

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/AUC/686/2018/26  
Registration No. 2018060095**

Date of Admission : 26.06.2018

Date of Decision : 04.09.2018

Shri Sayyed Anwaroddin Sayyed Raisoddin, : COMPLAINANT  
P. No. 204, Gut No. 92/P,  
Kasambari Nagar, Asim Park,  
Aurangabad.  
(Consumer No. 490014211851 )

**VERSUS**

The Executive Engineer (Admn) : RESPONDENT  
Nodal Officer, MSEDCL, Urban Circle,  
Aurangabad.

Complainant : Shri Akhtar Ali Khan,  
Respondent : Shri N. R. Suryawanshi,  
Addl. EE, Chawani SDn

**CORAM**

Smt. Shobha B. Varma, Chairperson  
Shri Laxman M. Kakade, Tech. Member/Secretary  
Shri Vilaschandra S. Kabra Member.

**CONSUMER GRIEVANCE REDRESSAL DECISION**

1) The applicant Shri Sayyed Anwaroddin Sayyed Raisoddin, P. No. 204, Gut No. 92/P, Kasambari Nagar, Asim Park, Aurangabad is a consumer of Mahavitaran having Consumer No. 490014211851. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 26.06.2018.

**BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:**

2) The consumer has received bill in October 2016, the bill of 1500 units including amount of Rs. 8693.39 "Adjustment" without notice to consumer from the Respondent. That, the said bill did not refer to any details. That the consumer has made representation for revision of the said bill, however the amount of Rs. 8693/- is not withdrawn till July 2017. The respondent is threatening to disconnect the electricity supply.

3) Hence, it is prayed to withdraw the bill of Rs. 8693/- from the bill of October 2016. The interest charged on the said amount may be deducted. For mental agonies compensation of Rs. 5000/- may be granted. During pendency of the petition electricity supply of consumer may not be disconnected.

4) The Respondent has filed say (Page No. 12) as under :-

That, the amount of Rs. 8693.39 claimed by the consumer is relating to theft of electricity, covered under section 135 of IE Act 2003, so included in the bill by way of adjustment.

5) The consumer has submitted rejoinder as under :-

The amount included in the bill is without notice to consumer & not regarding theft in the premises of consumer.

6) That, the following requirements under section 135 of IE Act 2003 of IE Act 2003 not complied by the Respondent.

- a) Electricity supply of the consumer is not disconnected immediately.
- b) FIR is not lodged within 24 hrs.
- c) Spot panchanama with photographs is not produced.
- d) The signature of consumer is not obtained on spot inspection report, the said is after thought document, prepared by Respondent by sitting in their office.
- e) It is not theft case, but jugglery of Respondent office to black mail the consumer.

The Respondent has informed (Page No. 21) by purshis that in this case FIR is not lodged, charge sheet is not submitted in the Court.

7) We have gone through pleadings & documents submitted by both parties, we have heard arguments submitted by both the parties.

8) We have perused pleadings & the documents on record filed by the applicant and respondent. We have heard Complainant Representative Shri Akhtar Ali Khan & Respondent Representative, Shri N. R. Suryawanshi, Addl. EE, Chawani Sub Division, Aurangabad. Following points arise for our declaration, & we have recorded our findings thereon for reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether this Forum has jurisdiction to try the dispute ?	Yes
2)	Whether the amount of Rs. 8693/- assessed in the bill of October 2016 by the Respondent is illegal?	Yes

3)	Whether the interest amount is chargeable on the aforesaid disputed bill ?	No
4)	Whether the complainant is entitled for compensation of Rs. 5000/- for harassment as claimed ?	No
5)	What order & cost ?	As per final order

### REASONS

9) **Point No. 1 to 3 :-** The disputed bill produced by the complainant (Page No. 3). It goes to show that while issuing bill to the complainant for the month of October 2016, amongst other amount, adjustment amount of Rs. 8693.39 is assessed. Another bill filed by complainant for month of May 2018 goes to show that the aforesaid amount together with interest carried forward as recoverable amount and shown in column of interest arrears. The complainant has claimed that , it is assessed illegally, whereas Respondent in their say (Page No. 12) has claimed it as theft bill. However in their say (Page No. 21), Respondent has informed that neither FIR was filed nor charge sheet was sent in the court.

