

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, IInd flr. Pune-11

Case No. 01 of 2010

Date: 31/03/2010

**In the matter of Mr. Shivaji Namdeo
Bhosale**

- Complainant

V/S

M.S.E.D.C.L. Bundgarden Division

- Opponent

Quorum

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. L.G.Sagajkar

Member

Mr.Suryakant Pathak

The consumer desires to get his meter No. 1519856 tested through an independent agency Government Engineering College Pune as he challenges the testing report of Maharashtra State Electricity Distribution Co.Ltd. (M.S.E.D.C.L.) . The consumer is therefore directed to deposit the testing fee with MSEDCL. The MSEDCL to fix the date of testing in consultation with Govt. Engineering College Pune so that the meter could be tested in presence of the consumer.

In case the meter is found defective beyond permissible limit the MSEDCL will have to adjust the amount of fee in the next bill.

The testing report should be submitted immediately after the test report is received. Next date of hearing dt.03/03/2010

Sign:

Mr. L.G.Sagajkar,
Member/Secretary

Mr.Suryakant Pathak
Member

Mr.S.V. Bhalerao
Chair Person

Date: 22/02/2010

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, 11nd flr. Pune-11

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- 1) The facts giving rise to the present complaint in brief are that the house No.330 situated at Vitthal Nagar Hadapsar Pune was owned by Chandrakant Kambale. He obtained supply of electricity to the said house from Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short), under consumer No. 170016918337 on 13/01/1996 . Shri.Chandrakant Kambale subsequently sold the said house to Shri. Shivaji Bhosale (Complainant for short) who is now the occupier of the said premises using electricity for it and therefore a consumer. The complainant received a bill dt. 08/09/09 for the huge amount Rs.2, 27,540/- . He therefore made a complaint to the opponent. On complaint made by complainant the opponent revised the bill giving credit of Rs. 66,222/- and claimed Rs. 1, 61,320/- .

The complainant was not satisfied with the correction made by the opponent. He therefore made a complaint to Internal Grievance Redressal Cell (IGRC) on 29/10/09. The IGRC vide letter dt. 21/12/2009 informed the complainant that his meter would be tested in his presence on 18/12/09 and bill would be adjusted in accordance with the result of the test report. The IGRC further informed to the complainant that as in the meantime the readings were not properly taken the total units consumed would be equally divided in as many months from the date of supply. In implementation of the direction given by the IGRC the opponent got the meter tested and as the meter was found correct the opponent insisted upon its earlier claim. The complainant therefore made a grievance to this forum challenging the bill contending that the said bill was based upon the reading recorded by a defective meter and bills were given to him from time to time on average basis and therefore all those bills be revised as per consumption recorded by a new meter bearing No.11899954.

- 2)** The opponent filed its say contending that complainant's premises had been receiving electricity through meter No. 1519856 from Nov-2005 to Sept-2009. The complainant did not pay the electricity charges regularly. In the month of April-2005 he made payment of Rs. 16,990/- at which time his old meter bearing No. 32357 was changed and new meter bearing No. 1519856 was installed. The usage of the electricity by the complainant during that period was 516 units per month. It is further contended that up to June-2009 the bills for the electricity used were not given on the correct reading recorded by the meter as the meter reader managed to take the photographs of the meter from one side avoiding a figure of five digit and showing that the reading was only in four digits. On 22/06/09 spot inspection was done and it was found that complainant's meter had

recorded a reading 32439 again on 26/06/09 the reading on the meter was checked and it was found as 32,556. In the month of July-2009 the reading shown on the meter was 33526 the photographs taken of it also show that the meter had displayed reading as on 26/07/09, 33526.

- 3)** Taking the reading recorded by the meter as 33526 on 26/07/09 the total units consumed during the period December-2006 to July-2009 the bill was raised for the total units 21,254 however subsequently it was corrected by spreading equally over a period of 32 months and consequently giving credit of Rs. 66,220/- the amount of Rs. 1, 61,320/- was claimed out of which the complainant paid Rs. 40,000/- on 22/09/09 and made grievance to IGRC. As ordered by IGRC the meter bearing No. 1519856 was tested in presence of the complainant which was found running within permissible error and therefore not defective. As the meter was found not defective the bill for Rs. 1, 61,320/- was confirmed. After the new meter bearing No. 11899954 was installed in the month of Sept-2009 the complainant stopped the supply of electricity to the tenements occupied by his tenants due to which on the new meter the consumption recorded is less and therefore the complainant's prayer for raising the bill according to the consumption shown by the new meter recently installed is unwarranted.
- 4)** On the date of the argument the complainant argued the case and submitted that Consumer Personal Ledger (CPL) was not properly maintained and on most of the occasions he received monthly bill on assumed basis. On reading the test report of his meter No. 1519856 that the meter was showing error 3.2 % and therefore within permissible limit while taking standard meter test but stopped functioning during dial test means before dial test meter was not defective he expressed desire to get the meter tested through an independent agency at his cost. The said meter therefore was got tested through independent agency viz. Dept of Electrical Engineering of College of Engineering Pune. The testing officer of that agency found the meter not working and therefore a faulty one.

