

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

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**Case No. CGRF(NUZ)/021/2015**

Applicant : M/s. Mint House (V-5 Hotel),  
User :- Pritpal Singh Vij,  
Mount Road, Sadar,  
Nagpur.

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

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

2) Shri Anil Shrivastava,  
Member / Secretary.

**ORDER PASSED ON 13.3.2015.**

1. The applicant filed present grievance application before this Forum on 27.01.2015 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. Applicant's case in brief is that he is running a Hotel named as V-5, at Mint House, Mount Road, Sadar, Nagpur. There was dispute of assessment bill of Flying Squad, M.S.E.D.C.L. NUZ, Nagpur. The matter was settled by Hon'ble Electricity Ombudsman Nagpur, vide representation No. 106/12 as per order dated 5.3.2013, wherein it was ordered to issue assessment bill from June 2009 to May 2011 by clubbing

the consumption of both the meters. Accordingly, assessment of Rs. 7,22,673/- (Rs. Seven Lac Twenty Two Thousand Six Hundred Seventy Three only), was done by M.S.E.D.C.L. NUZ, Nagpur and detail statement of Rs. 722673/- was issued by M.S.E.D.C.L. authorities.

3. In the mean time, the hotel was given on "Lease" to one party who was not paying the electricity bill regularly. S.N.D.L. authority failed to take action of disconnection timely so that amount of energy bills would be recovered. Thus arrears were accumulated. The lessee had not paid energy bills from April 2013 to December 2013 and left premises. The lessee has paid only Rs. 1,50,000/- against the energy bill from April 2013 to December 2013 amounting to Rs. 750000/- (Rs. Seven Lac Fifty Thousand only) approximately. S.N.D.L. authorities disconnected the supply after lessee left the premises in December 2013.

4. When the applicant approached S.N.D.L. authorities for reconnection of supply, SNDL authorities demanded payment of Rs. 21,21,485/- (Rs. Twenty One Lac Twenty One Thousand Four Hundred Eighty Five) only against actual arrears of Rs. 13,22,673/- (Rs. Thirteen Lac Twenty Two Thousand Six Hundred Seventy Three) only and also demanded undertaking to that effect. Applicant had no other alternative but to pay the amount demanded. Applicant paid the amount of Rs. 21,21,485/-, "Under Protest" as under :-

A) Rs. 7,50,000/- paid on 11.1.2014.

B) Rs. 7,50,000/- paid on 28.1.2014.

C) Rs. 6,21,485/- paid on 26.2.2014.

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Rs.21,21,485/- Total amount paid to S.N.D.L.

5. S.N.D.L. authorities have not given any details of Rs. 21,21,485/- in spite of repeated requests by the applicant. As per record of the applicant and as a matter of fact, the outstanding amount was as under :-

A) Rs. 7,22,673/- As per order of Electricity Ombudsman, Nagpur.

B) Rs. 7,50,000/- (Approx.) o/s amount for the period July 2013 to Dec. 2013.

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Rs.14,72,673/- Total outstanding dues.

6. Out of above outstanding amount, lessee has paid Rs. 1,50,000/- and thus total outstanding amount before disconnection was Rs. 13,22,673/-. As against this amount of Rs. 13,22,673/-, SNDL authorities have recovered Rs. 21,21,485/-. Thus, they have recovered Rs. 798812/- (Rs. Seven Lac Ninety Eight Thousand Eight Hundred Twelve) only, in excess of actual outstanding amount. Applicant filed grievance application to I.G.R.C. on 26.11.2014 as per order passed by this Forum Dt. 14.10.2014. However, I.G.R.C. of S.N.D.L. has neither communicated any decision nor taken any hearing in the matter up to 17.1.2015. Since prescribed time limit as per the said regulation has passed, applicant submitted grievance application to this Forum under regulation 6.4 of the said regulations and it is tenable at law.

Therefore applicant claimed to issue refund of excess amount of Rs. 798812/- along with interest @ 18% p.a. thereon from the date of payment.

7. It is pertinent to note that though sufficient time was granted, Nodal Officer or M.S.E.D.C.L. did not file any reply on record though the matter is pertaining to their period and remained silent. Therefore there is

no denial about the claim of the applicant by M.S.E.C.D.L. and so far as M.S.E.D.C.L. is concerned, grievance application is amounting to undisputed fact or amounting to admission in absence of denial.

