

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

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**Case No. CGRF(NUZ)/66/2010**

Applicant : M/s. KSL REALTY INFRASTRUCTURE LTD  
Plot No. 101/1, Survey No. 101,  
Walkar Road, Empress Mill, Gate No. 4,  
NAGPUR.

Non-applicant : MSEDCL represented by  
the Nodal Officer-  
Superintending Engineer,  
Nagpur Urban Circle, MSEDCL,  
NAGPUR.

Quorum Present: 1) Smt. Gouri Chandrayan,  
Member,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone,  
Nagpur.

2) Smt. K.K. Gharat  
Member Secretary,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone,  
Nagpur.

**ORDER PASSED ON 12.11.2010**

The present grievance application has been filed on 14.09.2010 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

1. M/S KSL Reality and Infrastructure Ltd., Empress Mill, Nagpur, the applicant has filed his grievance application in the Forum on dated 14.09.2010 as per the directions of the Hon. High Court that .....

“the subject matter should be gone into by the Grievance Forum, which has been conferred with the powers to adjudicate the dispute particularly correctness of the bill.”

The applicant has requested to the Forum in grievance application...

1. To quash and set aside the dated 08.12.2008 issued by the non-applicant.
2. To quash and set aside the notice dated 19.11.2008 issued by the non-applicant.
3. To direct the non applicant to abide by the order passed by the Forum dated 19.09.08.

2. The applicant has submitted following details with respect to his grievance. The applicant is a 11kV consumer of MSEDCL with consumer no. 410019000498 and Contract Demand 350 kVA. The applicant has received a provisional bill from the non-applicant on dated 28.06.07 with amount Rs.16,44,300.70/-. This bill was raised against inspection of his premises by the non-applicant's Flying Squad (F.S.) stating that the applicant has been utilizing power other than the authorized purpose and accordingly booked U/S 126 for unauthorized use. It was said that the power was

being utilized illegally for construction purpose instead of industrial purpose.

3. The applicant has objected this bill on 17.07.2007. But the non-applicant has added this amount in the regular bill which was issued for June 2007. On this the applicant has shown his readiness to pay the current bill amount of Rs.2,98,787/- except the disputed one. The non-applicant has refused applicant's this prayer, therefore, the applicant has paid the full amount Rs.23,19,684.75/- on dated 06.09.2007 which has included assessment and current bill amount.
4. The applicant has been charged from June 2007 to May 2008 with HT-VI, Commercial category having Demand charges as 150/kVA and Energy charges as 4.50/kWh. In June 2008 as per revised tariff order, the applicant was charged with commercial category tariff having Demand charges as 125/kVA and Energy charges as 5.25 /kWh.

To the surprise of the applicant, the non-applicant has added Rs.49,00,183.44/- in the electricity bill of June 2008. The non-applicant has clarified this additional amount to the applicant vide letter dated 22.07.08 as instructions received from CE(Commercial), MSEDCL and Deputy Executive Engineer, F.S., Nagpur, 'the appropriate billing for the electricity units consumed for construction purpose is required to be done under respective tariff i. e. LT-VII', therefore a revised bill of above amount was

issued for the period Oct. 06 to Feb 08 under tariff code LT-VII applicable for temporary connection for construction activities.

Further the non-applicant has informed to the applicant that a revised bill for the period March 08 to June 08 under tariff code HT-Temporary applicable for temporary connection for construction purpose would be prepared and forwarded to the applicant as per revised tariff w.e.f. 01.06.08.

5. The applicant has protested the above bill vide letter dated 23.07.2008 and informed to the non-applicant that his supply was being HT, therefore bill raised on the basis of LT-VII tariff not applicable to him. The applicant has paid the energy bill for Jun '08 under protest as per section 56 (1) (b) of Electricity Act 2003 and requested to the applicant that not to disconnect the supply as per the provisions of the Act till the dispute would be resolved.

But the non-applicant has issued a 7 days disconnection notice dated 29.07.08 which has further replaced by 15 days disconnection notice dated 02.08.08 and requested to the applicant to pay Rs.52,89,561/- which included Rs.2,85,660.24/- as June 2008 electricity bill, Rs.49,00,183.44 as revised bill based on LT-VII tariff and delayed payment charges of amount Rs.1,03,716.87/-.

