

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

Case No. CGRF(NUZ)/074/2005

- Applicant : Shri Ballabhadas Dipchandaji
Dangra,
At L-30(50),
V.H.B., Shantinagar Colony,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Gandhibag Division, NUZ,
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
- 3) Shri Shrisat
Member secretary,
Consumer Grievance Redressal Forum,
Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 14.12.2005)

The present grievance application has been filed on 24.11.2005 in the prescribed schedule "A" before this Forum 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 improper and excessive electricity bill and in respect of mental torture caused to him by the non-applicant. He has also demanded compensation on this count.

Before approaching this Forum, the applicant had filed his complaint application, being application dated 01.09.2005, raising there in the present grievance. In response to this complaint, the Superintending Engineer, Nagpur Urban Circle, MSEDCL, Nagpur informed the applicant by his letter, being letter number 3070 dated 27.09.2005 that the Flying Squad had checked his meter, being meter number 9761459, on 01.03.2005 and that it was found upon inspection that his meter was running slow by 85%. The Superintending Engineer further informed the applicant that revised bill of Rs.7228.83 rightly worked out in accordance with the inspection report of the Flying Squad will have to be paid by him and also that this amount is not pertaining to any fine or any theft assessment.

It is against this decision of the Superintending Engineer that the applicant has approached this Forum. The applicant, it seems, is not satisfied with the reply given to him by the S.E..

Since the applicant had earlier complained on 01.09.2005 to the Chief Engineer, MSEDCL, requirement of the applicant approaching the Internal Grievance Redressal Unit in terms of Regulation 6.3 of the said Regulations stands

dispensed with. Such a dispensation is also ratified by the MERC. Hence applicant's action of filing the present grievance application is quite in tune with the legal provision contained in the said Regulations.

The matter was heard by us on 12.12.2005 on which date both the parties present submitted their respective say before us. Documents produced on record by both of them are also perused and examined by us.

The applicant's case was presented before us by his nominated representative one Shri Pawan Maheshwari.

After receipt of the grievance application, the non-applicant was asked to submit before this Forum his parawise comments on the applicant's application in terms of Regulations 6.7 & 6.8 of the said Regulations. Accordingly, he submitted his parawise report on 12.12.2005. A copy thereof was given to the applicant on 12.12.2005 before the case was taken up for hearing 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 has been paying regularly all his energy bills served upon him from time to time by the non-applicant against his meter, being meter number 9761459. He received his energy bill dated 12.07.2005 for the period from 23.04.2005 to 23.06.2005 showing consumption of 374 units for a total amount of Rs. 8160/-. An amount of Rs. 7228.83 was included in this bill as bill adjustment amount which is not acceptable to him.

He strongly contended that the applicant did not commit any theft of electricity and that the Flying Squad's inspection report also confirms this. He added that the applicant's meter was being checked twice or thrice in a month prior to 01.03.2005 on which date the Flying Squad checked his meter. No regularities of any kind were noticed by the MSEB staff prior 01.03.2005 when they checked his meter earlier.

It is his say that the MSEB staff from Shantinagar Office checked the meter just 2/3 days prior to 01.03.2005 and no defect was noticed by the staff. The applicant had requested the Chief Engineer by his application, being application dated 21.07.2005, to let him know the correct current bill amount for the period from 23.04.2005 to 23.06.2005 so as to enable him to make payment thereof. However, no reply was received by him.

His only dispute is about the bill adjustment amount of Rs. 7228.83. He claims that this amount be waived since he is not in any way responsible for any defect in the meter, being meter number 9761459.

The applicant's latest electricity bill dated 10.11.2005 shows a total amount of Rs.6570/- including an arrear amount of Rs.5529.99. It is the strong submission of the applicant's representative that the applicant has been disputing the non-applicant's claim of recovery of bill adjustment amount of Rs.7228.83 right from July,2005 and that the applicant's latest complaint in this respect is dated 22.11.2005 which is addressed to the Assistant Engineer,

MSEB, S/Dn. Binaki, Nagpur. The applicant has filed several applications from time to time right from July, 2005 till 22.11.2005 continuously disputing inclusion of the disputed arrear amount in his bi-monthly electricity bills repeatedly contending that he is prepared to pay the current electricity bill charges levied on the basis of his bi-monthly consumption and insisting upon the non-applicant from time to time to set right his grievance about the erroneous inclusion of amount of Rs.7228.83.

