

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 44/2018	Date of Grievance : 01.08.2018
	Hearing Date : 07.09.2018
	11.09.2018
	Date of Order : 10.12.2018

In the matter of wrong exorbitant illegal supplementary bill.

**The Principal,
College of Engineering, Pune,
Students Hostel
Shivaji Nagar, Pune – 411 005
(Consumer No. HT - 170019005367)**

---- **Complainant**

VS

**The Supdt. Engineer,
M.S.E.D.C.L.
GKUC,Pune.**

----- **Respondent**

Present during the hearing:

A] - On behalf of CGRF, Pune Zone,Pune.

- 1) Shri. A.P.Bhavathankar, Chairman, CGRF, PZ, Pune
- 2) Mrs.B.S.Savant, Member Secretary, CGRF, PZ, Pune
- 3) Mr.Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Prof.B.B.Ahuja, Director, College of Engineering, Pune
- 2) Prof.B.N.Chaudhari, Dy.Director, College of Engineering,
Pune
- 3) Prof.D.B.Talange, Head of Electrical Engg.,College of
Engineering, Pune

C] - On behalf of Respondent

- 1) Mr.P.R.Khadke, Ex. Engr.,Admin.GKUC, Pune
- 2) Mr.G.M.Dangat, Dy.Manager, GKUC, Pune

Principal, College of Engineering, Pune, Students Hostel, Consumer No.
- HT - 170019005367, V/S SE, GKUC, Pune.

Complaint about wrong exorbitant illegal supplementary bill issued by Respondent Utility on dated 17.3.2018 for amounting Rs.2,21,87,380/- with notice of disconnection dated - 21.6.2018 above named consumer occupying the premises of College of Engineering, Pune Students Hostel owned by Government of Maharashtra. Both the premises are separate HT connection for each premises is taken and Hostel Premises is used for residential purpose for Hostel purpose in 2002 students and staff and faculty are occupying the premises prior to Aug.2012 previously HT-VI tariff was applied for the Hostel after Aug.-2012 the tariff was changed arbitrary from time to time by Respondent Utility MSEDCL. The said tariff was change as per MERC Tariff Order however it is miss printing of tariff order passed MERC & MSEDCL have applied for wrong tariff to the Hostel accommodation. It is seen from the record from Aug.2012 onwards MSEDCL has changed the tariff from HT-IV to HT-II and HT- IX to HT IX A and lastly issued supplementary bill applying tariff HT-IX A to LT-I for the period Sept.2012 to Jan.2018 for 65 months. According to consumer Respondent Utility MSEDCL applied incorrect tariff by misinterpreting the tariff order passed by MERC & claimed illegal tariff difference mentioned in the bill alongwith threat of disconnection notice also issue against which consumer information writing to Respondent Utility MSEDCL and requested to apply correct tariff for the Hostel but nothing was done since 27.4.2018. MSEDCL also applied by consumer to correct tariff HT VI by letter dated 31.5.2018. The said matter was referred to Head Office by MSEDCL and they are awaiting for decision as involving policy matter. Thereafter the decision of Head Office, Superintending Engineer, GKUC, served disconnection notice to Hostel. According to consumer supplementary bill issued by utility is wrong illegal and not acceptable. There are no details mentioned in the bill nor work sheets of calculation provided to the consumer. According to the consumer it is Government Institute exemption for claiming electricity duty. However it was made applicable wrong and illegally tariff for occupational of premises for Hostel. Consumer challenged the said bill and the tariff applied wrongly by misinterpreting the order of MERC as

per Regulations – 2005 and Electricity Act-2003. Consumer also claimed contravention of reference and order passed by various Competent Authority its causes violation of Principal of natural justice. Consumer also claimed copy of CPL and tariff order passed by MERC was not provided alongwith supplementary bill and therefore initially consumer filed complaint to IGRC and claimed appropriate release to set aside illegal and exorbitant bill issued to the consumer for amounting Rs.2,21,87,380/-Consumer prays for cancellation of disconnection notice illegal Dated 21.6.2018. Consumer pray for withdrawal of electricity duty and pray exemption of electricity duty claiming in the bill. Consumer pray for revised bill for HT VI tariff applied wrongly and other appropriate relief also claimed till them consumer pray for not to disconnect the supply or to take coercive action as threaten in the notice. After filing the say complaint to IGRC on dated 30.6.2018 IGRC registered the case. Thereafter consumer made several correspondences to the Respondent Utility official but no reply was given. IGRC registered the case T-18/2018 opportunity was given for hearing on dated 13.7.2018 on 19th July 2018 IGRC passed order against the consumer stating as per approved MERC tariff order and relevant circular issued by MSEDCL regarding tariff. Consumer charge HT-IXA to LT Residential category from Feb.2018 with retrospective effect from Sept. 2012. According to IGRC subsequently recovery against tariff difference supplementary bill is correct.