8. S.N.D.L. denied applicant's case by filing two different replies. First reply on Dt. 11.202015 and second reply is dated 16.2.2015. It is submitted that previously applicant filed grievance application before this Forum vide Unregistered Case and as per order dated 14.10.2014, it was ordered by this Forum that applicant should first approach to I.G.R.C. for Redressal of his grievance under regulation 6.2 of the said regulations and in case his grievance is not redressed, then applicant is at liberty to approach this Forum under regulation 6.4 of the said regulations. However, applicant did not approach to I.G.R.C. as per order of this Forum Dt. 14.10.2014, and therefore grievance application deserves to be dismissed.

9. In further reply Dt. 16.2.2015, it is submitted by S.N.D.L. that it is true that M.S.E.D.C.L. has revised assessment amount of Rs. 722,673/- as per their letter No. 3943 Dt. 14.8.2014 and another letter No. 5152 Dt. 23.10.2013. But M.S.E.D.C.L. authorities have calculated final credit of Rs. 2,58,666/- considering the assessment of amount of Rs. 7,22,673/- and directed S.N.D.L. to give effect of credit amount in the bill vide M.S.E.D.C.L. letter 3943 and accordingly S.N.D.L. limited has given credit of the said amount in the billing month of August 2014. Applicant has mentioned that he has given the premises on lease to some other party who has not paid energy bills regularly. Due to non payment of energy bill upto November 2013 for Rs. 21,21,485/- as per CPL, the supply was disconnected in the month of December 2013 which is justified. After making part payment amount, supply was reconnected, later on he has

paid remaining amount. As per applicant's calculation, net arrears as on November 2013 is Rs. 13,22,673/- as against Rs. 21,21,485/- and therefore he demanded refund of Rs. 7,98,882/-. But as per CPL the amount of outstanding arrears at the end of November 2013 was 21,21,485/- and amount of arrears stated by the applicant is Rs. 13,22,673/- has no base, so also, has not submitted any documentary evidence in support of his statement. Grievance application deserves to be dismissed.

10. On behalf of the applicant, Shri Banait, representative of the applicant argued the matter. On behalf of M.S.E.D.C.L. Shri Rody, A.A. was present and argued the matter and on behalf of S.N.D.L. Shri Dahasahasra argued the matter.

11. Forum heard argument of non applicant and perused record.

12. Initially, we have to point out whether applicant has complied the provisions laid down u/s 6.2 of the said regulations as ordered by this Forum in Unregistered Case Dt. 14.10.2014? According to the applicant, after passing of the order by this Forum Dt. 14.10.2014, applicant filed grievance application to I.G.R.C. on 26.11.2014. However, I.G.R.C. has neither communicated any decision nor has taken any hearing in the matter up to 27.1.2015. Since prescribed time limit as per said regulation is lapsed, applicant submitted this representation to this C.G.R.F. under regulation 6.4 of the said regulations. In support of his contention, applicant had produced very important document on record i.e. application in Schedule 'X' addressed to I.G.R.C., S.N.D.L. Nagpur Dt. 26.11.2014. It is pertinent to note that on this application to I.G.R.C. in Schedule 'X', there is clear cut acknowledgement of S.N.D.L. Nagpur under the date 26.11.2014 with signature regarding receipt of this application. Specific

acknowledgement of SNDL under the signature & seal of SNDL is sufficient to come to the conclusion that applicant filed grievance application to I.G.R.C. on 26.11.2014 and therefore only concerned employee had given acknowledgement under his signature & stamp of S.N.D.L. It was duty of the employee who gave the acknowledgement under the signature & seal to forward that grievance application to I.G.R.C. in the office of S.N.D.L. It is the contention of I.G.R.C. & S.N.D.L. that they did not receive any grievance application from the applicant. However, this specific acknowledgement under the signature & seal of S.N.D.L. shows that grievance application was filed to I.G.R.C. and concerned Receipt Clerk signed duplicate copy of grievance application as acknowledgement. Therefore it was his duty to forward the grievance application to I.G.R.C. If machinery of S.N.D.L. failed to do so or negligent on their part applicant can not be held responsible for their negligence. In our considered opinion, it is nothing but unnecessarily harassment to the consumer that though grievance application was submitted to I.G.R.C. and though receipt clerk accepted it and gave acknowledgement in writing, even then SNDL who is insisting that applicant should again file fresh grievance application. Considering entire record, we are of the considered opinion that applicant filed grievance application to I.G.R.C., which was accepted by concerned clerk and acknowledged in writing. Even then I.G.R.C. did not decide the matter within 60 days till 27.1.2015 and therefore we hold that applicant had duly complied provisions laid down under regulation 6.2 of the said regulations and there is deemed compliance. Therefore present grievance application under regulation 6.4 is definitely tenable at law.

