

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

Case No. CGRF(NUZ)/051/2008

Applicant : Shri Gopal Ramchandra Kandge
At 11, Indrayani 67, Formland,
Ramdaspath,
Nagpur.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Congressnagar 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.F. Lanjewar
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 18.11.2008)

This grievance application is filed on 19.09.2008
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 illegal disconnection of his power supply without giving any notice. He has prayed for immediate restoration of his power supply. He has also prayed for awarding compensation of Rs. 10,000/- per month from the date of disconnection.

Prior to filing this grievance before this Forum, the applicant had approached the Regent Sub-Division of MSEDCL by filing his application dated 13.06.2008 addressed to the Chief Engineer NUZ MSEDCL, Nagpur complaining therein that his power supply was illegally disconnected on 09.06.2008 in spite of regular payment of his energy bills issued by the non-applicant from time to time. This was followed up by him through his application dated 22.07.2008 addressed to the Assessing officer, Regent S/Dn., Nagpur again bringing to his notice that he was compelled to make payment of the theft assessment amount of Rs.19,686/-. Since he was threatened with implicating him in a criminal case, he paid this amount under protest. He further stated that MSEDCL has not reconnected his supply despite repeated requests and despite payment of the aforesaid amount. He added in this application that he is not using electricity un-authorisedly for commercial purpose and requested MSEDCL to take back action taken against him under Section 135 of the Electricity Act, 2003 by withdrawing the provisional theft assessment bill. The applicant pursued his complaint by submitting another application dated 04.09.2008. Despite this

position, no satisfactory remedy was provided to the applicant and hence, the present grievance application.

The intimations given as aforesaid to the non-applicant are deemed to the intimation given to the Internal Grievance Redressal Cell (in short, the Cell) in terms of Regulation 6.2 of the said Regulations and as such, the applicant was not required to approach the Cell before coming to this Forum.

The matter was heard on 01.11.2008, 12.11.2008 & 18.11.2008.

The applicant's case was presented before this Forum by his nominated representative one Shri S.P. Banait while the Dy. Executive Engineer Shri Saraf of MSEDCL's Congressnagar Division, Nagpur represented the non-applicant Company.

It is the contention of the applicant's representative that in the past the applicant had applied for sanctioning commercial meter for Telephone Booth and Swastik Pharmacy on the ground floor garage in plot 11, Indrayani, Ramdaspath, Nagpur. Accordingly, after fulfilling all the requisite formalities, a commercial meter was allotted to him. The consumer no. is 410013533028. The applicant already had a separate meter for his residential use for his residential flat. The applicant has been paying all his energy bills in respect of the aforesaid consumer number against the commercial meter as per the energy bills issued by MSEDCL. The last bill of Rs.140/- was paid by him on 13.05.2008. On 06.06.2008, the Flying Squad of MSEDCL inspected the meters in Indrayani building where the applicant is residing.

Upon inspection, the official of the Squad pointed out that the billing done to the applicant throughout was for residential purpose and not for commercial one. The applicant's power supply came to disconnected on 09.06.2008 without giving any notice to the applicant. On 18.06.2008, MSEDCL issued a provisional assessment bill of Rs.19,686/- towards theft of electricity which was paid under protest by the applicant on 21.06.2008. The applicant submitted his representation to the Assessing officer requesting for reconnection of his supply. However, no action was taken. On 17.06.2008. the applicant demanded certain information and copies of documents to the Chief Engineer under the Right to Information Act. He was replied on 24.07.2008 that the information sought for is not available. On 07.08.2008, an additional demand of Rs.4000/- towards compounding charges was raised against the applicant which the applicant paid under protest on 07.08.2008. Despite this position, MSEDCL failed to restore the applicant's supply. Due to non-restoration of his power supply, the applicant is suffering monetary loss of Rs.10,000/- per month due to closure of the Telephone Booth and Swastic Pharmacy owned by him.

