

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

Case No. 19 of 2007

Date: 21/01/2008

**In the matter of Mr.S.R.Bhole &
Mr.K.S.Bhole**

- Complainant

V/S

M.S.E.D.C.L. Nagar Road Division

- Opponent

Corum	Chair Person	Mr. A.V.Bhalerao
	Member/Secretary,	Mrs. N.D.Joshi,
	Member,	Mr. T.D. Pore

- 1) Mr. S.R.Bhole & K.S.Bhole (Complainant for short) are getting supply of electricity to their premises through Meter No. 74083 & 74341 respectively. He first approached Internal Grievance Redressal Cell (IGRC) by making an application dt.03/09/07. IGRC found that in case of Shri.S.R.Bhole to whose premises supply of electricity was given through Meter No.74083, the bills were not issued from time to time on the basis of units consumed as shown by meter on the ground that reading not available, in accessible and lock. The bills were given on the basis of units consumed means by reading the meter in the month of Oct-03, Feb-06, May—06, Nov-06 Aug-07, deducting the amount of energy charges paid for the bills which were issued on average basis.
- 2) In case of case Shri. K.S Bhole to whose premises supply of electricity was made through meter No. 708374341, the bills were given on the basis of units consumed means on reading the meter in the month of April-03, Oct-

03, Dec-04 Oct-05, Dec-05, April-06, Nov-06, Aug-07 dividing the units consumed month wise according to the relevant tariff. The IGRC further observed that when both meters were checked on 13/10/07 by accucheck, they were found correct. The IGRC further observed that complainant cannot escape from the liability to pay the amount of bills on the ground that they did not receive them, in view of proviso to Reg. 15.5.3 of Maharashtra Electricity Regulatory Commission, (Electricity supply code and other conditions of supply) Regulation -2005.(MERC ESC & OCS Regulations 2005) however, granted the relief by asking the opponent to waive the interest and delayed payment charges for the period Dec-05 to July-07. The complainants were not satisfied with the relief given by IGRC and therefore they made a grievance by making an application on 28/11/07 and contended that though mistake was admitted by opponent of wrong billing and orally promised to delete interest on arrears and fine w.e.f. 2002 did not give the said relief from 2002 but gave the relief only from Dec-05, that compensation for harassment, mental torture was not given to him though he is heart patient, that their arguments were not considered while deciding the case. The complainant claimed compensation Rs. 1.00 lakh for harassment and relief of waiver of interest and delayed payment charges w.e.f. Dec-02.

- 3) The opponent filed written statement dtd.10/12/07 and dtd.07/01/08 contending that according to the decision by IGRC the amount of interest and delayed payment charges recovered from the complainant were appropriated and fresh bills were issued to the complainants, even then the complainants did not pay the amount of the bill due from them. The complainants for the first time made grievance before IGRC that they did not receive the bill but at no time they made complaint to the opponent at any time either in writing or orally. It was also contended that the average bills were given to the complainant which were for the units less than actual units consumed, even then bills were not paid by the complainants on due dates and therefore they are liable to pay the interest on the arrears and delayed payment charges.

- 4) On the date of hearing though the complainants were served with the notice, they did not appear. The notice was addressed to Shri.S.R.Bhole and Mr.K.S.Bhole and it was sent to their address by RPAD. The postal acknowledgement receipt under the signature, which is illegible probably that of Shri.S.R.Bhole is on record. In spite of receiving the notice of hearing the complainants remained absent. On behalf of opponent DY.Ex.Engineer(Vishrantwadi S/Dn) argued the case.
- 5) On documents produced by both parties, the contents of complaint and written statement, following points arise for consideration.
- 1) Are complainants entitled to the relief of deduction of interest on arrears and delayed payment charges from 2002 till Nov-05?
 - 2) Are complainant entitled to the relief of compensation for not issuing the bill on recording the meter reading at least once in two months? if yes for what period and what amount?
 - 3) Are complainants entitled to compensation of Rs. 1,00,000/- for alleged harassment by opponent?

Point No.1 & 3 are answered in the negative.

Point No.2 as per final order.

REASONS

- 6) Point No 1: The complainants have made their complaint/grievance to this forum by making an application on 28/11/07 in which they have claimed that relief of deduction of interest on arrears and delayed payment charges be given to them from 2002 till Dec-05, the period for which the IGRC did not give them, the relief. Reg.6.6 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 (MERC CGRF Regulation 2006) prescribes that the forum shall not admit any grievance unless it is filed within 2 years from the date on which cause of action has arisen. In view of the said provision the

complaint/grievance for which cause of action does not fall within the period of 2 years immediately preceding the date of complaint 28/11/05 cannot be entertained. The complainants have claimed the relief of deduction of interest on arrears and delayed payment charges for the period 2002 till Nov-05 for which cause of action arose beyond two years from the date of the filing of complaint, which is barred by time and therefore can not be considered.

