

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

Case No. CGRF(NUZ)/058/2005

- Applicant : Shri Chunnilal Jadhaoji Popat,
574, Hiwari Layout,
Nagpur (East),
Nagpur.
- Non-Applicant : The Nodal Officer,
Executive Engineer,
Mahal 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.
- 3) Shri M.S. Shrisat
Exe. Engr. & Member Secretary,
Consumer Grievance Redressal
Forum, NUZ, MSEDCL, Nagpur.

ORDER (Passed on 18.10.2005)

The present grievance application is filed by the applicant on 06.09.2005 in the prescribed schedule "A" 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 the non-applicant's action of recovering past arrear amount of Rs.38,248/- outstanding against the premises of the applicant. The applicant has also demanded compensation of Rs.25,000/- towards his mental, physical & financial agony suffered by him. He has also claimed litigation expenses of Rs.5000/- incurred by him.

The matter was heard by us and both the parties made their respective submissions before us. Documents produced on record by both of them are also perused and examined by us.

The applicant's case has been represented before us by his nominated representative one Shri M.V. Palan.

Before approaching this Forum under the said Regulations, the applicant had filed his complaint dated 01.07.2005 before the Internal Grievance Redressal Unit headed by the Executive Engineer, MSEB, NUZ, Nagpur in terms of the said Regulations. However, this Unit did not provide any remedy to the applicant within the prescribed period of two months. Hence, the present grievance application.

After receipt of the present grievance application, the non-applicant was asked to furnish before this Forum his parawise remarks on the applicant's application in terms of Regulations 6.7 & 6.8 of the said Regulations. Accordingly, he submitted his parawise report dated 13.09.2005 on 15.09.2005. A copy of this parawise report was given to the applicant and

he was given opportunity to offer his say on this parawise report also.

An additional reply has also been submitted by the non-applicant on 17.10.2005, a copy of which was given to the applicant's nominated representative and he was given opportunity to offer his say on this additional reply also.

The contentions of the applicant representative is that the applicant purchased a house property situated in plot No. 31, bearing Nagpur Municipal Corporation House Number 2836, Mouza Hiwari, Tahsil & District Nagpur by executing a sale-deed on 14.07.2003. The seller did not disclose to the applicant that any arrears of electrical energy consumed in the past by the seller were outstanding against the premises in question. The applicant applied for electrical connection for domestic purpose to the non-applicant and upon inspection of the premises, a demand note dated 09.09.2003 was issued to the applicant. The applicant immediately paid the amount of the demand note on 09.09.2003. There-upon, the non-applicant installed the electricity meter at the applicant's premises and also commenced supply to the house of the applicant. However, after lapse of a period of 15 to 20 days, the non-applicant, all of a sudden, removed the meter from the applicant's house without any notice to the applicant on the ground that an arrear amount of Rs. 38,248/- of the electrical energy consumed in the past was outstanding against the premises in question. The electricity supply was permanently disconnected in the year 2000 when the erstwhile owner of the house was in possession thereof. The applicant's representative strongly contended that the non-applicant ought to have recovered the

amount of past arrear from the previous owner of the house and that his action of claiming this amount from the present applicant is improper and unjust. He further contended that the claim of the non-applicant against the present applicant is also time-bared. According to him, the applicant is not liable to pay this outstanding amount of the past energy bill.

He has prayed that the non-applicant be directed not to recover this amount from the present applicant. He has also demanded award of compensation of Rs.25,000/- towards the applicant's mental, physical & financial agonies. Litigation expenses of Rs. 5000/- are also claimed by the applicant's representative.

He has produced following documents in support of his contentions.

- 1) A notice dated 31.03.2004 addressed to the Chief Engineer, NUZ, MSEB, Nagpur and also the Executive Engineer, MSEB, Sukrawari, Nagpur asking the non-applicant to re-install the electricity meter and to restore electricity supply to the premises of the applicant.
- 2) Payment receipt dated 09.03.2003 for Rs.5200/- towards payment of the demand note.

The non-applicant has stated in his parawise report that a new electricity connection was sanctioned to the applicant after payment of requisite demand note and after submission by the applicant of the requisite test report. However, after release of the new service connection, it was found that P.D. arrears of Rs.38,248/- were outstanding against the previous owner of the house in question. Hence,

supply of the applicant was disconnected and he was asked to make payment of the P.D. arrears.

