

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

Case No. CGRF(NUZ)/054/2007

- Applicant : Smt. Mangala Raju Naik
At House No. 409/A – 105,
Sanjay Nagar, Pandharabodi,
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.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 29.11.2007)

The present grievance application has been filed on 07.11.2007 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 illegal inclusion of adjustment amount of Rs.2,398/- in her energy bill dated 16.07.2007. She has requested this Forum to direct the non-applicant not to recover this amount from her.

Before approaching this Forum, the applicant had filed her complaint dated 25.09.2007 before the IGRC (in short, the Cell) under the said Regulations requesting for withdrawal of the aforementioned amount from recovery. The Cell, upon inquiry, informed the applicant by its letter, being letter no. 6522 dated 17.10.2007, that the applicant has availed of supply of electricity during the period from February 2002 to February 2003 after purchase of the premises from the erstwhile owner one Shri Gomaji Narayan Ghagare from his service connection no. 410015453471 before it was disconnected and as such, she was liable to pay energy charges pertaining to this period. The Cell requested the applicant to make payment of the adjustment amount in question. It is against this decision of the Cell that the applicant has filed the present grievance application.

The matter was heard on 27.11.2007.

The applicant's case was presented by her nominated representative by one Shri Pramod Sudhakar Bhake while the non-applicant's case was presented before this Forum by the Executive Engineer, Congressnagar Division, MSEDCL, NUZ, Nagpur.

The applicant has purchased house no. 409/A-105 in Sanjaynagar, Pandhrabodi, Nagpur from one Shri Gomaji

Narayanji Ghagare who was having electric connection, being service connection no. 410015453471. This S.C. connection was permanently disconnected because of non-payment of energy charges prior to February 2003. After disconnection of this electric meter, the applicant applied for a fresh connection to the non-applicant which came to be sanctioned and released in her favour some time in the month of February 2003. Accordingly, electric connection bearing no. 410015594997 came to be installed in the applicant's name. The non-applicant issued energy bill dated 16.07.2007 to the applicant for a gross amount of Rs.2660/- in which arrear amount of Rs.2398/- was included as an adjustment amount. This amount pertains to the energy charges for supply availed of at the premises during the period from February 2002 to February 2003. The Dy. Exe. Engineer, Shankarnagar S/Dn., MSEDCL, Nagpur addressed a letter, being letter no. 1029 dated 21.08.2007, asking the applicant to make payment of the energy charges pertaining to this period from the S.C. connection no. 410015453471 since, according to him, it was the applicant who had used and enjoyed supply of electricity at the said premises during the above period. The Dy. Executive Engineer also explained in this letter that the arrear amount in question came to be included in the applicant's energy bill dated 16.07.2007 because of the above position. The applicant has protested inclusion of this arrear amount on the ground that the arrear amount in question cannot be demanded after lapse of about four years' period. The record also reveals that there was correspondence between applicant and the non-applicant on this subject. Ultimately, the applicant

approached the Cell with her grievance and requested to delete the arrear amount in question from her energy bill. The Cell rejected the applicant's request and asked her to pay the arrear amount in question. The applicant is aggrieved by this decision of the Cell and hence, she has filed the present grievance application.

It is the strong contention of the applicant's representative that the arrear amount in question cannot be claimed after four years in the applicant's energy bill. He added that no notice or letter of any kind was issued by the Distribution Licensee from February 2003 to 25th April, 2007 claiming recovery of previous arrears pertaining to the past period of February 2002 to February 2003. The licensee made available a new electric meter in the name of the applicant in February 2003 and this indicates that the liability of payment of this arrear amount prior to February 2003 was that of the previous owner of the house. The previous service connection which was standing in the name of the erstwhile owner was not utilized by the applicant. He also stated that at the time of sanctioning the new meter in February 2003, no objection of any kind was raised by the non-applicant in respect of payment of the past arrear amount. According to him, the claim of recovery of Rs.2398/- is unjust, improper and illegal.

