



CONSUMER GRIEVANCE REDRESSAL FORUM

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Case No.: 17/2018

Date of Grievance: 21 /09/2018

Date of Order: 13/12/2018

Anekant Education Society,
Baramati, Tal-Baramati,
Dist. Pune.

Applicant

(Herein after Referred to as consumer)

Versus

Executive Engineer (Nodal Officer)
M.S.E.D.C.L., Circle,
Baramati,

Opponent

(Herein after referred to as Licensee)

Quorum

| | |
|------------------|-------------------|
| Chairperson | Mr. B. D. Gaikwad |
| Member | Mr. S. K. Jadhav |
| Member Secretary | Mr. M. A. Lawate |

Appearance:-

For Consumer: - 1-Mr. V. D. Mahamuni (Representative of Anekant Education Society)

For Respondent: - 1- Mr. Keshav Kalumali, Executive Engineer, Circle office, Baramati.
2- Mr. P. N. Devkate, Add.Executive Engineer, Sub-Division, Baramati (U).

ORDER

(Date:-13/12/2018)

- 1- The Complainant above named has filed present Grievance under regulation 6.4 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006, Hereinafter referred to as Regulation 2006.
- 2- The Consumer is secretary, Anekant Education Society which is registered public Trust since the year 1961-62. It runs Tuljaram Chaturchand college at Baramati Dist. Pune There are also three Hostels for the students in the said college run by the said society

and consumer numbers are 1) 186840038421 2) 186840065215 3) 186841396134.

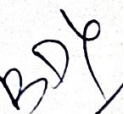
The electricity bills of all above connections were as per commercial tariff.

- 3- The flying squad Baramati has inspected said connections in the month of August 2017. The electricity bills as per residential tariff were sent in the month of Feb 2018. The consumer has immediately sent letter dated 21/02/2018 requesting to charge bills as per commercial tariff. However, MSEDCL has again instructed consumer to pay the bills as per residential tariff retrospectively from July 2015 and bills of following amounts are issued.

| Consumer No. | | Bill amount. |
|--------------|----|---------------------|
| 186840038421 | :- | Rs. 11600/- |
| 186840065215 | :- | Rs. 70360/- |
| 186841396134 | :- | Rs. 205670/- |
| Total | :- | Rs. 287630/- |

- 4- According to consumer even in the year 2008-2009 there was spot inspection and residential tariff was changed to commercial tariff on the ground that hostel activity is commercial activity and since then bills were charged as per commercial tariff. The MSEDCL has again changed the tariff abruptly without any notice and hearing the consumers.
- 5- The consumer has strongly objected the said bills in the letter dated 10/05/2018 stating that society runs hostels for the benefits of poor students from rural area and reasonable fee is charged from the students. There is no reason to impose said bills retrospectively. The bills should be charged as per commercial tariff as per earlier bills.
- 6- The MSEDCL did not take any action on the letters issued by the consumers. The consumer has submitted Grievance before Internal Grievance Redressal Cell, Baramati on 15/06/2018. The IGRC heard Grievance and it was rejected on 25/07/2018.
- 7- The consumer has therefore submitted present Grievance before this forum on 21/09/2018. The notice of the Grievance is served to MSEDCL. The MSEDCL has filed its say on 28.11.2018. It is contented that there are three LT connections of the consumer used for Hostels of the said college. On 5/8/2017 there was inspection of the said connections and premises by flying squad Baramati. It was noticed that the usage of Electricity is for residential purpose by the said consumer. It was directed to charge the bills as per residential tariff instead of commercial tariff from July 2015.





Accordingly difference bills are issued but consumer did not pay said bills, though installments were allowed as per rules. The applicable tariff is LT Residential as per the orders issued by MERC during the relevant period. The consumer shall pay the charges of Electricity supplied according to such tariff as may be fixed from time to time by MERC. The present appeal does not fall under the definition of Grievance and this forum is not having jurisdiction to decide present Grievance. The MSEDCL can recover the dues under section 56(2) of the Indian Electricity Act 2003. The MSEDCL prays for dismissal of the Grievance.

- 8- We have heard representatives of both parties and also perused the documents produced by both parties on record. In view of the arguments advanced on behalf of the parties, following points arise for our consideration and we have recorded our findings thereon for the reasons stated hereinafter.