He further stated that the applicant has paid 50% amount of the P.D. arrears on 21.09.2005 and there-upon, the new service connection has been released to the applicant's premises on 22.09.2005. He added that the applicant has given an affidavit to the effect that he would pay the balance amount in two equal installments in the months of October & November, 2005. According to him there is now no dispute surviving.

The non-applicant has further stated in his additional reply that the District Consumer Disputes Redressal Forum, Nagpur has already passed an order, being order dated 15.03.2005, rejecting complaint of the applicant on the same subject matter and hence principle of re-judicate becomes applicable and that the applicant is now prohibited under law to raise the same issue before this Forum. The non-applicant has produced a copy of the order dated 15.03.2005 passed by the D.C.D.R. Forum, Nagpur in support of his contention. He has also produced a copy of affidavit dated 21.09.2005 filed by the applicant under which he has stated that he has already paid 50% amount of the P.D. arrears and that he agrees to pay the remaining amount in balance in two equal installments upto the end of November, 2005. A copy of the applicant's C.P.L. from December, 1997 to October, 2003 is also produced by the non-applicant.

Commenting upon the non-applicant's contention that the D.C.D.R. Forum, Nagpur has already rejected the applicant's complaint filed by him, the applicant's

representative contended that the applicant had made a complaint before the D.C.D.R.Forum, Nagpur under section 12 of the Consumer Protection Act, 1986 pointing out illegal action of the non-applicant in removing the applicant's meter without any notice to him even after supply of the electricity was commissioned to the premises in question and further that the subject-matter before the D.C.D.R.Forum, Nagpur was not the same as is raised before this Forum. He further stated that the issue about recovery by the non-applicant of the past arrear amount of Rs.38,248/- was not raised by the applicant before the D.C.D.R. Forum, Nagpur. He stressed that this Forum has jurisdiction and competence to entertain the present grievance application and decide the same.

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

The first and foremost point to be decided by us in the instant case is about the prima-facie tenability of the grievance application in question particularly in view of the order being order dated 15.03.2005 passed by the D.C.D.R.Forum, Nagpur.

The applicant's stand is that he did not raise the complaint of recovery of past arrear amount of Rs.38,248/- outstanding against his house before the D.C.D.R.Forum, Nagpur and hence the present grievance application can be entertained and decided upon by us while the non-applicant's say is that the District Forum did hold in its order dated

15.03.2005 that the past arrear amount of Rs.38,248/- is recoverable from the present applicant.

Perusal of text of the District Forum's order dated 15.03.2005 produced on record discloses that the non-applicant's contention is correct. The District Forum has clearly held that the past arrear amount in question outstanding against the premises is recoverable without interest from the present applicant who is the new owner of the house. Hence, the contention of the applicant's representative that the subject-matter before the District Forum was different from the subject matter before this Forum is mis-conceived and hence it can not accepted.

It is pertinent to note that the applicant has already signed a declaration on as many as five points embodied in clause 9 of the prescribed schedule "A" i.e. application for redressal of grievance prescribed by the said Regulations. Under item 9 (e) of the declaration, the applicant is required to disclose whether or not, the subject-matter of the grievance is already decided by any Authority / Court / Arbitrator. This, in turn, implies that the Consumer Grievance Redressal Forums constituted under the said Regulations are prohibited from entertaining any grievance of consumers if subject-matter thereof is already decided by any Authority/Court/ Arbitrator. In the instant case, the subject-matter before this Forum is already decided by the D.C.D.R.Forum, Nagpur under the provision of the Consumer Protection Act, 1986. Thus, the subject-matter before the District Forum and the one before this Forum are one and the same. In fact, we are of the firm view that the applicant has

concealed from us this important fact about decision given by the District Forum on the same subject matter. He ought not to have done this. Once a similar subject matter of a grievance is already decided by any Authority, Court or Arbitrator, this Forum is totally prevented from entertaining the same subject-matter of the grievance.

In the light of above, we inclined to hold and do hold accordingly that the present grievance application can not be prima-facie entertained by us in view of the circumstances and for the reasons mentioned in the proceeding paragraph.

Question of going into the merits or demerits of the case, therefore, does not arise.

In the light of above, the grievance application in question stands disposed off being not tenable before this Forum prima-facie.

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.**