

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

Case No. CGRF(NUZ)/072/2005

- Applicant : Shri Laxmikant Shymlal Gupta
At Balaji Mandir, Opp. City Kotwali,
Mahal,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Mahal Division, NUZ,
Nagpur representing the MSEDCL.
- Quorum Present : 1) Shri S.D. Jahagirdar, IAS (Retd),
Chairman,
Consumer Grievance Redressal Forum,
Nagpur Urban Zone,
- 2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone, Nagpur
Nagpur.

ORDER (Passed on 21.12.2005)

The present grievance application has been filed before this Forum on 23.11.2005 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 the applicant is in respect of wrong assessment of Rs.64,800/- worked out by the non-applicant as per the spot inspection report dated

10.06.2005 of the Dy. Exe. Engineer, Nagpur Urban Circle, MSEDCL, Nagpur.

Before filing the present grievance application, the applicant had approached the Internal Grievance Redressal Unit headed by the Executive Engineer (Adm), NUC, MSEDCL, Nagpur under the said Regulations by filing his complaint, being complaint dated 16.09.2005. This Unit replied the applicant by its letter, being letter no. 3599 dated 27.10.2005, informing him that the applicant's premises was inspected by the Dy. E.E. one Shri Dekate who found upon inspection that the applicant's meter, being meter no. 182865, which is an electro-magnetic meter, was running slow by 62% and that his connected load was found to be 6.1 KW and further that the assessment amount of Rs. 64,800/- worked out in accordance with the inspection report was correct. This amount has already been paid by the applicant on 11.06.2005.

The applicant is not satisfied with this reply and, therefore, he approached this Forum for redressal of his grievance.

After receipt of the present grievance application, the non-applicant was asked to furnish before this Forum his parawise comments on the applicant's application in terms of Regulations 6.7 & 6.8 of the said Regulations. Accordingly, the non-applicant submitted his parawise comments on 09.12.2005. A copy thereof was given to the applicant on 12.12.2005 and he was given opportunity to offer his say on this parawise report also.

The matter was heard by us on 19.12.2005. Documents produced of record by both the parties are also perused & examined by us.

The applicant's contention is that his connected load on the date of inspection, namely 10th June, 2005, was 3.98 KW and not 6.1 KW as wrongly worked out by the non-applicant's Dy. Exe. Engineer. He is challenging the assessment of Rs.64,800/- worked out by the non-applicant towards alleged un-authorized use of electricity.

According to him, his father late Shri Shyamlal Gupta was the sole proprietor of M/s. Agra Bhandar and that he became the absolute owner-cum proprietor thereof on the expiry his father. He has been paying all his energy bills regularly without any default.

He added that his shop was inspected at about 12=00 hrs. on 10.06.2005 when his meter and meter seals were found to be in Ok condition. However, the inspecting officer suddenly came to his shop again about 1=00 PM on 10.06.2005 and broke the seals of meter without the knowledge and presence of the applicant. No Panchmana was prepared during the spot inspection of his meter.

The applicant has termed the spot inspection report dated 10.06.2005 as arbitrary and improper. He has denied that his actual connected load on the date of inspection was 6.1 KW as assessed by the Inspecting Officer. According to him, his connected load was 3.9 KV on the date of inspection. For this purpose, he has given a chart in his written statement showing various details of electrical gadgets that were in operation on the date of inspection. His say is that the

assessment amount of Rs.64800/- worked out by the non-applicant is unjust, improper & illegal. He requested that this amount be refunded to him. He has also demanded compensation of Rs. 1,00,000/- towards his harassment by the non-applicant.

