

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

Case No. CGRF(NUZ)/156/2014

Applicant : M/s. Chirag Ice & Cold Storage
(P) Ltd., 76 B, Wathoda Industrial
Area,
Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(Distribution Franchisee),
MSEDCL, N.U.C.,
NAGPUR.

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

2) Adv. Subhash Jichkar
Member.

3) Shri Anil Shrivastava,
Member / Secretary.

ORDER PASSED ON 22.8.2014.

1. The applicant filed present grievance application before this Forum on 24.6.2014 under Regulation 6.5 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. The applicant's case in brief is that meter for supply of electrical energy was installed at the premises of the applicant M/s. Chirag Ice & Cold Storage (P) Ltd. Nagpur on 24.4.2001. In March 2002 applicant discovered that meter was recording abnormal consumption and was running fast by 50% as a result of which applicant lodged a complaint with Electrical Inspector and award

dated 30.6.2009 was passed ordering M.S.E.D.C.L. to reassess from 24.4.2001 to 3.7.2002 reducing the consumption as per test report and to revise excessive charges leveled there in i.e. DPC, interest etc. but no calculation of the bill was given to the applicant in pursuance of the award and no refund was made. Applicant paid all the bills till S.N.D.L. took over i.e. till May 2011. When SNDL took over, at that time no amount was due against the applicant. Applicant made prompt payment since May 2011 to September 2011. But thereafter amount of Rs. 334901.90 was debited in the bill of the applicant besides regular bill. No explanation is given regarding the same. On 1.7.2013, meter installed got burnt and power supply was restored through direct connection. Bill of excessive amount of Rs. 619778/- is given to the applicant. It is not justified. For non payment of this bill SNDL issued a notice u/s 56 (1) of Electricity Act 2003 Dt. 4.7.2014. Applicant consumer sent reply to the statutory notice through advocate on 21.6.2014. Applicant apprehends disconnection and therefore instead of approaching I.G.R.C., applicant filed present grievance application directly to this Forum under regulation 6.5 of the said regulations. In the grievance application applicant also claimed Interim relief not to disconnect the supply till disposal of the matter. The applicant claimed declaration that notice Dt. 7.6.2014 u/s 56 (1) of Electricity Act 2003 is illegal.

3. S.N.D.L. denied applicant's case by filing reply Dt. 17.7.2014. It is submitted that Electricity Supply is given to the applicant through C.T. Meter since 5.8.1988. CPL shows that all bills issued to the applicant as per consumption. As per letter of M.S.E.D.C.L. No. SE/NUC/ACCTTS/5184 Dt. 15.10.2011 as 'B' phase P.T. of the applicant failed, therefore amount of Rs. 334901.90 was debited in the bill of the applicant. Now total amount of Rs. 619778/-

is due and outstanding against the applicant and therefore notice u/s 56 (1) of Electricity Act 2003 is issued to the applicant calling upon him to pay the arrears amount within 15 days failing which his supply shall be disconnected. This notice Dt. 17.7.2014 u/s 56 (1) of Electricity Act 2003 is legal and valid and duly served.

4. M.S.E.D.C.L. initially did not care to file any reply on record though M.S.E.D.C.L. are concerned. During the course of hearing Dt. 22.7.2014 this Forum has passed specific order that M.S.E.D.C.L. has not filed any reply though they are concerned and then officers of M.S.E.D.C.L. requested time to file reply and the matter was adjourned. Thereafter M.S.E.D.C.L. filed reply Dt. 4.8.2014.

5. M.S.E.D.C.L. denied applicant's case by filing reply Dt. 4.8.2014. It is submitted that S.N.D.L. had already filed reply on 17.7.2014. As per letter of M.S.E.D.C.L. Dt. 15.10.2011, amount of Rs. 334901.90 is debited in the account of applicant.

