

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

Case No. CGRF(NUZ)/0125/2006

- Applicant : Shri Raghbendra S. Biswas,
Plot No. 314,
Gandhinagar,
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 06.06.2006)

The present grievance application has been filed on 21.04.2006 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of his energy bill dated 23.12.2005 issued by the non-applicant relating to consumer no. 41001777821, meter no. 9008023325

for gross amount of Rs. 9500/- showing erroneous inclusion of arrear amount of Rs. 9006=90.

Before approaching this Forum, the applicant had filed his complaint on 31.01.2006 before the Internal Grievance Redressal Cell under the said Regulations raising therein his grievance about the aforementioned erroneous energy bill. However, no remedy was provided to the applicant by this Cell within the prescribed period of two months and hence, the present grievance application.

The matter was heard by us and both the parties were given adequate opportunity to put-forth their respective written and oral submissions.

A copy of the non-applicant's parawise reply to the applicant's grievance application submitted by the non-applicant in terms of said Regulations was given to the applicant and he was given opportunity to offer his say on this parawise report also.

It is the contention of the applicant that he has been occupying four rooms in house no. 314 situated at Gandhinagar, Ward No. 90, Nagpur as a tenant of one Smt. Gunabai Wd/o Domaji Waghare resident of Gitanagar, Zingabai-Takali, Nagpur and that he is using electrical connection meant for consumer no. 410010777821 which is standing in the name of one Shri Raj S. Hanspal since long past. He added that he is occupying the present premises since prior to 1995 and that he has also been paying the rent of the premises to the legal owner thereof. He has been paying all his energy bills regularly from time-to-time. However, according to him, he received, to his shock and surprise, his energy bill

dated 23.12.2005 in which an arrear amount of Rs. 9006.90 was erroneously shown as recoverable for the first time against consumer no. 410010777821.

He has produced a copy of notice issued on 15.02.1996 by the Advocate of Land Lady Smt. Gunabai Wd/o Domaji Waghade. Relying on this notice, he claims that he is the legal tenant of the premises in question.

He argued that, as provided in Section 56 (2) of the Electricity Act, 2003, the arrear amount in question cannot be recovered from him as recovery of the same is time-barred.

He has also produced a copy of the rent receipt of Rs. 500/- dated 17.12.1996 purporting to be the rent receipt. However, there are erasures and over-writings made in the text of this rent receipt.

He added that the non-applicant has wrongly included in his energy bill arrear amount in dispute pertaining to the two consumers vide consumer Nos. 410010777848, 410010777830 with which he was not at all concerned. According to him, he is the de-facto user of electricity connection bearing consumer no. 410010777821 though his name is not appearing in this account of consumer no. 410010777821.

He vehemently argued that the non-applicant's action in transferring the arrear amount from the aforementioned two different accounts in one go after lapse of more than 5 years into his energy bill dated 23.12.2005 is unjust, improper and illegal.

He, therefore, prayed that his grievance may be removed and that the non-applicant be directed not to recover this arrear amount from him.

The non-applicant has stated in his parawise report that, in the first place, the applicant is not the consumer of the non-applicant Company since no electric connection is standing in his name. The electric connection referred to by the applicant in respect of account no. 410010777821 is still standing in the name of one Shri Raj. S. Hanspal and hence, according to him, there is no substance applicant's grievance.

He added that it was Shri R.S. Hanspal who was directed to pay the arrear amount in question and not the applicant and as such the applicant's claim is infructious. He vehemently argued that the applicant had no locus-standi to approach this Forum and make any grievance. He further stated that one Shri R.S. Hanspal had two electric connections in his name in the premises bearing house no. 314 at Gandhinagar, Nagpur vide consumer no. 410010777821 and consumer no. 410010777848. There was a third electric meter in the same premises which was standing in the name of one Shri D.B. Waghade bearing consumer no. 410010777830. Shri R.S. Hanspal went into arrears of electricity charges in respect of consumer no. 410010777848 and his power supply came to be permanently disconnected on account of non-payment of the arrear amount of Rs. 618.20. The other connection bearing connection no. 410010777830 which was standing in the name of Shri Waghade also went into the arrears and his power supply also came to be disconnected on

account of non-payment of arrear amount of Rs.8388.70. In view of this position, the unpaid arrear amounts of both these connections were transferred in the month of December 2005 in the name of Shri R.S. Hanspal in his live account, having consumer no. 410010777821.