According to the applicant's representative, the entire action of the non-applicant is unjust, improper and illegal. He stated that it is MSEDCL which has erred in issuing energy bills for the last period 15 years against consumer no. 410013533028 for residential usage of electricity particularly when the applicant was sanctioned a commercial meter for his shop. He showed his preparedness to pay the difference between the tariff meant for commercial usage and

residential usage in respect of his shop limited to the past period of two years only since, according to him, no sum as arrears can be recovered by MSEDCL for the period preceeding two years in terms of Section 56 (2) of the Electricity Act, 2003.

He emphatically denied the charge of theft of electricity.

He added that action taken against the applicant under Section 135 of the Electricity Act, 2003 was basically incorrect and illegal and that the non-applicant was not served with 15 clear days' notice in terms of Section 56 (1) of the Electricity Act, 2003 before disconnecting his power supply on 09.06.2008.

He has prayed for immediate restoration of his power supply. He also requested for awarding compensation of Rs.10,000/- per month from the date of disconnection.

The non-applicant, on his part, has submitted his parawise report on 01.11.2008. A copy of this report was also given to the applicant and he was given opportunity to offer his say on this parawise report.

It has been stated in this parawise report as well as in the oral submissions of the Dy. E.E. representing the non-applicant Company before this Forum that the applicant's entire complaint is devoid of any merits. He vehemently submitted that the electric connection bearing consumer no. 41001335028 has been sanctioned in the past for residential purpose only and accordingly, energy bills have been issued from time to time charging the applicant tariff meant for residential use. He denied that the applicant had ever applied

for sanctioning a commercial meter in the past. He added that the Flying Squad inspected the applicant's premises on 11.06.2008 and in the inspection, it was found that the applicant is using electricity for commercial purpose and not for residential purpose against the meter no. 570133, consumer no. 410013533028. The Flying Squad has rightly opined that residential meter is found to be utilized for commercial shop dishonestly. There is a remark in the Flying Squad's inspection report dated 11.06.2008 to the effect that this is a case of dishonest use of electricity through meter for the purpose other than for which it was authorized and that the applicant has indulged himself in theft of electricity under Section 135 (i) (e) of the Electricity Act, 2003 of the Amendment Act of 2007.

The non-applicant continued to submit that this inspection report is also signed by one Shri Manoj Shankar Choudhary on behalf of the applicant. The Dy. E.E. Flying Squad Unit (Urban) accordingly worked out provisional assessment towards theft of electricity on 11.06.2008 and as per this assessment the applicant was bound to pay provisional theft assessment amount of Rs.19,686/-. The applicant paid this amount on 21.06.2008.

He further stated that a joint inspection report and Panchnama was also prepared on 11.06.2008 at the time of spot inspection and this report and Panchnama clearly indicate that the applicant has dishonestly made use of electricity for commercial purpose as against the fact that the applicant was allowed to use electricity for residential purpose only. On 15.07.2008, First Information Report was filed by the

non-applicant in the concerned Police Station vide F.I.R., bearing no. 3662 in connection with theft of electricity committed by the applicant. The applicant also paid amount of Rs.4000/- towards compounding charges on 07.08.2008.

According to the non-applicant, the applicant has already paid the theft assessment amount as well as compounding charges towards theft of electricity and that he did not contest his claim in the appropriate Court of Law. As such, there is no force in the arguments advanced by the applicant's representative.

On the point of supply of information asked for by the applicant under Right to Information Act, the non-applicant replied that the applicant has already been informed on 24.07.2008 to the effect that the documents sought for by the applicant are not available.

He added that the applicant's power supply is already restored on 02.10.2008.

He lastly prayed that the grievance application may be dismissed.

