

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

Case No. CGRF(NUZ)/063/2005

- Applicant : Shri Gangaram N. Lakhawani
Plot No. 305, H-1599 E, Itwari
Station Road,
Nagpur.
- Non-Applicant : The Nodal Officer,
Executive Engineer,
Civil Lines 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.

ORDER (Passed on 20.10.2005)

The present grievance application is filed on 26.09.2005 before this Forum 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 applicant is in respect of non-withdrawal of arrear amount of Rs.1,41,556.48 shown by the non-applicant for the first time in the applicant's energy bill dated 11.04.2003 for a total amount of Rs.1,46,000/- pertaining to the period from 28.02.2003 to 31.03.2003. The applicant has also claimed refund of appropriate amount alongwith interest @ 12 % per annum. He has also asked for payment of compensation against the Court expenses.

Before filing the present grievance application, the applicant had earlier approached the Internal Grievance Redressal Unit headed by the Executive Engineer (Adm) in the office of the Superintending Engineer, NUC, Nagpur by filing his complaint dated 20.07.2005 under the provisions of the said Regulations. However, no remedy was provided to the applicant's grievance by this Unit within the prescribed period of two months. Hence, the present grievance application.

The matter was heard by us on 19.10.2005 when both the parties were present. They submitted their respective arguments before us in support of their claims.

After receipt of this 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 on 10.10.2005. A copy thereof was given to the applicant's nominated representative which he duly received on 10.10.2005 and he was given opportunity to offer his say on this parawise report also.

It is the contention of the applicant's representative that the applicant received his energy bill dated 11.04.2003 for the month of March, 2003 for a total amount of Rs.1,46,000/- which indicated inclusion of arrear amount of Rs.1,41,556.48 as recoverable from the applicant for the first time. Upon receipt of this bill, the applicant made enquiries with the MSEB's authorities as to the circumstances under which this huge amount of Rs.1,41,556.48/- was included in his energy bill as arrear amount. His inquiries revealed that this arrear amount represented assessment of consumption of energy by the applicant over a period of 27 months from March, 1999 to May, 2001 which was charged to the applicant after 49 months. The Audit inspection party reportedly instructed the non-applicant on the basis of the Testing Division's meter testing report dated 03.09.1999 indicating that the applicant's meter, being meter number 65838, was running slow by 29.97% to recover the amount of assessment of consumption of energy during the period from March, 1999 to May, 2001. The applicant made several efforts to seek remedy in respect of the unjust & improper arrear amount of Rs.1,41,556.48/- by repeatedly approaching the non-applicant but to no purpose. Hence, with a view to restrain the MSEB from disconnecting the applicant's electricity supply, the applicant filed a Civil suit, being Civil Suit No. 638/2003 against the non-applicant before a Civil Court.

According to the applicant's representative, the action of charging the arrear amount in question is improper, unjust and illegal. He relied upon provisions of section 26 (6) of

the Indian Electricity Act, 1910 and argued that the non-applicant has violated these legal provisions. He has filed an application dated 11.10.2005 before the third Jt. Civil Judge, Sr. Dn. Nagpur for granting permission to withdraw the Civil Suit, being Civil Suit no. 638/2003 with a view to enable him to get relief from this Forum under the said Regulations. He further stated that the irregular and careless working of the MSEB officials has been resulting into the applicant's mental torture and avoidable expenses.

He has produced copies of the following documents in support of his contentions.

- 1) Complaint dated 20.07.2005 in the prescribed annexure "X" filed before the Internal Grievance Redressal Unit under the said Regulations.
- 2) The applicant's application dated 18.07.2005 addressed to Executive Engineer, Internal Grievance Redressal Unit for redressal of his grievance.
- 3) The applicant's application dated 17.11.2003 addressed to the Executive Engineer, Civil Lines Division, MSEB, Nagpur for withdrawal of an unlawful assessment charged in the billing month of March, 2003.
- 4) The applicant's application dated 10.06.2003 addressed to the Electrical Inspector, Nagpur on subject of improper and excessive billing.
- 5) The applicant's application dated 28.05.2003 addressed to the Accounts Officer, Civil Lines Division, NUZ, MSEB, Nagpur on the subject of

correction of his energy bill for the month of March,2003.

- 6) The applicant's energy bill dated 11.04.2003 for Rs.1,46,000/- for the period from 28.02.2003 to 31.03.2003 showing inclusion of arrear amount of 1,41,556.48/-.
- 7) Applicant's energy bill dated 10.05.2003 for Rs.1,52,030/- for the month of April, 2003.
- 8) Applicant's energy bill dated 12.06.2003 for Rs.1,62,320/- for the month of May, 2003.
- 9) Applicant's energy bill for Rs.1,71,550/- for the month of June, 2003.
- 10) The testing report dated 03.09.1999 of the Testing Division, NUZ, Nagpur in respect of applicant's meter, being meter no. 65838 disclosing that the applicant's meter was found to be running slow by 29.97%.
- 11) Testing report dated 28.06.2001 of the Testing Division, NUZ in respect of applicant's meter, being meter no. 101709.
- 12) Testing report dated 26.07.2001 of the Testing Division, NUZ, in respect of applicant's meter, being meter no. 084342.
- 13) Testing report dated 17.10.2002 of the applicant's meter, being meter no. 084342.
- 14) Testing report dated 15.07.2003 of the applicant's meter, being meter no. 0209255.

