

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

Case No. CGRF(NUZ)/046/2005

- Applicant : Shri Ramesh Ganpatrao Chimote
At Kalmeshwar,
Chandurkar Ward No. 2,
Tahsil – Kalmeshwar,
Dist. Nagpur.
- Non-Applicant : The Nodal Officer,
Assistant Engineer,
O&M Division- II,
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.
- 3) Shri M.S. Shrisat
Exe. Engr. & Member Secretary,
Consumer Grievance Redressal
Forum, NUZ, MSEDCL, Nagpur.

ORDER (Passed on 15.09.2005)

The present grievance application is filed before this Forum in the prescribed schedule "A" by the applicant on 11.08.2005 as per Regulation No. 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 application is in respect of the MSEB's energy bill dated 13.06.2005 issued by the non-applicant showing inclusion of arrear amount of Rs.27,220/- . According to him, this amount can not be recovered by the non-applicant in terms of Section 56 (2) of the Electricity Act, 2003.

The matter was heard by us on 14.09.2005 when both the parties were present. Both of them are heard by us. Documents produced on record by both of them are also perused and examined by us.

After receipt of the grievance application, the non-applicant was asked to furnish his parawise report before this Forum on the applicant's application in terms or Regulation 6.7 & 6.8 of the said Regulations. Accordingly the non-applicant submitted his parawise report dated 12.09.2005 before this Forum on 14.09.2005. A copy thereof was given to the applicant on 14.09.2005 and he was given opportunity to officer his say on this parawise report also.

The case of the applicant is presented before this Forum by his nominated representative one Shri R.B. Goenka.

It is the contention of the applicant's representative that the applicant is a consumer of MSEDCL and availed the supply at LT with connected load of 10HP for the applicant's flour mill at Kalmeshwar. The applicant's meter was tested by MSEB officials on 26.11.2001. The officials told the applicant that one phase of the meter is

connected in a reverse direction and they took his signature on some papers. On 27.11.2001, some police personnel came to the applicant's flour mill and told the applicant that they have come for inquiry of energy theft case registered by MSEB against the applicant. The applicant received the energy bill for Rs.35710/- for 10,004 units on 29.11.2001 without giving any details. The applicant's supply was disconnected on the next day after receipt of this bill. When the applicant contacted the Assistant Engineer, Kalmeshwar S/stn., he told him to deposit 20% of the bill for getting his supply reconnected and accordingly issued a fresh bill amounting Rs.7,150/-. This bill was paid by the applicant under protest on 01.12.2001. A letter, being letter dated 01.12.2001, was also given to the Assistant Engineer, Kalmeshwar by him, with a request to withdraw the energy bill and withdraw the case registered against the applicant with the Police. On 05.12.2001, the applicant submitted one letter addressed to the Superintending Engineer, MSEB, Nagpur stating therein that the applicant has not committed any theft of energy and requested him to withdraw the energy bill and the case registered against him. The applicant did not receive any reply from MSEB neither any arrear amount was shown in his energy bills till 15.06.2004 on which date he received a notice from the Assistant Engineer, Kalmeshwar saying that the balance payment of Rs. 27220/- outstanding against him has not been paid by him till date and hence it should be paid within 3 days failing which the applicant's supply would be disconnected. The applicant replied to this letter on 18.06.2005 denying the theft of electricity and requested the Assistant

Engineer to withdraw the charges of theft of energy and also the assessed energy bill on this account. The applicant received energy bill dated 13.06.2005 pertaining to the period from 30.04.2005 to 31.05.2005 in which an amount of Rs. 27,220/- was added as old arrears. The applicant wrote another letter dated 23.07.2005 to the Assistant Engineer, Kalmeshwar reminding him to withdraw the energy bill and charges of theft against him.

