

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

**Case No. CGRF/AZ/AUC/713/2018/53  
Registration No. 2018120058**

Date of Admission : 11.12.2018

Date of Decision : 12.03.2019

Shri Mewani Dayal Dharmadas, : COMPLAINANT  
G. No. 304, Mitmita,  
Aurangabad 431 001.  
(Consumer No. 490011715475)

**VERSUS**

Maharashtra State Electricity Dist. Co. Ltd., : RESPONDENT  
through it's Nodal Officer, EE(Admn),  
Urban Circle, Aurangabad.

Addl. Executive Engineer,  
Chawani Sub Division, Aurangabad.

For Consumer : Shri Akhatar Ali Khan,  
For Licensee : Shri K.B. Kale,  
Addl. EE, Chawani SDn, Aurangabad.

**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 Mewani Dayal Dharmadas, G. No. 304, Mitmita, Aurangabad is a consumer of Mahavitaran having Consumer No. 490011715475. The applicant has filed a complaint against the respondent through 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 11.12.2018.

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

- 2) The complainant has submitted his grievance as under :-
1. That, Shri Dayal Dharmadas Mewani, Consumer No. 490011715475, Gut No. 34, Mitmita, Aurangabad.
  2. There was credit bill of the consumer from February 2017 to April 2017. Consumer has paid the bill up to May 2017.
  3. Consumer has complaint about the excess bill on 28.08.2017.
  4. This is unauthorized and abnormal bill given to consumer as adjustment therefore not acceptable to him.
  5. Unauthorized bill of Rs. 10,589/- which is illegally included in the bill directly without any notice / intimation be withdrawn by revision of this bill.
  6. It is prayed that :-
    - a) Unauthorized bill of adjustment of Rs. 10,589/- which is illegally included in the bill directly without any notice / intimation be withdrawn by revision of this bill.
    - b) Interest and DPC charged on this unauthorized amount billed illegally be withdrawn forthwith.

- 3) The Respondent has submitted say (Page No. 22 ) as follows :-
1. Amount of Rs. 10,636.83 is adjusted in the bill of June 2017.
  2. The aforesaid amount is adjusted with respect to spot inspection dtd 09.06.2017. The amount is assessed as per section 126 of IE Act 2003 by applying commercial rate.
- 4) We have gone through the application, say & all documents placed on record by both the parties. We have heard arguments advanced by both the parties i.e. Complainant's Representative Shri Akhtar Ali Khan and Respondent's Representative Shri K. B. Kale, Addl. EE, Chawani Sub Division, Aurangabad. Following points arise for our determination & its findings are recorded for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether this Forum has jurisdiction to try the dispute ?	Yes
2)	If yes, whether the disputed bill of Rs. 10,636.83 is required to be revised ?	Yes
3)	What order?	As per final order

### REASONS

- 5) **Point No. 1 & 2** :- As point No. 1 to 3 are inter related, hence discussed together. The respondent has released single phase connection for residential purpose on dtd 07.10.2005 with Consumer No. 490011715475 in the name of Shri Mewani Dayal Dharamdas. Respondent Assistant Engineer, Urban Division, Aurangabad has inspected the site premises on dtd. 01.06.2017 and prepared spot inspection report (Page No. 16). Remark in spot inspection report is reproduced as under :-

“सदर ग्राहकाचा कर्मशिल युज आहे, तसेच वरील प्रमाणे रिडींग आहे - Section 126”

It is signed by Assistant Engineer, Urban Division, Aurangabad.

6) On this report Addl. EE, Chawani Sub Division issued bill of amount Rs. 10,636.00 on dtd. 28.06.2017 (Page No. 13) with remark “Theft detection drive – Assistant Engineer, Chawani, theft detection dtd. 22.06.2017, Electricity Act 2003 – Section 126”

7) Hence, date of spot inspection report is 01.06.2017 and on bill issued, remark with theft detection is on 22.06.2017. Bill revision report dtd. 30.06.2017 (Page 14-15) discloses bill prepared under section 126 for period June 2016 to May 2017 for the amount of Rs. 10,636.83.

8) According to the respondent case is under 126. Now, let us point out as when, how jurisdiction of this Forum is excluded.