13. Record shows that SNDL is anyhow unnecessarily prolonging the matter by hook or crook. When the matter was fixed for filing the reply

by M.S.E.D.C.L. and S.N.D.L. on 12.2.2015, on that date SNDL filed very short reply Dt. 11.2.2015 simply alleging that there is non compliance of regulation 6.2 and grievance application be dismissed. However, detailed para wise reply was not filed by SNDL on 12.2.2015 and in the interest of justice matter was again adjourned and thereafter any how SNDL filed reply Dt. 16.2.2015 on merits in detail. It is nothing but unnecessary prolonging the matter and harassment to the applicant.

14. It is pertinent to note that present matter is related to the period of M.S.E.D.C.L. Therefore it was necessary on the part of M.S.E.D.C.L. to file written reply on record to the grievance application of the applicant. Though the matter was adjourned on 2 occasions i.e. on 12.2.2015 & 20.2.2015, even then M.S.E.D.C.L. or its Nodal Officer did not care to file any reply on behalf of M.S.E.D.C.L. on record and they have simply attached their forwarding letter and thereby forwarded reply of S.N.D.L. As there is no reply filed by M.S.E.D.C.L. on record, therefore M.S.E.D.C.L. did not deny contention of the applicant in grievance application. As there is no denial by M.S.E.D.C.L. about the grievance of the applicant, therefore it is amounting to undisputed fact and admitted fact so far as M.S.E.D.C.L. is concerned. When allegations in the grievance application are not denied by M.S.E.D.C.L., it is amounting to an admission. It is pertinent to note that in many other cases in which there is related period of M.S.E.D.C.L., officers of M.S.E.D.C.L. did not care to file written reply on record and in many cases this Forum has pointed this fact in several orders and directed in writing to officers of M.S.E.D.C.L. that the matter in which their period is related, they should invariably file their reply on record. In spite of this fact, in present case also Nodal Officer and officers of M.S.E.D.C.L. did not file any reply on record and therefore allegations of the applicant in grievance application are amounting to an

admitted fact so far as M.S.E.D.C.L. is concerned. As there is no reply by M.S.E.D.C.L. there is nothing on record to show on what basis they have calculated, how much amount, for which period, whether the calculation and assessment is correct or wrong. It is main lacuna so far as M.S.E.D.C.L. is concerned.

15. In representation No. 106/12, Hon'ble Electricity Ombudsman passed the order dated 5.3.2013 as under :-

- “(a) The Representation is partly allowed.
- (b) The order of the Forum dated 27.9.2012 is quashed and set aside.
- (c) The communication / Notice of Demand dated 15.6.2012 issued by the respondents to the appellant is quashed.
- (d) It is hereby declared that the respondents are entitled to recover energy charges from the appellant by clubbing the consumption of both the meters / connections for the period from June 2009 to May 2011 for 24 months only.
- (e) The respondent may issue revised bill to the appellant accordingly.
- (f) No order as to costs”.

Therefore it was ordered by Hon'ble Electricity Ombudsman Nagpur that Respondents are entitled to recover energy charges from the applicant by clubbing the consumption of both the meters / connections for a period from June 2009 to May 2011 i.e. for 24 months only and respondents may issue revised bill to the applicant accordingly. It is pertinent to note that though the period mentioned in the order passed by Hon'ble Electricity Ombudsman Nagpur is shown as June 2009 to May 2011, even then calculation sheet prepared by M.S.E.D.C.L. shows that they have prepared the calculation sheet for the month from May 2009 to April 2011 and not for June 2009 to May 2011. Therefore this calculation



sheet prepared by M.S.E.D.C.L. is not correct and not prepared accurately as per order passed by Hon'ble Electricity Ombudsman, Nagpur.