The applicant's representative further stated that the applicant made a complaint to the Internal Grievance Redressal Unit of Nagpur Rural Circle, MSEDCL, Nagpur on 30.06.2005 under the said Regulations. This Unit informed the applicant on 04.07.2005 that since his complaint is regarding bills issued towards theft assessment as per inspection done by the Flying Squad, such complaints are excluded from the purview of the Internal Grievance Redressal Unit. There-upon the applicant wrote a letter to the Chief Engineer, NUZ, Nagpur stating the facts of his case and requesting him to withdraw the amount of Rs.27,220/- from his energy bill. The Chief Engineer replied by his letter dated 15.07.2005 stating therein that action shall be taken on his letter as per rules and that the concerned Officers have been directed do the needful. The Chief Engineer also advised him to contact the Executive Engineer, Nagpur Rural Division MSEB. The applicant had already communicated his grievance to the Executive Engineer, Nagpur Rural Division-II, Nagpur vide his letter dated 02.07.2005 but he did not receive any reply to this letter. There-after he contacted the Assistant Engineer, Kalmeshwar and requested him not to disconnect his supply since the

applicant has already registered his complaint with the competent authority. There-upon, Assistant Engineer told him to make 50% payment of the arrear amount failing which his supply would be liable for disconnection. The Assistant Engineer issued a bill amount of Rs.13,500/- on 13.07.2005 which the applicant paid under protest.

The applicant's representative, quoting the above details, vehemently contended that the applicant has not indulged himself in any un-authorized use of electricity and that he did not commit any theft of energy. According to him, the MSEB has not provided any documents proving that he has committed any theft. According to him, the applicant was also not provided any documents or report of the vigilance department.

The applicant's representative stated that he is aware of the fact that this Forum is not authorized to take any decision related to section 126 and 135 of the Electricity Act, 2003. However, he vehemently argued that this Forum has legal authority to decide the applicant's grievance under section 56 of the Electricity Act relating to recovery of arrear amount of Rs.27,220/-.

It is his submission that the bill amount of Rs.35710/- of assessment was issued by the non-applicant on 29.11.2001 and after making part payment of Rs.7,150/- on 01.12.2001, no arrears were shown as recoverable in his bills till 13.06.2005 on which date the MSEB issued energy bill showing arrear amount Rs.27,220/-for the first time. According to him, no arrears were shown to be payable in his energy bills for a period of about 3 ½ years and further that provision

of section 56 of Electricity Act, 2003 is attracted in the applicant's case.

He lastly stated that the arrear amount of Rs.27,220/- cannot be recovered by the non-applicant in terms of section 56 (2) of the Electricity Act, 2003.

The non-applicant has stated in his parawise report that the applicant's meter was tested by the Flying Squad way back on 26.11.2001 and it was found that the applicant has committed theft of electrical energy. Hence a bill of Rs.35710/- towards the assessment amount was given to the applicant as per his bill dated 29.11.2001. The applicant paid 20% amount of Rs.7,150/- on 01.12.2001 and remaining balance of Rs.27,220/- was included in his energy bill dated 13.06.2005. According to the non-applicant, action taken by him in this respect is correct as per law. He further submitted that the present case pertains to theft of energy under section 135 of the Electricity Act, 2003 and hence this Forum has no jurisdiction to entertain the grievance of the applicant in terms of the said Regulations.

We have carefully gone thorough the record of the case, documents produced by both the parties as also all the written / oral submissions both of them.

The only limited point that needs to be decided by us is whether provisions of section 56 of Electricity Act, 2003 are applicable to the instant case in the context of claim for recovery of the non-applicant in respect of arrear amount of Rs.27,220/- shown in the applicant's energy bill dated 13.06.2005. The applicant's representative also submitted before this Forum that the point of recovery of arrear amount

of Rs.27,220/- need only be considered and decided by this Forum in terms of section 56 (2) of the Electricity Act, 2003.

It is seen from the record that the arrear amount of Rs.27,220/- pertains to the balance of un-recovered amount of assessment made by the non-applicant in the case of alleged theft of energy by the applicant.

