

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

Case No. CGRF(NUZ)/080/2005

- Applicant : Shri Kiran Werulkar,
Kale's House, Old Post Office Road,
Dharampeth,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Congressnagar Division, NUZ,
Nagpur representing the MSEDCL.
- Quorum Present : 1) Shri S.D. Jahagirdar,
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 29.12.2005)

The present grievance application has been filed before this Forum on 12.12.2005 by the applicant 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 applicant's grievance is in respect of erroneous and illegal inclusion of bill adjustment amount of

Rs. 11,329/- in his energy bill dated 18.07.2005 for the gross amount of Rs. 12,830/- for the period from 02.05.2005 to 02.07.2005.

Before approaching this Forum, the applicant had filed his complaint dated 07.10.2005 addressed to the Chief Engineer, MSEDCL, NUZ, Nagpur raising there-in the present grievance. However, it seems that no remedy, whatsoever, was provided by the Chief Engineer to him in response to his aforesaid complaint. Hence, the present grievance application.

The requirement of the applicant approaching the Internal Grievance Redressal Unit under Regulations 6.3 of the said Regulations stands dispensed with in view of the fact that the applicant had made a complaint to the Chief Engineer, MSEDCL NUZ, Nagpur. Such a dispensation is also confirmed by the MERC. In view of this position, the applicant's primary action of filing the present grievance application is in tune with the said Regulations.

Both the parties were heard by us on 28.12.2005. Documents produced on record by both of them are also perused & examined by us.

The applicant's case is represented before us by his nominated representative one Shri D.D. Dave.

After receipt of the present grievance application, the non-applicant was asked to submit to this Forum his parawise comments on the applicant's grievance application in terms of the Regulations 6.7 & 6.8 of the said Regulations. Accordingly, he submitted his parawise comments on 28.12.2005. A copy thereof was given to the applicant's

representative on 28.12.2005 before the case was taken up for hearing and he was given opportunity to offer his say on this parawise report also.

Following are the two issues to be decided in the present case.

- 1) Whether the applicant can be termed as a consumer of the non-applicant Company although his name is not registered as such in the non-applicant's record ?.
- 2) Whether the energy bill dated 18.07.2005 issued by the non-applicant showing inclusion of bill adjustment amount of Rs.11,329/- is legal or not, in terms of section 56 (2) of the Electricity Act, 2003 ?.

Let us first see what are the respective claims and merits thereof of both the parties in respect of the first issue.

It is the contention of the applicant's representative that the applicant Shri Werulkar is competent to raise the present grievance in question since he is the legal owner of house no. 244 (A) which he purchased way back in the year 1997 from the erstwhile owner one Shri D.V. Kale. He added that the applicant has been paying all the energy bills issued in the name of erstwhile owner Shri D.V. Kale, consumer no. 410010752373 and that the non-applicant has been supplying electricity un-interruptedly to the applicant. He strongly contended that justice can not be denied to the applicant only on the ground that the applicant did not take any steps to record his name as a consumer in place of Shri D.V. Kale in the non-applicant's record.

The contention of the non-applicant is that the fact of purchasing house, being house no. 244 (A), by the present applicant from the previous owner Shri D.V. Kale was suppressed by the applicant. According to him, the present applicant can not be treated as a consumer of electricity since he has not recorded his name as a consumer in place of the erstwhile owner one Shri D.V. Kale although he might have purchased the property way back in 1997. He is not aware of any such transfer of property in the name of the present applicant. He added that Shri D.V. Kale is still his consumer and that even to-day all the energy bills against the consumer no. 410010752373 are issued in the name of Shri D.V. Kale only. There were two connections issued in the name of Shri D.V. Kale in the same premises with two different consumer numbers namely consumer no. 410010752373 and no. 410010752381.

According to the non-applicant, the present applicant has no locus-standi to file these proceedings since the electricity connection against consumer no. 410010752373 is in the name of Shri D.V. Kale. He further stated that the present applicant does not possess any power of attorney from the consumer Shri D.V. Kale. The original owner Shri D.V. Kale has not come before the Forum and merely because the present applicant is claiming to have purchased a portion of premises from Shri Kale, it can not be said that the present applicant is vested with any right to make any grievance against raising of energy bills in the name of Shri D.V. Kale.

He, therefore, strongly contended that the present grievance application deserves to be dismissed on this count only.