Being aggrieved by the order of IGRC this consumer filed complaint to this Forum in Form No. A on 31.7.2018. Thereafter Case no. 44 of 2018 is registered and notice was issued to the Respondent Utility Official on 01.08.2018 directing then to file reply on or before 17.8.2018. After receiving the said complaint Respondent Utility appeared and filed reply along with copies of documents inspection report dated 03.2.2018 copy of CPL, copy of tariff order, copy of supplementary bill, copy of notice, copy of CPL and calculation sheet, copy of letter dated 18.4.2018 addressed to consumer. Respondent Utility objected the consumer complaint and stated that Principal of College of Engineering, Pune Student Hostel is HT consumer date of connection is 3.3.1988. At

present load is 600 KVA/965 KW supplied on 11KV level, current tariff applied LT-I from Feb.2018, after introduction of new tariff category Public services tariff changed HT-IXA Government Public Service from August- 2012 as per provisions of Commercial Circular 175 dated 5.9.2012, copy of CPL on Oct.2012 to Aug.2015. The consumer was billed HT-IX tariff category and the consumer was billed as per HT IX Govt. Category -15 from Nov.15 to Jan.2018. As consumer was billed HT-IX Govt. category as per MSEDCL Commercial Circular No.243/3.7.2015, 275/18.11.2016, 284/11.4.2017, 302/31.3.2018. According to utility CAG/2015-16 Govt. Auditor raised the queries regarding loss of revenue due to incorrect application of tariff to Hostel/Dharmashala. As per Audit observations it is mentioned that HT power supply provided for student Hostel of Educational Institute and Dharamashala were being billed as per HT IX Public Services tariff instead of applicable LT-I tariff since Sept.2012. Due to incorrect application of tariff the consumer resulted in loss of revenue to the company for the period Sept.2012 to Jan.2018. Therefore the tariff of consumer was changed from HT IX to LT- I Residential category from Feb.2018 with retrospective effect from Sept.2012 and supplementary bill issued to the consumer for amounting Rs.2,21,87,380/-. As per Circular No.175/Aug.2012 and the subsequent tariff of all circular issued time to time. The consumer who have taken power supply at HT Level for the above mentioned purpose includes all Students Hostel affiliated to Educational Institution shall be billed as per the tariff applicable to power supply on low tension and therefore LT residential tariff applied to the said consumer. Being aggrieved by supplementary bill consumer already approached to IGRC and the letter was issued by consumer by claiming exemption dated 2.8.2018 and 25.7.2018 and claimed for refund of electricity duty which is referred to Electrical Inspector. After receipt of approval of refund of electricity duty charges from Sept.2016 was preceded and the amount bill credited in monthly energy bill after adjustment of other charges. Electricity duty is exempted from July-2018. Respondent utility relying on the judgment of Bombay High Court in a case of Avdesh Deshpande Vs.Tata Power Co.Ltd. AR 2007 Bombay 52.

Respondent Utility also submitted that Licensees can recover the bill amount on account of faulty bill has been issued to the consumer in view of conflicting judgment under Section 56 (2) Indian Electricity Act 2003. The clarification was asked for Section 56 (2) in Writ Petition No. 1064 of 2011. The issue has been referred to larger bench.

It is submitted by utility but the order of CGRF & Ombudsman which was referred in reported judgment 2016 volume 1 and HLG 382 Superior Court is ceased the matter of court subordinate to them and the Lower Court shall wait for outcome decision. Utility referred various judgements in H'ble High Court and pray that final decision of CGRF shall be stayed for waiting for the final order in pending matter before H'ble High Court and lastly prayed by utility that tariff difference claimed of retrospective period and recovery in supplementary bill is correct and therefore consumer is liable to pay the same. Utility pray for rejection of consumer complaint.

After perusing all the relevant documents filed by consumer, copy of order of IGRC, copy of correspondence letter and notice of return argument perused. After perusing reply filed by utility and all the relevant documents following issue arose for my consideration to which I have recorded my finding to the points for the reason given below:

Issues :

1. Whether supplementary bill issued by the Respondent Utility claiming retrospective recovery of Sept.2012 to Feb.2018 amounting Rs.2,21,87,380/- is legal valid and proper.
2. Whether notice of threat of disconnection is legal valid and proper.
3. Which tariff is applicable to the consumer for occupying the premises for College of Engineering Pune Student Hostel as HT consumer
4. What relief and order?

