

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redresses Forum
Nagpur Zone, Nagpur**

Case No. CGRF (NZ)/03/2017

Applicant : Smt. Rita Ajay Dhoke,
NIT Plot No. 413/D,
Subhan Nagar, Pardi
Bhandara Road, Nagpur.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(D/F), NUC MSEDCL.
Nagpur

Applicant: - Smt. Rita Ajay Dhoke,

Non- applicant: - 1) Shri Vairagade EE, Nodal Office, Nagpur
2) Shri. Dahashsatra, SNDL, Nagpur
3) Shri Vasim Ahmad, SNDL, Nagpur

Quorum Present: - 1) Shri Vishnu S. Bute,
Chairman.
2) Shri N.V.Bansod,
Member
3) Mrs. V.N.Parihar,
Member Secretary.

ORDER PASSED ON 27.03.2018.

1. The applicant filed the present grievance application before this Forum on 10.01.2018 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressed Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 09.02.2018
3. Forum heard arguments of both the sides and perused record.

4. An applicant Smt. Rita Ajay Dhoke stated that she has been released new electric connection to her residence in the month of September-2008, but she did not receive any bill since then. On 14.06.2017, the vigilance team inspected her premises, disconnected her supply without notice and issued her a hefty bill amounting Rs.1,31,610/- with permission to deposit the amount in 13 installment and asked to deposit 50000/- immediately. Accordingly she paid Rs.36000/-.Till three months her supply was disconnected. She prayed the forum that her balance amount be waived off considering her poor financial condition and she be allowed to pay regular bills which she is getting towards this connection.

5. Non-applicant in their written reply stated that Vigilance squad during their surprise inspection on 14.06.2017 found that Smt. Rita Ajay Dhoke, bearing consumer no. 410021847341 is utilizing single phase supply without payment of bills. Hence as per available meter reading as 15455 KWH, the bill for 15455 units amounting Rs.1,31,610/- was issued and supply was disconnected. She was asked to deposit 50000/- immediately. The facility to pay this amount in 13 installment @Rs.10000/- was given to her. Accordingly she paid Rs.36000/-. She approached IGRC to grant installment of Rs.5000/-per month.

6. Applicant approached IGRC on dt 02.01.2018. She requested for payment of Rs.131610-36000=95610/- in installment of Rs.5000/- per month. She requested for reconnection of supply after payment of Rs.5000/-as a first installment. IGRC vide its order dt. 05.01.2018 allowed her to pay balance amount of Rs.95,610/-without levy of any interest in installment @7500/- per month, IGRC also ordered to reconnect the supply after payment of first installment.

7.Dissatisfied with the order passed by the IGRC, the appellant approached this forum.

8. After the hearing was over the matter was discussed among the members of the forum. The Chairperson and the Member Secretary were of the opinion that she did not pay any bill. The bill was issued to her on the basis of the last meter reading i.e. electricity consumed by her from the date of installation of meter to the date of visit of vigilance squad. However the Member(CPO) was of the different opinion. He gave a dissenting note which reads as under.

9. Dissent/Separate note by Member (CPO) on 27-3-2018 in Case No. 3/2018.

Applicant filed the grievance on 10-1-2018, case file received for Note on 27-3-2018 at 1 P.M.

We heard the arguments on 14-3-2018 and I perused all the papers on record.

(1) Applicant is the consumer of Non Applicant having consumer No. 410021847341 with Meter No. 65G1064515. The grievance is, she has taken electric connection in the month of September 2008 but did not receive electric bills since 16-9-2008 onwards. Vigilance team of non applicant visited the applicants premises and found that the connection is unbilled and disconnected the supply and issued the bill for Rs.1,31,610/- upto meter reading of 15455 KWH. Non applicant granted 13 installments of Rs.10000/- and supply be restored after payment of Rs.50000/-. Applicant paid Rs.36000/- showing inability to pay instalment of Rs.10000/- and requested for instalment of Rs.5000/- P.M. Reconnection of supply after payment Rs.5000/- as 1st instalment.

(2) Applicant stated that her monthly income is Rs.8000/- staying with old ailing mather and waive the balance deres due to critical financial condition & assured to pay bills regularly in future.