Looking to the submissions made by both the parties on this point, it has become imperative to have a look at the definition of word “Consumer”.

The definition of word ‘consumer’ appears in section 2 (15) of the Electricity Act, 2003. This definition reads as under.

“Consumer’ means any person who is supplied with electricity for his own use by a licensee or the Govt. 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 Govt. or such other person, as the case may be”.

This definition makes a mention of words “any person” who is supplied with electricity for his own use and whose premises are for time-being connected for the purpose of receiving electricity. This clearly demonstrates that even if a person has not recorded his name as a consumer in place of the erstwhile owner of the premises, right of being a consumer cannot be denied to him. The change of name in the non-applicant’s record as a consumer is a formality to be completed by the new owner as per the procedure laid down for this purpose by the licensee. Although it is true that the present applicant has not taken adequate steps to record his

name in place of Shri D.V. Kale from whom he has purchased the property way back in 1997, the fact remains that the premises owned & used by him are connected for the purpose of receiving electricity. The non-applicant is also not denying that the premises where the present applicant is living is not connected with supply of electricity. The record shows that the present applicant is enjoying the facility of supply of electricity since the year 1997 un-interruptedly. The only lacuna on the part of applicant is that he did not record his name in the record of the non-applicant as a consumer. Nevertheless, he can not be denied the right of a consumer of electricity since he is receiving the supply of electricity at his premises un-interruptedly.

In view of this position, the contention of the non-applicant that the present applicant can not be treated as his consumer and that he has no locus-standi to file the present grievance application can not be accepted by us.

In the result, it follows that the present applicant is a consumer of the non-applicant as per definition of word 'consumer' made in section 2 (15) of the Electricity Act, 2003.

The first issue is, therefore, answered in favour of the present applicant.

The second issue is about the legality of the disputed energy bill dated 18.07.2005 showing inclusion of bill adjustment amount of Rs. 11,329/-.

The contention in this respect of the applicant's representative is that inclusion of this amount for the first time in the applicant's energy bill dated 18.07.2005 alongwith

his current bill for the period from 02.05.2005 to 02.07.2005 is not only erroneous but it is also unjust, improper and illegal.

The applicant has paid 50% payment amounting of Rs.6425/- to avoid the repeated threats of disconnection, that too, under protest.

The applicant's representative has drawn our attention to the provision made in section 56 (2) of the Electricity Act, 2003 which reads as under.

“ Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity”.

Relying on this legal provision, his contention is that the bill adjustment amount of Rs.11,329/- was never shown continuously by the non-applicant as a sum recoverable as arrear charges from the date when such sum became first due. Not only this, but he also says that the arrear amount in question seems to have become due much prior to 1997, that too, on a different consumer number viz. 41000752381.

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

- 1) The energy bill dated 24.11.2003 for Rs. 130/- for the period from 02.09.2003 to 01.11.2003 for 58 units.
- 2) The energy bill dated 19.03.2004 for Rs.130/- for the period from 01.03.2004 to 05.05.2004.

- 3) The energy bill dated 20.07.2004 for 58 units for Rs. 120/- for the period from 05.05.2004 to 05.07.2004.
- 4) The energy bill dated 18.01.2005 for 58 units for Rs. 140/- for the period from 03.11.2004 to 04.01.2005.

Relying on these documents, the applicant's representative strongly contended that the disputed bill adjustment amount of Rs. 11,329/- was never shown as recoverable prior to issuance of the energy bill dated 18.07.2005 against consumer no. 410010752373 on which he is receiving supply of electricity.

It is his strong submission that the non-applicant has violated provision contained in section 56 (2) of the Electricity Act, 2003 and that, as such, the non-applicant's claim of recovery of the bill adjustment amount in question has become totally time-barred in terms of section 56 (2).

The non-applicant, on his part, has contended that the provision of section 56 will not come to the rescue of the present applicant for the reason that he does not have the legal right to make a complaint for the alleged breach of this legal provision. Further, he added that the arrear amount in question is being continuously shown in the Consumer's Personal Ledger in respect of consumer Shri D.V. Kale, consumer no. 410010752381, from the date of disconnection till the transfer of this outstanding amount to the other live account of the same consumer viz. consumer no. 410010752373. According to him, he has every right to call upon the consumer to make payment of the outstanding

amount and further that, in case of default in making this payment he is entitled to disconnect supply of the electricity.

