

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

Case No. CGRF(NZ)/31/2018

Applicant : Shri Mahesh W. Nagrani,
User – Arvind B. Khandeshwar,,
Opp. Durga Mata Mandir, Katol Road,
Nagpur – 440013.

Non-applicant : Nodal Officer,
The Executive Engineer
CongressNagar Dn., MSEDCL,
Nagpur.

Applicant represented by : 1) Shri. Arvind B. Khandeshwar,
Non-applicant represented by: 1) Shri V. P. Mankar, Addl.E.E., MSEDCL.
2) Shri N. L. Mendhe, A.E. MSEDCL.

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

ORDER PASSED ON 14.05.2018

Shri Arvind B. Khandeshwar, the user, presented this application under the provisions of Regulation 6.4 of the MERC (CGRF & EO) Regulation 2006. The connection is in the name of one Shri Mahesh W. Nagrani, however the applicant say, he has purchased the flat. As per the applicant the MSEDCL, the respondent, disconnected the power supply without notice. Thereafter he deposited the arrears. However the respondent recovered excess amount on account of the reconnection charges. Hence this grievance.

The respondent submitted parawise reply. The case was fixed for personal hearing on 26-4-2018. Both the parties were present. They were heard.

The applicant argued that he is the user of connection having consumer No. 410018445224. He purchased the flat and he is now owner occupant. Before occupying the flat some minor repairs and some interior was necessary. So he was to start staying in the flat. Last electricity bill of this connection was paid in May 2017. Thereafter no one was residing in flat. The respondent say that the notice of disconnection was fixed on 22-11-2017. However this was not a proper service of notice as per the provisions of section 56(i) of the IE Act 2003.

Secondly this is a single phase connection. Reconnection charges as per rule are Rs.50/- only. However the respondent recovered Rs.250/-. The excess amount may be refunded back.

As the respondent disconnected the power supply the work going on there is stopped. So a compensation may be given on this account.

In reply Shri Mankar, Addl. Exe.Engineer stated that consumer Shri Mahesh Waranmal Nagrani, consumer no. 410018445224 has not paid the electricity bill since May 2017. No one was residing in the flat. So a notice of disconnection was fixed on the door on 22-11-2017. Even then the consumer had not paid the bill. So the power supply was temporarily disconnected on 11-12-2017. The consumer had not deposited the bill even thereafter so a meter was removed.

The consumer deposited the electricity bill on 23-2-2018. He deposited reconnection charges on 13-3-2018. The power supply was connected on 17-3-2018. Reconnection charges recovered from the applicant are as per rule.

The respondent submitted a photo of the notice fixed on the door of the flat.

The respondent stated that the application has no force. It may be dismissed.

After the hearing was over the case was discussed among the members of the Forum. The Chairperson and the Member Secretary were of the opinion that there is no force in the application. However the Member (CPO) expressed his opinion that the respondent disconnected the supply illegally. So the applicant is entitled for compensation. The respondent recovered the reconnection charges illegally. The note given by the Member(CPO) reads as under,

Argument heard on 5-5-2018 & perused the papers on records.

(1) It is an undisputed fact that user of premises (occupier & purchaser owner but name not changed) having consumer No. 410018445224 is regular consumer of non applicant but had not paid energy bills since May 2017. As per non applicant disconnection notice was served to him on 22-11-2017 by sticking disconnection notice on the door of consumer's flat as nobody was residing.

(2) Applicant alleges that the notice is not as per Section 56(i) of the electricity Act 2003 i.e. 15 days Notice is not given before disconnection of

supply, Applicant said notice should be served to the consumer in writing on his billing address and acknowledgement should be obtained and in case not residing, undelivered letter from post Office is sufficient evidence to show notice is issued but neither acknowledgement nor undelivered letter produced to show service of Notice.

(3) Applicant denied sticking of Notice on 22-11-2017 because non applicant did not obtain signature of two witness of other flat owners, since December 2017 carpenter were doing furniture work & applicant was visiting frequently but never seen notice on door which proves the notice was fixed after disconnection.