(3) Submission of non applicant is same as before IGRC and stated that IGRC passed the order on 5-1-2018 allowing applicant to pay Rs.7500/- P.M. & Reconnection after payment of Rs.7500/- and non charging of interest is directed on IGRC.

(4) It is an undisputed fact that applicant paid Rs.36000/- on various dates, lastly on 2-12-2017.

“It is pertinent to note that issue of regular bills to the consumer is prime responsibility of the electric company and hence issue of first bill after prolong period for heavy amount is not at all Justified.”

(5) During hearing Member(CPO) asked Mr. Vasim and Mr. Dahasahstra representative of non applicant, that under what/which provisions of The Electricity Act 2003 and MERC (E.S.C. etc.) 2005, the bill is issued for Rs.131610/- for period 16-9-2008 till 14-6-2017, on this they were unable to reply and adopted silence to the question. Hence it can be inferred that the action of non applicant is against the provisions of the above Act. And Regulations.

(6) IGRC in para 4 above correctly observed that issue of regular bills to the consumer is prime responsibility of the electric company and non applicant failed to Act as per above ac & regulations which is the negligence as well as deficiency in service on the part of non applicant and its officials.

(7) During Hearing, Applicant stated that she frequently visited & requested non applicant to give the bills but all the time they said, you will receive the bills but bills not received till 14-6-2017. Applicant also said that house was closed and by Jumping over the gate, Electricity supply was disconnected at 10 A.M. on 14-6-2017 without notice and even after payments supply was restored but 3 times disconnected without notice.

(8) Non applicant during arguments admitted that as applicant consumer was unbilled, no notice was given and again unable to tell the provisions of the above Act & Regulations. Which is clear admission of non applicants illegal action.

(9) The issues for my consideration are –

(A) Whether action of non applicant is as per Section 56(1) or 56(2) of the electricity Act ? - No.

(B) Whether applicant is entitle to any relief ? - Yes.

A&B :- It is an undisputed fact that non applicant did not record the meter consumption every month since 16-9-2017 issued the bill for Rs.131610/- for period 16-9-2008 to 14-6-2017. Secondly it is an admitted fact that disconnection of electric supply without notice is illegal and arbitrary vailating provisions of Section 56(1) of The electricity Act 2003 and regulations. Without providing opportunity to the applicant. However according to Section 56 of the Electricity Act 2003 this bill is barred by limitation.

The Section 56(2) of the Electric Act is as under.

Not with standing 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 2 years from the date when such sum became 1st 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 Electricity.

As per me, the sum of charges of electricity has not shown continuously since 16-9-2008 and due for 1st time on 14-6-2017 still non applicant cut the supply of electricity arbitrarily. Wond due in this context should mean due and payable after a valid bill has been sent to the consumer. However this forum has taken consistent view in cases 46/2016, 5/2016 etc. as per Section 56(2) non applicant can claim bill of only 24 months preceeding the date of inspection dated 14-6-2017 which is within period of limitation of 2 years. Therefore it is necessary to revise bill of Rs.131610/- and non applicant can claim only bill for 24 months preceeding the date of inspection i.e 14-6-2017. Means non applicant can recover energy bill for 14-6-2015 to 14-6-2017 only.

(10)It is true that bill from 16-9-2008 to 14-6-2017 is time barred and non applicant cannot recover. It is only due to negligence of employees of MSEDCL of his franchisee (SNDL) who are responsible for not taking monthly reading and did not take any action since 16-9-2008, therefore Chief Engineer, MSEDCL, Nagur Zone is requested to could not departmental inquiry against erring responsible employee who did not take any action for taking month meter reading for 9 years

and did not issue monthly bills. Therefore loss is caused to MSEDCL and time barred amount shall be recovered from the salary of responsible negligent employees.

(10A) It is necessary to mention that in the main order, if any reference of any High Court orders is noted that is not usefull because in the Writ petition No. 10764 of 2011, In the High Court of Judicature of Bombay, Civil Appellato Jurisdiction – MSEDCL – Sindhudurg, Kudal v/s The Electricity Ombudsman, Mumbai etc, the Hon'ble High Court held that "I deemit fit that the issue will have to be referred to the longer Bench of this court, consisting of atleast 3 Judges and matter is referred to Hon'ble the Chief Justice the following issues to the larger bench and all writ petition is pending before larger bence in connection with correct interpretation of Section 56(2).