It is his say that the erstwhile owner Shri D.V. Kale who is still his consumer as evidenced by record has not raised any grievance against inclusion of this outstanding arrear amount of Rs.11,329/-

According to him, his claim of recovery of the bill adjustment amount in question in the energy bill dated 18.07.2005 is quite legal and correct.

He has produced copies of the CPL of consumer Shri D.V. Kale in respect of his consumer no. 410010752373 and consumer no. 410010752381 for the period from Nov. 1997 to December, 2005.

The non-applicant has further stated that the bill adjustment amount of Rs.11,329/- representing the arrear amount pertaining to the same consumer Shri D.V. Kale against his second consumer no. 410010752381 was rightly transferred as arrear amount recoverable against consumer no. 410010752373 since there is one and only one consumer namely Shri D.V. Kale relating to both these consumer numbers.

Firstly, it is not understood as to why there were two different consumer numbers against only one consumer, the nature of use being the same. No plausible explanation is forth-coming from the non-applicant on this point.

We have also perused all the entries in the CPLs in respect of consumer no. 410010752373 and consumer no. 410010752381. An arrear amount of Rs.11,329/- is shown in

the CPL of consumer no.410010752381 from November, 1997 to May, 2005 while the entry of arrear amount of Rs. 11,332=52 is appearing for the first time in the energy bill for billing month of July, 2005 against consumer no. 410010752373. This evidently indicates that the arrear amount of Rs. 11,332=52 is shown as recoverable for the first time in July, 2005 against consumer no. 410010752373 and that this arrear amount is not shown as continuously recoverable earlier to July, 2005 in the energy bills issued against this consumer number. In short, the arrear amount outstanding in question against consumer no. 410010752381 is transferred in one go from the CPL of consumer no. 410010752381 to the energy bill for the month July, 2005 against consumer 410010752373. The present applicant is availing supply of electricity against consumer no. 410010752373. This clearly shows that the non-applicant is claiming recovery of outstanding arrear amount in question from the present applicant much after lapse of a period of two years from the date when it became first due and further that this sum is not shown as continuously recoverable as arrear of charges for electricity supplied prior to July, 2005.

The contention of the non-applicant is that the arrear amount in question was shown as recoverable continuously. On the contrary, the applicant's representative has come before us with documentary evidence to show that the energy bills issued against consumer no. 410010752373 which is being used by him since 1997 never showed the arrear amount in question till July, 2005.

The non-applicant had also contended during the course of hearing that section 56 (2) does not necessarily require the non-applicant to show the past arrear amount in question in the energy bills of the consumer and that it is enough in the eyes of law if such an arrear amount is shown as recoverable in the non-applicant's record namely the CPL only. This contention is not correct and legal for the simple reason that a consumer has a legal right to know such past claims at relevant times and further that the energy bills issued to a consumer from time to time must show the recoverable arrear amount continuously as provided in section 56 (2). A consumer has nothing to do with the licensee's record and such an ex-party action without his knowledge will definitely be violative of his right as a consumer. The mandate of section 56 (2) essentially requires a licensee to show such arrear amount as continuously recoverable in the energy bills issued to the consumer from time to time. Basically, this very legal requirement is not duly complied with by the non-applicant in the present case.

The fact, therefore, remains that the non-applicant's claim of recovering the arrear amount in question much after lapse of two years is clearly time-barred as per section 56 (2) of the Electricity Act, 2003.

In the result, we are inclined to hold and do hold accordingly that the bill adjustment amount of Rs.11,329/- included in the energy bill dated 18.07.2005 can not be recovered from the applicant, it being time-barred.

We, therefore, direct the non-applicant to withdraw from recovery the bill adjustment amount of Rs.11,329/- against the present applicant.

The applicant's representative has contended that 50% payment amounting to Rs.6,425/- has already made under protest by the present applicant just to overcome the repeated threats of disconnection.

Since we have held above that recovery of bill adjustment amount of Rs. 11,329/- is illegal, the amount of Rs.6,425/- already paid to the non-applicant will have to be refunded to the present applicant. The non-applicant shall accordingly give due credit of this amount to the applicant against consumer no.410010752373 in the ensuing energy bill.

We also direct that the present applicant should now take diligent steps to record his name as a consumer in place of Shri D.V. Kale by approaching the non-applicant alongwith all relevant record and as per requisite procedure.

In the result, we accept the present grievance application and dispose it off 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.