

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

**Case No. CGRF/AZ/AUC/695/2018/35  
Registration No. 2018090054**

Date of Admission : 28.09.2018

Date of Decision : 05.11.2018

Mod. Najimoddin Mod. Ajimoddin, : COMPLAINANT  
H. No. 1-16-76, Juna Bazar,  
Aurangabad 431 001  
(Consumer No. 490012666583)

**VERSUS**

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

Complainant : Shri Akhtar Ali Khan,  
Respondent : Shri P.T. Joshi,  
Addl. EE, Power House 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 Mod. Najimoddin Mod. Ajimoddin, H. No. 1-16-76, Juna Bazar, Aurangabad is a consumer of Mahavitaran having Consumer No. 490012666583. 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 28.09.2018.

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

2) That complainant is commercial consumer of MSEDCL at Juna bazar, Aurangabad. He has paid all the bills upto August 2018.

3) That Assistant Engineer MSEDCL, Power House has disconnected his electric supply on 25/09/2018, at 02.00 P.M. without giving intimation / notice under section 56 of electricity act 2003.

4) That., the complainant has requested Assistant Engineer to reconnect his supply as he has paid all the bills upto August 2018. But he refused to reconnect the supply.

5) That, he has informed that he was directed by Superintending Engineer MSEDCL, Urban Circle, Aurangabad to disconnect the supply without notice.

6) That, the complainant has then approached to Additional Executive Engineer, Power House Sub Division and requested him to reconnect the electricity supply. Then, he has directed Assistant Engineer to reconnect the supply as the consumer has paid bill upto August 2018 and noticed under section 56 of electricity Act-2003 is not given to the consumer by Assistant Engineer.

- 7) The Assistant Engineer has refused to obey the order under the pretext that he is directed by Superintending Engineer MSEDCL to disconnect the electricity supply.
- 8) The complainant then has taken up the matter in writing to Superintending Engineer, Urban Circle, Aurangabad to reconnect the electricity supply. But he has also refused to reconnect the supply & informed to ventilate the grievance in the court of law.
- 9) Complainant has prayed to award compensation of rupees 5000/- for loss of his business that is shop and the connection is commercial category.
- 10) Award cost of rupees 2000/- for mental torture and harassment on account of illegal disconnection & there was no electricity supply for three days.
- 11) Direct MSEDCL to take action against Assistant Engineer, Power House Unit for violation section 56 of Electricity act 2003.
- 12) Direction may be given to Superintending Engineer to restrain from giving instruction violating the provisions of law.
- 13) The Respondent has submitted reply (Page No. 14) & raised following grounds :
  - a) That, the complainant's residential consumer No. is 490010125496. That it is found that complainant has committed an offence of theft of electricity with remote at his residential place. Theft bill for the amount of Rs. 4,46,700/- was issued to the complainant. The complainant did not pay it, so FIR No. 210 dtd. 06.09.2018 was registered against him & his residential electricity supply was disconnected.

- b) It is contended that the Assistant Engineer has found that the complainant has shifted load of electricity supply of (600 watt) of two freeze of his residential connection to consumer No. 490012666583 i.e. his commercial connection of his shop, which is on back side. As such hence in order to prevent any electricity supply to residence of the complainant, the said electricity supply was also disconnected. The said information was also additionally provided to P. S. Chhavani.
  - c) That, in order to prevent electricity supply in any way to residential place of the complainant, the electricity supply of consumer No. 490012666583 was also temporally disconnected. The said incident is covered under section 135 & 138 of Indian Electricity Act 2003, therefore notice under section 56 of Indian Electricity Act 2003 was not issued to the complainant.
  - d) That, on receipt of order passed by the present Forum, the electricity supply was immediately reconnected.
  - e) It is submitted that the subject dispute is covered under section 135, 138 of Indian Electricity Act 2003, hence further orders may be passed.
- 14) In the rejoinder (Page 49-52) the complainant has raised following points.
- a) That, FIR No. 2010/18 has no relevance with the disputed, but averments are raised to mislead the Forum.
  - b) Commercial consumer No. 490012666583 is located at H. No. 1-16-76, also appearing in shop Act Licensee & Light bill having supply from DTC No. 4394272, whereas residential consumer No. 490010125496 is at H. No. 2/17 having supply from DTC No. 4394205. Residential connection was given in 1972.

