

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

Case No. CGRF(NUZ)/042/2008

Applicants : Shri Vijaykumar Madan Agrawal
R/o Jodhraj Bhavan,
Opp. Anand Cinema, Sitabuldi,
NAGPUR

Non-applicant : MSEDCL represented by
Jr. Engineer (Regent Sub-Dn.),
Congressnagar Division, NUZ,
Nagpur.

Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

2) Smt. Gauri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

3) Shri S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 10.09.2008)

This is an application filed 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 allegedly wrong and unwarranted addition of arrear amount of Rs. 1,23,097=65 in their energy consumption bill for the month of December, 2005 vide consumer no. 410010662285 standing in the name of Shri Harnarayan Jodhraj.

Before approaching this Forum, the applicant had raised this grievance before the non-applicant by his complaint dated 27.05.2008 requesting for deleting aforementioned arrear amount from the service connection account, bearing consumer no. 41001062285. However, no satisfactory remedy was provided to the applicant and hence, the present grievance application.

The matter was heard on 22.08.2008 and 02.09.2008.

The applicant's case was presented before this Forum by his nominated representative one Shri Mahesh Gupta while the non-applicant Company was represented by Shri J.R. Kumbhare, Jr. Engineer Regent S/Dn., of MSEDCL.

It is the contention of the applicant's representative that an arrear amount of Rs.1,23,097=65 pertaining to a different service connection was erroneously transferred to the live account of service connection no. 410010662285 which is standing in the name of Shri Harnarayan Jodhraj and which connection is presently being used by the applicant. This arrear amount came to be included for the first time in the applicant's energy bill for the month of December, 2005. The applicant, thereupon, raised queries with the concerned officials of the non-applicant Company requesting them to delete this amount from his

energy bill. Because of consistent follow-up from the applicant, a provisional bill, being bill dated 15.09.2007, came to be issued by the non-applicant in which an amount of Rs.1,23,675/- towards arrears was deleted from recovery thereby asking the applicant to make payment of Rs.57,357/- in four installments of Rs.15,000/- each. Thereafter, the applicant paid current consumption charges regularly and recovery of the disputed demand of Rs.1,23,097=65 was not insisted upon by the non-applicant. However, later on, the consumer was prevented from paying the current consumption charges by the concerned officials on the erroneous ground of non-payment of the disputed demand. On 18.03.2008, MSEDCL issued Consumer Personal Ledger to the applicant which indicates that the applicant was prevented from paying the current consumption charges. The applicant made a written complaint on 02.06.2008 asking the authorities to redress the applicant's grievance. However, instead of redressing the applicant's grievance, the non-applicant's Advocate replied on 18.06.2008 wrongly stating that the current consumption charges are not paid by the applicant and also that till May, 2008, the arrear amount recoverable against the service connection no. 410010662285 is of Rs.1,49,644/-. It has also been stated in the said notice cum-reply that the service connection no. 410010662285 and another bearing no. 410013084907 were standing in the name of one and the same consumer namely, Shri Harnarayan Jodhraj and that the electricity connection no. 41013084907 which had gone in arrears came to be permanently disconnected in the past on account of non-payment of arrear amount of Rs.1,21,594/-. The notice further states that since the live service connection, being S.C. No. 410010662285 is

in the same premises and of the same consumer, the said arrear amount was rightly transferred to the account of consumer no. 410010662285 and further that the non-applicant is entitled to recover the said amount being due amount as contemplated in Section 56 of the Electricity Act, 2003. It is the strong submission of the applicant's representative the reply-cum-notice dated 18.06.2008 is not only unjust and improper but the same is also illegal. According to the applicant, in terms of Section 56 (2) of the Electricity Act, 2003, such a transfer of the arrear amount in the energy bill for the month of December, 2005 into the applicant's live account was illegal, it being time barred. According to him, the service connection no. 410013084908 was permanently disconnected in August/September, 2000 and the accumulated arrear amount of Rs.1,21,594/- came to be transferred to the applicant's account, bearing service connection no. 410010662285 for the first time in December, 2005 and thus, this amount is not recoverable at all in terms of Section 56 (2). Moreover, through the non-applicant's provisional bill dated 15.09.2007, an amount of Rs.1,23,673/- was deleted from recovery and only a net amount of Rs.57,357/- was shown as recoverable. The applicant was also permitted to pay this amount in four installments of Rs.15,000/- each. Accordingly, an amount of Rs.60,000/- towards the arrear amount has been duly paid diligently by the applicant @ Rs.15,000/- per installment on 17.09.2007,24.10.2007,30.12.2007 and 18.03.2008 respectively. According to the applicant, inclusion of the arrear amount in question is unjust, improper and illegal and the same cannot now be recovered by the non-applicant.