9) For that purpose, the ratio laid down in a recent case decided by Hon. Ombudsman, Nagpur in a case of **M/s. Nath Biotech V/s The Superintending Engineer, Aurangabad. Representation No. 51/2017**, decided on 28<sup>th</sup> March 2018 at Para 13 is material:-

“13) On the basis of the discussions during hearing and the documents placed on record, it is clear that the respondent MSEDCL have completed the process of Section 126 of the Electricity Act, 2003. The appellant therefore, should have approached the proper authority, that is, the Electrical Inspector, under Section 127 of the Electricity Act, 2003. The Electrical Inspector may examine whether the Superintending Engineer (Urban), Aurangabad, was correct in determining that this was a case of unauthorized use of electricity. I am therefore, not inclined to consider other issues raised by the parties on the merits of the case.”

“11) An Order, dt. 30.06.2017, of the Hon’ble High Court, Bombay in Writ Petition No. 596 of 2017, para 9 which reads as under, is relevant to this case.

*“Bare reading of Regulation 6.8 shows that if any notice and/ or Order passed by the petitioner under section 126 of the Electricity Act, that cannot be challenged before the Redressal Forum. Only on this point itself complaint filed by the respondent was not maintainable. Hence order passed by the Forum is required to be set aside.”*

“12) Similarly, the Hon’ble Supreme Court of India, in its Order dt. 20.11.2011, in Civil Appeal No. 8859 of 2011, The Executive Engineer & another – V/S – M/s. Sitaram Rice Mill, have maintained in para 7 of the order as follows:

*“High Court transgressed its jurisdictional limitations while traveling into exclusive domain of the Assessing Officer relating to passing of an order of Assessment and determining factual controversy of the case.”*

10) Rule 6.8 of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 speaks as under :-

“6.8 If the Forum is prima facie of the view that any Grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum:

- (a) unauthorized use of electricity as provided under section 126 of the Act;
- (b) offences and penalties as provided under sections 135 to 139 of the Act;
- (c) accident in the distribution, supply or use of electricity as provided under section 161 of the Act; and
- (d) recovery of arrears where the bill amount is not disputed.”

11) Considering ratio of the aforesaid cases, in this case, Respondent had no notice / order passed and served to the petitioner, so Rule 6.8 is inapplicable.

12) A joint and harmonious reading of provisions under section 126 of I. E. Act, 2003 would indicate that an inspection should precede assessment. The licensee is obliged to follow principles of natural justice & grant reasonable hearing under Section 126 (3) of I. E. Act, 2003. Section 126 (3) of I. E. Act, 2003 further provides that if the Assessing Officer comes to the conclusion that there has been unauthorized use of electricity he shall provisionally assess the electricity charges payable & such order is required to be served on the person concerned, who will be entitle to file objections, if any before the Assessing Officer, who will pass final order of assessment after affording a reasonable opportunity of hearing to such person, within thirty days from the date of such order of provisional assessment.

13) As regards case in hand and the procedure, it is important to note that first time on dtd 01.06.2017 (Page No. 16) spot was inspected. Bill issued on dtd 28.06.2017 amount Rs. 10,636.29 not mentioned as provisional bill. No receipt of consumer and no hearing was not taken, no opportunity to hear consumer is given and also not final bill was issued, CPL shows adjustment amount Rs. 10,636.00 in the month June 2017.

14) Considering the above scenario, it is crystal clear that no procedure under 126 of IE Act 2003 is followed. No provisional bill, no hearing and no final bill is issued to consumer.

15) Hence, Section 126 of IE Act 2003 is not at all attracted in this case jurisdiction of Forum is not ousted. It is found that bill issued under Sec. 126 (Page No. 13) dtd 28.06.2017 amount is Rs. 10,636.29 illegal & unauthorized and requires to be quashed.

16) Considering above discussion, we answer point 1 & 2 in the affirmative & proceed to pass the following order in reply to point No. 3.

**ORDER**

The petition is hereby allowed in the following terms :-

- 1) The disputed assessment bill of Rs. 10,636.00 issued under section 126 of IE Act 2003 is hereby set aside and quashed.
- 2) Interest and DPC charged on this amount be withdrawn from current bills.
- 3) Parties to bear their own cost.
- 4) Compliance be reported within 30 days from the date of receipt of the order.

Sd/-  
Shobha B. Varma  
Chairperson

Sd/-  
Laxman M. Kakade  
Member / Secretary

Sd/  
Vilaschandra S.Kabra  
Member