- c) That, theft case is not against consumer No. 490012666583. Spot inspection & panchanama was never drawn at the shop of complainant on 27.09.2018 & Assistant Engineer Shri Sonar has also admitted about it before this Forum.
  - d) On 04.09.2018 Shri Sonar has submitted FIR about consumer No. 490010125496, along with documents of spot inspection report & panchanama, in which there is no such reference about consumer No. 490012666583.
  - e) After 23 days of submitting FIR i.e. on 27.09.2018, Shri Sonar, Assistant Engineer submitted application to Chhavani P.S. & it is after thought & to mislead the authority.
  - 6) That, counter complaint / application is filed by the complainant against Assistant Engineer, Shri Sonar about consumer No. 490012666583. The application submitted by Sonar is not included as part of FIR NO. 210/18. Till to date charge sheet is not submitted in the court.
  - f) That electric connection of consumer No. 490012666583 is no way connected with theft, hence before disconnection notice under section 56 of IE Act 2003 was necessary.
  - g) That the complainant is old man of age 80 years. That, he is suffering from heart, kidney disease & undergoing medical treatment since 2014. Respondent officers are therefore responsible to threat of life of the complainant.
- 15) We have gone through the pleadings, documents & arguments advanced by both the parties. We have heard consumer representative Shri Akhtar Ali Khan & Additional Executive Engineer, Shri P. T. Joshi & Assistant Engineer Shri Sonar for the respondent .

16) Following points arise for our determination & we have recorded our findings on it, for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether this Forum has jurisdiction to try the dispute ?	Yes
2)	Whether disconnection of electricity supply of complainant's electricity connection of the shop bearing No. 490012666583 was illegal?	Yes
3)	Whether complainant is entitle for compensation of Rs. 5000/- & cost of Rs. 2000/- as claimed ?	Partly yes, Rs. 1000/- Compensation
4)	Whether directions as claimed are required to be issued ?	Yes
5)	What order & cost ?	As per final order

### REASONS

17) **Point No. 1:-** On 04.09.2018, the Respondent's officer visited to residence of the complainant for examination of meter No. 046379 of Consumer No. 490010125496 & found that the present complainant has committed theft. Accordingly spot inspection was made panchanama was drawn. Meter was seized & connection was disconnected & theft bill of Rs. 4,46,700/- was issued against the complainant. He has not paid the bill, hence on 06.09.2018 FIR (Copy at Page No. 19) was lodged & under section 135 & 138 of IE Act 2003. C.R. No. 210/18 was accordingly registered with P.S. Chhavani, Aurangabad. Till today charge sheet is not submitted to Court.

- 18) The disputed Electricity Connection in this complaint is commercial bearing Consumer No. 490012666583 in respect of complainants shop situated at Juna Bazar, Aurangabad.
- 19) In the say (Page No. 14) the Respondent has raised grievance that from Consumer No. 490012666583, the electricity supply for two deep freeze was illegally used at the place of commission of theft.
- 20) That on 27.09.2018, one letter was submitted by Assistant Engineer, Shri Sonar to P.S. Chhavani (Copy of it Page NO. 57) communicating that two deep freeze of his shop were operated from electricity supply of Consumer No. 490010125496 at the time of detection of theft & thus complainant was also committing the theft for his commercial activity. It was requested to include electricity connection consumer No. 490012666583 in C.R. No. 210/18.
- 21) Considering FIR & aforesaid application, it is clear that allegations of theft are raised only against consumer No. 490010125496. That, apart P.S. Chhavani in their letter dtd. 26.10.2018 (Page No. 123) has specifically communicated that there is no offence registered against Consumer No. 490012666583 & it can't be included in FIR No. 210/18.
- 22) Considering total allegations made in FIR alongwith aforesaid letter of Chhavani P.S., it is crystal clear that disputed Consumer No. 490012666583 is not subject of theft of electricity supply. As such this Forum has jurisdiction to try the dispute. We answer point No. 1 in the affirmative.

23) **Point No. 2** : It is not in dispute that on 25.09.2018 at 2.00 p.m. electricity supply of consumer No. 490012666583 standing in the name of complainant was disconnected by the Respondent without giving notice under section 56 of IE Act 2003.

24) The reason for such disconnection explained by the Respondent in their say is two deep freeze (600 watt) which were operated on theft connection, were found run on commercial connection No. 490012666583. Hence, with a view that at the place of theft any kind of electricity connection shall not be allowed to be continued, so electricity supply was disconnected. Respondent has also stated that since the incident is covered under section 135, 138 of IE Act 2003, so notice under section 56 was not necessary.

