

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No.23/2016

Date of Grievance : 05.07.2016

Date of Order : 18.08.2016

In the matter of illegal disconnection of supply.

Sou. Padma Narendra Hambir,
B-30/2, Indiranagar (Lower),
Pune- 411037.

Complainant
(Hereinafter referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Padmavati Division,
Pune.

Respondent
(Hereinafter referred to as Licensee)

Quorum

Chairperson
Member Secretary
Member

Mr. S.N.Shelke
Smt.B.S.Savant
Mr.S.S.Pathak

Appearance

For Consumer

Mr.Narendra Trimbak Hambir
Sou.Padma Narendra Hambir.

For Respondent

Mr.Rajendra Yedke, Addl. Ex. Engr.
Marketyard Sub/dn.

- 1) The Consumer has filed present Grievance application under regulation no. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
- 2) Being aggrieved and dissatisfied by the order dated 6th May-2016 passed by IGRC Rastapeth Urban Circle, Pune, thereby rejecting the grievance, the consumer above named prefers present grievance application on the following amongst other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the Executive Engineer, M.S.E.D.C.L., Padmavati Dn., Pune vide letter no. EE/CGRF/PZ/Notice/23 of 2016/149 dtd.07.07.2016. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 21.07.2016.
- 4) We heard both sides at length and gone through the contentions of the consumer and reply of the licensee and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
 - i) Consumer namely Sou. Padma Narendra Hambir, vide consumer No.170014239653 connected on 13.05.2015 under category LT-1 Residential- 1 phase having sanctioned load 2.00 KW.
 - ii) Consumer deposited amount of Rs.1000/- as security deposit against the said connection on 27.4.2015.
 - iii) The consumer has deposited energy bills of the said connection till Dec.2015.
 - iv) The Licensee i.e. Chief Engineer, Pune Zone, issued the list of consumers as on 29.2.2016 who have not paid their electricity bills for more than 2 to 3 months with cut-off date as 28.2.2016.
 - v) The Licensee used to serve/distribute bills & notices under section 56(1) of the Act to the consumers through the agency namely "Sanskriti Mahila Bachat Gat".
 - vi) As per the letter dated 2.3.2016 sent by Sanskriti Mahila Bachat Gat to Ex.Executive Engineer, Padmavati Division, Pune, the said distributing agency gave energy bills and notices to the said consumers for the month of Jan.2016 & Feb.2016 on 18th Jan.2016 & 19th Feb.2016 respectively.
 - vii) The Licensee disconnected the energy supply of the consumer & removed the electric meter on 4th March-2016.
 - viii) The consumer deposited arrears of bill of Rs.1190/- on 4.3.2016 by cheque.

- ix) The consumer also deposited reconnection charges of Rs.175/- & then meter was again installed at the premises of the consumer & electric supply was restored on 4.3.2016.
 - x) The cheque bearing no. 000008 for Rs.1190/- towards arrears of bill issued by the consumer in favour of Licensee was dishonored for funds in sufficient & therefore the Licensee charged the penalty of Rs.350/- to the consumer with DPC & Interest on arrears.
 - xi) The consumer approached to IGRC, RPUC, Pune with complaint dated 11.3.2016 about illegal disconnection & compensation.
 - xii) The IGRC, Rastapeth Urban Circle, rejected the grievance of the consumer vide impugned order dated 6.5.2016.
5. The consumer representative Mr.Narendra Hambir submitted that the officials of the Licensee came to his premises on 28.2.2016 & thereafter on 4.3.2016 disconnected the electric supply illegally and removed the electric meter behind the back of the consumer. Thereafter on the very same day the consumer went to the office of the Licensee & deposited arrears of bill of Rs.1190/- & reconnection charges of Rs.175/-. Thereafter the Licensee installed the electric meter & restored the supply on the same day at about 5 to 6 pm. He further submitted that electric supply of the consumer was disconnected only for Rs.850/- without any notice before due date & that too taking away electric meter forcibly in spite of security deposit of Rs.1000/-He further submitted that reconnection charges for restoration of supply are Rs.50/- but Rs.175/- was unauthorizedly recovered from the consumer. Therefore he submits that compensation of Rs.20000/- with cost of Rs.5000/- be awarded & reconnection charges of Rs.175/-be refunded to the consumer with necessary action against the concerned employees of the Licensee for illegal disconnection.
6. On the other hand, Mr.R.Yedake, the Additional Ex.Engineer, Marketyard Sub-dn. submitted on behalf of the Licensee that the said consumer was not paying energy bills regularly after availing the new connection & only

