

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

Case No. CGRF(NUZ)/087/2006

- Applicant** : Late Shri Abdul Hussain Hadi,
Deceased by heir Shri Aziz Hadi,
R/ 210, West High Court Road,
Dharampeth,
Nagpur.
- Non-Applicant** : The Nodal Officer-
Executive Engineer,
Congress nagar, Division,
Nagpur representing the MSEDCL.
- Quorum Present** : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.
- 2) Shri M.S. Shrisat
Exe. Engr. & Member Secretary,
Consumer Grievance Redressal Forum,
NUZ, MSEDCL, Nagpur.

ORDER (Passed on 19.01.2006)

The present grievance application has been filed on 02.01.2006 by the present applicant 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 erroneous theft assessment in respect of his meter, being meter No. 10244494.

Before filing the present grievance application, the applicant had approached the Superintending Engineer, NUC, MSEDCL, Nagpur by filing his application, being application dated 21.11.2005, with a request to waive off the penalty amount charged to him pursuant to Flying Squad's inspection dated 03.11.2003. The Superintending Engineer, upon hearing the applicant on 10.12.2005 informed the Executive Engineer, Congressnagar Division, MSEDCL, Nagpur with a copy to the applicant that the Dy. Executive Engineer, Flying Squad, Nagpur visited the applicant's premises on 03.11.2003 and found after opening the meter in the presence of the applicant's father that recording of energy meter is by-passed completely and that the meter was stopped. The Superintending Engineer also informed that there was a theft of electricity in the applicant's meter as detected by the Flying Squad and that the theft assessment carried out by the Executive Engineer, Flying Squad was correct. He, therefore, asked the applicant to pay the bill as issued by the Executive Engineer, Congressnagar Division, MSEDCL, Nagpur. The applicant was not satisfied with this reply and hence, he filed the present grievance application under the said Regulations.

Since the applicant had earlier approached the Superintending Engineer NUC, MSEDCL, Nagpur raising therein the present grievance, the requirement of the applicant again approaching the Internal Grievance Redressal

Unit as per the said Regulations stands dispensed with. Such a dispensation is also confirmed by the MERC.

The matter was heard by us on 18.01.2006.

A copy of the report containing parawise comments dated 16.01.2006 submitted by the non-applicant on the applicant's grievance application was given to the applicant on 18.01.2006 before the case was taken up for hearing and he was given opportunity to offer his say on this parawise report also.

The contention of the applicant is that his late father had denied all the theft and meter tampering charges at the time of spot inspection done by the Dy. E.E. Flying Squad, Nagpur Urban Zone, MSEDCL, Nagpur and that no theft was committed by his father. His say is that some outsider had mischievously tampered his energy meter with an ulterior motive to harass the applicant's father. His request is to re-work out the assessment considering the applicant's actual consumption of units from January, 2004 to December, 2005.

He added that his meter, being meter no. 10244494, has been installed at a point which is far away i.e. about 100 ft. from his shop. According to him, it was difficult for his father to ensure safety of the meter.

His power supply was disconnected by the non-applicant and it was restored again after the applicant deposited a sum of Rs. 19,504/- on 25.08.2005. The theft assessment done by the Flying Squad and confirmed by the Superintending Engineer is not acceptable to the applicant.

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

- 1) Spot Inspection Report dated 03.11.2003 of the applicant's meter, being meter no. 10244494.
- 2) Death Certificate dated 18.08.2005 of the applicant's father.
- 3) Assistant Engineer, Shankarnagar S/Dn, MSEDCL, Nagpur's letter, being letter no. 767 dated 25.08.2005, addressed to the applicant regarding restoration of power supply.
- 4) His appeal application dated 21.11.2005 addressed to the Superintending Engineer, NUC, MSEDCL, Nagpur requesting for waiving of penalty amount etc.
- 5) The Superintending Engineer, NUC, MSEDCL, Nagpur's reply, being reply no. 4496, addressed to the Executive Engineer, Congressnagar Division, MSEDCL, Nagpur with a copy to the applicant communicating the Superintending Engineer's decision on the applicant's appeal application dated 21.11.2005.
- 6) His application dated 12.12.2005 addressed again to the Superintending Engineer NUC, MSEDCL, Nagpur on the subject of re-consideration of his earlier appeal application.
- 7) His letter dated 15.02.2005 addressed to the Chief Engineer, MSEDCL, NUZ, Nagpur on the subject of out of Court settlement in his theft case.

8) Applicant's CPL for the period from January-2004 to December, 2005.

The applicant has prayed that the theft assessment be re-worked out taking into consideration the applicant's actual consumption of energy units from January,2004 to December,2005 against his new meter, being meter no. 861416.

He lastly prayed that his grievance in question may be removed.