10) In support of their contention Respondent has produced spot inspection report (Xerox copy) (Page No. 13) dtd. 10.11.2016. The said report only refers to the Name, No. & Address of consumer & Residential use. All other columns are left blank. There is one endorsement made which is not in sequence but refers as follows :

DD No. 4897115 dtd. 20.11.2016 + 8693.39 (Theft Bill)

In the remark column reefers to following observation.

“Service wire tap before meter load = 0.3 KW.”

11) Though, the report carries the sign of Assistant Engineer, but does not carry sign of Consumer, Lineman.

12) Though, the Respondent has claimed the disputed bill as assessment of theft bill, however it appears that it is absolute without any foundation. In order to elucidate the facts, we found following deficiencies :-

- a) All columns of the spot inspection report are not filled.
- b) Time of inspection not stated.
- c) Signature of consumer not obtained, no explanation is forthcoming.
- d) No particulars of Meter & its No.
- e) No video, no photographs of all the spot.
- f) No immediate disconnection of supply, even if consumer failed to deposit the disputed bill.
- g) No FIR lodged within 24 hrs. of disconnection or up to 15 days from time of issuance of theft bill.
- h) No panchnama drawn no seizure of wire meter.

13) In case of theft, the Assessing Officer has to draw conclusions based upon findings during the course of inspection of premises or after inspection of the equipments, gadgets, machines, devices found connected or used OR after inspection of the records maintained by any person. Therefore every assessing officer must carry out inspection himself and endeavor to collect all possible photographs, videos, graphic and documentary evidence to prove as to who (person), where (Location premises), when(duration/period) & how (made of unauthorized use) has taken place. Further he has to ascertain that the person involved has gained by doing such an act. Till the time the assessing officer does not conclude all the parameters stated above, based on the evidence available or due to delay in collection of evidence, the case may be kept under observation

with such remarks. In a normal case the assessing officer is expected to complete all his inspection, investigation & collection of evidence within a reasonable period of seven days, however, the same is not binding provided process of collection of evidence is in progress.

14) In this case none of all above procedure is completed by the Assistant Engineer. Not only that, such non action on the part of Respondent since 10.11.2016 till date speaks volume & leads us to draw adverse inference against the Respondent.

15) Considering all the aforesaid total circumstance, it is found that, the Respondent has technically used the word theft bill, without any inquiry, investigation or procedure. In absence of FIR / Charge sheet, it can't say as theft case, but is termed as illegal recovery. Once the action is initiated by the concerned officer for theft, it must reach to its logical end, in absence of which, no action could survive against the consumer. As such in absence of FIR, Section 135 has no prima facie attraction, as such, this Forum has jurisdiction to entertain the dispute, we answer point No. 1 in the affirmative.

16) Considering above discussion we feel that the disputed bill & interest imposed thereon is illegal recovery & requires to be set aside. We answer pointNos.2 & 3 in affirmative.

17) **Point No. 4 :-** In the aforesaid circumstances, we feel that, the complainant has also challenged the bill after one year, seven months & 16 days. Nothing is explained in this respect. Considering the above scenario, we do not feel it just & proper to grant compensation to the complainant. We answer point No. 4 in the negative.

- 18) It is found that the concerned Assistant Engineer though has claimed theft of energy, but did not properly inquire, investigate. On its basis, no action could survive, so it is necessary to direct the concerned Assistant Engineer / officer to follow proper procedure in future.
- 19) Considering aforesaid discussion, we allow the complaint & proceed to pass following order, in reply to point No. 5.

**ORDER**

The complaint is hereby allowed in the following terms :

- 1) The disputed bill of complainant for the month of October 2016, to the extent of adjustment amount of Rs. 8693.39 & interest charged on it till to date is hereby set aside & quashed.
- 2) The prayer of compensation stands rejected.
- 3) Parties to bear their own costs.
- 4) Compliance be reported within 30 days.

Sd/-  
Shobha B. Varma  
Chairperson

Sd/-  
Laxman M. Kakade  
Member / Secretary

Sd/  
Vilaschandra S.Kabra  
Member