

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

Case No. CGRF(NZ)/65/2018

Applicant : Shri Mohd.Yunus Mohd. Hanif.,
64, Gousiya Colony, Jaitum Manzil,
Behind Bara Kholi, Tazbag, Umred Road,
Nagpur.

Non-applicant : The Superintending Engineer,
(Nodal), NUC, MSEDCL, Nagpur

Applicant represented by : 1) Shri Suhas Khandekar,

Non-applicant represented by: 1) Shri Dahasahastra,
2) Shri Wasim, Asstt. Manager
SNDL's Representative.

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

ORDER PASSED ON 19.06.2018

1. The applicant presented this grievance application on 25.05.2018. The applicant initially approached the IGRC-SNDL. However IGRC refused to entertain his application in view of the provisions of Regulation 6.8 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as, said Regulations).

2. On 12.06.2018. Both the parties were present.
3. Shri Suhas Khandekar argued for the applicant. He stated that on 15.03.2018 some officers of the SNDL came to the house of the applicant. They checked the meter. They removed the meter and the service wire connecting the meter to the Pole. They asked the applicant to come to the office. When the applicant went there the respondent asked to deposit Rs.1,40,530/-. The respondent neither provided the bill nor provided any document regarding the action taken by them.
4. Finally the applicant requested that the respondent may be directed to restore power supply. A compensation of Rs. One lakh may be awarded for unnecessary harassment.
5. In reply the respondent stated that vigilance team of the respondent visited the residence of the applicant on 15.03.2018. When the team inspected the meter they noticed that there was a tempering in the meter. So they prepared spot inspection report, carried out Panchnama of the meter, took photograph and carried out videography also. They seized the meter in the presence of the Panchas. It was noticed that there was a theft of electricity by the applicant. So the team booked the applicant u/s 135 of the Electricity Act 2003. The respondent prepared the provisional assessment. Thereafter a demand note was prepared and the applicant was directed to pay Rs.1,32,530/-. Since the respondent initiated this action and proceeded as per the provisions of Section 135 the Forum may not entertain the application.
6. After the hearing of the case was over the case was discussed among the members of the Forum. The Chairperson and the Member Secretary were of the opinion that the case is not tenable before this Forum, however the Member(CPO) expressed different view. A dissenting note given by the Member (CPO) is as under,

7 Arguments heard on 12.06.2018 and perused all the papers on record.

(1) Applicant is the Residential consumer of non applicant having consumer No. 410016597663 since 15.06.2008 with sanctioned load of 0.5 KW. And paying electricity bills regularly.

Applicant said that on 15.3.2018, some persons claiming to be official of SNDL came to residence at about 4.30 p.m. and took away the meter on the plea that same has to be checked & also removed service wire from pole to meter and asked to visit their Tulsibag office on 16.6.2018.

On 16.6.2018 non applicant asked to pay Rs.140530/- on the pretext that there was faulty in meter and neither the bill nor other details given. As per applicant he visited 10 to 15 times and pleaded that childrens one exam. Going & electricity supply is essential, but neither the supply was restored nor gave any reasons cutting of supply.

(2) IGRC refused to accept my application and due to intervention of Hon'ble Mrs. Gouri Chandrayan, Advisor (Consumer Affairs) on 17.5.2018, non applicant gave demand note.

(3) On 18.05.2018 after approaching IGRC, they rejected application on the grounds that it was not within their jurisdiction. Applicant alleged the action of non applicant is arbitrary i.e. disconnection of supply, meter & wiring and later on came to know the case has been booked under section 135/138 as a case of theft and applicants entire family is suffering . Applicant prayed for restoration of supply immediately and pay Rs.10000/- as compensation for unnecessary harassment & mental agony for more than 2 months in summer season.

(4) The say of non applicant is same as before IGRC who in turn rejected the grievance as a case of theft of electricity v/s 135 & 138 of the E.A. 2003 and cannot be entertained.

(5) IGRC in order referred Reg. 6.8 of MERC (CGRF & EO) Regulation 2006 but missed the vital ingredient i.e. "If the forum is prima facie of the view". But IGRC failed to come to the conclusion that prima facie it is case of Theft but Just relied on version of non applicant and rejected the grievance.

(6) Non applicant in reply alleged that in theft detection drive with the help of "Police personnel" on 15.3.2018, applicant's meter No. NS 1027 68 of "secure company" with reading 2334 kwh was found "tampering" in meter and potential was cut as per section 135 of The E.A. 2003 and as per connected load, 3438 KW units charged with billing amount Rs.132530/- and demand note was issued along with compounding charges of Rs.8000/-. Non applicant further said, the case of theft does not come within the jurisdiction of the Forum and grievance be dismissed.

(7) On perusal of CPL, the sanctioned load is .5 KW and his monthly consumption since Jan 2016 to March 2018 are 40,41,57,56,50,84,93,45,77, 41,28,47,4,48,55,22,99,54,67,51,108,38,51,51,8,37 and in April 2018 as per meter reading 314 Units charge. As per consumption pattern, the consumption commensurate with sanction load and applicant paid last bill on 28.12.2017, which is undisputed.

