

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

Case No. CGRF(NUZ)/046/2011

Applicant : Shri. Anil Wamanrao Asatkar
Old Jaripatka, near Mata Mandir
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
(Franchise Area), Mahal Division,
Nagpur Urban Zone,
Nagpur.

Quorum Present : 1) Shri Shivajirao S. Patil
Chairman,

2) Adv. Smt. Gouri Chandrayan,
Member,

3) Smt. Kavita K. Gharat
Executive Engineer &
Member Secretary,

ORDER

(Passed on 24.11.2011)

The applicant Shri. Anil Asatkar, the user of the connection in the name of Shri Wamanrao Asatkar (Deceased) residing at old Jaripatka near Mata Mandir Nagpur filed present grievance application on dated 12.09.2011 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.

1. The grievance application is regarding wrong billing and issuance of disconnection notice from the applicant. The applicant in the application dtd. 12.09.2011, requested to the Forum to give interim relief, issue orders to correct bill and withdraw wrong bills. The applicant submitted this grievance on being aggrieved by non-redressal of his complaint filed at Internal Grievance Redress Cell (IGRC), Nagpur Urban Circle, on dtd 15.11.2010.
2. The applicant in his grievance application is mentioned that he received wrong bills since July-2008. He is using the electricity from the connection which is in the name of his father. He registered his complaint in IGRC on dtd. 15.11.2010. The applicant mentioned that during the hearing at Forum for interim relief, the non-applicant admitted that the meter is in normal working condition. He did not receive any order from IGRC. The applicant's meter was checked by MSEDCL employees by accucheck and found normal, but no report is given to him. On dtd. 29.8.11, the applicant received a bill with amount Rs. 56,630, which is not acceptable to him. The applicant in his supporting letter requested to the Forum that he is ready to pay regular bill in installments other than the arrears amount.

3. The Non-applicant submitted a letter dtd 29.9.2011 in the Forum and requested to provide documents related to Case No. 01/2011 for further necessary action. The matter was heard in the Forum first time on dtd. 30.9.2011. In this hearing the Non-applicant demanded the copies of the documents related to the Case No. 01 of 2011. The Forum granted the request of the Non-applicant and the matter was adjourned for further hearing on dated 10.10.2011.
4. The Non-applicant submitted reply on dtd 10.10.2011 in the Forum and at the same time copy of the reply was handed over to the applicant. Therefore applicant requested to grant time to study and submit his say on the points raised by the Non-applicant in the reply. Hence the Forum granted the requested time and adjourned the matter on dtd 31.10.2011.
5. The Non-applicant in the reply submitted that the Consumer No. related to the present Case is 410010992188 is in the name of Shri. Wamanrao Manirao Asatkar. Therefore the applicant is not an authorized Consumer of MSEDCL. Also the Consumer has not appointed the applicant as his authorized representative. The applicant in his application mentioned that the grievance has been continued from 2008, therefore this grievance application is time barred

and requested the Forum to reject the application on these grounds.

The Non-applicant further elaborated the billing details of the Consumer. The Consumer has paid all electricity bills with average consumption as 171 units till July-2010. On August-2010 the current meter reading as 10685 was fed and the previous meter reading was considered as 9685. According to this, a bill of 1000 units was issued to the Consumer.

Afterwards in September-2010, with current reading as 19408 and previous reading as 18932, a bill of 476 units was issued. But actually instead of 18932, the previous reading should have been taken as 10685 that means a total of 8723 units was to be issued to the Consumer. Hence in order to rectify this mistake a bill of 8247 units with an amount of Rs. 27,363.27 was adjusted in the bill of September-2010.

The applicant paid the last bill on 9.8.2010 with amount `1580, thereafter no payment was made by the applicant. Therefore disconnection notice dtd 4.9.2011 was issued to the Consumer. The arrears balanced on Consumer as on August-2011 is Rs. 55,409.66.

6. The non-applicant vide its letter dated 08.11.2011 requested to the Forum to adjourn the matter which is scheduled on 11.11.2011 on the ground to appear before Civil Court in some matter.

7. The applicant filed an explanation on Non-applicant's reply in the Forum on dtd 11.11.2011. According to this, the applicant's Father in whose name present connection exist is no more and being legal heir he is the user of said connection. Since he has been continuously following the issue, therefore it is not time barred. The applicant requested to revise the bill by giving slab benefit for the period July-2008 to August-2010 and grant compensation for mental, physical, financial loss occurred to him due to non revision of bill.

8. The matter was heard in the Forum on dtd. 15.11.2011. Both the parties were present. On behalf of Non-applicant Shri. S.P.Waghmare, Executive Engineer, Nodal Office (Distribution Franchisee) was present. Shri. Anil Asatkar, the applicant himself pleaded the Case and reiterated the same points as mentioned in all his submissions in the Forum. The Non-applicant said he has no other say than as mentioned in his reply.

