

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

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**Case No. CGRF(NUZ)/050/2007**

Applicant : Shri Vitthaldas Dharnidhar Rathi  
At LG-59, V.H.B. Colony,  
Shantinagar,  
NAGPUR.

Non-applicant : MSEDCL represented by  
the Nodal Officer-  
Executive Engineer,  
Gandhibag Division, NUZ,  
Nagpur.

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.

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

**ORDER (Passed on 05.10.2007)**

The present grievance application has been filed on  
14.09.2007 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 wrong application of provision of Section 126 of the Electricity Act, 2003. The applicant has requested for refund of assessment amount of Rs.31,902/- already paid by the applicant under protest towards allegedly unauthorized use of electricity by him.

Before approaching this Forum, the applicant had filed his complaint on 06.08.2007 on the same subject under the said Regulations before the Internal Grievance Redressal Cell (in short, the Cell). The Cell, upon enquiry and hearing, replied the applicant by its letter, being letter no. 5516 dated 01.09.2007, that the applicant's meter was found to be running slow by 64% upon inspecting his premises and that the applicant's load was found to be 2.58 KWH against the sanctioned load of 0.30KWH due to which the current coil of the meter was heated up and because of this, the meter was running slow by 64%. The Cell further informed that the assessment done in the present case under the provisions of Section 126 of the Electricity Act, 2003 is correct and legal. It is against this decision of the Cell that the applicant has filed the present grievance application before this Forum.

The matter was heard on 03.10.2007.

The applicant's case was presented before this Forum by his nominated representative one Shri D.D. Dave while the Dy. E.E. Binaki Sub-Division presented the non-applicant Company's case on behalf of the Nodal Officer, Executive Engineer, Gandhibag, NUZ, MSEDCL, Nagpur.

The applicant's representative contended that the applicant's meter was found to be running slow by 64% upon inspection of his premises on 17.07.2007. Thereupon, the non-applicant wrongly held that the applicant has indulged himself in unauthorized use of electricity in terms of Section 126 of the Electricity Act, 2003. According to him, the joint inspection report drawn by the non-applicant in the presence of two Panchas clearly makes a mention that the applicant's meter was not found to be tampered from inside. Hence, it is his submission that the applicant's meter has to be treated as a defective meter because of its running slow by 64%.

He added that there was no unauthorized use of electricity made by the applicant as wrongly concluded by the non-applicant. He referred to the provision of Sub-section (6) of Section 126 in which unauthorized use of electricity has been defined. Relying on the meaning conveyed by the words "unauthorized use of electricity", he strongly submitted that the applicant's case does not fit into any one of the five contingencies contemplated in the explanation given below Sub-section (6) of Section 126 and as such, it cannot be said that the applicant has indulged himself into unauthorized use of electricity. It cannot also be concluded that there was unauthorized use of electricity only because the applicant's connected load was found to be more than the sanctioned load. The applicant's meter was defective inherently and, therefore, it was running slow by 64%.

He referred to Regulation 15.4 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 hereinafter referred to as the Supply Code Regulations and submitted that billing to the applicant should be done in terms of

Regulation 15.4.1 of the Supply Code Regulations treating the applicant's meter as a defective meter. He also stated that only because the outer seals of the applicant's meter were found to be broken at the time of inspection, it cannot be held that the applicant's meter was tampered.

He lastly prayed that the assessment amount of Rs.31,902/- already paid by the applicant under protest in order to avoid threatened disconnection of electricity supply may be refunded to him.

The non-applicant has submitted his parawise report dated 01.10.2007 on 03.10.2007. He has stated in this report as well as in his oral submissions that the applicant's meter was inspected on 17.07.2007 when it was found that the connected load was 2.5 Kwh as against his sanctioned load of 0.30 KWh and also that the meter was found to be running slow by 64%. Upon further testing, it was found that the outer seals were damaged and that the current coil of the meter was heated up because of usage of excessive load. All this has resulted into the applicant's meter running slow by 64%. He has, however, admitted in his parawise report that there was no tampering done to the meter from inside.

The non-applicant strongly reiterated that the applicant's load was found to be 2.5 Kw which was much more than his sanctioned load of 0.30 KWh and as such Section 126 of the Electricity Act, 2003 becomes applicable to the present case. According to him, the assessment amount of Rs.31,902/- worked out for a period of 12 months at two times the prescribed tariff rate is correct and that the applicant has also paid this assessment amount. He denied that Regulation 15.4

of the Supply Code Regulations comes into play. Lastly, he prayed that the grievance application may be rejected.

It is a matter of record that the applicant's meter upon inspection was not found to be tampered from inside. The inspecting Engineer has clearly mentioned in his spot inspection report that no evidence of theft of electricity was found. The applicant's contention that his meter was not tampered is, therefore, correct. In such a situation when only outer seals of the meter are found to be broken or damaged, in terms of Regulation 15.4.1 of the Supply Code Regulations, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 and in case of tampering as per section 126 or Section 135 of the Act, depending on circumstances of each case.

In the instant case, it is clear to us that Section 126 cannot be made applicable because none of the requirements contemplated in the definition of words "unauthorized use of electricity" is fulfilled. The amended explanation below Sub-Section (6) of Section 126 meant for explaining unauthorized use of electricity makes a mention of the following five contingencies for coming to the conclusion that there has been unauthorized use of electricity:

- (i) Usage of electricity by any artificial means; or
- (ii) by a means not authorized by the concerned person or authority or licensee; or
- (iii) through a tampered meter; or
- (iv) for the purpose other than for which the usage of electricity was authorized; or
- (v) for the premises or areas other than those for which the supply of electricity was authorized.

There is no iota of evidence to prove in the present case that any one of the aforementioned five requirements is fulfilled. It cannot also be concluded that there has been unauthorized use of electricity only because the applicant has used excess load.

The non-applicant's contention that Section 126 is applicable to this matter is, therefore, not correct.

The applicant's meter in this case was a defective meter and hence, application of Section 126 is not called for.

It is also seen that the applicant's meter was not tested in the Testing Laboratory of the non-applicant Company. This should have been done as required by Regulation 15.4.1 of Supply Code Regulations. The applicant's meter was tested on the spot with the help of accu-check meter only. Even under accu-check test, the non-applicant did not find any evidence of tampering of meter from inside.

In view of above position, we conclude that there was no element of unauthorized use of electricity in the present case and that Section 126 of the Act cannot be invoked. Consequently, assessment done under Section 126 towards unauthorized use of electricity is illegal.

In the result, we allow the present grievance application and direct the non-applicant to refund assessment amount of Rs.31,902/- recovered from the applicant and paid by him under protest within a period of 15 days. However, the billing to the applicant in this case shall be done in terms of Regulations 15.4.1 of Supply Code Regulation considering the applicant's meter as a defective meter. In that, the amount of the applicant's bill shall be adjusted for a maximum

period of three months prior to the month in which the dispute has arisen.

The non-applicant shall report compliance of this Order to this Forum on or before 31.10.2007.

Sd/-	Sd/-	Sd/-
<b>(S.J. Bhargawa)</b>	<b>(Smt. Gauri Chandrayan)</b>	<b>(S.D. Jahagirdar)</b>
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.