on or before 31.05.2010.

<b>Sd/-</b>	<b>Sd/-</b>	<b>Sd/-</b>
<b>(D.G. Gawnar)</b>	<b>(Smt. Gauri Chandrayan)</b>	<b>(Smt. Khadakkar)</b>
Member-Secretary	MEMBER	CHAIRMAN

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

*Member*

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