The non-applicant has filed his parawise report which is on record. The Nodal Officer representing the non-applicant Company submitted that the house structure in question was purchased by the applicant by mutual sale deed dated 18.11.1999 and the applicant has been staying in this premises since then. The electric S.C. no. 410015453471

standing in the name of the erstwhile owner Shri Ghagare was being used and enjoyed till the month of February 2003 by the applicant. This old connection came to be disconnected because of non-payment of energy charges from May, 2002 onwards. He added that the applicant concealed the fact of accumulation of energy charges and non-payment thereof when she applied for a new connection in the same premises. He reiterated that it was the applicant who enjoyed the supply of electricity during the period from February 2002 to February 2003 against the S.C. no. 410015453471 and as such, she is very much liable to pay this amount. According to him, the applicant cannot be allowed to take advantage of her own misdeeds and illegality of suppression of factual position and getting the new connection without paying the arrear of which she herself was the beneficiary. The arrear amount in question has been continuously shown as recoverable in the Consumer's Personal Ledger pertaining the S.C. no. 410015453471.

He lastly prayed that the grievance application may be dismissed.

In the instant case, the limited point that needs to be decided is whether the arrear amount of Rs.2398/- pertaining to the past period of one year from February 2002 to February 2003 and claimed for recover for the first time in July 2007 is recoverable from the applicant or not.

During the course of hearing, when pertinently asked by us, the Nodal Officer admitted that the arrear amount in question is claimed for the first time in the applicant's energy bill dated 16.07.2007 and also that this amount pertains to unpaid energy charges during the period

from February 2002 to February 2003. Hence, it is crystal clear that this amount has been claimed for recovery from the applicant much after lapse of period of two years from the date when this sum became first due for recovery.

As provided in Section 56 (2) of the Electricity Act, 2003 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 the electricity.

In the instant case, the non-applicant's action of claiming the arrear amount in question is hit by this legal provision. Hence, we inclined to hold and do hold accordingly that the recovery of this arrear amount is clearly time barred in terms of Section 56 (2) above.

A submission has been made by the non-applicant that the applicant suppressed the fact of arrear amount outstanding against the disconnected service connection no. 410015453471 before a new connection was sanctioned to her. In this respect, it is not understood as to how this blame is attributable to the applicant. It was the non-applicant Company which should have ascertained whether any past arrear amount was outstanding against the premises since the Company is in possession of the entire record. Despite this position it is a matter of record that a new connection came to be sanctioned to the applicant in February 2003. Not only this but the un-paid arrear amount of Rs.2398/- was also not claimed for recovery from February 2003 to April 2007. There

is no convincing explanation offered by the non-applicant for not taking any steps for recovering the arrear amount immediately after it was due for recovery. A long period of four years was allowed to lapse since the time, the arrear amount in question had become first due, for recovery. Hence, the non-applicant's claim of recovery of the arrear amount in question from the applicant is totally illegal.

It is also pertinent to note from record that a legal notice, being notice dated 20.03.2007, is issued to the erstwhile owner Shri Ghagre by the non-applicant's legal counsel asking Shri Ghagre to pay the arrear amount of Rs.2148/- outstanding against account no. 41005453471 within 15 days failing which he would be proceeded against in the Court of Law etc. This indicates that the non-applicant has accepted the fact that the previous owner is responsible for payment of the arrear amount in question.

Claim of recovery of the arrear amount from the present applicant thus becomes unjustified and unwarranted.

The contentions raised by the non-applicant do not find support of the law.

In the result, while allowing the grievance application, we order that the arrear amount in question shall not be recovered from the applicant.

This order is passed without prejudice to the non-applicant's right to recover the arrear amount by filing a civil suit in terms of Section 56 (1) of the Electricity Act, 2003.

The grievance application stands disposed off accordingly.

The non-applicant shall report compliance of this Order to this Forum on or before 31.12.2007.

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.**