5) The complainant submitted that as the meter was found not functioning he should be billed right from the date when his meter No. 1519856 was installed as per monthly average consumption shown by the new meter. On behalf of the opponent Dy.E.E. Shri.Karape submitted that this is not a case of stop meter. If at all meter had stopped it was after taking standard meter test and therefore what ever reading is recorded by the meter till it was removed should be taken as correct and therefore bill based on that as per direction given by IGRC be treated as correct. The opponent produced the complainant's CPL, verification reports dt. 11/06/09 and 22/06/09 to prove what actual reading were displayed on meter on the respective dates, the test report given by testing division of MSEDCL, statement of calculations made in view of the directions given by IGRC. The electricity bill dt. 08/09/09 which was for Rs. 2,27,540/- corrected to the amount of Rs. 1,61,320/- meter change register with report of details of meter removed, in all 12 photographs of impugned meter bearing No. 1519856 taken during the period from 12/01/08 to 26/07/09. From the facts and documents brought on record. The following points arise for consideration

1- Is the billing for the electricity consumed by the complainant during the period from 06/07/05 the date on which impugned meter bearing No. 1519856 was installed till August-09 the month in which it was removed correct.

2- If the above point is answered in the negative what should be charges for the electricity consumed during the above referred period by the complainant.

Point No.1 & 2 are answered as per final order for the reasons given below.

REASON

6) POINT NO.1& 2 :- The report given by testing division of MSEDCL shows that on taking standard meter test, meter was found functioning properly as it was within permissible error. However it stopped functioning during dial test meaning thereby before taking dial test, meter was not defective. Proviso to Reg. 14.4.2 of Maharashtra Electricity Regulatory Commission (Electricity Supply code and other conditions of supply) Regulations-2005 (MERC ESC Reg 2005) gives right to the consumer to require the distribution licensee to get the meter tested at such facility as may be provided by the commission. With the consent of complainant and opponent the meter was sent to Electrical Department of College of Engineering Pune at the complainant's cost. The Department of Electrical Engineering on testing the meter found that it was not working and therefore faulty. If the meter is found to have stopped recording the units consumed then II Proviso to Reg. 15.4.1 of MERC ESC Reg.2005 is applicable which lays down

“Provided further that in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, upto a maximum period of three months, based on the average metered consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated.”

The points as regards stop meter will be dealt with at a later stage as the facts brought on record reveal some thing more than simply being a case of stop meter.

7) The meter bearing No. 1519856 was installed on 06/07/2005 and at the time of installation initial reading was one which is established from the extract of the meter change register and report giving details of the meter removed. The impugned meter is of 5 digits however, out of 12 photographs, 5 photographs taken during the period 24/01/2009 to 17/06/09 have been taken from one side or through an angle so that the

first digit of 10,000 denominations should get hidden and reading displayed on meter should appear as if it is only in 4 digits. On going through the CPL. it is seen that till March-09 the reading was always kept within 4 digits. It is interesting to note that even as per reading shown in the CPL when reading was to enter in 5 digits it was kept in 4 digits starting from one in thousand digit denomination. From Sept-2007 upto Sept-2008 the entries have been made so that the bill should be minimal. The entry of the month of July-2007 shows that previous reading is 8540 while current reading is 1,017 and the units consumed are shown as 1,624. The entry June-2006 again shows that previous reading was 3,618 and current reading was 1170 and the units consumed were shown as 2,615. Up to June-2007 the reading had come to 8540 adding consumption of the further period the current reading in the month of July-2007 should have entered in 5 digits but surprisingly it was kept in 4 digits reducing it to 1,017. The actual photographs of the impugned meter taken during the period from 15/01/08 to 26/07/09 have been produced. The readings displayed on meter up to March -2008 is in 5 digits. The photographs of the meter taken on 17/05/08 shows that the reading displayed on the meter is of 5 digits, however the photograph was taken from below the meter so that the figure should not be easily read but on close reading it is apparent that the reading displayed on the meter is 18002. The readings in the photographs of the impugned meter in the month of July -2008 and Sept-2008 are clearly in 5 digits, however the subsequent 4 photographs dt. 24/01/09, 21/05/09, 17/06/09 are taken in such a way that the figure of digit 10 thousand denomination should not appear. If we read all photographs carefully and with diligence it is found that the readings are as shown below in the tabular form

Reading	Date
15274	15/01/2008
16133	27/02/2008
17090	MARCH-2008
18002	17/05/08
20875	23/07/08
22651	07/09/08
26979	24/01/09
29143	23/03/09
30075	18/04/09
31342	21/05/09
32272	17/06/09
33526	26/07/09