16. We have carefully perused calculation sheet prepared by M.S.E.D.C.L. regarding the details of bill revised in respect of Mint House, Consumer No. 419993287149/CTM & 419993287157/CTM w.e.f. May 2009 to April 2011. In this calculation sheet, it is specifically mentioned that as per order passed by Hon'ble Electricity Ombudsman Nagpur, M.S.E.D.C.L. is liable to pay amount of Rs. 7,22,673.28 to the applicant. It is also the case of the applicant that as per order of Hon'ble Electricity Ombudsman Nagpur, M.S.E.D.C.L. is liable to pay Rs. 7,22,673.28 to the applicant.

17. However, at the bottom of this calculation sheet, M.S.E.D.C.L. has again changed the figures and in small letters calculated amount of Rs. 2,58,766.44. This calculation in small letters at the bottom is contradictory to the upper part of the sheet and contradictory to the record. In this calculation, in small letters, DPC, interest @ 12% for 24 months is shown to be credited only Rs. 49,288.85. However, it is rather surprising to note that in CPL of Consumer No. 419993287149, in the month of January 2014, DPC and interest is shown as 4,91,955.58. When DPC and interest is shown only Rs. 49,288.85 in the calculation sheet of M.S.E.D.C.L. even then SNDL has shown arrears of DPC & interest Rs. 4,91,985.58 in January 2014. It is an admitted fact that applicant paid total amount of Rs. 21,21,485/- "**Under Protest**" as detailed below :-

- 1) Rs. 7,50,000/- Paid on 11.1.2014.
- 2) Rs. 7,50,000/- Paid on 28.1.2014.
- 3) Rs. 6,21,485/- Paid on 26.2.2014.

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Rs.21,21,485/- Total amount paid.

18. It is pertinent to note that though order of Hon'ble Electricity Ombudsman is Dt. 5.3.2013, even then M.S.E.D.C.L. has prepared Calculation Sheet at a very later stage. It is pertinent to note that below this calculation sheet of M.S.E.D.C.L. no date of preparation of calculation sheet is mentioned anywhere either at the bottom, on the top, or in the body of the calculation sheet. Asstt. Acctt., Nodal Office, NUZ, MSEDCL, Nagpur, J.M. (F&A), MSEDCL, NUC, Nagpur, A.M. (F&A), Nodal Office, MSEDCL, NUC & Dy. Manager (F&A), MSEDCL, Nagpur signed below this calculation sheet under their signature, but they have also not mentioned any date below their signature. Therefore this calculation sheet prepared by M.S.E.D.C.L. is undated. It is true that there is covering letter sent by Superintending Engineer & Nodal Officer, NUC, MSEDCL, Nagpur addressed to Business Head of SNDL No. 3943 under the date 14.8.2013. Therefore at the most, it can be stated that this calculation sheet was prepared on 14.8.2013, though the order of Hon'ble Electricity Ombudsman is dated 5.3.2013. Therefore calculation sheet is prepared by M.S.E.D.C.L. after 5 months of passing of the order by Hon'ble Electricity Ombudsman and hence they are not entitled to charge any interest for this delayed period.

19. Further more, even if for the sake of argument, it is presumed that M.S.E.D.C.L. prepared calculation sheet and intimated it as per Letter No. 3943 Dt. 14.8.2013 to SNDL, even then there is nothing on record to show that there was demand of this amount by M.S.E.D.C.L. to the applicant. There is nothing on record to show that M.S.E.D.C.L. issued any specific letter addressed to the applicant calling upon him that M.S.E.D.C.L. has calculated such & such amount as per order of Hon'ble Electricity Ombudsman Nagpur, directing him to deposit the same.

Though it is specifically mentioned in the order of Electricity Ombudsman, Nagpur to prepare revised bill, even then there is nothing on record to show that M.S.E.D.C.L. has prepared any revised bill and served it on the applicant for payment. Therefore M.S.E.D.C.L. or SNDL is not entitled to claim any DPC and / or interest on this amount as calculated. Therefore amount of interest calculated & shown by the SNDL Rs. 4,91,955.58 as shown in CPL in the month of January 2014 is total illegal and not recoverable. Therefore entire calculation of SNDL is incorrect and contrary to the factual position.