He vehemently argued the arrears transferred pertain to the same consumer in respect of one account and in respect of the connection in the same premises of another account. Thus, according to him, it is the liability of Shri R.S. Hanspal to pay the arrears. He further submitted that no arrear amount is being asked to be paid by the present applicant and that the contentions made by him are without any substance. He has produced copies of CPL pertaining to consumer no. 410010777821 (live account) in respect of consumer Shri R.S. Hanspal, consumer no. 410010777848 in respect of the same consumer Shri Hanspal and in respect of consumer Shri Domaji Bhimaji Waghade consumer no. 410010777830 from 1997 onwards.

He lastly prayed that the present grievance application may be dismissed.

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

A point has been made by the non-applicant that the present applicant is not the consumer of electricity while the applicant says that he is the de-facto user of electricity connection vide consumer no. 410010777821 since long past.

In this respect, we do hold that the present applicant is the consumer of the electricity in as much as he is the recipient of electricity in the premises occupied by him in house no. 314. The definition of word "Consumer" made in Section 2 (15) of the Electricity Act, 2003 fully supports the say of the applicant. It is true that the applicant did not take any steps to record his name in place of Shri Hanspal in account no. 410010777821. However, this is a formality which ought to have been completed by the present applicant. However, the fact remains that only because the applicant did not take steps to enter his name as a consumer in this account, it does not take away his rights of consumer of electricity bestowed upon him by the Electricity Act, 2003. Moreover, the legal notice dated 15.02.1996 served upon him by the Advocate of house owner reveals that the applicant has a claim of tenancy in the premises occupied by him. The non-applicant's contention that the applicant is not a consumer and that he has no locus-standi to approach this Forum cannot be accepted by us in view of above position.

It is seen in the present case that there were three electric connections provided to house no. 314 vide consumer nos. 410010777821, consumer no. 410010777830 and consumer no. 410010777848. Of these three electrical connections, two connections vide consumer no. 410010777830 which was standing in the name of one Shri D.B. Waghade and vide consumer no. 410010777848 which was standing in the name of one Shri R.S. Hanspal were permanently disconnected on account of non-payment of arrear amounts of Rs. 8388.70 and 618.20 respectively. Thus, a total arrear

amount of Rs. 9006.90 came to be transferred into the live account of consumer no. 41010777821 standing in the name of R.S. Hanspal in his energy bill dated 23.12.2005. It is also a matter of record that this arrear amount of Rs. 9006.90 was transferred into the live account of consumer no. 410010777821 for the first time in December, 2005. Earlier to December 2005, this arrear amount was not shown as continuously recoverable in this live account. Copies of CPL produced by the non-applicant go to show that an arrear amount of Rs. 8373.70 was shown as recoverable as arrear since August 1998 from the consumer Shri Domaji Bhimaji Waghade consumer no. 410010777830. This means that this arrear amount had become first due for recovery from the consumer shri Waghade in August, 1998. This amount was revised to Rs. 8388.70 in February 2000. Since August 1998 till December 2005, this arrear amount was not included as arrear amount recoverable from the consumer Shri Hanspal vide his live amount having consumer no. 410010777821.

Some what similar is the case with reference to the arrear amount of Rs. 618.20. The CPL of Shri R.S. Hanspal vide consumer no. 410010777848 reveals that an arrear amount of Rs. 618.20 is shown as arrear recoverable from this consumer since December 2003 onwards till October 2005. The CPL further shows that this amount of Rs. 618.20 was transferred from the permanently disconnected account of consumer no. 410010777848 for the first time into the live account of the same consumer Shri Hanspal vide consumer no. 410010777821 in December 2005. This live connection

however, is being used since long past by the present applicant.

The sum and substance is that the arrear amount of Rs. 8388.70 + 618.20 = Rs. 9006.90 came to be transferred for the first time in December 2005 in one go into the live account of Shri R.S. Hanspal (now the applicant) vide his live account no. 410010777821. It is also a matter of record that this arrear amount was not shown as continuously recoverable for a period of two years prior to 31.12.2005 in the live account of consumer no. 41010777821. It is here that the legal provision contained in Section 56 (2) of the Electricity Act, 2003 comes into play.

As laid down in Section 56 (2), 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.

Section 56 (2) does not permit recovery of arrear amount older than two years' period if the same is not shown continuously recoverable as such.

Evidently, there has been a blatant violation of this legal provision in the present case.

In the result, we are inclined to hold and do hold accordingly that the arrear amount in question cannot be recovered from the present applicant since recovery thereof from him is time-barred in terms of Section 56 (2) of the Electricity Act, 2003.

In view of above, we allow the applicant's grievance application and direct the non-applicant not to recover the arrear amount in question from him.

This order is issued without prejudice to the non-applicant's right to recover the arrear amount in question from persons responsible by resorting to legal remedy.

The non-applicant shall report compliance of this Order on or before 30.06.2006.

Sd/-
(Smt. Gauri 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.**