- 8)** The photographs of the meter taken on 15/01/08 shows the reading displayed on meter in 5 digits as 15274 however entry made in the CPL of that month is in 4 digits as 1527 and last figure 4 has been omitted. The correct reading as per reading displayed on meter 33526 was entered in the CPL for the month of July-2009 in that month the bill for total unit consumed was claimed as Rs. 2,16,347 /- which included arrears Rs. 44,746/- Readings displayed in the photographs when read Vis-à-vis entries in CPL it is clear that though meter was correctly recording units consumed the same reading was never taken while preparing CPL. Some times photographs were also taken so that though the reading displayed on meter was in 5 digits it should appear only in 4 digits. There is reason to believe that while preparing CPL and some times in taking photographs of the meter there was an active concealment of fact by one having knowledge or belief of the fact or his acts were fitted to deceive. It is advisable that opponent should carry out thorough

investigation to bring the culprits to justice. The consistent progressive reading shown in above referred tabular form read with the fact of the testing report of MSEDCL that the meter was correctly functioning during standard meter test and it stopped functioning there after during dial test it is confirmed that the meter was recording the reading correctly up to 26/07/09 and August-09 however ultimately after standard meter test taken on 18/12/09 the meter stopped functioning and such stoppage was confirmed in the test carried by independent agency and therefore it is reasonable to hold that the dispute about meter stop functioning arose in the month of Dec-2009. In view of II Proviso to Reg. 15.4.1. of MERC ESC Reg. 2005 the complainant or opponent is entitled to get bill for the period for which meter has stopped recording up to a maximum period of 3 months based on the average meter consumption for 12 months immediately preceding the 3 months prior to the month in which the billing is contemplated. The same meter recorded the consumption 1024 units during the period July-09 to Aug-2009. In the month of Sept-2009 meter No. 1519856 was replaced with new meter bearing NO. 76/11899954. The meter has recorded correct reading up to July-09 which is established from the reading displayed on meter as shown in the photographs and there is also reason to believe that the reading recorded in the month of August-09 must have been correct which is also supported by the fact that in the standard meter testing report taken on 18/12/09 the meter was not defective but during dial test which was subsequently taken the meter did not function. It is reasonable to conclude that the meter stopped functioning in the month of Dec-09 and prior to that the meter was correctly recording the units consumed and therefore

functioning correctly. In view of the proviso –II to Reg. 15.4.1 the complainant is entitled to get the bill corrected only for a maximum period of 3 months however in the instant case the meter was never defective till it was removed in the month of Sept-09 and therefore there does not arise a question of correcting the bill in view of proviso-II to Reg. 15.4.1 of MERC ESC. The opponent while calculating the bill assumed that till the end of Dec-06 the bills were issued on the basis of meter reading and therefore the units shown by the meter in that month were deducted from the units shown by the meter in the month of July-09 and the total units consumed from Dec-06 to July-09 were equally spread over 32 months, instead of that the last reading shown by the meter in the month of August-09 34550 units minus the initial reading 00001 displayed on the meter on the day of its installation on 06/07/2005 are taken to arrive at the total units consumed over that period. The units thus consumed are 34549 over the period of 50 months. It is justifiable to raise bill holding the total units consumed as 34549 units over a period of 50 months i.e. from 06/07/2005 to August-2009

- 9)** For making adjustment of the charges for electricity consumed from 06/07/2005 till Aug-2009 will not be barred by time under Sect.56 (2) of the Elect Act as in this case the cause of action accrued to the opponent first when the fraud was detected in the month of June-09 on verification of the actual reading displayed on the meter. Further the demand was made for the actual units consumed for the first time in the month of July-09 and therefore the amount becomes first due in the month of July-09 in view of the decision in Writ petition No.264 of 2006 Brihanmumbai Municipal

Corporation VS Yatish Sharma & Ors. By Hon. Justice D.Y.Chandrachud acting for Bombay High Court dt. 18/01/2007

- 10) The complainant did not receive the bill based on meter reading from July 2005 upto June-09 and therefore for not reading the meter once in two months he is entitled to claim compensation as provided at Sr. No. 7 of Appendix-"A" to Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, period for Giving Supply and Determination of Compensation)(MERC SOP Reg.2005) Regulations, 2005 hence the order

ORDER

- 1) The bill raised by the opponent in the month of August-09 for Rs. 2, 27,535.86 is hereby quashed. The opponent to raise the bill for the electricity consumed by the complainant for the total units 34549 spreading equally over a period of 50 months according to the relevant tariffs then applicable without charging interest and DPC and deducting the amounts paid by the complainant from time to time for the consumption of the electricity during the above said period.
- 2) The opponent to pay the compensation to the complainant @ Rs. 200/- per month as provided in a Sr.No. 7 (i) of Appendix-"A" to MERC SOP Reg.2005 for 45 months by adjusting the said amount in the next bill.
- 3) The opponent is directed to refund the complainant the testing fee which he had paid in getting the meter tested from electricity department college of Engineering Pune.

- 4) The opponent is directed to initiate departmental enquiry against the concerned employees who showed utter negligence in taking photographs, in feeding the data to the billing section and in raising the bills.

- 5) The opponent to submit the compliance report of this order to this forum within a period of one month from the date of this order.

Sign:

Mr. L.G.Sagajkar,
Member/Secretary

Mr.Suryakant Pathak
Member

Mr.A.V. Bhalerao
Chair Person

Date: 31/03/2010