- 15) Duplicate bill dated 11.12.2003 for Rs.70,780/- issued by the non-applicant.
- 16) Applicant's application dated 21.09.2005 filed before this Forum.
- 17) Applicant's application dated 11.10.2005 filed before the 3rd Joint Civil Judge, Sr. Division, Nagpur for granting permission to withdraw the Civil Suit, being Civil Suit No. 638 / 2003.

The applicant's representative lastly prayed that his grievance application may be accepted and his grievance in question may be removed and that the non-applicant be directed to refund the excess amount erroneously charged to the applicant immediately alongwith interest @ 12% per annum on the paid amount and also that compensation, as deemed fit, may be awarded.

The non-applicant has stated in his parawise report on 07.10.2005 that the audit inspection party instructed the non-applicant to recover amount of Rs.1,41,556.48/- from the applicant in view of the Testing Division's report dated 03.09.1999 which indicated that the applicant meter, being meter no. 65383 was running slow by 29.97% during the period from 01.03.1999 to May, 2001. As per instructions from the audit, the non-applicant calculated the assessment and charged arrear amount of Rs.1,41,556.48 to the applicant in his energy bill for the month of March,2003. Being aggrieved by this action of the non-applicant, the applicant approached the Electrical Inspector, Nagpur by filing his complaint application dated 10.06.2003. He simultaneously filed a Civil

Suit being Civil Suit No. 638/2003, against the non-applicant Company. The Civil Court passed an order, being order dated 06.11.2003, in the applicant's application that the applicant should deposit two third amount of the arrear of Rs.1,41,556.48/- in the Court within a period of one month from the date of the order and also the amount of the applicant's current energy bill. The applicant was not satisfied with the order passed by the Civil Court. Hence, he filed an appeal against this order before the appellate Civil Court which came to decided on 29.11.2003. As per the orders given by the appellate Civil Court, the applicant was directed to deposit 50% of the arrear amount and the non-applicant was also instructed not to disconnect the applicant's electricity supply. Accordingly the applicant deposited this 50% amount of Rs.70,780/- on 12.12.2001. He further pointed out that the applicant is at present enjoying uninterrupted supply of electricity.

Pointing out the above details, the non-applicant vehemently argued that the applicant has already approached the Civil Court in respect of his grievance and further that certain orders have also been passed in the matter. According to him, the entire matter is at present sub-judice and that this Forum is prevented from entertaining the applicant's present grievance application in which the same subject matter is involved.

The non-applicant has produced copies of the following documents in support of his contentions.

- 1) Testing report dated 03.09.1999 of the applicant's meter, being meter no. 65838 in which it is shown that the applicant's meter was running slow by 29.97%.
- 2) A letter dated 03.12.2003 addressed by the non-applicant's Advocate to the Executive Engineer MSEB, NUZ, Nagpur communicating an order, being order dated 29.11.2003, passed by the Additional District Judge, Nagpur.
- 3) Duplicate bill dated 11.12.2003 for Rs.70,780/-.
- 4) Applicant's Consumer Personal Ledger from September, 1997 to February,2005.

The non-applicant lastly prayed that the applicant's grievance application may be rejected.

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

The first and foremost important point to be decided in this case by us is whether the present grievance application is prima-facie tenable before this Forum looking to the circumstance of the case and also legal position.

There is no dispute that a Civil Suit, being Civil Suit No. 638/2003, has been filed by the present applicant against the non-applicant challenging the non-applicant's action of charging arrear amount in question against him. There is also no dispute that the Civil Court has passed an order, being order dated 07.11.2003, in an application before it directing the applicant to deposit in Court within one month

an amount equal to two third of the arrear amount in question alongwith amount of the current bill. It is also not disputed that the applicant did file an appeal, being Misc. Civil appeal no. 474 / 2003, before the appellate Civil Court against the order dated 07.11.2003 passed by the lower Civil Court. The applicant has also admitted that an order, being order dated 29.11.2003, has been passed by the appellant Civil Court on the applicant's appeal directing the applicant to deposit 50% of the arrear amount in question which the applicant paid on 12.12.2003.

It is thus a factual position that a litigation is still pending before a Civil Court.

In view of this position, it will not be appropriate and legal for this Forum to entertain the present grievance application. This is necessary to avoid legal complications particularly when certain orders have already been passed by the Civil Courts and also when the entire matter is sub-judice.

In the light of above, the applicant's present grievance application is disposed off as not being prima-facie tenable.

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

Sd/- (Smt. Gouri Chandrayan) Member	Sd/- (S.D. Jahagirdar) CHAIRMAN
CONSUMER GRIEVANCE REDRESSAL FORUM MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's NAGPUR URBAN ZONE, NAGPUR	