- 7) The complainants before IGRC contended that they did not receive the bills however, from the consumer personal ledger of both the complainants, it is seen that every month bills were issued if not on the basis of actual unit consumed recorded by the meter but at least on average basis. The CPL is maintained by the employees of the opponent in the course of their normal business and therefore it has presumptive evidential value which has not been rebated by the complainants by adducing any evidence and therefore it has to be presumed that the bills were received by then month to month. Further they did not adduce any evidence to show that by making any complaint to the opponent they had made a grievance that they did not receive the bill. Proviso II to Reg- 15.5.3 of MERC ESC & OCS Regulation 2005 reads as

“ Provided further that the non receipt of the bills or loss of bill does not excuse the consumer from discharging his obligation to make payment within due date for the payment of electricity charges.”

Reg. 15.5.4 of MERC ESC & OCS regulation 2005 reads as follows:

“A consumer who neglects to pay his bill is liable for levy of delayed payment charges and interest on arrears in accordance with relevant the orders of the Commission, appropriation of security deposit and / or disconnection of supply in accordance with the provisions of the Act and these Regulations.”

- 8) In view of the above said provision the IGRC should not have granted the relief of deduction of interest on arrears and delayed payment charges.
- 9) On reading the CPL of both the complainants it is clear that the bills which were issued on average basis were always less than the units actually consumed

thereby making demand of the lesser amount than actually due from the complainants. The complainant did not even pay the said charges and therefore interest on arrears and delayed payment charges were levied correctly. The complainant therefore are not entitled to any deductions

10) POINT NO.2: From the CPL of Mr. Kishor Bhole it is seen that actual readings were recorded in the month of

Dec-05

Jan-06

Feb-06

April-06

May-06

Nov-06

Aug-07

Similarly from the CPL of Shri.S.R.Bhole it is seen that the actual reading were recorded in the month of

Feb-06

May-06

Nov-06

Aug-07

Oct-07

As provided at Sr.No.7 (i) in Appendix-"A" to Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensee, period for giving Supply and Determination of Compensation) Regulation 2005 (MERC SOP of DL and DOC Regulation 2005) reading of consumer's meter according to the standard is required to be taken once in every two months in case of residential consumer and compensation payable in case of default is Rs. 200/- per month or part thereof beyond the first month of delay.

11) Illrd Proviso to Reg.12.2 of (MERC SOP of D.L. & DOC.) Regulations 2005 lays down that; no claim for compensation has to be entertained if the same is filed later than a period of 60 days from the date of rectification of the deficiency in performance standard. Taking into consideration the above

provision at Sr.No.7 (i) of Appendix "A" to (MERC SOP of D.L. & DOC.) Regulation -05 and Illrd proviso to Reg.12.2 of MERC SOP of D.L. and DOC Reg-05. Mr.Kishor Bhole is entitled to claim compensation as no reading was taken from Dec-06 till July-07 & S.R.Bhole also can claim compensation for not reading the meter from Dec-06 to July-07 as only for these period their application to claim compensation is within 60 days from the date of rectification of deficiency in performance standard means giving bill on the basis of actual reading recorded by the meter. The period from Nov-06 to Aug-07 is of 8 months reading is required to be taken once in two months and compensation is to be paid for the period beyond the first month of delay means the complainants in this case are entitled to compensation for 5 months at the rate of 200/- per month which is Rs.1,000/- each.

- 12) **POINT-No. 3:** The complainants have claimed compensation of Rs. one lakh each for harassment, but they have not adduced any evidence as to how did they arrive at such huge amounts. They claimed that they are heart patients but they have not adduced any evidence as to how issuing the bills on the average basis without actually reading the meter aggravated their heart ailment. They have also not adduced what actual loss was caused to them in money value. This claim made by them is exemplary which has not been substantiated by any evidence. The forum has no authority to grant any indirect consequential incidentals punitive or exemplary damages and therefore this claim made by the complainant has to be dismissed.

ORDER

- 1- The complainants are not entitled to the refund of the amount recovered from them as interest on arrears and delayed payment charges during the period Dec-02 to Nov-05
- 2- The complainants are entitled to Rs. 1000/- (One thousand) each by way of compensation as the bills were not issued to them on the basis of reading recorded by the meter once in two months during the period Dec-06 to July-07

(Both months inclusive). The opponent is directed to adjust the said amount in the next bill or bills for the amount due from the complainants.

- 3- It is observed that the relief granted by IGRC to the complainant of the refund of the amount of interest on arrears and delayed payment charges recovered from them during the period Dec-05 to July-07 by adjusting the same in the bill is not in accordance with MERC SC & OCS Regulations 2005.

Sign:

Mrs. N.D.Joshi,
Member/Secretary

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

Date: 21/1/2008