6. Aggrieved by this, the applicant has registered his grievance on dtd.12.08.08 in the Forum. The CGRF has heard the case and passed an order in case no. 43/2008 on dated 19.09.08. The applicant has mentioned that as per the order the non-applicant

was directed not to revise the applicant's energy bill from Oct. 2006 to May 2008 as the tariff meant for temporary category LT-VII should not be made applicable to the applicant. Also quashed disconnection notice dated 02.08.2008 and directed to the non-applicant to revise bill accordingly.

7. The applicant has further stated that the non-applicant has submitted a compliance report and informed to the forum that the amount Rs.49,00,183.44/- and Rs.12,39,517.05/- were kept aside. Also HT energy bills w.e.f. June, 2008 and onwards have been revised and fresh bill issued with HT-II Comm. Category. The said bill issued by the non applicant also showed a credit to the tune of Rs.7,86,261.60/- in the account of the applicant.
8. The applicant after receipt of CGRF order has issued a letter to the non-applicant on dated 23.09.2008 and requested to withdraw the revised bills of deferential value for the relevant period. The applicant has made a payment of an amount of Rs.3,51,824/- alongwith late fee charges. Similarly the applicant also paid the energy bill for the month of September, 2008 on 13.10.2008 as per Forum's order with HT-VI tariff.
9. The non-applicant has issued a revised bill on 20<sup>th</sup> October, 2008 showing a credit of Rs.7,86,261.60/- in the applicant's account. After this the applicant informed to the non-applicant to adjust the amount with the credit balance line with the non-applicant and forwarded a calculation chart. The chart showed that after

adjusting the bill amount for the month of October, 2008 a credit balance of Rs.2,98,870/- was with the non-applicant

But the non-applicant again issued a wrong energy bill for the month of October, 2008 by applying a new tariff and not following the order of Forum. Therefore the applicant again requested to the non-applicant on dated 13.11.2008 to issue a correct bill for the month of October, 2008. The applicant has pointed to the Forum that the non-applicant has violated the CGRF order and hence liable to be prosecuted under section 142 and 146 of the Electricity Act, 2003.

10. On 19.11.2008 the applicant was received a notice from the non-applicant in which it is mentioned that as per directives of his Head Office at Mumbai, the applicant would be billed as per new applicable tariff i.e. HT-Temp. Therefore the non-applicant has issued a difference of the bills w.e.f. 01.06.2008 as per new applicable tariff and requested to the applicant to pay promptly in order to avoid the delay payment charges.

The applicant again received another notice of disconnection dated 08.12.2008 with amount Rs.68,73,163.77/- which included Rs.49,00,183.44/-, bill for the period October, 2006 to October, 2008 and Rs.12,39,517.05/- for a period March 2008 to June 2008 which were already set aside by the Forum's order dated 09.09.2008. With this the applicant has pointed out that the non-applicant has submitted a compliance report to the CGRF and informed that the bills for the said amount have been set aside and after that issued a notice including these amounts.

Thereby misguiding the CGRF and defying its directions which is disregard to Forum's order.

11. The applicant has aggrieved by the illegal notice dated 19.11.2008, 08.12.2008 and the illegal bills issued by the non-applicant. Therefore filed a writ-petition before Hon. High Court on dated 15.12.2008 and requested to the Hon. Court to grant stay to the notice of disconnection.

The non-applicant has also filed a writ-petition and the same is still pending and even no interim relief was granted by the Hon. High Court.

12. The applicant has submitted an additional affidavit to the Hon. High Court, the respective MERC order in case no. 116 dated 17.08.2009. According to which.....

“The Maharashtra Electricity Regulatory Commission vide its order dated 17.08.2009 in case no. 116/2008 has now categorically held that temporary supply – HT or LT as applicable will not include any construction activity, and will be limited to electricity used on temporary basis for any decorative lighting for exhibition, circus, film-shooting, marriages, etc..., and the time period for consideration under temporary category will be one year. Further, all construction activity, on infrastructure projects, building, Hill stations, etc., will be classified under ‘Commercial category’ and by charge at HT Commercial or LT Commercial as applicable”.