(11)There non applicant shall revise the assessment bill of Rs.131610/- for the period 14-9-2005 to 14-6-2017 and by revision shall claim bill for the period 14-6-2017 only from applicant without andy interest & D.P.C. charges and adjust in payment of Rs.36000/- by Applicant and if amount of payment is more then adjust in future bills in the interest of Justice.

Therefore, the application is deserves to be allowed.

ORDER

(1) Non applicant is directed to revise electricity bill lof the applicant for Rs.131610/- for period 16-9-2008 to 14-6-2017 and shall recover electricity bill for the period of 14-6-2015 to 14-6-2017 for 24 months only from applicant without interest &

DPC and adjust the balance credit amount (amount of payment of Rs.36000/-) to the future bill.

(2) Chief Engineer is requested to initiate the action as per para 10 above in accordance with law & rules.

Member (CPO)
Naresh Bansod.

10. We have perused the note. The applicant was given a connection in September 2008. The vigilance squad detected the applicant on 14-06-2017. During this period of nine years the applicant was enjoying the power supply without payment of a single rupee. Neither there is anything on record nor the applicant even orally say that she sometime approached the non applicant for the bill of the electricity supply. Without payment of even a single bill for 9 years the applicant enjoyed the power supply. We are not inclined to give any concession to the applicant. After the visit of the vigilance squad she was given a bill as per the meter reading only. So she actually consumed the electricity indicated by the meter. The applicant is not entitle for any relief. At the most she can be allowed to deposit the balance amount by giving suitable instalments.

So we disagree with the Member (CPO)

11. We have carefully perused CPL of Smt. Rita Ajay Dhoke, bearing consumer no. 410021847341 .The applicant was provided with an electrical connection sometime in the month of Sept 2008. The applicant has requested IGRC for payment of Rs.1,31,610-36000=95610/- in installment of Rs.5000/- per month and reconnection of

supply after payment of Rs.5000/-as first installment. The applicant prayed the Forum that her balance amount to be waived off considering her poor financial condition and she be allowed to pay regular bills which she is getting towards this connection.

12. In accordance with the terms of supply code Regulation 2005 no.14.3, meter readings shall be undertaken by the licensee at least once in every two months and in terms of 14.4 meter thus provides is required to be periodically checked, inspected and tested .The checking of meter is stated to have been carried out in the presence of applicant on 14.06.2017.The joint inspection report was sent to commercial department for assessment and computation of charges as per rule and procedure. On verification of CPL record it is observed that the she was not issued any bill till inspection of flying squad .In fact as per CPL her date of supply is 29.08.17 and regular entry of CPL record is seen from Nov-17.

13. Also, during hearing applicant could not provide even a single letter addressed to the non-applicant demanding electricity bill since 2008 till date of inspection.

14. In our opinion both the parties are equally wrong in the present case, The applicant has enjoyed electricity at the cost of honest consumers who are paying their electricity bills regularly. Not even a single evidence is produced on record that during all these years the applicant has asked for the bill for the electricity charges which she has utilized. Similarly non-applicant also did not care to issue bills regularly and suddenly charged applicant hefty energy bill amounting RS.1,31,610/-. This is gross injustice on part of non-applicant.

15. Thus in our opinion, the liability to pay electricity charges is created on the date electricity is consumed or the date of meter reading. But payment of the charges would become first due for payment only after a bill or demand notice for payment is sent by Licensee to the consumer. It was alleged that no bills were issued till the date of inspection. The demand was raised for the amount of Rs.1,31,610/- on 28.08.2017. There is considerable delay i.e. two months in raising the demand even after date of inspection which is serious lapse on the part of Non-applicant. Similarly applicant has enjoyed free electricity for 9 years without paying even a single bill. Hence on the basis of this position we proceed to pass the following order by meajority.

ORDER

1. Application is partly allowed.
2. Order passed by IGRC is partly modified.
- 3 Applicant is directed to pay the arrears @Rs.5000/- per month.
4. After payment of first installment of Rs.5000/-, supply should be reconnected on the same day.
5. No interest or any kind of DPC shall be charged till payment of final installment.

Sd/-
N. V. Bansod
MEMBER

Sd/-
Mrs. V.N.Parihar
MEMBER/SECRETARY

Sd/-
Vishnu S. Bute
Chairman