The applicant's representative also stated that the applicant's connection bearing no. 410010662285 is also disconnected by the non-applicant.

He continued to submit that MSEDCL has not provided details of disputed demand pertaining to S.C. no. 410013084908 such as from which period the energy was consumed, as to when the bills were raised, since when the disputed demand remained un-paid and as to when the said connection was permanently disconnected and also whether any notice before disconnection was given. He further stated that it is only on 02.09.2008 that for the first time the CPL in respect of the disconnected service connection no. 410013084908 was supplied to the applicant during the course of hearing.

While referring to the entries made in this CPL pertaining to the billing months of March, May, July, September, November, 1998 and January, March 1999, the applicant's representative strongly contended that, during this period, there is a remark of "meter change" noted in the CPL and also that consumption of 23,461 units is shown in the billing month of the March, 1999 and this consumption pertains a period of 14 months. The consumption of 23,461 units shown in the billing month of March, 1999 was not possible at all looking to the past pattern of consumption. The arrear amount of Rs.78,746=81 along with interest arrear shown as recoverable in the billing month of May 1999 has been carried forward till the service connection no. 41001384908 was disconnected in or about September 2000. It is his strong submission that is the root cause for showing wrong accumulation of the arrear amount in respect of the disconnected connection.

He lastly prayed that the arrear amount in question may not be recovered from the applicant and the non-applicant be directed to issue a revised bill accordingly.

The non-applicant, on his part, has submitted his parawise report dated 20.08.2008 which is on record. A copy of this report was given to the applicant and he was given opportunity to offer his say on this report also.

It is stated in this report as well as in the oral submissions of the Jr. Engineer representing the non-applicant Company that an arrear amount of Rs.1,23,097=65 was originally outstanding against the service connection no. 410013084908 and there-upon, this connection was permanently disconnected and subsequently this amount was rightly transferred into the live account of the same consumer vide consumer no. 410010662285 since both the connections are standing in the name of one and the same consumer namely Shri Harnarayan Jodhraj .

He added that the present applicant is not MSEDCL's registered consumer nor by any reasoning, he can be treated as the legal heir of the registered consumer and as such, he has no locus-standi to file the present complaint. He submitted that the service connection bearing no. 410010662285 was never transferred in the name of the applicant by showing any legal right for the same and as such, there is no question of considering the applicant as a consumer of MSEDCL. He has no legal right to approach this Forum seeking redressal of the alleged grievances.

He further stated that the service connection bearing no. 410013084908 which was standing in the name of Shri Harnarayan

Jodhraj came to be disconnected in the past on account of non-payment of arrear amount of Rs.1,21,594/- and even after disconnection, the arrear amount has been continuously shown as recoverable in the CPL. When it was revealed that the same consumer is also having in his name another live connection bearing no. 410010662285, the arrear of permanently disconnected connection came to be rightly transferred against this live connection. According to him, the non-applicant has a legal right to exercise his power under Section 56 (1) of the Electricity Act, 2003 and to recover this amount by transferring the same into the live account of the same consumer.

He continued to submit that after the transfer of the arrear amount in to the account of live connection bearing no. 410010662285, the applicant had approached the non-applicant and had sought time to make payment and also requested for issuance of energy bill for the current consumption charges. The applicant was not regular in making the current consumption charges also. The applicant wanted to make payment of current consumption charges only keeping aside the payment of the arrear amount in question. Hence, a proper legal notice calling upon the applicant to pay the amount vide legal notice dated 18.06.2008 was issued. In this notice, it is clearly indicated that the arrear amount had gone to the extent of Rs.1,49,644/-. He strongly stated that all the allegations made by the applicant are without any basis and they are raised with the sole intention to avoid the legal liabilities.

He lastly stated that the applicant is not entitled to get any relief whatsoever and that there is no question of restoration of power supply to the applicant in view of the above legal position.

He, therefore, prayed that the grievance application may be dismissed.