9. The Forum perused all the documents on the record and came to the conclusion that the Forum has to decide this grievance on 3 points...
 - a) Whether the Applicant is eligible for filling this grievance application.
 - b) Whether the present matter is time barred.

c) Is there any scope for giving relief to the aggrieved applicant.

On these points, Hon. Chairperson of the Forum is differed in opinion with other Hon. members.

10. The Forum in majority holds that...

the definition of Consumer as per Electricity Act,2003 :

“ "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be; “

This definition says that any person whose premises for the time being connected for the purpose of receiving Electricity with the works of the Licencee is a Consumer. In this case the Applicant being the son and occupier of the premises of deceased Shri. Wamanrao Asatkar, is eligible to file the application in the capacity of Consumer. No where the Non-applicant has denied the Occupancy of the premises by the applicant to which the connection exist. But he pleaded only on the grounds that as the connection is in the name of the deceased person, the applicant cannot be an authorized consumer.

11. The second issue that the present matter is time barred.

After carefully going through all the documents on record including CPL of the Consumer. The applicant has raised the issue first time in November-2010. That complaint was against the abnormal bill of Rs. 38,749.20. The CPL clearly shows that an abnormal bill with amount Rs. 38,119.61 was raised in the month of September-2010 which is the cause of action and the complaint made by the applicant in the month of November-2010, filed grievance application in IGRC on dtd. 15.11.2010 and in the Forum on dtd 12.9.2011. These clearly shows that the grievance aroused in the month of September-2010 and filed by the applicant in November-2011 that is within 24 months. Therefore the grievance application is not time barred as per MERC (CGRF & Ombudsman Regulation,2006) Regulation 6.6.

12. As it is already cleared in above two points that the application is eligible for filling grievance and the grievance is well within time period. The grievance can be considered for revision.

The detailed analysis of CPL bearing Consumer no. 410010992188 revealed that the Consumer has been billed with average 171 units since November-2008 with RNA and INACCE status. In December-2009 this RNA status is changed to Faulty status because of this the average charging for 13 months was withdrawn and the computerized billing has automatically adjusted the average bill units which were charged.

In the month of December-2009, the bill with Faulty status was calculated with average of 2394 units, afterwards this Faulty status has been continued till June-2010. During this period bills were charged with 171 as average assessment.

In July-2010, this Faulty status was changed to RNA and billed for average units as 171. In August-2010, the bill with normal status and consumption of 1000 units was issued. In this bill previous reading was taken as 9685 and current reading as 10685. Again in September-2010 a bill of 476 units with normal status having previous reading 18932 and current reading 19408 with adjustment amount of Rs. 27,363.27 was issued to the consumer.

All these details reveal that the Consumer was not billed as per actual meter reading. The CPL clearly shows that the meter has never been changed on the Consumer premises. The same meter in one instance became inaccessible for reading, on other instance the same meter became Faulty and then again became normal. During the proceeding of the case both the parties never raised any doubt regarding the working of meter. The same meter still exist at same premises and the applicant has no grievance regarding the working of meter. Therefore in majority view the Forum concludes that the meter is in normal working condition. Being the meter in normal working condition, the bill which is charged as Faulty status should be withdrawn. Because the average units which were charged with faulty status cannot be

automatically adjusted by the computerized billing. No consumer shall be charged double for the same consumption for a particular period.

13. The Hon. Chairperson's descending view in this matter recorded below.

“Record shows that consumer no. 410010992188 is in the name of Wamanrao Asatkar. However present grievance application is filed by Anil Wamanrao Asatkar. It is an admitted fact that Anil Wamanrao Asatkar is not the consumer and up till now, he had not changed meter in his name. Even then on Schedule “A” of grievance application Anil W. Asatkar signed in the capacity of the consumer and not in the capacity the representative of the consumer. It is noteworthy that in entire grievance application, it is no where mentioned by the applicant that he is legal heir or user of consumer or premises. Entire grievance application is silent on this point. There after applicant attempted to fill up the lacuna at belated stage by filing written note of argument on dated 09.11.2011 and in this written arguments only, he submitted in para no. 14 that his father is died and he is user. But there is no such evidence on record and record shows otherwise.

If really father of Anil Asatkar is died, he should have transfer the meter in his name. He did not produced any evidence on record to show that he is legal heir / legal representative or user. It is noteworthy that

in a matter before IGRC one Arvind Asatkar signed Schedule "X" before IGRC. Therefore this schedule "X" before IGRC shows that Arvind Asatkar filed the grievance before IGRC and therefore under no sketch of imagination, applicant is legal heir or user within the meaning of definition of consumer, Laid down in the said Regulations.