POINTS

FINDINGS

- | | |
|---|-----------------------|
| I) Whether consumer is liable to pay bills as per residential tariff? | - Yes. |
| II) Whether MSEDCL is entitled to issue bills Retrospectively from July 2015? | - No. |
| III) What order? | - As per final order? |

REASONS

- 9- **POINT No:-** 1) The question before us is which tariff can be charged for the hostels run by Educational Institutes and public trusts. In this respect representative of the MSEDCL submitted that as per MERC tariff case no. 48/2016 dated 3/11/2016 tariff applicable for hostels is residential and not the commercial. There is no dispute that there was inspection of the connections in the month of August 2017. It was noticed in the inspection that the bills of those electric connections were charged as per commercial tariff instead of residential tariff. The MSEDCL has accordingly issued bills as per residential tariff in the month of Feb 2018 and also issued difference bills. In our view, present consumer is liable to pay bills as per residential tariff as per said MERC tariff order. We therefore answer above point No. I in the affirmative.

- 10- **POINT No:-** 2) The MSEDCL has issued above mentioned bills retrospectively from July 2015. There is no dispute that flying squad Baramati has carried spot Inspection on 05/08/2017 and ordered to charge bills as per residential tariff instead of





commercial tariff. The present case is of plain tariff difference case and MSEDCL has to follow provisions of Regulations and tariff orders passed by MERC. The Regulation 1.3 of supply code Regulations, provides as under.

(1.3) "Classification and reclassification of consumers into Tariff Category:-

The Distribution Licensee may classify and Reclassify a consumer into Various commission approved tariff categories based on the purpose of Usage of supply by such consumer provided that the Distribution Licensee shall not create any tariff category other than those approved By commission".

11- In Case No. 24/2001 dated 11/2/2003, MERC held as under.

"No retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer even though the same might have been pointed out by Auditor. Any reclassification must follow a definite process of natural justice and the recovery, if any would be prospective only as the earlier classification was done with a distinct application of mind by competent people. The same cannot be categorized as an escaped billing in the strict senses of the term to be recovered retrospectively."

12- Similarly in the order dated 7/8/2014 passed by the Appellate Tribunal for Electricity (APTEL) in appeal no 131/2013 in the matter of vianney Enterprises V/s Kerala state Electricity Regulatory commission, it was held that the arrears for the difference in tariff could be recovered only from the date of detection of error.

13- Even Electricity Ombudsman, Mumbai in Representation No. 124,125 and 126/2014 held in its order dated 23/12/2014 that the recovery on account of reclassification can be prospective only.

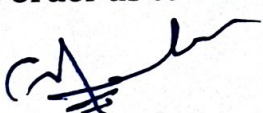





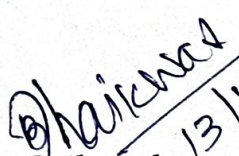
14- In the present case there was inspection on 5/8/2017 but MSEDCL is claiming difference amount in the tariff from July 2015 which is against above decisions of MERC, APTEL and Electricity Ombudsman. In our opinion MSEDCL can claim plain difference of the tariff only from spot inspection dated 05/08/2017. The MSEDCL cannot claim bills retrospectively from July 2015. We therefore answer above point No. II in the negative and pass following order.

ORDER

- 1- The Representation is partly allowed.
- 2- All three difference bills claimed by MSEDCL from July 2015 are hereby quashed and set aside.
- 3- The MSEDCL is at liberty to issue and recover plain tariff difference bills from 5/8/2017 as per residential tariff.
- 4- No order as to cost.


M. A. Lawate
Member/Secretary
CGRE, BMTZ, BARAMATI


S.K. Jadhav
Member
CGRE, BMTZ, BARAMATI


B.D. Gaikwad
Chairperson
CGRE, BMTZ, BARAMATI
13/12/2018

Note:- 1) This representation could not be decided within the period of two months as MSEDCL has requested for adjournments .
2) The Consumer if not satisfied may file representation against this order before Hon'ble Ombudsman within 60 days from date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, BandraKurla Complex,
Bandra (East), Mumbai-51.