four times consumer has paid their energy bills for the period May-2015 to March-2016. The Chief Engineer, Pune Zone, had issued the list of consumers who have not paid electricity bills for more than two to three months with cutoff date as 28.2.2016 as on 29.2.2016 & in the said list it was shown that the said consumer has made last payment of energy bill on 7th Dec. 2015 & bill arrears of Rs.851.67 was shown outstanding against the said consumer. The notices under section 56 (1) of the Act were issued to the consumer in the month of Jan.2016 & Feb.2016 . As per the report submitted by Sanskruti Mahila Bachat Gat, the distributing agency of the Electricity bills the notices under Section 56(1) of the Act for the month of Jan.2016 and Feb.2016 were given to the consumer on 18th Jan.2016 & 19th Feb.2016. The consumer did not deposit arrears of bills, therefore electric supply of the consumer was temporary disconnected on 4th March 2016. Thereafter consumer deposited arrears of bill of Rs.1190/- by cheque & also deposited reconnection charges of Rs.175/- on 4.3.2016 & thereafter electric meter was again installed & supply was restored on the very same day. He further submitted that each & every staff of this Sub-division are using batches & I-cards while on the duty. He lastly submitted that the supply of the consumer was disconnected as per the provisions of Electricity Act 2003 & therefore the grievance of the consumer be rejected.

7. Section 56 of the Electricity Act 2003 provides for disconnection of supply in default of payment. It reads as under :

56. Disconnection of supply in default of payment

(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply transmission or distribution or wheeling of electricity to him , the Licensee or the generating company may, after giving not less than fifteen clear days notice in writing to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of

such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid but no longer :

Provided that, the supply of electricity shall not be cut off if such person deposits, under protest –

(a) An amount equal to the sum claimed from him, or

(b) The electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months whichever is less, pending disposal of any dispute between him and the licensee.

(2) 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.

8. Section 171 of the Electricity Act, 2003 provides for the manner of services of notices, orders or documents. It reads as under:

171. Services of notices, orders or documents :- (1) Every notice, order or document by or under this Act required or authorized to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt therefore or by registered post or such means of delivery as may be prescribed –

(a) ...

(b) ...

(c) ...

(d) Where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

9. Regulation No.15 of MERC supply code, 2005 provides for billing. Regulation No.15.2.5 provides for manner of service of notice of disconnection to a consumer & second proviso there under provides that such notice shall be served separately & shall not form part of the bill. It reads as under :

15.2.5 A notice of disconnection to a consumer under section 56 of the Act shall be served in the manner provided for in section 171 of the Act:

Provided that, such notice may be served only where the consumer neglects to pay any sum or any charge under section 56 of the Act :

Provided further that, such notice shall be served separately and shall not form part of the bill.

10. Regulation No.15.5 of MERC supply code 2005, provides for due date for payment of bills. It reads as under:

15.5 Payment of bills: - 15.5.1 The due date for the payment of a bill shall be mentioned on the bill and such due date shall be not less than twenty-one days from the bill date in the case of other consumers.

11. Copy of the Electricity bill for the month of Feb.2016 (Ex.C-1) of the said consumer discloses that total bill amount is Rs.1190/- i.e. Rs. 340.11 as current bill & Rs.851.67 as arrears. Security Deposit of the consumer mentioned on the said bill is Rs.1000/- The due date of the said bill mentioned thereon is 8.3.2016. According to the Licensee notices under Section 56(1) have been issued to the said consumer two times i.e. in the month of Jan.2016 & Feb.2016. The letter dated 2.3.2016 sent by bills distributing agency namely Sanskruti Mahila Bachat Gat to the Executive

Engineer, Padmavati Division discloses that energy bills and notices for the month of Jan.2016 & Feb.2016 were given to the said consumer on 18.1.2016 & 19.2.2016 respectively. Copy of the notice under section 56 (1) dated 16 Feb.2016 (Ex.R-1) does not disclose any signature of the consumer thereon. Moreover, it is not the case of the Licensee that the said notice was served to the consumer by RPAD. The Licensee has not produced on record any signed acknowledgement receipt about service of said notice (Ex.R-1) to the consumer. On the contrary, consumer states that she did not receive any notice u/s 56(1) of the Act sent by the Licensee. Therefore notice dated 16.2.2016 is doubtful and prepared subsequently to support and justify the disconnection.