The applicant's representative vehemently argued that despite the applicant's repeated complaints, no satisfactory remedy was provided to him by the non-applicant and that on the top of this, his power supply was disconnected on 22.11.2005 all of a sudden on the ground of non-payment of the bill amount of Rs.6570/- shown in his energy bill dated 10.11.2005. According to him, this sudden action of the non-applicant of disconnecting the applicant's power supply, that too, without any notice whatsoever, was not only improper and unjust but it was also illegal. He added that instead of solving the applicant's complaint about the erroneous bill amount, extreme and un-warranted action of disconnection of his power supply was resorted to by the non-applicant there-by causing a great hardship to the applicant and his family. He strongly criticised the non-applicant's action of disconnecting his power supply.

The applicant's representative has produced copies of the following documents in support of his contentions.

- 1) His energy bill dated 10.11.2005 for Rs.6570/- for 173 units for the period from 23.08.2005 to 23.10.2005 showing inclusion of arrear amount of Rs.5529.99/-.
- 2) His complaint application dated 22.11.2005 addressed to the Assistant Engineer MSEB, Binaki S/Dn., Nagpur requesting for restoration of his power supply which was disconnected of 22.11.2005.
- 3) His complaint application dated 21.11.2005 addressed to the Assistant Engineer, MSEB S/Dn., Binaki, Nagpur requesting him to intimate to him names of MSEB Staff members who checked his meter during the period from 2003 to 2005 and also disputing Panchnama dated 13.12.2004.
- 4) Reply, being reply number 3707 dated 27.09.2005, given to him by the Superintending Engineer, NUC, MSEDCL, Nagpur in reply to his complaint dated 01.09.2005.
- 5) His application dated 01.10.2005 addressed to the Chief Engineer, MSEDCL, NUZ, Nagpur on the subject of erroneous penalty amount of Rs.7228.83.
- 6) Provisional bill dated 29.09.2005 for Rs. 1500/- issued by the A.E. MSEDCL, Binaki S/Dn., Nagpur against the total bill of Rs. 7164=70.
- 7) Payment receipt dated 29.09.2005 for Rs. 1500/-.
- 8) His energy bill dated 13.09.2005 for 173 units for the period from 23.06.2005 to 23.08.2005 for Rs. 7150/- showing inclusion of arrear amount of Rs.6179=04.

- 9) His complaint application dated 28.09.2005 addressed to the Chief Engineer and also to the Assistant Engineer, Binaki S/Dn., Nagpur requesting to inform him the quantum of amount of his current bill pertaining to his consumption during the period from 23.06.2005 to 23.08.2005 for payment purposes and also disputing the bill adjustment penalty amount.
- 10) His application dated 01.09.2005 addressed to the Chief Engineer, MSEB, NUZ, Nagpur requesting for withdrawal of penalty amount of Rs.7228.83 included in his energy bill.
- 11) Letter, being letter number 360 dated 24.08.2005, addressed to him by the Assistant Engineer, Binaki S/Dn., in response to his complaint dated 01.08.2005 informing him that the bill adjustment amount of Rs.7232.24 pertains to the differential payable amount worked out as per the Flying Squad's report dated 01.03.2005 in which his meter was found upon inspection to be running slow by 85% and also intimating him that there is no case of theft against the applicant.
- 12) His application dated 01.08.2005 addressed to the Chief Engineer, MSEDCL and also to the Assistant Engineer, MSEB, Binaki S/Dn., Nagpur again requesting for withdrawal of bill adjustment amount of Rs.7228.83.
- 13) His application dated 26.07.2005 addressed to the Chief Engineer, Flying Squad MSEB, Nagpur

requesting for deletion of the bill adjustment / penalty amount of Rs. 7228.83 from his energy bill.

- 14) His complaint application dated 21.07.2005 addressed to the Engineer In-charge of Binaki S/Dn., MSEDCL, Nagpur again raising a dispute about the bill adjustment amount in question and for correcting his erroneous energy bill dated 12.07.2005.
- 15) Provisional bill dated 01.08.2005 for Rs.2000/- issued by the Assistant Engineer, Binaki S/Dn., against the total bill of Rs.8180/- and receipt dated 01.08.2005 of payment thereof made by the applicant.
- 16) His disputed energy bill dated 12.07.2005 for Rs.8160/- for the period from 23.04.2005 to 23.06.2005 for 374 units showing inclusion of disputed bill adjustment amount of Rs.7228.83.
- 17) Payment receipt dated 30.05.2005 for Rs.720/-.
- 18) His energy bill dated 13.05.2005 for 156 units for Rs.720/- for the period from 23.02.2005 to 23.04.2005 against his meter, being meter number 9001352846.
- 19) Spot inspection report dated 01.03.2005 of the Dy. E.E., Flying Squad, MSEB, Urban Zone, Nagpur in respect of applicant's meter, being meter number 9761459.
- 20) Panchnama dated 13.12.2004 containing only the applicant's representatives signature.