Reasoning :-

I have given opportunity to the consumer and his representatives and also gave fair opportunity for the utility and their representative on 11.9.2018. On perusal of the dispute it appears that Respondent Utility issued supplementary bill for amounting Rs.2,21,87,380/- dated 17.3.2018. It is admitted fact the earlier tariff was applicable to the

consumer occupying the premises for Engineering Student Hostel HT IXA and they were billed time to time. According to utility as mentioned in the reply as per Government Auditor report mentioned in Para 2015-16 loss of revenue due to incorrect application of tariff Hostel and Dharmashala. According to report of Audit the appropriate tariff should have been applied LT-I residential instead of HT-IX, which was billed to the consumer for the earlier relevant period. The representation made by the consumer being aggrieved by the supplementary bill and notice of threat of disconnection directing consumer to deposit huge amount Rs.2,21,87,380/- which is claimed in the one bill earlier period Sept.2012 to Jan.2018. The reason of calculation of the said bill challenged by the consumer on various grounds for this purpose referred in the reply of utility. The reason of charging HT IX tariff Code No.78, Code No.15, Code 14, referring the circular earlier time to time. It seems that the Respondent Utility namely relied on the auditor's report. It is fare enough to state that Government Auditor has no proper sanctioned and valid authority to determine the tariff. And therefore my observations cannot be a space of claiming arrears together with retrospective effect. The matter should have been referred to SE/GKUC for giving proper opportunity to the consumer to represent the case alongwith details and raised the objection instead of that supplementary bill is generated and issue to the consumer with threat of notice of disconnection. Therefore consumer has no other option to object and challenge the said bill supplementary bill initially before IGRC and accordingly to said bill was challenged by the consumer before IGRC T-18/2018.

I have perused copy of IGRC order, copy of reply given by utility and copy of order supporting the action of utility is legal valid and proper. Therefore question of application of appropriate tariff should have been assessed since the date of inspection. The Respondent Utility also accepted that to issue the category of consumer since beginning and claimed the earlier tariff in HT- IXA category. Though the tariff circular 2012 itself indicates that if no specific category is prescribed for the huge of supply to the consumer in HT consumer category then bill should be claimed and issued in the category of LT-I apparently as per the circular

and the tariff order of 2012 perused. The directions was given by MERC to claim appropriate tariff residential even if the supply is to the HT consumer at the end but no appropriate action was taken at appropriate time. Therefore the report of the Audit tented consumer to take action after sufficiently long period as mentioned in Feb.2018. The Audit objection report as mentioned for the year 2015-2016, which is received to the utility much earlier period even then the action is delayed taken in Feb.2018 and therefore apparently it is delayed action.

The question of claiming retrospective effect arrears is seriously objected by the consumer and which is required to be assessed by this Forum minutely. In this case change of tariff from HT-IXA to LT-I Residential from Feb.2018 and in view of tariff order 2012 already directions was given to apply appropriate tariff for the category of Student Hostel Educational Institute and Dharamshala. Even then appropriate tariff was not applied earlier by utility. In this subject I am required to follow all relevant direction of MERC and pending cases in view of the said subject matter. If at all the appropriate tariff since Feb.2018 the consumer was charged LT Residential Tariff as per the contention of utility claiming retrospective recovery is seriously viewed. To my views the statute empowered utility to claimed arrears for 24 months only and therefore the utility should have been calculated the amount from Feb. 2018 Two years prior for 24 months only and assessment of the bill should have been prepared instead of that utility calculated arrears for the period Sept.2012 to Jan.2018. Consolidated 65 months period is according to me not correct. Similar issue is challenged before Hon'ble High Court Nagpur Bench in Case of 29 of 2017 order dated 31.5.2017 passed and referred by MERC. There are clear directions issued to utility not to take any coercive for recovery of accumulated arrears mentioned in the bill. In similar circumstances the tariff was changed from HT IX A to LT I from Feb.2018. The accumulated arrears of 65 months cannot be recovered due to pendency of issue before Hon'ble High Court Bench at Nagpur and therefore at this stage I am not inclined to allow utility to claim entire arrears subject to decision of pending case before Hon'ble High Court Bench at Nagpur. I feel it is proper to give directions to the

utility to reassess and revised the bill from 03.02.2018 prior to this date as 24 months earlier and claimed the tariff difference without claiming any interest, DPC and penalty. As per permitted exemption granted to the consumer of exemption of other duties. The consolidated bill issued to the consumer dated 16.3.2018 stands set aside.

The consumer is directed to pay the arrears of revised bill for 24 months in 10 equal installments along with current bill. The category as fixed LT-I Residential for the occupation of premises Hostel and held legal valid and proper.

The opportunity was given to both parties i.e. utility and consumer for submission of their relevant documents and if any say is required during the hearing. Accordingly, the time limit of 60 days prescribed for disposal of the grievance could not be adhered to.

ORDER

1. Consumer complaint No. 44 of 2018 is partly allowed.
2. The Respondent Utility is directed to reassess the bill for 24 months period earlier for the date of inspection i.e. 03.02.2018 & recover the tariff difference without claiming any interest, DPC & penalty etc.
3. No order as to the cost.
4. The Licensee to report compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 10th Dec. - 2018.

Note:

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree/~~Disagree~~—

I agree/~~Disagree~~

Sd/-
ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

Sd/-
A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

Sd/-
BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE