

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

**Case No. 4 of 2008**

**Date: 30/06/2008**

**In the matter of R.L.Lakhawade**

**- Complainant**

**V/S**

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

**- Opponent**

**Corum**

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr.D.K.Mane,

Member,

Mr. T.D. Pore

- 1) **Mr.Rambhau Laxman Lakhawade** (Complainant for short) obtained connection for the supply of electricity to his Flour Mill from Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short) He had been regularly making payment of the bills even then he received a bill in the month of March-2007 of the amount of Rs. 3,71,830.49 in which the amount of arrears claimed was Rs. 3,22,904.15. As the complainant received a bill of the huge amount of arrears he made a complaint on 30/04/07. On his complaint, his bill was reduced by the amount of Rs. 1, 62,000/- . The complainant disputed the revised bill also, however, the complainant was not given any relief and he was directed to make the payment of the bill amount. The complainant therefore paid the amount of Rs. 75,000/- and requested for the revision of the bill. The complainant's bill was again revised and according to him, he was asked to pay Rs. 1,10,000/-. The complainant in his application dt. 05/01/08 requested to revise the bill amount of Rs. 1, 10,000/- and

claimed that he be allowed to pay the said amount in 4 equal installments. The complainant was not satisfied with the amount of arrears arrived at and the deduction made from time to time by the opponent. He therefore approached the Internal Grievance Redressal Cell (IGRC). On going through the facts of the case, the (IGRC) noticed that upto Oct-01 the bills were prepared correctly as per reading recorded by the meter. It was found that for the month of Dec-01 instead of providing correct reading as per meter, a wrong reading of 4 digits was provided. The said reading was not accepted by the computer and right from Oct-01 till the meter No.6452 was changed in Aug-06 with meter bearing No.62727 the bills were raised from month to month on assumption basis. The IGRC also noticed that even after new meter 62727 was installed, the bills were not raised as per units consumed recorded by the meter. The IGRC noticed that when old meter was replaced the last reading recorded by it was 70214. In the last bill of Oct-01 which was correctly raised, the current reading was 45789. There was no complaint of the said meter No. 6452 being faulty during the above said period. The IGRC took the difference of these two readings as total No. of units, consumed from Oct. 01 to Aug-06. Regarding to new meter there was also no complaint of the same being defective. The initial reading at the time of installation of the new meter was 05 and its reading in the month of Jan-08 was 11207. The difference in the two readings was taken as total units consumed from Aug-06 to Jan-08. The IGRC directed to divided the units consumed equally during the respective periods at monthly rest and prepared the bill as per their existing tariff deducting the amount which was paid by the complainant during the said period. The complainant did not get the bill prepared as per direction given by the IGRC. he therefore made a grievance to this forum on 14/05/08.

- 2) The complainant in his grievance contended that the opponent has no right to recover the arrears beyond two years next before March-2007. He claimed that on the basis of monthly average, bill for the period of two years next before March-2007 be prepared according to the then applicable tariff and the amount which he had paid from time to time during the said period be appropriated. He claimed that he was regularly making payment of the bill amount however, because of negligence on the part of the opponent he had to suffer and therefore compensation of Rs. 50,000/- be awarded to him.
- 3) The Dy.E.E MSEDCL Nagar Road filed the written statement on behalf of the opponent , stating that as per decision given by IGRC the total No. of units consumed over the period of 57 months from Oct.-01 till Aug-06 was taken as difference between meter reading 70214 in the month of Aug-06 and 45789 in the month of Oct.01. The total No. of units consumed were divided in equal 57 parts and the bills was prepared applying the relevant tariff which was then in force. After preparing the bill as per direction given by (IGRC), the complainant was directed to pay the amount of Rs. 92,977/- by the end of April-08.
- 4) On the date of the hearing the complainant contended that he had been regularly making payments of amounts shown in the bills and he was never in arrears, however in the month of March-07, a bill of the huge arrears Rs. 3, 22,904 was claimed and the same was not corrected in spite of the complaints made to the opponent. He argued that the opponent can not recover the arrears for the period beyond two years March-07, relying upon the provision contended in Sub Sect.2 of Sect-56 of the Elect.Act-2003 which lays down that no sum due from any consumer 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 arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.
- 5) He further argued that as there was no fault on his part he should not be charged with interest on arrears and default payment charges.
  - 6) On behalf of the opponent it was explained that the bills were revised as per decision given by IGRC and no interest and DPC were levied.
  - 7) On rival contention raised, following points arise for consideration.
    - A. Is the decision given by IGRC that the arrears are recoverable correct?
    - B. Whether the bill revised by the opponent requires corrections.
    - C. Is complainant entitled to compensation?
    - D. The point No.1 & 2 are answered in the affirmative and point No.3 in the negative for the reasons given below.