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

- 1) Annexure – I dated 24.11.2005 accompanying his grievance application.
- 2) Letter, being letter number 3599 dated 27.10.2005, addressed to him by the Executive Engineer In charge Internal Grievance Redressal Unit in response to his complaint dated 16.09.2005.
- 3) Spot inspection report dated 10.06.2005.
- 4) A notice dated 09.07.2005 addressed to the Chief Engineer under section 80 of Civil procedure Code for refund of amount of Rs. 64,800/-.
- 5) Reply dated 06.08.2005 given to the applicant's notice by the Counsel of the non-applicant.
- 6) His energy bill dated 04.09.2004 for Rs.10,960/-
- 7) Payment receipt dated 22.09.2004 for Rs.10,960/-.
- 8) His energy bill dated 05.11.2004 for Rs.10,320/-.
- 9) Payment receipt dated 20.11.2004 for Rs.10,320/-.
- 10) His energy bill for Rs. 5960/- for the period from 14.10.2004 to 13.12.2004.
- 11) Payment receipt dated 24.01.2005 for Rs. 5960/-.
- 12) His energy bill for Rs. 5060/- for the period from 13.12.2004 to 12.02.2005.
- 13) Payment receipt dated 14.03.2005 for Rs. 5060/-.

- 14) His energy bill for Rs. 5300/- for the period from 12.02.2005 to 13.04.2005.
- 15) Re-joinder dated 19.12.2005.

Relying on these documents, the applicant has contended that the Executive Engineer (Adm), NUC, MSEDCL, Nagpur issued his letter dated 17.10.2005 without considering the actual facts and without application of mind.

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

The non-applicant has stated in his parawise report that the assessment of Rs.64,800/- towards un-authorised use of electricity by the applicant was correctly worked out and that this amount has already been paid by the applicant without any protest.

He added that the present case is covered by section 126 of the Electricity Act, 2003 and that the applicant had the remedy to go in appeal under section 127 of the Electricity Act, 2003 before the prescribed appellate authority. However, instead of approaching the proper and Competent Authority as provided under section 127, the applicant wrongly filed the present grievance application before this Forum.

It is his strong contention that the present grievance application can not lie before this Forum as this Forum does not have jurisdiction to entertain such a proceedings as per Regulation 6.4 (1) of the said Regulations. He prayed that the present proceedings is liable to be dismissed on this count.

Commenting upon the submissions made before us by the applicant, the non-applicant has stated that his submissions are false and baseless. According to him, his connected load was found to be 6.1KW on the date of inspection as against his sanctioned load of 3.70 KW. His meter was found to be running slow by 62%. According to him, the assessment amount of Rs.64800/- was worked out correctly.

He lastly prayed that the grievance application in question may be dismissed.

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

It is seen from the inspection report dated 10.06.2005 that the Inspecting Officer worked out the connected load of the applicant at 6.1KW as against his sanctioned load of 3.70KW. He has given all the relevant details thereof in his inspection report.

It is pertinent to note that this inspection report is duly signed by the applicant. There is an endorsement in this report above the signature of the applicant to the effect that the irregularities pointed out in the report have been checked in the presence of the applicant and further that he agrees with the same. When asked pointedly by us, the applicant admitted that he did sign this report. No plausible explanation was forth-coming from the applicant when we asked him as to why he did not endorse on this report his points of dis-agreement before signing the report.

Moreover, it is rightly pointed out by the non-applicant, that this case pertains to un-authorized use of electricity in terms of section 126 of the Electricity Act, 2003. A provision is made in section 127 thereof for filing an appeal before the prescribed appellate authority. The applicant admitted before us that he did not go before the appellate authority under section 127. No satisfactory explanation is given by the applicant as to why he did not approach the appropriate and legal appellate authority.

Regulation 6.4 of the said Regulations clearly provides that grievances falling within the purview of un-authorized use of electricity as provided under section 126 of the Act are excluded from the jurisdiction of this Forum. Hence, the non-applicant's contention that this Forum does not have jurisdiction to entertain such a proceedings is quite correct and legal.

In view of above, we are inclined to hold and do hold accordingly that the present grievance application can not be entertained by us for want of jurisdiction.

In the result, the same is disposed of accordingly.

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.**