Relying on these documents, the applicant's representative submits that the applicant has not committed

any theft of electricity and that the bill adjustment amount of Rs.7228.83 erroneously included in his energy bill dated 12.07.2005 may be withdrawn.

He has also vehemently argued that stringent action should be taken against the concerned MSEB staff responsible for disconnecting the applicant's power supply on 22.11.2005 without giving any prior notice to him. He has also demanded compensation towards the applicant's harassment.

The non-applicant has stated in his parawise report dated 07.12.2005 submitted before this Forum on 12.12.2005 that the applicant's meter, being meter number 9761459 was checked by the Flying Squad on 01.03.2005. This squad found upon inspection that the applicant's meter was running slow by 85%. Considering the Flying Squad's report, the applicant was charged only for a maximum period of 3 months in accordance with the findings of the Flying Squad and in that the applicant was charged @ 600 units per month for 3 months minus payments already made. The bill amount worked out on the basis of consumption of 1800 units over the period of 3 months immediately preceding the date of replacement of his meter in question comes to Rs.7366.80/-. A gross amount of Rs.935.42 already paid during this period by the applicant was subtracted from the assessed amount of Rs.7366.80/- and there-upon, the applicant's net liability of payment worked out to Rs.6430.38. This amount has been included in the applicant's energy bill for the billing month of June, 2005.

According to the non-applicant, the aforesaid action taken by him as per provisions contained in Regulation 15.4.1 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 here-in-after referred-to-as the Supply Code Regulations is correct and legal.

The non-applicant has further contended that previously energy bill of Rs.7231/- was served upon the applicant and that in view of revision of his energy bill, appropriate slab benefit can now be given to him.

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

- 1) Letter, being letter number 80 dated 12.05.2005, addressed to the Assistant Engineer, MSEDCL, Binaki S/Dn., by the Dy. E.E., Flying Squad Unit, Nagpur Urban on the subject of discrepancies observed during surprise inspections at the consumer's premises alongwith a detailed statement showing the irregularities observed.
- 2) The applicant's CPL for the period from December,2003 to October,2005.

Relying on these documents, the contention of the non-applicant is that action taken by him in the instant case was correct and that the applicant's grievance application does not deserve any consideration.

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

The main grievance of the applicant is in respect of the bill adjustment amount of Rs.7228.83 included in his energy bill dated 12.07.2005.

In this case, the applicant's meter, being meter no. 9761459, came to be checked by the Flying Squad on 01.03.2005. The inspection report of the Flying Squad clearly states that the applicant's meter was found slow by 85%. It has also been clarified in this report that the current coil and insulation coil were found burnt and that no tampering evidence was noticed inside the meter. This report clearly demonstrates that there is no case of theft or tampering of meter. The case squarely pertains to a case of defective meter.

Since the applicant's meter was running slow by 85%, the non-applicant, it seems, has charged the applicant for the differential amount worked out as per the findings of the Flying Squad. Accordingly, the applicant's per month consumption prior to 01.03.2005 is presumed to be $(90 \times 100) = 600$ as against only 90 units (15%) already charged. He, therefore, worked out assessment amounting to Rs.7366.80 for 1800 unit i.e.@ 600 units per month for three months. This indicates that the non-applicant has charged the applicant for a maximum period of 3 months immediately preceeding the date on which his defective meter was replaced.

The non-applicant has also cited legal provision contained in Regulation 15.4.1 of the Supply Code Regulations for this purpose the text of which reads as under :

“ Subject to the provisions of part-II and Part-XIV of the Act, in case of a defective meter, the amount of the consumer’s bill shall be adjusted for a maximum period of three months prior to the month in which the dispute has arisen in accordance with the results of the test taken, subject to furnishing the test report of the meter alongwith the assessed bill etc.”

This legal provision enables the Distribution Licensee to charge a consumer for a maximum period of three months if his meter is found to be defective.

It is pertinent to note that such an assessment is to be charged to a consumer for a period not exceeding three months. This means that even if the consumer’s meter was in a state of defect, say for a period say of one year or for that matter any period exceeding 3 months, consumer’s energy bill has to be adjusted for a maximum period of three months only.

The basic question occurring to our mind is as to what was the exact period during which the applicant’s meter in the instant case was running slow by 85%. In other words, was the defect persisting for a period exceeding three months or was it less than three months. When pointedly asked by us, the non-applicant was not able to pin-point to us the exact period during which the applicant’s meter was running slow by 85% prior to 01.03.2005.