### **REASONS**

**8) POINT NO.1** The complaint contended that the opponent claimed the arrears from Oct-01 to Aug-06 by raising a bill for the first time as per Consumer Personal ledger (CPL) in the month of Nov-06. The complainant argued that as per provision contended in sub sect-2 of Sect-56 of the Elect.Act-2003; the opponent is not entitled to recover the arrears of the period beyond Nov-05 as they do not fall within 2 years from the date when they became first due. The question to be decided therefore is on what dt the said amount of arrears which was never claimed before falls first due.

The question of interpretation "when such some become first due " (Contained in sub sec-2 of Sect-56 of the Electricity Act-2003) arose in Brihanmumbai Municipal Corporation Vs. Yatish Sharma & Ors. Writ petition No. 264 of 2006 in the High Court of Judicature at Bombay decided on 18/01/07 . In that writ petition the bill of the amount of Rs. 78,187.17 for the period of Jan-2000 to May 2000 was claimed by supplementary bill and debited to the account in the bill for the month of April-04.

The Ombudsman on the said fact held that since the charges for the electricity become due immediately upon usage of energy, the supplementary bill raised in Aug-04 for the disputed period between Jan-2000 to May-2000 was barred under sect-56 of the Act-2003

Considering the section 56 in which the word due appears at two places first in sub sect(1) and second in sub sect(2) and Reg.15 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of supply ) Regulations,2005 (MERC ESC & CS) 2005 and a decision in Shri.H.D.Shouri Vs. Municipal Corporation of Delhi reported in AIR 1987 Delhi Page 219 , it was held by justice B.Y.Chandrachud that " though the liability of a consumer arises or is occasioned by the consumption of electricity, the payment falls due only upon the service of a bill. Thus, for the purposes of sub sect (1) and sub sect (2) of Sect-56, a sum can be regarded as due from the consumer only after a bill on account of the electricity charges is served upon him "It was further held "The Ombudsman was therefore clearly in error in postulating that the claim was barred on the ground that the arrears for consumption became due immediately on the usage of energy. This finding is ex facie contrary to the provision of sub section (2) of section 56

In the present case from CPL it is seen that only in the month of Oct-01 the bill was last raised on the basis of units consumed as recorded by the meter and thereafter from Dec-01 up to Aug-06 the bills were never

raised as per units consumed & recorded by the meter. For not raising the bills as per units consumed and recorded by the meter the reason was that in the month of Dec-01 the reading fed was in 4 digits up to Aug-06 which was not accepted by the computer. Whatever may be the reason, the facts remain that the charges for the actual units of electricity consumed during the period Oct-01 upto Aug-06 were never claimed and it was claimed for the first time in the bill for the month of Nov-2006 and therefore in view of the decision in writ petition No.264/06 in the High Court of Judicature of Bombay decided on 18/01/07 (Supra) the amount of arrears became first due in the month of Nov-06 and from that time the limitation of two years for the recovery has commenced, the said limit is yet to be over. And therefore the opponent has a right to recover the arrears for the energy consumed during the period Oct-01 till Aug-06.

**9)POINT NO.2:** Up to Oct-01 there was no dispute regarding the reading and the amount of bills. The last reading recorded by the old meter No. 6452 in the month of Oct-01 as 45789 is not in dispute. It is worth noting that the complainant never raised dispute about accuracy of meter till 30/04/07. For the first time he made a grievance disputing the amount of arrears contending that on 14/03/03 he had made a complaint about a fault in meter. The complainant has produced a Xerox copy of the complaint dt. 14/03/03 in that complaint he made a grievance that he was not getting bills regularly as per units consumed and claimed that if there was defect in meter, it should be changed at his cost. The xerox copy of the application dt. 14/03/03 does not bear an endorsement of the opponent about acknowledgement. The complainant's representative who is his son was asked to produce the application retained by him of which he obtained the xerox, there upon he gave evasive answers and did not produce the said application, ultimately he explained that the xerox copy produced on record is not of the application written on 14/03/03 but it is a copy of the application which was reduced to writing by his father

