

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

Case No. CGRF(NUZ)/043/2005

- Applicant : Mrs. Akhtari Begum Sadique
852, Bafati Chaal, Kidwai Road,
Timki, Nagpur- 440 018.
represented by her Husband
Mr. A.R. Sadique.
- Non-Applicant : The Nodal Officer,
Executive Engineer,
Civil Lines Division,
Nagpur representing the MSEDCL.
- 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 14.09.2005)

The present grievance application is filed before this Forum in the prescribed schedule "A" on 21.07.2005 by the applicant 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 grievance of the applicant is in respect of non-withdrawal of arrear amount of Rs.20,205.86/- included in her energy bill dated 10.12.2004 and interest thereon.

The grievance of the applicant is also in respect of non-sanction of additional load of 8 H.P. to her and also in respect of erroneous replacement of her old meter by a new meter in April,2005 without any notice to her.

The applicant had earlier approached the Internal Grievance Redressal Unit headed by the Executive Engineer (Adm) in the office of the Superintending Engineer, NUC, MSEB, Nagpur by filing her grievance application in the prescribed annexure "X" on 10.05.2005. However, this Unit did not provide any remedy to the applicant within the prescribed period of two months as laid down in Regulation 6.3 of the said Regulations. Hence the present grievance application came to be filed before this Forum.

The matter was heard by us on 23.08.2005 and 02.09.2005 when both the parties were present. The applicant's case has been presented before us by one Shri A.R. Sadique who has been nominated by the applicant to appear and make submissions before this Forum on her behalf.

After receipt of the grievance application in question, the non-applicant was asked to furnish before this Forum his parawise remarks on the applicant's application in terms of the said Regulations. Accordingly, the non-applicant submitted his parawise remarks on 29.06.2005. A copy thereof was given to the applicant's nominated representative on

23.08.2005 and he was given opportunity to offer his remarks on this parawise report also.

It is the contention of the applicant's representative that the applicant received energy bill dated 10.12.2004 for the period from 30.10.2004 to 30.11.2004 in which an arrear amount of Rs.20,005.86/- was shown to be included alongwith interest amount of Rs.257.82/-. The total amount of the energy bill is Rs.21,380/-. According to him, the arrear amount shown in this bill cannot be recovered from the applicant, it being improper and illegal.

The applicant's representative further contended that the applicant had applied to the non-applicant for sanction of enhancement of 8 HP additional load on 21.04.2004. However, till date no sanction is yet received by the applicant.

The other contention of the applicant is that the non-applicant removed the applicant's meter in April, 2005 without any notice to her and replaced a new meter. According to him, this action of the non-applicant is also not proper and correct.

The applicant lastly prayed that the non-applicant be directed to withdraw the arrear amount of Rs.20,005.86/- alongwith the interest amount of Rs.225.82/- and to sanction the additional load of 8HP to the applicant immediately.

The non-applicant has stated in his parawise remarks that the applicant is a consumer from the power-loom category. The sanctioned load of the applicant's unit was 2 HP only. However, the applicant in effect has been using load of

10HP for the last about 4/5 years. The audit report dated 25.10.2004 of the Accounts Officer (Audit) pointed out that the non-applicant did not recover from the applicant the differential amount of the fixed charges in the context of use of load beyond the sanctioned load during the period from January, 2002 to October, 2002 and proposed that this differential amount should be recovered from the applicant. Accordingly an amount of Rs.14,816/- was worked out and charged in the energy bill of applicant for the month of Nov. 2004 which the applicant did not pay. It is his further contention that the applicant has not paid any amount towards her energy bills from 27.11.2004. According to him, the net arrear amount outstanding against the applicant as in May, 2005 comes to Rs. 22,829.51/-.

The non-applicant further submitted that the arrear amount of Rs.20,205.86/- shown in the energy bill dated 10.12.2004 is now revised to Rs.14,816/- which the applicant be directed to pay.

On the point of non-sanction of additional 8 HP load to the applicant, the non-applicant submitted that since the applicant has produced an acknowledgement showing that she submitted her application for the increase of load on 21.04.2004, the applicant's load will be enhanced to 10 HP w.e.f. 21.04.2004 retrospectively. However, he stressed his point that the penalty amount charged in the applicant's bill dated 10.12.2004 pertains to the un-authorized use of electricity made by the applicant in as much as the applicant actually availed of 10 HP load against her sanctioned load of 2

HP. Hence, he submitted that this case cannot be entertained by this Forum as per provisions of the said Regulations.

He lastly prayed that the grievance application of the applicant may be rejected.

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

In the instant case, the applicant's representative has admitted that the applicant has exceeded her sanctioned load by 8 HP and that this was done during the period from January, 2002 to October, 2002. The amount charged to the applicant also pertains to the un-authorized use of electricity as per the Audit para. The non-applicant has taken a plea that this being a case of un-authorized use of electricity, this Forum does not have jurisdiction to entertain the grievance of the applicant. The applicant's stand is that the amount of Rs. 14,816/- claimed by the non-applicant is time-barred.

The question now to be decided is whether the non-applicant can recover this penalty assessment amount under the provisions of section 56 of the Electricity Act, 2003 which relates to disconnection of supply in default of payment. The text section 56 reads as under.

“(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to

such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

PROVIDED that the supply of electricity shall not be cut off if such person deposits, under protest,--

(a) an amount equal to the sum claimed from him, or
(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

In the instance case it is an undisputed fact that the arrear amount of Rs. 14,816/- & interest thereon is claimed for recovery on 10.12.2004 when this amount first became due for recovery in January, 2002 i.e. after the period of two years from January, 2002 and also that the same was not shown continuously recoverable as arrear amount upto 10.12.2004.

According to us, the word “ any sum other than a charge for the electricity due from him to licensee” also includes the amount of assessment done in respect of un-authorized use of electricity by the consumer.

Hence, we are inclined to hold and do hold accordingly that the amount of penalty or assessment pertaining to un-authorized use of electricity is covered by the words “any sum other than a charge for electricity” appearing in the text of section 56 (1) & 56 (2) of the Electricity Act, 2003.

The contention of the applicant’s representative that the claim of Rs.14,816/- of the non-applicant against the applicant is time-barred is legal in terms of section 56 (2) and hence the same is accepted by us.

As regards the grievance of the applicant in respect of non-sanction of additional load of 8 HP, the non-applicant assured before us that the additional load applied for by the applicant shall be sanctioned to her retrospectively w.e.f. 21.04.2004 on the applicant completing the requisite formalities. The applicant’s representative agreed to this proposal and stated that he would soon complete all the requisite formalities. This grievance of the applicant now, therefore, stands removed.

The applicant has also made a grievance that the applicant’s old meter was replaced by a new meter in April, 2005 by the non-applicant without the knowledge of the applicant. The energy bills of the applicant produced on record show that the applicant’s meter is shown to be faulty since August, 2004 till April, 2005. Hence his old meter came to be

replaced by the non-applicant in April, 2005. There is, therefore, nothing wrong if the faulty meter is replaced, may be late, by the non-applicant. The grievance of the applicant in this regard, therefore, does not survive.

In view of above, we accept the grievance application partially and direct the non-applicant to withdraw from recovery the arrear amount of Rs.14,816/- alongwith interest thereon and to issue a revised bill to the applicant.

The non-applicant shall report compliance of the order to this Forum on or before 30.09.2005.

Sd/-
(Smt. Gouri Chandrayan)
Member

Sd/-
(S.D. Jahagirdar)
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**