6. Forum heard arguments of both the sides and perused the record.

7. Initially it is pertinent to note that this Forum had issued specific notice u/s 6(14) of the said regulations to M.S.E.D.C.L. & S.N.D.L. According to regulation 6.12 of the said regulations, it is incumbent on the part of M.S.E.D.C.L. to file reply, making submissions, providing issue wise comments on the grievance, submitting compliance status of the reports etc. before the Forum. In the notice of the Forum under regulation 6.14 also (on the reverse side of the notice) specific directions are given to M.S.E.D.C.L. and

S.N.D.L. to produce on record para wise reply well in advance before the date of hearing and copy of the same should be provided to the applicant well in advance. However, it is the experience of this Forum that M.S.E.D.C.L. and S.N.D.L. both are very negligent in filing their replies within time. Further more, they have habit not to file their reply with para wise comments. In this case also M.S.E.D.C.L. and S.N.D.L. both have filed very short replies only in few lines. We failed to understand why both these non applicants did not file para wise reply in this case. These directions are specially issued by this Forum for future guidance of M.S.E.D.C.L. and S.N.D.L. and they are expected to file para wise reply in future in all the matters. As detail para wise replies are not submitted by M.S.E.D.C.L. and S.N.D.L. this Forum has no other alternative than to decide the matter on the basis of the entire record which is available with this Forum.

8. It is the main grievance of the applicant that in March 2002 applicant discovered that meter was recording abnormal consumption and was running fast by 50% as a result of which applicant filed complaint to Electrical Inspector where in award Dt. 30.6.2009 was passed ordering M.S.E.D.C.L. to reassess the bill from 24.4.2001 to 3.7.2002 reducing the consumption as per test report and also to refund the excess charges leveled therein, i.e. DPC, interest etc. But no such credit was given to the applicant in pursuance of the award and no refund was given to him. It is the crux of the entire matter.

9. It is pertinent to note that it is an admitted fact that award of Electrical Inspector is Dt. 30.6.2009 directing M.S.E.D.C.L. to reassess all bills for the period 24.4.2001 to 3.7.2002. It is the

contention of the applicant that as per award, no such credit is given to him and therefore bill is increasing. However, it is noteworthy that all these dates appear to be very old and apparently it is a time barred matter. According to regulation 6.6 of the said regulations **“Forum shall not admit any grievance unless it is filed within 2 years from the date on which cause of action has arisen”**. Cause of action arose to file present grievance application in the year 2009 when the credit was not given to the applicant in pursuance of award of Electrical Inspector and therefore within two years from 30.6.2009 i.e. upto 30-6.2011, applicant should have filed grievance application but for the first time applicant filed present grievance application on 26.6.2014 and it hopelessly barred by limitation. On this sole ground, grievance application deserves to be dismissed.

10. Even in para 4 of the notice reply of the applicant, dated 26.6.2014 sent through Advocate Rizvi, the applicant admitted in clear terms and he paid regular bills from May 2011 to September 2011 within time and at that time in September 2011 suddenly amount of Rs. 334901.90 was debited in his account besides regular bill. Therefore as per this contention in para 4 of the notice reply of the applicant Dt. 21.6.2014, he admitted in clear terms that for the first time amount of Rs. 334901.90 is debited in his bill in September 2011. Therefore limitation of 2 years comes to an end in September 2013. But present grievance application is filed on 24.6.2014 and therefore for this reason grievance application is barred by limitation.

11. It is an admitted fact that within 2 years limitation either from award of Electrical Inspector or from debiting the amount of Rs. 334901.90 in the account of applicant in September 2011 applicant did not approach to I.G.R.C. with any grievance nor approached to

this Forum. He was sleeping over his rights till SNDL issued legal and valid notice u/s 56 (1) of Electricity Act 2003 Dt. 7.6.2014. After receipt of notice he sent reply Dt. 21.6.2014 and then filed present grievance application on 26.6.2014. Therefore it is hopelessly barred by the limitation and deserves to be dismissed on this sole ground.

12. In dispute case No. 8/02-03 before Electrical Inspector, Nagpur the award was passed as under : -

AWARD

“The reassessment of the electricity bills (month wise) has to be done from 24.4.2001 to 3.7.2002 on the basis of testing of meter on 12.3.2002 and all the other charges i.e. DPC, interest etc. levied on the consumer till the date of assessment be quashed.

The copy of the assessed bill shall be sent to the applicant under intimation to the undersigned. The applicant is directed to pay the revised assessed bill (if any) within seven days from the date of receipt of assessed bill / credit be given to the consumer.

This order is passed on 30th day of June 2000”.