Thereby the construction activity cannot be held to be temporary and the tariff applicable to temporary connection could not be made applicable to the applicant. Therefore the applicant could not be treated as temporary under any category and any tariff, the notice of disconnection dated 08.12.2008, 19.11.2008 issued by the non-applicant by categorizing the applicant as HT-Temporary Consumer liable to quashed and set aside.

13. The non-applicant has submitted the reply in the Forum on dated 04.10.2010. He has explained that the function of MERC is to prescribe the tariff for the electricity time to time and all the consumers are charged in accordance with the tariff. The non-applicant has given a brief regarding MERC's consideration for construction activities in various orders.
  - a. In the tariff order for 2006-07 the consumers with construction activity availing LT supply were classified under temporary category LT-VII. But no category was awarded to consumers with construction activities availing HT supply.
  - b. In the tariff order for 2007-08 no separate category was awarded to consumer with construction activity availing HT supply.
  - c. But in clarifactory order dated 24.08.2007 and tariff order dated 20.06.2008 MERC has clarified that HT-Temporary consumer will be the same that applicable for LT-Temporary consumers.



d. When concerned was expressed by the Consumers engaged in construction activities that the nature of their connection is by no means temporary and hence it is in appropriate to classify construction activities under temporary. The Commission aggrieved with this rational and in the tariff order dated 17.08.2009 it ruled that from here onwards temporary supply HT or LT will not include any construction activity and classified construction activity under Commercial activity.

14. By referring above points, the non-applicant explained that during the period 2006-07, 2007-08 and 2008-09 MERC was of the opinion that construction activity was a temporary activity and was categorized under temporary tariff. M/s. KSL Infrastructure was although charged as per Commercial Tariff it was clearly mentioned in the agreement that power would be utilized for Commercial (construction activity). Therefore the applicant tariff rate was shifted to construction activity i.e. LT-VII as per MERC order. The energy bill raised as per tariff order from 01.10.2006 for the period October, 2006 to February, 2008 and March 2008 to June 2008 were correct.

15. The non-applicant has stated that he has complied CGRF order in case no. 43/2008 on dated 20.10.2008 by keeping aside the bills raised with amount Rs.49,00,183.44/- and Rs.12,39,517.05/- since October, 2006 to June 2008 and the bills w.e.f. June 2008 onwards

have also been revised and fresh bill was issued with application of tariff category HT-II Commercial.

Although this office had complied CGRF order dated 19.09.2008 but it was not acceptable to him. Therefore a writ-petition was filed in the Hon. High Court, bench at Nagpur against the order passed by CGRF on dated 23.10.2008. After this as per the guidelines received from Head Office a revised bill was issued to the applicant for the period October, 2006 to October, 2008 as per the temporary tariff. As the consumer defaulted in making the payment of the energy bill a 15 days disconnection notice was served on dated 08.12.2008 to the applicant.

Thereby this office has not violated the order of CGRF as it was challenged in Hon. High Court.

16. The applicant has mentioned that although the connection of the consumer is of permanent nature but the connection is being used for construction purpose as per MERC tariff order w.e.f. 01.10.2006, the construction activities are categorized temporary category for billing purpose. Therefore the bill raised by MSEDCL as per LT-VII tariff category upto September, 2009 is correct. The Commission has ruled tariff order dated 17.08.2010 that temporary supply – HT or LT as applicable will not include any construction activity and classify construction activity under Commercial category. Therefore the notice dated 19.11.2008 and disconnection notice dated 08.12.2008 are legal. With this the non-applicant requested to the Forum not to quash the notices served on dated 19.11.2008 and 08.12.2008 and charged him

HT-VI tariff category and reject the applicant's grievance application.

17. The matter was heard on dated 22.10.2010. Both the parties were present. On behalf of the non-applicant Shri M.S. Kele, Superintending Engineer & Smt. V.P. Jiwtode, Assistant Engineer, NUC, Nagpur were present.

Shri R.B. Goenka, the applicant's representative has filed a rejoinder to the reply of MSEDCL in the Forum at the time of hearing. He has reiterated the points as mentioned in the grievance application and the rejoinder. He has pointed out that MSEDCL has issued a false compliance of forum's order and issued a bill to the applicant by applying wrong tariff which showed clear violation of Forum's order.

