

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 1065

Date: 06.03.2019

Hearing Date: 26.12.2018

CASE NO. 231/2018

**IN THE MATTER OF INTEREST ON SECURITY DEPOSITE AND TDS
CERTIFICATE**

M/s. Hotel Mourya Residency (P)Ltd.,
Near UTI House,Opp. Thane Railway Station,
Thane (W)-400602.

. . . . (Hereinafter referred as Appellant)

Versus

Maharashtra State Electricity Distribution Company Limited
through its Nodal Officer,
Thane Circle, Thane

. . . . (Hereinafter referred as Respondent)

Appearance :

For Consumer – Hemant Hatkar Consumer representative
For Respondent - U.S.Lele Additional Executive Engineer. Thane Power
House Subdivision M.S.E.D.C.L

[Coram- Dr. Satishkumar Jaiswal - Chairperson, Shri. R.S.Avhad -Member
Secretary and Sharmila Ranade - Member (CPO)].

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with subsection 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Here in after referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

Being aggrieved with order if IGRC Thane the appellant filed his grievance is schedule 'A' to this Forum .The appellant herein is Shri.Hotel Mourya Residency Pvt Ptd bearing consumer No. 4000000131294. The date of supply is 01-01-1987, connected load 100KW and Contract Demand 70KVA. Grievance rose of interest on security deposit from year 2006 and T.D.S. Certificate not issue as per provision of income Tax Act 1961. The appellant prayed for interest in security deposit, TDS certificate and appropriate action on defaulter staff of Mahavitam.

The Notice issued to the Respondent to submit para wise reply and to appear before Forum. The Respondent submit reply on 18 December 2018 states that the applicant has applied for refund of interest on security deposit and accordingly interest on security deposit of Rs 2017-2018 of Rs 23475 /-& for the year 2018-2019 of Rs 20673 /-has been credited to consumer's electricity bills of June 2017 and June 2018.

The Respondent further submits that letter regarding issuing TDS certificate already forwarded to competent authority i.e Executive Engineer Thane. The Respondent referred the Regulation no 6.6 of MERC (CGRF and Ombudsman) regulation “The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.” The Respondent further submit that as per regulation 6.6 The Forum is empowered to entertained the Grievance which is filled within 2 years from the cause of action and as the 2 years interest on SD has been already credited to consumer there is nothing pending with said grievance .

The applicant firstly approached IGRC Thane , passed order No.004162 dtd.29Sept 2018 with following decision per regulation 6.6 of MERC(CGRF and Ombudsman) regulation , the IGRC is empowered to entertained the Grievance which is filled within 2 years from the date of cause of action .In present case , the Respondent already given the interest on SD for the last two years ,which is within limitation The prayed for earlier period prior two years regarding grant of interests is clearly time barred, Hence it is here by rejected . Executive Engineer is hereby directed to issue TDS certificate to consumer for the said period.

We have heard both sides. I have gone through documentary evidence submitted by parties and their argument, MERC (CGRF and Ombudsman) regulation 2005, Electricity act 2003. I have made my observation: as Section 42 (5) mandates the petitioner to establish a Forum within 6 months from the appointed date or the date of grant of license, whichever is earlier, for the redressal of the grievances of the consumers. Section 42(6) enables a consumer to approach the Ombudsman if he is aggrieved by the decision of the Forum. Regulation 2(2.1) (d) defines the “Cell” as under:

“Internal Grievance Redressal Cell” or “IGR Cell” means such first authority to be contacted by the consumer for redressal of his/her Grievance as notified by the Distribution Licensee.”

Regulation 2(2.1) (e) defines a “Forum” as under:

“Forum” means the forum for redressal of grievances of consumers required to be established by Distribution Licensees pursuant to sub-section (5) of section 42 of the Act and these Regulations.”

Regulation 6.6 “The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen. In the above backdrop, it appears that a consumer may have the option of approaching the Cell before approaching the Forum. However, the language used in Regulation 6.7(a) indicates that the Forum 'SHALL NOT' entertain a grievance unless the consumer has complied with the procedure under Regulation 6.2. It was, however, concluded in paragraph No.16 that, "Internal Consumer Grievances Cell" is not the Forum for redressal of the grievances of the consumer as contemplated by Section 42(5) of the Act but the C.G.R.F. is the said Forum established under sub section 5 of Section 42. The Regulation 6.6 uses the word "Forum" which obviously means C.G.R.F. and not the I.G.R.Cell of the Distribution.

In this case IGRC already order to issue the TDS certificate and for the Notice issued to the Respondent to submit para wise reply and to appear before Forum. The Respondent submit reply on 18 December 2018 states that the applicant has applied for refund of interest on security deposit and accordingly interest on security deposit for two years 2017-2018 of Rs 23475 /-& for the year 2018-2019 of Rs 20673/-has been credited to consumer's electricity bills of June 2017 and July 2018. The applicant claimed on interest from 2006 after lapsed of 14years It is duty of the appellant to approach the Respondent if he had observed that he is not getting interest on Security Deposit if Respondent not performing their duties . During the hearing forum asked appellant to prove that he is not getting interest on security deposit but he fails to produce any

documents about that .The applicant not approached to this forum within period of two years as per regulation 6.6 Hence, I found no legal point to consider and interfere in the order of IGRC and therefore the matter is liable to be dismiss.

ORDER

The application no 231/2018 hereby dismissed.

No order as to cost

Both the parties should be informed accordingly.

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13th floor, world Trade Center, Cuffe Parade, Colaba, Mumbai 05"

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.