

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/78/454

Date: 24.04.2018

Hearing Date: 20. 03.2018

CASE NO.78/2018

In the matter of wrong applied LT II instated of LT XB

Dr. Rajiv Narayan Vaishmpyan,
Flat No.2, Savio Building.,
Opp. Labour Court,
Thane(W) – 400602.
(CONSUMER NO.000015287829)
. . . . (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution Company Limited
through its Nodal
Officer,
Thane Circle,Thane
. . . . (Hereinafter referred as Licensee)

**Appearance : For
Licensee**

Mr. V.L.Deshmukh, Assit. Engineer, Vikas Sdn.

For Consumer – Mr.Hemant Hatkar – Consumer Representative

[Coram- Shri A.M. Garde- Chairperson, Shri. R.S.Avhad -Member Secretary
and Sharmila Rande - Member (CPO)].

1. Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra

Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity.

2. Consumer herein is one Dr. Rajiv Vaishampayan having consumer No.000015287829. Grievance is that wrong tariff was applied. In particular commercial tariff is applied to Hospital instead of Public service.
3. D.L. in reply states that on the application given by the consumer on 28.11.2017 they have changed the tariff as per Rep. 4.13 (B) of MERC (SOP) Regulations 2014.
4. Further, without the information by the consumer they could not have any knowledge about the Hospital being run at the consumer address. There are 56884 consumers in the jurisdiction and it is the duty of the consumer to inform the change of tariff. It is practically not possible to check business activity of each and every consumer due to large no of consumers. Many consumer are giving the premises on rental basis to their tenants. Tenants are using the power supply for different purpose. Business activity is not the same in every case. It is the duty of the consumer to apply for change of tariff on the basis of actual use of power supply.
5. It is further contended that MERC (SOP) Regulations, Viz Rep. 4.13(B) is clear as to change of tariff on application by consumer. The case is also time barred as per 6.6 of MERC (CGRF) Regulation 2006 also there is H.C. order in W.P. 1650 of 2013.
6. The further the contention that changes of tariff can be done prospectively alone.D.L. prayed that the Grievance by dismissed.

7. We have heard both sides. It is not in dispute that Hospital has been since 2012(Case No. 19 of 2012 MERC) under public service for concessional tariff than commercial one. Consumer classified to have been running and hospital at consumer address since prior to that. However the application for change of tariff on the basis of actual user was given by the consumer to D.L. on 28.11.2017 for the first time and D.L. promptly acted upon it as per 4.13(B) of MERC (SOP) Regulations 2014. Such a change of tariff has to operate prospectively unless it is shown by consumer that he had obtained the connection for specific purpose of Hospital.
8. Consumer has produced several documents. On first one is the electricity bill which no where states that supply was taken for Hospital. It is merely mentioned LT II commercial 3 phase 20KV. Second document is Degree of M.S. Third document is Registration certificate from NMMC to the effect that Akshary Survival and maternity Home situated at old Agra road has been registered and has been authorised to carry on Nursing Home and Hospital/ maternity Home. The document does not evidence anywhere that hospital is being run at consumer address much less to the knowledge of MSEDCL. Next document is PAN card. There is verification report of the D.L. on record which merely shows that as on 19.01.2018 there is consumer no. 00015287829 at Flat No. 02 SAVI Building opposite Labour Court colbad Thane (W) form which supply is taken to Hospital therein . There is no dispute about the same and D.L. has already changed the tariff.
9. In the above fact there is nothing to indicate that supply was taken specifically for Hospital, or that supply was being used for Hospital to the knowledge of D.L. and despite thereof commercial tariff was applied. D. L. Has contended and rightly so that without the information by the consumer they could not have any knowledge about the hospital being run at the consumer address. There are 56884 consumers in the jurisdiction and it is the duty of the consumer to inform the change of tariff. In this particular case there is no document produced even to show that prior to

the tariff change application Hospital was being run on consumer address. Even that is not sufficient. It was necessary to show that supply was taken specifically for Hospital or that D.L. knew that supply was being used for hospital. Retrospectively tariff cannot be applied and no refund can be granted for the simple reason that D.L. could not retrospectively monitor/ supervise to check whether the user was for hospital only. This causes prejudice to D.L. Even in case of change of tariff towards higher side the change is granted always prospectively and no retrospective recovery from consumer is allowed. Here the D.L. officers have acted as per SOP 4.13(B)

10. In this view of the matter Grievance fails.

ORDER

1. Grievance is dismissed.

The compliance should be report within 30 Days.

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13th floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**ANANT M. GARDE
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**