12. The letter dated 2.3.2016 a sent by Sanskruti Mahila Bachat Gat to MSEDCL (Ex.R-2) though discloses that energy bills and notices for the month of Jan.2016 & Feb.2016 were given to the said consumer on 18th Jan.2016 & 19th Feb.2016, it does not disclose about any signed acknowledgement of the consumer have been obtained, nor submitted any signed acknowledgement of the consumer about service of said notices. It does not disclose the address and name of the premises of the consumer. The letter dated 2.3.2016 ((Ex.R-2) is extremely doubtful and prepared subsequently to support and justify the disconnection. Moreover it is clear from Regulation No.15.2.5 that the notice under section 56 (1) shall be served on the consumer in the manner provided for under section 171 of t he Act & that such notice shall be served separately & shall not form part of the bill. Therefore the letter dated 2.3.2016 (Ex.R-2) of Sanskruti Mahila Bachat Gat about service of energy bills & notices together to the consumer is in contravention of the provisions of the Electricity Act and MERC Regulations & cannot be taken into consideration.
13. As per Section 56 (1) of the Act, 15 days clear notice in writing is required to be issued to the consumer before disconnection of the supply. In the

present case alleged notice under section 56 (1) of the Act dated 16th Feb.2016 (Ex.R-1)was allegedly served on 19th Feb.2016. Therefore 15 days Notice period expires on 5th March 2016. The bill for the month of Feb.2016 (Ex.C-1) was allegedly served on the consumer through Distributing agency on 19th Feb.2016. The due date mentioned on the said bill (Ex.C-1) is dated 8.3.2016. However the Licensee disconnected the supply of the consumer on 4th March 2016 i.e. much earlier to the due date. Therefore it is evident that the Licensee (MSEDCL) disconnected the supply of the consumer bearing no.170014239653 without serving statutory notice under Section 56(1) of the Act. The supply was disconnected prior to due date mentioned on the energy bill. The consumer deposited arrears of bills and reconnection charges on the very day i.e. on 4.3.2016 and thereafter the Licensee installed the electric meter & restored the supply on the same day. The reconnection charges for restoration of supply are Rs.50/- but the Licensee made the consumer to deposit of Rs.175/- as reconnection charges. According to Licensee since the meter was removed from consumers premises, challan of Rs.175/- was issued by the concerned section officer. CPL of the consumer discloses that arrears of Rs.851.67 was outstanding against the said consumer whereas his security deposit is Rs.1000/-. Therefore it was not necessary for the Licensee to remove energy meter from the premises of the consumer. The said Act on the part of the Licensee is Malevolent. The above mentioned facts clearly established that the Licensee violated the provisions of Electricity Act, 2003, and MERC supply code Regulations, 2005. Thus the action of disconnection on the part of Licensee is illegal. It caused inconvenience, loss & mental torture to the consumer. Therefore we find that consumer is entitled to get compensation. Taking into consideration facts & circumstances of the case we quantify amount of Rs.5000/- as compensation & Rs.500/- towards the cost of this grievance

application would be adequate quantum of compensation & the cost to be awardable to the consumer.

Date : 18.08.2016

I agree,

Sd/-
S.S.Pathak
Member
CGRF:PZ: PUNE

Sd/-
S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Member Secretary, (B.S. Savant)

I have gone through the above reasoning and my opinion in this matter is differing as below:

1) The complainant could not produce any evidence or documentary proof to show that such loss, if any, is actual loss caused as a direct consequent of Alleged Act, omission or commission on the part of the Respondent. The complainant is not entitled to indirect, consequence, incidental, punitive, exemplary damages or loss or profit or opportunity etc. in terms of Regulation No.17.15 (e) of CGRF Regulations, 2006. Considering these facts, the complainant has claimed compensation of Rs.20000/- towards mental trouble & Rs.5000/- towards complaint expenditure is hereby rejected being malafide & devoid of merit.

2) The official enquiry shall be placed to the concern responsible officer for wrongly action taken regarding temporary disconnection of the consumer without serving the notice as followed by the procedure.

Sd/-
B.S.Savant
Member/Secretary
CGRF:PZ: PUNE

Hence the order by majority

ORDER

1. Grievance of the consumer is allowed with cost.
2. The Licensee is directed to pay the compensation of Rs.5000/- to the consumer for illegal disconnection of electricity supply of the consumer on 4.3.2016 & Rs. 500/- towards the cost of this application.
3. The Licensee may recover the above mentioned amount of compensation & cost from the erring employees by making necessary enquiry as per rules.
4. The Licensee to report compliance within one month from the date of receipt of this order.

Delivered on: - 18.08.2016

Sd/-
S.S.Pathak
Member
CGRF:PZ:PUNE

Sd/-
S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Note :- The consumer if not satisfied may filed representation against this order before the Hon.' ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex,
Bandra (E), Mumbai-51.