13. Therefore this award shows that reassessment of electricity bill was directed to be done for the period 24.4.2001 to 3.7.2002 on the basis of testing of meter on 12.3.2002 and all other charges i.e. DPC, interest etc. levied on the consumer till the date of assessment was directed to be quashed. Applicant was directed to pay revised assessed bill within 7 days from the date of receipt of the assessed bill. However though the award is dated 30.6.2009 till 2014

the applicant did not file any grievance application and therefore present grievance application is barred by limitation.

14. In reply of S.N.D.L. specially in para 3 i.e. last para, it is specifically mentioned that as per the letter of M.S.E.D.C.L. bearing No. SE/NUC/ACCTTS/5184 Dt. 15.10.2011, as 'B' phase P.T. failed, therefore amount of Rs. 334901.90 was debited in the account of applicant in the year October 2011. This fact is also again repeated in reply of M.S.E.D.C.L. Dt. 4.8.2014 that as per letter of M.S.E.D.C.L. No. 5184 Dt. 15.10.2011, amount of Rs. 334901.90 is debited in the account of the applicant. Therefore this amount of Rs. 334901.90 is debited in the bill of the applicant for the first time in October 2011 as per directions given in the award of Electrical Inspector. If according to the applicant, this debit was illegal or erroneous which was debited in his account in October 2011, it was incumbent on the part of the applicant to challenge this amount within 2 years from October 2011 but he was sleeping over his rights and amount was carried forwarded since then up till now in each and every bill. This fact is also corroborated from the entries in CPL of the applicant. Since then this amount is appearing in electricity bill of the applicant every month till issuance of statutory notice u/s 56 of Electricity Act 2003. According to Section 56(2) of Electricity Act, "notwithstanding in any contention, in any other law for the time being in force, no sum due from any consumer under this section shall be recoverable after a period of 2 years from the date when such amount becomes first due **"Unless such amount has not been shown continuously as recoverable as arrears of charges for electricity supplied and licensee shall not cut off the supply of electricity since October 2011 in each and every bill, M.S.E.D.C.L. and S.N.D.L. has shown continuously this amount as recoverable as arrears of charges**

for electricity supplied and therefore according to Section 56 (2) of Electricity Act 2003 this entire amount of Rs. 619778/- is due and outstanding against the applicant and legally recoverable.

15. If according to the applicant award is not fully complied and compliance was illegal, applicant should have challenged it within limitation of 2 years at least from October 2011 but applicant failed to do so and therefore now he is astopped from challenging this amount after expiry of period of limitation.

16. Now what remains is the legality and validity of notice u/s 56 (1) of Electricity Act 2003 issued by S.N.D.L. We have carefully perused notice u/s 56(1) of Electricity Act 2003 issued by M/s. SPANCO Dt. 7.6.2014. It is specifically mentioned in this notice that amount of Rs. 619778/- is due and outstanding against the applicant. Applicant is directed to pay this amount within 15 days failing which his supply shall be disconnected. Record shows that applicant received this notice on 9.6.2014. Not only this, applicant also sent reply to the notice Dt. 21.6.2014 from Advocate Rizwi. Bear reading of this notice reply shows that applicant received statutory notice u/s 56 (1) of Electricity Act 2003 Dt. 7.6.2014. Therefore there is valid service of the notice. It is also admitted fact that as per notice applicant did not pay arrears amount of Rs. 619778/- and therefore S.N.D.L. has legal right to disconnect the supply of the applicant for non payment of arrears amounting to Rs. 619778/-. Therefore as per considered opinion of this Forum, notice u/s 56 (1) of Electricity Act

2003 Dt. 7.6.2014 is legal and valid and can not be quashed or cancelled. Therefore applicant has to pay amount of Rs. 619778/-, otherwise SNDL shall be entitled to disconnect his electricity supply for non payment of amount.

17. For these reasons in our opinion, there is no substance nor force in the grievance application and application deserves to be dismissed.

18. Hence Forum proceeds to pass following order : -

ORDER

- 1) Grievance application is dismissed.
- 2) Business Manager of S.N.D.L. is hereby directed to instruct concerned employees of S.N.D.L. to file detail para wise reply in each and every case in future.
- 3) Chief Engineer, M.S.E.D.C.L. NUZ, Nagpur is also directed to give specific instructions to the Nodal Officers that they should file detail para wise reply in each and every case in future.
- 4) Compliance should be reported within 30 days from the date of this order.

Sd/-
(Anil Shrivastava)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Shivajirao S. Patil),
CHAIRMAN