prepared recently recollecting the facts. There is noting on record to show that after making a grievance by application dt. 14/03/07 it was ever pursued by the complaint. The complainant did not give any explanation as to why he kept silence till the bill for the arrears was claimed in the month of Nov-2006. The complainant was getting the bills for the meager amount during the period Oct-01 onwards till Aug-06 as compared to the actual units of the energy which he was consuming for running his flour mill, and therefore he never raised a dispute about the accuracy of the meter. There is every reason to believe that the complainant has forged the application dt. 14/03/03 to suit his purpose to show that he had made a grievance to change the meter if it was defective at his cost. The opponent has produced the xerox copy of the details of the meter removed on 17/07/06. The details show that when meter was removed the last reading recorded was 70214. There is a basis to arrive at the figure of the units consumed from oct-01 till the meter was removed on 17/07/06. The undisputed last reading in the month of Oct-01 was 45789 and in the month of July-06 the last reading recorded by the meter was 70214. The difference in between these two readings is the No. of units consumed over the period of 57 months from Oct-01 till Aug-06. There was never a dispute about the accuracy of a new meter, No.62727. Even after the new meter was installed in the month of Aug-06 the bills were not raised on the basis of actual units consumed per month. The opponent was directed to prepare the bill from the month of Aug-2006 till the month of March-08. The initial reading recorded by the new meter for the month of Aug-06 was 05. The last reading by the said meter in the month of March-08 was 12691 the difference between the two readings is the No. of units consumed over the period of 19 months. The opponent did not claim the charges for the energy consumed from month to month on the basis of the actual units recorded by the meter. It claimed the arrears by making demand of the huge accumulated units under such

circumstances it is unreasonable to levy interest and default payment charges.

The opponent was directed to prepare the bill for the units consumed, from Oct-01 to Aug-06 over the period of 57 months dividing the total units consumed equally at monthly rest. The opponent was also directed prepared a bill for the units consumed from Aug-06 to March-08 over a period of 19 months dividing the total units consumed equally at monthly rest without levying interest and DPC and deducting the amount which the complainant had paid from time to time from Oct-01 onwards till today. The opponent in view of the above direction prepared the bill and submitted it with letter dt. 18/06/08. The opponent has given all details as to how the amount of Rs. 37,257 is arrived at as the amount due by the end of March-08 after appropriating the amount which the complainant had paid from Oct-01 till May-08. The copy of the said bill has also been given to the complainant on 18/06/08. In our opinion the arrears claimed Rs. 37,257 by the end of March -08 is the correct amount which the complainant is liable to pay.

**10) POINT NO.3** The complainant has claimed compensation of Rs. 50,000/- for deficiency in service as the bills were not given to him from month to month on the basis of actual units consumed. From the facts of the case, it is seen that the complainant has been running a flour mill. He was aware that he was getting a monthly bill of a meager amount as compare to the units actually consumed by him for running a flour mill he did never raise disputes till the bill for the arrears was claimed in the month of Nov-06 /Feb-07. There is every reason to believe that complainant tried to make out a false case that he had made a grievance about not getting bills regularly as per units consumed and to change the meter if found defective at his cost by making an application dt. 14/03/07 which he had never made. In support of his false ground he produced an afterthought Xerox copy of the alleged application. There is a possibility of



the complainant joining hands with the concerned employee of the opponent to get the bills of the less amount for longer period spreading over the years. If in such manner the bills are allowed to be raised the opponent has to suffer a great financial loss. It is therefore advisable for the opponent to make an enquiry to find out who are the real culprits and to initiate disciplinary action against them. The complainant is not coming with clean hands and therefore he is not entitled to any compensation.

ORDER

- 1) The complainant is directed to pay the Amt. of Rs. 37,257/- as arrears due upto March-2008 on or before 4<sup>th</sup> July-2008. In case the complainant fails to pay as ordered above he is liable to pay interest and delayed payment charges on the said amount of arrears from 04/07/2008 till payment as per Elect. Act-2003 and MERC ESC Reg-2005
- 2) The opponent to make investigation as to who are responsible for not giving the bills to the complainant according to the meter reading for the years together and initiate disciplinary action against the concerned erring employees.

Sign:

Mr. D.K.Mane,  
Member/Secretary

Mr. T.D.Pore,  
Member

Mr. A.V. Bhalerao  
Chair Person

Date: 30/06/2008