The non-applicant has stated in his parawise report that there were two meters installed in the name of Shri Abdul Hussain Hadi-the late father of the applicant at the applicant's premises. The Flying Squad of Nagpur Urban inspected the premises on 03.11.2003 and it was found by it upon inspection that there were no irregularities in respect of applicant's meter, being meter no. 10201177, in use for one part of the applicant's premises meant for S.T.D. Booth. But evidence of tampering of the meter was noticed in respect of the applicant's other meter, being meter no. 10244494, meant for his stationery shop in the same premises. The Flying Squad found that there was a loop wire inside this meter and that the lead seals with the meter were also tampered and also that the terminal cover was missing. The connected load was found to be 2.2 KW by the Flying Squad. A copy of the Flying Squad's spot inspection report is produced on record.

He added that a spot Panchnama was also prepared in the applicant's father's presence by the Dy. E.E.,

Flying Squad on 03.11.2003 a copy of which is also produced on record by him.

He further submitted that in view of the theft detected, F.I.R., being F.I.R. No. 3157, was also filed on 03.11.2003 by the Dy. Executive Engineer, Flying Squad with the Sitabuldi Police Station, Nagpur. A copy of this FIR is also filed by him alongwith his parawise report.

Relying on these documents, the contention of the non-applicant is that the present case squarely pertains to theft of electricity and that as per Regulation 6.4 of the said Regulations, offences and penalties as provided under sections 135 to 139 of the Electricity Act, 2003 do not fall within the purview of this Forum's jurisdiction. According to him, the matter needs to be dismissed only on this count.

He further added that even on merits, the applicant has no case. In that, he stressed the point that the applicant's meter, being meter 10244494, recorded consumption of only 78 units in 36 months which comes to only 2.16 units per month which by no means is at all acceptable.

According to him, the theft assessment in the present case has been done as per the guidelines of the Head Office and that the theft assessment of Rs. 72,879/- arrived at by the Flying Squad is self-justified.

The applicant's argument that his consumption trend from January,2004 to November,2004 should be considered while working out the theft assessment is not acceptable to the non-applicant because, according to him, the

applicant might have deliberately reduced his consumption during this period to support his claim.

His say on the applicant's point that the meter was installed at a place far away from his shop is that the meter was installed at the behest of the applicant's father and that it is the consumer's responsibility to keep the meter in a secured position.

He lastly prayed that the applicant's grievance application may be dismissed.

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

The record clearly shows that the present case pertains to theft of electricity and about tampering of the applicant's meter, being meter no. 10244494. The Flying Squad's spot inspection report dated 03.11.2003 clearly demonstrates this.

It is pertinent to note that the Flying Squad carried out the inspection of the applicant's meter on 03.11.2003 in the presence of the applicant's father.

Although there is an endorsement of the applicant's father noted by him on this inspection report to the effect that all the charges noted against him are denied by him, the fact remains that theft of electricity did occur.

Not only that the Flying Squad's inspection report is comprehensive but it is also supported by a spot Panchnama dated 03.11.2004. A regular FIR has also been filed on 03.11.2003 by the Dy. Executive Engineer, Flying Squad

Nagpur Urban Zone, MSEDCL, Nagpur with the Sitabuldi Police Station, Nagpur.

It is also pertinent to note that the applicant's father had signed the spot panchnama on 03.11.2003 with a comment that it was a well-planned game to defend him.

The applicant has also stated before us that some outsider having enmical terms with his father might have played a mischief and tampered his meter.

The record, however, clearly supports the contention of the non-applicant that the present case pertains to tampering of applicant's meter and theft of electricity. Moreover, it is the consumer's responsibility to ensure safety & security of his meter.

The applicant has also not denied the observations made by the Dy. E.E. Flying Squad, NUZ, MSEDCL, Nagpur at time of spot inspection of his meter. His only say is that neither his father nor he himself was responsible for tampering of his meter and for the theft.

In the light of above, we inclined to hold and do hold accordingly that this matter squarely pertains to tampering of meter and theft of electricity.

The non-applicant has rightly pointed out that as per Regulation 6.4 of the said Regulations, offences and penalties as provided under sections 135 to 139 of the Electricity Act, 2003 do not fall with the purview of this Forum jurisdiction.

In view of above, we hold that the present grievance application is not prima-facie maintainable before this Forum for want of jurisdiction.

The applicant made a submission during the course of hearing before us that his meter may be allowed to be shifted close to his shop in a secured position. The non-applicant has no objection to shift the present location of the applicant's meter and install it close to the applicant's shop as per rules in force provided that a free access is available to him and his sub-ordinates to record the applicant's consumption and also for other legal purposes.

The applicant stated that he would approach the non-applicant separately for this purpose as per rules / procedure of the non-applicant Company.

In the result, the grievance application stands disposed off accordingly.

Sd/-
(M.S. Shrisat)
Member-Secretary

Sd/-
(S.D. Jahagirdar)
CHAIRMAN

**CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.**