In the first place, we hold that the applicant is the recipient of electricity through service connection no. 410010662285 and hence, he is the consumer of MSEDCL as per definition of word “consumer” made in the Electricity Act, 2003. Moreover, it has been admitted by the applicant that he is the legal heir of Shri Harnarayan Jodhraj (alongwith others) in whose name both the service connections were standing. As of now, the service connection bearing no. 410013084908 stood permanently disconnected way back in September, 2000 on account of non-payment of arrear amount to the tune of Rs.1,21,594/-. This arrear amount is also shown as continuously recoverable in the CPL of the disconnected account even after September, 2000 till December, 2005 when the arrear amount in question came to be transferred for first time in the live account bearing no. 4100102285 which is also standing in the name of same consumer namely Shri Harnarayan Jodhraj. It is, therefore, clear that both the connections namely the disconnected connection as well as the live connection are standing in the name of one and the same consumer Shri Harnarayan Jodhraj. The applicant also could not give any satisfactory explanation as to why the service connection no. 410010662285 standing in the name of Shri Harnarayan Jodhraj was not transferred in his name as legal heir of Shri Harnarayan Jodhraj.

Section 56 (1) of the Electricity Act, 2003 lays down as under :

“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.”

This provision clearly authorizes the Distribution Licensee to cut or disconnect any Electricity Supply line other than the one against which there is an arrear amount outstanding provided that both such connections are of the same consumer.

In this case, it is an admitted position that the permanently disconnected service connection bearing no. 410013084908 and the other live service connection bearing no. 410010662285 are standing in the name of one and the same consumer namely Shri Harnarayan Jodhraj. Hence, according to us, nothing wrong has happened if the unpaid arrear amount in question pertaining to the disconnected S.C. no. 410013084908 was transferred into the same consumer's live account bearing no. 410010662285.

It is also admitted by the applicant that the live connection is still standing in the name of Shri Harnaryan Jodhraj though it is being used by him.

A point has been raised by the applicant that such a transfer is in time-barred under Section 56 (2) of the Electricity Act, 2003.

However, we are unable to accept this submission. The reason is that the arrear amount in question is continuously shown as recoverable in the disconnected account till it was transferred in December, 2005 into the same consumer's live account. Section 56 (2) of the Act cannot, therefore, be invoked in such a case.

A point has also been raised by the applicant about allegedly unjust and improper consumption of 23,461 units shown in the billing month of March 1999 in the account of service connection 410013084908 and, according to him, this is the beginning point from where wrong quantum of arrear amount was carried forward in this account till it was disconnected. On being asked by us, the applicant's representative pleaded total ignorance on the point whether any grievance about wrong accumulation of arrears way back in the year 1999 and about related matters was raised that time. The non-applicant stated during hearing that though the billing in March, 1999 might have been wrong, the consumer whose interest was at stake did not raise the grievance at that time and that such a grievance cannot now be made. It is not possible for us to look into the aspect of billing done in the year 1999 or other consequential matters related there to in r/o the disconnected service connection since it is now time-barred in terms of provision contained in Regulation 6.6 of the said Regulations which clearly states that the Forum shall not admit any grievance if it is not filed within two years from the date on which the cause of action has arisen.

As regards the applicant's representative's contention that a provisional bill was issued on 15.09.2007 where by an amount of Rs.1,23,673/- was deleted from recovery. This Forum observes that the bill dated 15.09.2007 was only a provisional bill and as such, it was not conclusive and final. The liability of payment of the arrear amount in question cannot be brushed aside only on the ground of issuance of such a provisional bill.

Moreover, it is pertinent to mention here that the applicant claims to be a legal heir of Shri Harnarayan Jodhraj. Hence, in terms of Regulations 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the arrear amount in question is recoverable by the non-applicant from the present applicant who is claiming to be the legal heir.

It is also seen that the live connection bearing consumer no. 410010662285 was rightly disconnected by the non-applicant by properly following the procedure prescribed in Section 56 (1) of the Electricity Act, 2003. It is also pertinent to mention here that earlier the applicant had come before this Forum on receipt of the notice of disconnection of power with request to pass an interim order restraining the non-applicant from disconnecting his power supply. This Forum, thereupon, on hearing both the parties rejected the applicant's request vide Forum's order dated 09.07.2008 passed in case no. 38/2008. Thereupon, the applicant's power supply came to be rightly disconnected.

This Forum, therefore, observes that the applicant's grievance is devoid of any merits and the same is also not proper and legal.

The other contentions raised by the applicant are of no consequence.

The submissions made by the non-applicant are quite cogent and legal.

In view of above position, there is no alternative before us than to reject the applicant's grievance application.

The same, therefore, stands rejected.

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|------------------------|--------------------------------|--------------------------|
| Sd/- | Sd/- | Sd/- |
| (S.J. Bhargawa) | (Smt. Gauri Chandrayan) | (S.D. Jahagirdar) |
| Member-Secretary | MEMBER | CHAIRMAN |

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