



Consumer Grievance Redressal Forum, Kalyan Zone

Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301

Ph- 2210707, Fax – 2210707, E-mail: cgrfkalyan@mahadiscom.in

No. K/E/1294/1526 of 2017-18

Date of registration : 14/02/2018

Date of order : 26/03/2018

Total days : 50

IN THE MATTER OF GRIEVANCE NO. K/E/1294/1526 OF 2017-18 OF M/S BASSEIN TILES & CLAY WORKS P.LTD., WALIV INDUSTRIAL ESTATE, VASAI (E), DIST-PALGHAR, PIN CODE-401 208 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING BILLING DISPUTE.

M/s Bassein Tiles & Clay Works P.Ltd.,
Waliv Industrial Estate,
Vasai (E), Dist-Palghar,
Pin Code-401 208.

(Consumer no : 001840263211)

... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited,
Through it's Nodal Officer,
Vasai Circle, Vasai

... (Hereinafter referred as Licensee)

Appearance : For Licensee - Mr.V.M.Gokhale, A.A., Vasai (E) S/dn.

For Consumer - Mr.Harshad Sheth (C.R.)

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary
Mrs.S.A.Jamdar- 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 Redressed 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 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Consumer herein is M/s Bassein Tiles & Clay Works P.Ltd having Consumer number 001840263211, BU-4359. Grievance is that Consumer gave letter to MSEDCL on 10 the April 2008 to change his category to commercial. But no cognizance was taken thereof.

3) Consumer further submits that in April 2016 Consumer complained about faulty meter. Assistant Engineer visited premises and instead of resolving the issues gave a wrong report on the basis of which fake case under section 126 I.E. Act was prepared.

4) Thereafter a wrong provisional assessment order was given by Addl.Executive Engineer Vasai Road (E) Sub Division and then he was transferred. Nobody took hearing nor sorted out the issue. Then third Addl. Executive Engineer Mr.Bharat joined and he added the amount in the bill. Now there is threat of disconnection given.

5) Consumer gave a letter to quash the bill under section 126 and vide section 56 maximum 24 months plain difference is only payable. But the matter is not resolved. Vide section 6.8 of MERC regulation 2006 prima facie the matter does not fall in Section 126.

6) Consumer prays that bill under section 126 be quashed. From July-2016 only 24 months retrospective recovery is alone recoverable under section 56.

7) Distribution Licensee is reply stated that

i) The present Grievance falls within the preview of R.6.8 of MERC CGRF & electricity Ombudsman Regulation,2005 which states that, If the Forum is prima facie of the view that any Grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum :

(a) Unauthorized use of electricity as provided under section 126 of the Act;

And hence issue of jurisdiction may be framed and decided firstly.

ii) The electric supply vide Con.No.0018402663211 was sanctioned for the Industrial purpose, the premises of complainant was inspected on 16.04.2016, in which it was observed that supply was use for commercial purpose. The spot inspection was done in presence of representative of Consumer. The said activity was authorized use of supply within meaning of S.126 and hence the provisional Assessment was given of Rs.5,65,150.00.The objection was submitted by consumer within a one month hence final Assessment bill was issued on

21.02.2017. The consumer even after the final assessment bill fail to paid assessment bill and hence said amount was debited in energy bill of Oct-2017. On the query of consumer by letter dtd.03.11.2017 , he was informed on 30.11.2017 about final assessment order and served with the copy of same.

iii) As such the Grievance squarely in respect of S.126 of Electricity Act,2003, the Appeal remedy u/s.127 of Electricity Act,2003 has been provided by statutes itself and the Appellate Authority can only can hear appeal and observed the procedural aspect etc if followed or not by MSEDCL as per S.126 of Electricity Act,2003. This Forum has no jurisdiction to entertain present Grievance. **In support of our submission we herewith submit the order of Electricity Ombudsman in Case No.117,118,119 of 2016 passed on 29.11.2016 on matter of S.126 , in which Representation was rejected as falls within purview of Reg.6.8.of MERC CGRF Regulation,2006.**

iv) Licensee Prays,

- 1) The complaint may please be dismissed being outset the jurisdiction of this forum in view of Reg.6.8 of MERC CRGF and Electricity Ombudsman Regulation,2006.
- 2) The MSEDCL may allowed to file detail reply on merit in future if required.

8) We have heard both sides. The Distribution Licensee raises the question of jurisdiction invoking the bar under 6.8, saying that the case is of unauthorized extraction of power under section 126 of I.E. Act. The case of Distribution Licensee is that Consumer herein was sanctioned electricity supply for Industrial purpose but on inspection conducted on 16/04/2016 it was observed that supply was being used for commercial purpose. As against this Consumer points out that in the year 2008 itself they had applied for change of purpose to commercial which is not disputed except that it was stated that the letter for change of purpose was not given in prescribed format such a reason is not acceptable. The Distribution Licensee officer submit that for some Interim period common areas of society was included in industrial but then it was made commercial again. That does not make any difference so long as the Consumer had in the year 2008 itself asked for change to commercial tariff. There is clear neglect or default on the part of the Distribution Licensee officers in not changing the tariff to commercial on the letter given by the Consumer. The officers have detected their own mistake on inspection and are calling foul against Consumer, that too making serious allegation and charge of unauthorized extraction of electric power. This is very unfortunate state of affairs against an honest and fair Consumer who has even after all this has expressed willingness to pay the difference of tariff for period two years as permissible under law. Thus, far from being under section 126 of I.E. Act this case on the contrary exposes the negligence and callousness on the part of officers of

Distribution Licensee and victimization of the innocent Consumer by making serious and defamatory allegations of unauthorized extraction of electricity. Needless to say therefore that there is absolutely no case under section 126 much less prima facie. Not entertaining this grievance of the Consumer by this Forum would amount to joining the bandwagon of Distribution Licensee officers in causing injustice and harassment to innocent Consumer.

9) In the above view of the entire matter this forum has jurisdiction to entertain this grievance. The bill raised by making addition of previous recovery is to be quashed except of the extent for previous two years which is permissible under laws.

Hence the order.

ORDER

- 1] Grievance application of consumer is hereby partly allowed.
- 2] The addition made in the impugned bill is quashed except to the extent of previous two years plain recovery as permissible under law.
- 3] Distribution Licensee to revise the bill accordingly by making addition for only previous two years plain recovery.
- 4] Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order

Date: 26/03/2018

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(A.P.Deshmukh)
MemberSecretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

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, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.
- b) *Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or*
- c) *delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & 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.*