(4) Applicant said as per rule reconnection charges are Rs.50/- but Rs.300/- was charged & asked for refund as well as asked for financial loss as labour charges of carpenter paid for 22-2-2018 to 17-3-2018 and further asked for SOP compensation from date of illegal disconnection till restoration.

(5) Non applicant admitted that as energy charges not paid till 11-12-2017, the supply was temporarily disconnected on 11-12-2017 and further due to non payment, electric meter was removed and deposited in section office of MSEDCL on 22-2-2018 and on payment of current bill with arrears on 23-2-2018 and reconnection charges on 13-3-2018 and supply was restored on 17-3-2018 but failed to disclose how notice was served.

(6) The points for my consideration are –

A) Whether temporary disconnection on 11-12-2017 is as per the Electricity Act 2003 & Regulations of the Electric Supply Code 2005 ? No

The word temporary disconnection is neither recognized by the electricity Act 2003 nor the Regulations of Electricity Supply Code & hence so called act of temporary disconnection of supply on 11-12-2017 is false & illegal in the eyes of law.

B) Whether the disconnection notice dated 22-11-2017 by sticking notice on the door of consumer's flat is as per Section 56(i) (Disconnection of supply in default of payment) and Section 171 (Services of Notices, Orders or documents) ? - No

As per Section 56(i) it is statutory to serve notice of disconnection in not less than 15 days clear Notice in writing on the consumer or occupant or user on address on record.

Section 171 is as under.

(1) Every notice, order or document by or under this act required or authorized to be addressed to any person may be served on him by delivering the same after obtaining. Signed acknowledgement receipt there for or by registered post of such means of delivery as may be prescribed.

(d) Where any other person is the addressee, at the usual or last know place of abode or business of the person.

(2) On perusal of documents filed by non applicant, it is Notice number 1826 is dated 22-11-2017 & other blank notice No. 1827 (Blank) shown as stucked on the Door of consumer flat.

Firstly, non applicant failed to produce any evidence i.e. Notice dispatched through post, courier or dispatched register or outward register or hand delivery register or acknowledgement duly signed which is primary requirement of law for service of notice as per provision of Section 171(i).

Secondly as per law if not served, then true copy, there of to some person on the premises or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

Supply disconnection notice No. 1827 filed by non applicant is neither true copy of notice dated 22-11-2017 nor it is duly filled for opt attention of applicant but it is blank.

Hence entire submission of non applicant is proved false but just created show of issue of notice & sticked on the door of flat which supports the entire contention of the applicant, that notice was sticked after disconnection. Hence so called notice dated 22-11-2017 is in violation of Section 56(1) & section 171 and it is illegal in the eyes of law as well as action of Temporary disconnection on 11-12-2007 is without statutory notice, illegal as well as action of removal of meter & depositing in section office on 11-12-2017 is also proved fictious due to lack of cogent documentary evidence, deserves to be condemned.

(C) Whether security deposit is for charges in respect of electricity supplied to such person ? - Yes.

As per Section 47 read with Regulations 11 and Regulation 11.2 of E.S.C. 2006 is as under.

The amount of the security referred to in regulation above shall be an equivalent of the average of three months billing of the billing cycle period whichever is less.

On perusal of CPL of consumer procured from IT, the security is deposit Rs.3000/- and outstanding arrears on Nov. 2017 was Rs.150/-. Hence security deposit was 20 times of arrears. The outstanding arrears amount Rs.150/- was fully secured by security deposit and hence action of disconnection for Rs.150/- against consumer who was ex. Accountant of non applicant is illegal as well as arbitrary without application of mind with high handedness which needs to be condemned. It will not be out of context to note that such type of illegal action of disconnection for Rs.150/- against Ex. Accountant, then now they may be behaving with common consumers.

(D) Whether applicant is entitle for refund of reconnection charges ? - Yes.