The non-applicant's stand is that the matter pertains to theft of electrical energy and hence this Forum has no jurisdiction to entertain the applicant's grievance application.

We will not go into the aspect of how theft assessment is made or whether the assessment done was not proper or not nor do we have any jurisdiction to deliberate upon these and other issues related to the theft of energy.

Our concern is limited to adjudicate upon the only grievance of the applicant where in his submission is that the non-applicant's action of recovering the arrear amount in question is time-barred in terms of the provision of section 56 (2) of the Electricity Act, 2003. The text of 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 electricity”.

According to us, the words “ any sum other than a charge for the electricity due from him to licensee” mean and include any sum, may it be pertaining to anything other than the charge for the electricity. Hence, even the assessment calculated in the context of alleged theft or un-authorized use of electricity is also covered by the words “ any sum” appearing in section 56 (1) and 56 (2).

In the instant case, it is revealed by record that the balance amount of the alleged theft assessment amount of Rs.27,220/- is shown as recoverable in the applicant's energy bill dated 13.06.2005 as an arrear amount much after the period of two years from the date viz 01.12.2001 when it had become first due from the applicant and further that this amount has not been shown as continuously recoverable as arrear amount in the energy bills of the applicant upto 13.06.2005. Section 56 (2) of the Electricity Act, 2003 has come into force w.e.f. 10-06.2003 and hence it is very much applicable to the instant case.

The non-applicant ought to have shown due diligence in recovering this amount within the permissible time-period of two years particularly when he had at his disposal adequate time to claim and recover this amount. The negligence of the MSEDCL officials has led to the fete-accompli resulting into this amount becoming irrecoverable in terms of the legal provisions of the Section 56 (2) of the Electricity Act, 2003.

The applicant has produced alongwith his grievance application a copy of the letter dated 15.06.2004 addressed to him by the Assistant Engineer O&M S/Dn., Kalmeshwar. This letter referred to a letter being letter No. 14 dated 03.02.2004 addressed to the Assistant Engineer by the Dy. Exe. Engr. Vigilance & Security Division, Nagpur. The Assistant Engineer has informed the applicant under his letter dated 15.06.2004 to the effect that as per the letter dated 03.02.2004 of the Vigilance & Security Division, Nagpur, the

outstanding amount of Rs. 27,220/- has not yet been paid by the applicant and further that this amount be credited by the applicant within three days from the date of receipt of this letter failing which the applicant's supply would be disconnected. This shows that the Assistant Engineer concerned kept quite in respect of recovering the arrear amount of Rs. 27,220/- towards the alleged theft assessment till early February, 2004 when he received the letter dated 03.02.2004 from the Vigilance & Security Division, MSEB, Nagpur. It is not understood as to why no diligent action was taken to recover this amount keeping in view the provision of section 56 (2). The letter in question is issued by the Assistant Engineer concerned on 15.06.2004 i.e. much after the period of two years from the date on which the arrear amount in question became first due for recovery.

The record also shows that the non-applicant issued a bill dated 13.07.2005 to the applicant for Rs.13,500/- being 50% amount of the assessment. The applicant has also paid this amount to avoid disconnection of supply. In view of this, it is noticed that excess payment is made by the applicant when he was not required to pay it under law.

Thus the entire action of the non-applicant in claiming recovery of the amount in question becomes time-barred and the action taken has violated the legal provision of Section 56 (2).

In the result the applicant gets the benefit of section 56 (2) in respect of amount of Rs.27,220/- since this amount had become irrecoverable.

The applicant has stated that he has paid amount of Rs.13,500/- to the non-applicant in July, 2005 against the irrecoverable payment of Rs.27,220/-. If this be so, the non-applicant shall refund this amount of Rs.13,500/- to the applicant forthwith and in any case before 10.10.2005.

This order is issued without any prejudice to the non-applicant's right to pursue the theft case as per the legal provisions of the Electricity Act, 2003.

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**

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