25) First of all, let us locate as to where is the residential & Commercial place of the complainant, because theft connection is residential, where as present disputed connection No. 490012666583 is commercial. Consumer Representative Shri, Akhtar Ali Khan has submitted those are different locations commercial consumer connection No. 490012666583 is at H. No. 1-16-76 having supply from DTC No. 4394272, whereas Residential Consumer No. 490010125496 is at H. No. 2/17, having supply from DTC No. 4394205. For examination of location, spot panchanama dtd. 04.09.2018 (Copy Page No. 20) is important. It goes to show that, in presence of panchas, the spot of theft was raided. The Four boundaries recorded in the panchanama are reproduced as it is :-

“ सदर ग्राहकाचे घर पश्चिमाभिमुखी असून घराच्या पुर्वेस त्यांचे स्वतःचे किराणा दुकान, पश्चिमेस - गल्लीतील रोड व समोर सय्यद शाह निजामुद्दीन, दक्षिणेस सय्यद शाह निजामुद्दीन यांचे घर व उत्तरेस सईद अब्दुल रऊफ रज्जाक यांचे घर असल्याचे आढळून आले. ”



26) There are three positive photos on record showing shop & residence of the complainant. It is important to note that panchas are independent persons & have no reason to mention false boundaries. What can be gathered from the documents is that shop & residence of the complainant though are having different house nos., however, there are two ends, at one end there is house, which is opening to western side & at another end there is shop, opening to eastern side, in such straight way both locations of residence & shop is connected and situated. Shop and residence being operating in different lanes, hence in photos different buildings are seen. However, both premises though having different nos. but from east to straight way west. As such, we disagree with submissions of consumer representative Shri Akhtar Ali Khan on the point of location.

27) The spot panchanama (Page No. 20) dtd. 04.09.2018 goes to show that amongst other instruments 3 freezers (each of 300 watt) were connected on residential connection & such use is already stated in panchanama, it was unauthorized use of connection. It appears that, after detection of theft, the residential connection was disconnected & therefore those two deep freezers were connected on commercial connection consumer No. 490012666583. These deep freezers thereafter operated from commercial connection consumer No. 490012666583. It is important to note that those freezers being found at the time of theft & at residential place, those can't be again used by the complainant. Fact remains that, after detection of theft, fresh panchanama & spot inspection about connection No. 490012666583 was not drawn by the officer of the Respondent. As such, proper procedure is also not undergone by the Respondent.

28) Considering the aforesaid state of affairs as can be seen from the record, it is found that the case is not covered under section 56 of IE Act 2003. It is found

that use of the deep freeze from commercial connection Consumer No. 490012666583 was also not justified as they were detected in theft case. However, drastic action of disconnection of electricity supply of consumer No. 490012666583 was uncalled. Such action of the respondent is illegal, unjust & uncalled & not permissible. As such we record findings of point No. 2 in the affirmative.

29) **Point No. 3, 4 & 5** : It is found that the Respondent's Assistant Engineer has illegally disconnected the electricity supply of commercial connection No. 490012666583 of the complainant. It was disconnected on 25.09.2018 & reconnected on 28.09.2018. Thus for three days there was disconnection. Proper course could have adopted by the concerned officer, instead he has taken drastic step without giving any opportunity to the complainant. So, we feel it just & proper to grant Rs. 1000/- (Rupees one thousand only) compensation for loss, mental agonies and torture, but not the cost amount. The amount of compensation is required to recover from the pocket of erring officer. So, also Respondent officers are required to take proper legal measures in future.

30) Copies of judgements passed by this Forum in case No. 652/17, 653/17 & 557/15 are produced by the complainant on record on the point of compensation. Rather pertinent to note that fact of each case are different, as such each case is different, as such these cases are not proved helpful to the complainant. Considering above discussion we answer points 3 partly in the affirmative & point No. 4 in the affirmative.

31) Considering the aforesaid discussion proceed to pass following order in reply to point No. 5

**ORDER**

The complaint is hereby partly allowed in the following terms :

- 1) For illegal disconnection of electricity supply Consumer No. 490012666583, compensation of Rs. 1000/- (Rupees One thousand only) is granted & it be recovered from the pocket of erring officer & be paid to the complainant.
- 2) Parties to bear their own costs.
- 3) The Respondent hereinafter directed to take proper legal measures in future to be adopted by their officers.
- 4) Compliance be reported within 30 days from the date of receiving this order.

Sd/-  
Shobha B. Varma  
Chairperson

Sd/-  
Laxman M. Kakade  
Member / Secretary

Sd/  
Vilaschandra S.Kabra  
Member