18. He has objected the non-applicant's statement that a revised bill was issued to the applicant for the period of Oct 06 to Oct 08 by applying temporary category tariff because no such bill was received by the applicant. Therefore disconnection notice dated 08.12.08 was raised on an imaginary bill which was not issued to the applicant.

He further objected regarding the non-applicant's compliance report statement that a bill dated 20.10.08 was issued to the applicant showing a credit balance of Rs.7,86,261.20/-. Thereby pointed out to the forum that MSEDCL has failed to comply the Forum's order issued which is punishable under section 146 of Electricity Act 2003.

19. The applicant's representative has requested to the forum to initiate suo motu proceeding against MSEDCL as per clause 6.20 of regulations for false compliance of the order. He has also pointed out to the forum that writ petition was actually filed by the non-applicant on 12.12.08 not on date as mentioned in the reply.

20. He has further added that non-applicant is trying to apply a tariff applicable to temporary connection thereby misinterpreting the tariff order of the Commission. Also MERC never opined that construction activity is a temporary activity and temporary tariff should be applied to such activity and never said that the temporary connection tariff should be applied to a permanent connection.

He has further requested to the Forum that as the matter has been referred to this Forum by the Hon. High Court and the Forum has power to take decision, therefore issue directions to the non-applicant as prayed by the applicant in its grievance application.

21. The non-applicant also repeated his say as mentioned in the reply and requested to reject the applicant's prayer as there is no material substance in applicant's grievance. When asked about the status of writ-petition, the applicant's representative informed to the Forum that no stay is granted till date on CGRF order. The non-applicant also did not deny this status.

22. Heard both the parties and observed the documents on record. It reveals that the applicant has filed a writ in the Hon. High Court
- i. For quashing the disconnection notice dated 08.12.2008 for non- payment of energy bill for the month of October, 2008 charging the applicant for LT-VII tariff and demanding differential amount from October 2006 to February, 2008 and March 2008 to June 2008.
  - ii. For quashing the notice dated 19.11.2008 for categorizing the applicant as HT-Temporary user and demanding differential amount from June 2008 to October, 2008.
  - iii. To direct the non-applicant to avoid by the order passed by CGRF dated 19.09.2008

Upon this the Hon. High Court has directed to the applicant as an alternate remedy available to the applicant, the subject matter should be gone into by the Grievance Forum which has been confirmed with powers to adjudicate the dispute particularly correctness of the bill.

23. In context to above, the Forum has to decide the matter with respect to the notices dtd.08.12.2008 and dtd.19.11.2008.

The disconnection notice dtd.08.12.2008 has included the amounts, energy bill for October, 2008, (Amt. Rs.7,19,081.65+14,381.63 as DPC), revised bill for the period October, 2006 to February, 2008 (Amt. Rs.49,00,183.44) and

revised bill from March 2008 to June 2008, (Amt. Rs.12,39,517.05). Also the non-applicant has filed a Writ-Petition to the Hon. Court against CGRF order dated 19.09.2008.

The CGRF in its order dated 19.09.2008, has directed to the non-applicant to revise applicant's bill from October, 2006 to May, 2008. Also mentioned that the tariff meant for LT-VII Temporary category shall not be made applicable to the applicant and the bill meant for difference amount challenged were also set-aside.

Therefore in Forum's opinion as the matter for above bills is pending with Hon. Court and also the non-applicant has not received any stay till date, CGRF order is maintained and hence applicable to the non-applicant. Hence disconnection notice dated 08.12.2008 is not valid and therefore in Forum's opinion it should be quashed.

24. The notice dated 19.11.2008 mentioning that HT-Temporary tariff is applicable to the applicant, but the matter was already decided by the Forum. Hence this notice is also not valid.
  
25. It is clear to the Forum that the matter related to category of consumer i.e. applicability of temporary category to the applicant is pending with the Hon. High Court and the matter is yet to be decided. In other words the dispute is yet to be resolved and therefore both the notices are invalid.

26. In context of correction of disputed bill, the Forum has already decided this matter in case no. 43/2008, dated 19.09.2008.

ORDER

On above grounds the application is disposed off with following orders.

1. The disconnection notice dated 08.12.2008 and notice dated 19.11.2008 are quashed.

Sd/-  
(Smt. K.K. Gharat )  
Member-Secretary

Sd/-  
(Smt. Gauri Chandrayan)  
MEMBER

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