The applicant in reply has filed a rejoinder in which he has denied all the allegations made against him. It is the say of the applicant's representative that MSEDCL has done residential billing wrongfully against commercial connection and that after lapse of 15 years' period, suddenly MSEDCL woke up and wrongfully booked the applicant under Section 135 of the Electricity Act, 2003 to cover up its mistake and carelessness. He stated that the applicant is residing in the apartment on 3rd floor in the same building and the shop was never locked though the business was closed for want of

electricity. If at all MSEDCL's authorized representative wanted to reconnect the supply, there was absolutely no necessity of the commercial shop to be opened. According to him, MSEDCL is forwarding flimsy excuses for not restoring the applicant's power supply immediately after payments as aforesaid were made. No fault, whatsoever, can be attributed to the applicant in the entire case. The applicant has suffered a lot of mental agony and also financial loss due to illegal action of MSEDCL. It has been prayed by the applicant that he should be compensated at the rate of Rs.10,000/- per month because of the closure of the shop from the date of the disconnection. He has also prayed for awarding suitable compensation for mental harassment.

The first and foremost point to be decided in this case is whether the present grievance application is prima-facie entertainable since the applicant was booked under Section 135 (i) (e) of the Electricity Act, 2003 towards theft of electricity.

In this respect, the record demonstrates that the Flying Squad upon inspection opined that the applicant was dishonestly making use of electricity for commercial purposes particularly when the permissible use of electricity was residential purpose. It is also clear that the applicant has not only paid the theft assessment amount of Rs.19,686/- but he has also paid the compounding charges of Rs.4000/-, may be under protest. The applicant also did not contest charge of theft of electricity in the appropriate Court of Law. A regular F.I.R. was also filed on 15.07.2008 against the applicant charging the applicant for theft of electricity. The burden of

proof to show that the applicant applied for allotment of commercial meter for his shop in the past was squarely upon him. He has failed to produce any documentary evidence to prove this. It was the say of the applicant's representative that the applicant did apply in the past for sanctioning to the applicant electric connection for commercial use for his shop and that the non-applicant has failed to produce on record a copy of application in the prescribed Form A-1 submitted by him at relevant time to MSEDCL. The non-applicant has replied in this respect that the record of original application is not available. Thus, it boils down to this that the applicant was unable to convince this Forum that the permissible use of electricity since beginning was meant for commercial purpose for his shop.

The applicant's representative has submitted that MSEDCL cannot sanction two meters in the same premises for residential purpose and that this indicates that the electric meter sanctioned vide consumer no. 410013533028 was sanctioned for commercial use and not for residential purpose. This statement is devoid of any merits because the premises where the applicant is living in his flat and the premises of the garage in the ground floor of the building are two distinct premises. As such, the applicant's representative's submission in this respect cannot be accepted.

When asked as to why the applicant did not approach the Court of Law for disproving the charges of theft levelled against him, no plausible explanation was forth-coming from the applicant's side.

The applicant has submitted that he has been paying all his energy bills meant for his shop regularly from the last 15 years. All these energy bills were issued for residential use of electricity. When asked as to why the applicant did not approach MSEDCL at any point of time in the past bringing to its notice that the energy bills issued are not commensurate with the use of electricity, no plausible explanation was furnished by the applicant. He simply stated that it is the MSEDCL which has erred in this regard. The applicant's submission is not acceptable to us for the reason that there is no evidence on record to show that the applicant did apply for sanctioning of a commercial meter for his shop.

The applicant has produced on record a copy of the license granted by the Telephone Department for Public S.T.D. booth. This license was granted for a period of 5 years from 26.04.1991. However, production of this document in itself does not conclusively prove that on the getting this license, he applied for sanctioning a commercial meter for his shop. Similar is the case with reference to the license granted by the Assistant Commercial Food and Drugs Administration Maharashtra State Nagpur to one Shri Uday Lote-proprietor of Shri Swastic Pharmacy.

It is also seen that the applicant's power supply is already restored on 02.10.2008.

The Forum, therefore, is prima-facie of the view that the grievance presented before the Forum falls within the purview of offences and penalties as provided under Sections 135 to 139 of the Electricity Act, 2003 and as such, in terms of Regulation 6.8 of the said Regulations, this Forum has no

jurisdiction to entertain such a grievance. Consequently his request for awarding compensation cannot be granted.

The applicant's grievance application, therefore, stands disposed off as not prima-facie tenable as stated above.

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

Sd/-	Sd/-	Sd/-
(S.F. Lanjewar)	(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