In this respect, the applicant's contention is that defect pointed out by the Flying Squad might have occurred on the very day before its surprise inspection on 01.03.2005.

No clue is forth-coming from record in the present case as to the exact period during which the applicant's meter was defective prior to 01.03.2005. Even the Flying Squad's report does not, in any way, throw any light on this point. It is also brought to our notice by the applicant that his meter used to be checked repeatedly by the staff of the non-applicant prior to 01.03.2005 and that no defects or irregularities were noticed by them prior to 01.03.2005. He has, therefore, disputed the basic period of assessment.

It is pertinent to note that the applicant's consumption pattern is almost the same as it was prior to 01.03.2005 after a new meter, being meter no. 1352846 was installed replacing his previous defective meter, being meter no.9761459. There is no complaint from either side about the working of the new meter. The applicant's CPL shows that his consumption against his new meter in the billing months of June,2005, August,2005 and October,2005 was respectively 374 units (for 4 months), 173 units (for 2 months) and 173 units (for 2 months). This yields an average of 90 units per month on the new meter which is almost the same as it was even prior to 01.03.2005 when the Flying Squad checked his previous meter. Moreover, no indication, whatsoever, is recorded in the applicant's CPL pointing out things like meter defective, RNA etc. The entire circumstantial evidence strongly supports the say of the applicant that his meter might

have gone in disorder may be on the very day i.e. on 01.03.2005 before the Flying Squad's inspection. The non-applicant is silent on all these issues.

Commenting upon the Panchnama dated 13.12.2004 produced on record, the applicant has stated that this Panchnama carries no evidentiary value.

We, on our part, had a close look at the contents of the Panchnama. In the first place, this Panchnama is not signed by any MSEB staff member. It is not forth-coming as to who drew this Panchnama. Secondly, this Panchnama does not bear signatures of any witnesses. The Panchnama makes a mention that there is a doubt about tampering of the meter. The applicant's contention that this Panchnama carries no evidentiary value is, therefore, quite correct.

In view of this position, it can not certainly be said that the applicant's meter was defective from December,2004 or even since prior to December,2004.

The exact period during which the applicant's meter had remained defective prior to 01.03.2005 is, therefore, not forthcoming in the instant case. The applicant will, therefore, have to be given the benefit of doubt.

The non-applicant's action of charging the applicant for a maximum period of three months in terms of Regulation 15:4:1 of the Supply Code Regulations is obviously very arbitrary particularly when no evidence is produced on record by him pinpointing the exact period of state of defect prior to 01.03.2005.

In these circumstances, the applicant cannot be compelled to pay the bill adjustment amount of Rs.7228.83 as has been done erroneously in the instant case.

In view of the above observations, it follows that the assessment worked out by the non-applicant will have to be withdrawn.

The documents produced by the applicant go to show that he was repeatedly asking the non-applicant right from July,2005 to November, 2005 to let him know his exact bi-monthly energy bill amounts during the intervening period. However, at no point of time, the non-applicant cared to comply with the applicant's request. The applicant had shown his willingness to pay his regular bi-monthly energy bill charges keeping aside the disputed assessment amount of Rs.7228.83 till his dispute is finally settled. However, unfortunately this has not been done.

The applicant has also strongly contended during the course of hearing that his power supply was disconnected all of a sudden on 22.11.2005 without any notice to him although his dispute was live. This contention of the applicant is found to be quite correct. At no point of time, the non-applicant has served the applicant with a clear 15 days' notice before disconnecting his power supply as provided in section (56) 1 of the Electricity Act, 2003. The non-applicant was not able to show us any such prior notice having been served on the applicant. The non-applicant's action of the disconnecting the applicant's power supply on 22.11.2005 without any notice was, therefore, not only improper but it was

also not legal. The applicant's say that stringent action should be taken against the staff of the non-applicant is well founded and it is accepted by us.

In view of above, we direct the non-applicant to take appropriate action against the persons responsible for disconnecting the applicant's power supply.

Looking to the reliefs granted under this order, we, however, do not find it necessary to award any compensation to the applicant.

In the result, the grievance application in question is accepted by us partially.

We now direct the non-applicant to withdraw from the applicant's energy bills the bill adjustment amount of Rs.7228.83 and also interest charged on this amount and to issue a revised bill in terms of this order.

We further direct the non-applicant to report compliance of this order to this Forum on or before 31.01.2006.

Sd/-	Sd/-	Sd/-
(M.S. Shrisat)	(Smt. Gouri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	Member	CHAIRMAN

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

**Member-Secretary
Consumer Grievance Redressal Forum,
Maharashtra State Electricity Distribution Co.Ltd.,
Nagpur Urban Zone, NAGPUR**