(8) Applicant referred MSEDCL Circular No. 1111 dated 12.5.2017 for documentation & dealing with cases related Section 135 & 126 of E.A. 2003 i.e. guide book and asked to provide documents i.e. (A) MRI data of seized meter for the last 6 month prior to removing meter on 15.3.2018 (B) Copy of authorization letter of those conducting the spot inspection issued by Govt. of Maharashtra (C) Copy of intimation letters sent to testing lab and consumer if any (Ref. annexure 21 & 22 of above circular)(D)Copy of Test Report of the meter (Ref. Annexure 24 of above circular.

(9) Forum directed non applicant to provide above documents as per MSEDCL guide book, but non applicant failed to provide the same to consumer or forum for scrutiny for reasons best known to them.

(10) Non applicant alleged tampering of meter which is included in Section 126(6)(iii) and Section 135(i)(b) then why. Non applicant alleged in section 135 & why not section 126 of The E.A. 2003. In the absence of MRI Data & Test report of the meter and authorization & intimation of Testing as per guide book, entire action & conclusions are proved to be illegal and deserves to be unreliable & factious.

(11) On perusal of spot inspection Report dated 15.03.2018 and demand note date is 27.3.2018 after delay of 13 days, single page which proves the action is fictitious and unreliable. Secondly on page 3 of report it is noted that necessary photo & videography was done but non applicant failed to provide the same for authenticity & scrutiny and non applicant also failed to mention names of police personnel gave the protection during theft detection.

(12) During argument non applicant admitted that police complaint i.e. FIR was neither filed nor testing of meter was done. Hence computation of bill for Rs.132530/- for 24 months does not stand to Judicial scrutiny and is unreliable.

(13) In the identical case in representation No. 612016 order dated 6.4.2016 between M/s. Ekta Polymer v/s. The Exe.Engineer, MSEDCL, Hon'ble E.O. in para 14 observed as under.

“From the discussion during the hearing and the records brought forward, it is seen that the respondent failed to establish that the assessed bill was for theft carried out by the appellant. The procedure for establishing theft was not carried out as laid down in the Electricity Act, 2003 vide Section 135 (1A) which reads as under:

135(1-A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may upon detection of such theft of electricity immediately disconnect the supply of electricity.

Provided that only such officer of the licensee or supplier, as authorized for the purpose by the appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorized shall disconnect the supply line of electricity.

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection.

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the

obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty eight hours of such deposit or payment.

In the present case, however, no immediate disconnection was carried out and no FIR was lodged with the Police regarding theft. This case was not treated as a theft case that would attract the provisions of Section 135 of the Electricity Act, 2003. Infact, no case of theft of electricity has been established by the MSEDCL at any point of time in this case. Secondly the assessment bills issued to the appellant (i) for Rs.5,05,400/- and (ii) for Rs.2,71,820/- on the basis of Energy Audits are highly incredible and unreliable. It is not clear as to which assessment is the correct one”.

In the present case, meter was removed on pretext that there is fault but No Testing of meter was carried out by non applicant as per Reg. 15.4.1 and no FIR was lodged with the police regarding theft of electricity and this case was not treated as a theft case that would attract the provisions of the E.A. 2003. Infact no case of theft of electricity has been established by SNDL (NA) at any point of time in this case. Secondly assessed bill for Rs.132530/- with Rs.8000/- as compounding charges are highly incredible and unreliable and correctness of assessment is not clear because the panchanama is not signed by consumer (Name not appears). Hence prama facie it is not the case of Theft u/s 135 of the electricity Act 2003.

(14) Regarding the appellant's request for granting compensation of Rs. 1.0 lacs for unnecessary harassment and mental agony caused to entire family due to disconnection of power since 15.3.2018, I can relise the same as a humanbeing but applicant is entitle for SOP compensation Rs.50/- per hour of delay i.e. Rs.1200/- per day from 15.3.2018 till restoration of supply.

In view of the above observations, the application deserves to be allowed. Hence the following order.

ORDER

- (a) The order of IGRC dated 185.2018 is quash & set aside.
- (b) The bill for Rs.132530/- is quashed & set aside.
- (c) The non applicant is directed to pay SOP compensation to the applicant for illegal disconnection from 15.3.2018 at 4.30 p.m. till restoration of supply as provided by SOP regulations of MERC regulations 2005, Appendix A, Item 2(i).
- (d) Non applicant is directed to restore the supply immediately.
- (e) Compliance of this order shall be done within 30 days of order.

Naresh Bansod
Member (CPO)

8. We have perused the note. We are of the considered opinion that since the respondent kproceeded against the applicant as per the provisions of Section 135 of the E. Act 2003, the case did not fall within the jurisdiction of this Forum.

9. We have perused the record. The Xerox copies of the spot inspection report, Panchanama and seizure Memo are on record. The respondent also produced the Xerox copies of the provisional assessment and the demand note.

10. So we are of the opinion that the respondent proceeded against the applicant as per the provisions of Section 135 of the E.A.2003.

11. As per the provisions of Regulation 6.8 of the MERC (CGRF & EO) Regulation 2006, the offences and penalties as provided u/s 135 to 139 of the Act are excluded from the jurisdiction of the Forum. So the following Order.

ORDER

- 1. Application No.65/2018 is dismissed.

Sd/-
(N.V.Bansod)
MEMBER

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

Sd/-
(Vishnu S. Bute)
Chairman