20. Secondly, SNDL has produced one document, i.e. payment details of Consumer No. 419993287149. In this document, SNDL has shown cheque bounce amount Rs. 1,03,350/- and another amount Rs. 1,54,850/-, total of both these amounts comes to Rs. 2,58,000/-. In the CPL also, in the month of October 2013, amount of Rs. 2,58,200/- is shown as debit amount due to both cheques bounced. It is noteworthy that in the CPL at the bottom in the last-but-one column, there is separate column for cheque dishonoured flag but in this column on account of cheque bounce amount is shown 00.00. If really there was cheque bounce, it should have been reflected in relevant last-but- one column in CPL but that column is empty and these aspects are sufficient to come to the conclusion that CPL is not prepared correctly and accurately, so also factual information is not fed in CPL correctly and accurately, resultantly, entire calculation appears to be incorrect.

21. Therefore M.S.E.D.C.L. and S.N.D.L. has to withdraw entire DPC and interest till demand and have to recalculate it correctly as per the order of Hon'ble Electricity Ombudsman Nagpur and factual aspects.

22. According to SNDL applicant had given undertaking on Stamp Paper that they are ready to pay this much amount. On the contrary, representative of the applicant argued that supply of the applicant was disconnected and no other alternative was left with the applicant than to obey dictated terms by SNDL and therefore only “**under protest**” they paid total amount of Rs. 21,21,485/-. However, as per order of Hon’ble Electricity Ombudsman Nagpur, amount payable was Rs. 7,22,673/- + Rs. 750000/-, outstanding amount for the period April 2013 to December 2013 (Approximately). Therefore total amount of Rs. 14,72,673/- was only recoverable by SNDL recovered amount of Rs. 21,21,485/- and therefore excess amount of Rs. 7,98,812/- is recovered by SNDL. According to the applicant in his grievance application, applicant is entitled for refund of this amount with interest.

23. After careful perusal of entire record, Forum is of the view that applicant is liable to pay bill of Rs. 7,22,673/- as per order of Hon’ble Electricity Ombudsman + Actual bill of consumption of the applicant from April 2013 to December 2013 without DPC and interest. Total of both these amounts is only recoverable from the applicant, but applicant has paid Rs. 21,21,485/-. Therefore, after calculation, applicant is entitled for refund of excess amount paid by the applicant. According to the applicant he paid excess amount of Rs. 7,98,812/- but he has approximately considered amount of Rs. 7,50,000/- as outstanding amount for the period of April 2013 to December 2013, but unless & until it is not calculated actually, one can not ascertain the exact & factual figure.

24. For these reasons, we hold that following amounts are recoverable from the applicant:-

a) Rs. 7,22,673/- As per order of Hon’ble Electricity Ombudsman.

Plus –

b) Actual outstanding bill of actual consumption without DPC and interest for the period from April 2013 to December 2013. Total of both these amounts is payable by the applicant.

25. However, the applicant paid Rs. 21,21,485/- and therefore this excess amount paid by the applicant is refundable to the applicant by Non applicant.

26. Applicant claimed interest @ 18% p.a. However, according to Section 62(6) of Electricity Act 2003, applicant is entitled to claim interest as per bank rate on the amount of refund from the date of payment till realization of the amount. Hence Forum proceeds to pass the following order :-

#### ORDER

- 1) Grievance application is partly allowed.
- 2) The amount demanded & recovered by the Non applicant from the applicant amounting to Rs. 21,21,485/- is hereby set aside and quashed.
- 3) Non applicant is directed to calculate actual energy bill of the applicant for the period from April 2013 to December 2013 at the prevailing rates, without interest and DPC thereupon, by deducting the amount paid by applicant / lessee during the above period.
- 4) Non applicant is further directed to add Rs. 7,22,673/- in the amount of bill calculated as above as per order of Hon'ble Electricity Ombudsman Nagpur.

- 5) It is further declared that the amount so calculated as per Sr. No. 3 & 4 above is only recoverable from the applicant.
- 6) Non applicant is further directed to refund the balance amount to the applicant, from the amount of Rs. 21,21,485/- already recovered from the applicant, with bank rate of interest u/s. 62(c) of Electricity Act 2003. It is further directed that interest should be calculated for the period from the date of payment till realization/refund of the excess amount recovered with interest.
- 7) As the amount of refund is considerably huge, non applicant is directed to refund the amount to the applicant directly and not by adjusting the amount in future bills.
- 8) Compliance should be reported within 30 days from the date of this order.

Sd/-  
(Anil Shrivastava)  
MEMBER  
SECRETARY

Sd/-  
(Shivajirao S. Patil),  
CHAIRMAN