Within the meaning of this definition of consumer, it appears that Arvind Wamanrao Asatkar being the son or occupier of premises of deceased Wamanrao Asatkar is at the most eligible to file the application in the capacity of the consumer. The applicant did not produce any document to show that Arvind Asatkar is not the legal heir of Wamanrao Asatkar. The applicant also did not produce any document on record to show that he is either legal heir or user. Therefore under no sketch of imagination applicant is consumer and therefore applicant has no locus standi to file this case. On this sole ground the grievance application deserves to be dismissed.

Secondly In Schedule "A" of the grievance application, applicant claim revision of the bill since the year 2008. Even the month "July" 2008 is also not mentioned in entire grievance application. In written note of arguments, applicant attempt to fill up the lacuna and claim revision of bills since July 2008. But present grievance application is filed on 12.09.2011 and

therefore it is barred by limitation. Limitation of two years come to and end in July 2010 only but present grievance application is filed on 12.09.2011 and therefore it is barred of limitation. While computing the period of limitation we should not confuse because in Regulation 6.6 of the MERC (CGRF & Electricity Ombudsman) Regulation 2006, It is specifically provided that “The Forum shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen. Therefore above two years is to be calculated from the date of cause of action and not from the date on which consumer raised the issue first time in November 2010. Limitation cannot be calculated on the basis, since the time when consumer raised the issue for first time because consumer may raise the issue during his entire life, even after 100 years but it does not mean that such raising of issue at billeted stage can be within limitation. According to applicant cause of action arose for the first time in July 2008 and therefore limitation is to calculated from the date on which cause of action arose in July 2008 and therefore limitation comes to end in July 2010. Therefore on this basis I hold that grievance application is hopelessly barred by limitation. In my opinion it is nothing but a dishonestly to show time barred case within limitation. Therefore I find no force in written argument of the applicant.

Further more, applicant deposited entire bills of average 171 units up to July 2010 without any grievance or complaint. In the bill of August 2010, current meter reading 10685 and previous meter reading 9685 was shown and the bill of 1000 units was given to consumer. In September 2010 current reading 19408 and previous reading 18932 was show and bill for 476 units was given to the consumer. In fact bill ought to have given to the applicant showing current reading 19408 and previous reading 10675 thus for 8723 units and therefore $8723 - 476 = 8246$ unit for Rs.27,363=27 bill was adjusted in September 2010. It is noteworthy that consumer deposited last amount of Rs. 1580/- on 06.08.2010 and thereafter since 06.08.2010 applicant did not deposit any amount of electric bill and he is utilizing the electric energy without payment of bills since 06.08.2010 and therefore notice was issued to him by the non-applicant about disconnection on 04.09.2011. Till the month of August 2011 amount of Rs. 55,408=66 is due and outstanding against the consumer, and consumer must pay it. Nobody can be allowed to use electricity without payment of any charges since 06.08.2010 for a period of 1 ½ years.

For these reason I hold that applicant is not consumer nor representative of the consumer and he is also not user of the premises. One Arvind Wamanrao Asatkar appears to be user of the premises who filed

Annexure “X” before IGRC and therefore applicant has no locus-standi to file this case. The grievance application is barred by limitation. On merits also applicant has absolutely no case and grievance application deserves to be dismissed”.

The matter is adjourned on request of both the parties’ on many occasions. The Forum has granted fair chances to present their say. This is the reason for not of completing the order within 2 months as per Regulation 6.18 of (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006.

The Forum in majority view allowed the grievance application and passed the following order

ORDER

1. The Faulty status from December-2009 to June-2010, RNA status of July-2010 should be withdrawn and accordingly average units charged during these months should be withdrawn. The units charged in the month of August 2010 & September 2010 shall also be withdraw as there is ambiguity in correct meter reading.
2. For the bill revision consider previous reading as 9685 of December-2009 and Final reading as 19408 of September-2010 that means the revised bill should be prepared for 9723 units with giving appropriate slab

benefit for 10 month (December-2009 to September-2010)

3. The Non-applicant may give suitable installment at its discretion as per regulation.
4. The Non-applicant shall submit the compliance of this order on or before 23.12.2011.

Sd/-	Sd/-	Sd/-
(Smt K.K.Gharat)	(Smt.Gauri Chandrayan)	(ShriShivajirao S.Patil)
Member-Secretary	MEMBER	CHAIRMAN
CONSUMER GRIEVANCE REDRESSAL FORUM		
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's		
NAGPUR URBAN ZONE, NAGPUR.		