Firstly the disconnection of the consumer is proved illegal. As per Mahavitaran Cir. No. CE/Dist-111/Soc/24500 dated 30-8-2012 (Annexure 4), Reconnection charges in case of LT service at meter incomer i.e. single phase is Rs.50/- & Three phase is Rs.100/- but non applicant arbitrarily without application of mind recovered Rs.300/- illegally. Hence non applicant is liable to Refund Rs.300/- to the applicant as it is for period less than 6 months & illegal action.

(E) Whether applicant is entitle for SOP compensation for illegal disconnection as well as delay in reconnection of supply ? - Yes.

So far as illegal disconnection is proved above since 11-12-2017 and applicant is entitle for SOP compensation for Restoration of supply (Appendix 'A' 2(i) as fuse of call at the rate of Rs.50/- per hour or part there of delay after 3 hours i.e. from 11-12-2017 to 23-2-2018 and also paid illegal reconnection charges on 13-3-2018 but supply was reconnected on 17-3-2018.

MERC (SOP) Regulations 2014 i.e. Reconnection of supply following disconnection due to non payment of bills – 6.10 is as under.

Where D.L. has disconnected supply to a consumer for a period of not more than 6 months, then if such consumer pays all amounts due & payable by him to the satisfaction of D.L., the D.L. shall reconnect supply within eight (8) hours from the payment of dues made by the consumer in class 1 cities.

Even in normal circumstances supply was to be restored within eight hours but as per non applicant disconnection was on 11-12-2017, arrears were paid on 23-2-2018 and it was obligation on Non applicant to restore supply as per SOP but instead of Reconnection as per SOP on 23-2-2018 itself, reconnection was done on 17-3-2018 after long delay even though reconnection charges were not recoverable as below 6 months but under durass it was recovered.

Hence non applicant is liable to pay compensation for late Restoreation of supply from 11-12-2017 till 17-3-2018 as per Appendix 'A'2(i) – at the rate of Rs.50/- per hour or part thereof delay after three hours and amount of compensation shall be recovered from the salary of erring employee after conducting enquiry as per ratio laid down by Supreme Court of India in case of Lucknow Development Authority v/s M.K. Gupta.

In view of the above observations, applicant is entitle for relief of other loss incurred but due to lack of cogent evidence, request for reimbursement of labour charges can not be considered.

The application deserves to be allowed.

ORDER

(1) Non applicant is directed to refund reconnection charges of Rs.300/-.

(2) Non applicant is directed to pay SOP compensation for illegal

disconnection and delay in restoration of supply as per Appendix 'A' – 2

(i) @ Rs.50/- per hour or part their from 11-12-2017 to 17-3-2018.

(3) Order of IGRC is without application of mind and violation of Act &

Regulation, deserves to quash & setaside.

The compliance of this order shall be done within 30 days from the date of order.

Member (CPO)Mr. Naresh Bansod

We have perused the note given by Ld. Member (CPO). It is admitted fact that the applicant had not paid the electricity bill since May 2017. The respondent initiated action for disconnection in Nov.2017. And the power was disconnected in December 2017. We are of the opinion that the applicant was given sufficient time to pay the arrears. So we disagree with the proposal.

We have perused the record. We have heard the arguments of both the parties.

It is admitted fact that the applicant has not paid the electricity bill since May 2017. He also admitted that no one was residing in the flat. The respondent initiated action for recovery in November 2017. A notice for disconnection was fixed on the door of the flat on 22-11-2017. The respondent submitted a photo of the notice fixed on the door of the flat. The applicant also stated that some carpenters used to work in the flat. In fact the workers must have seen the notice. It was for the applicant that he should have taken some action to pay the bill. So we feel that the applicant intentionally avoided to pay bill. As such the action of the respondent is justified.

The applicant also stated that the respondent charged excess amount on account of reconnection charges. The Forum directed the respondent to produce the orders of the MSEDCL in this regard. However the respondent has not produced the same. As such the respondent should check the recovery. If some amount is recovered in excess that may be adjusted in the coming bill.

In view of the above we pass the following order, by majority.

ORDER

1. Application no. 31/2018 is hereby dismissed.

Sd/-
N.V. Bansod
MEMBER

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

Sd/-
Vishnu S. Bute,
Chairman