

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

**Case No. CGRF/AZ/AUC/728/2019/13  
Registration No. 2019020066**

Date of Admission : 26.02.2019

Date of Decision : 21.05.2019

Shri. Rauf Sattar Pathan : COMPLAINANT  
Plot No. 8 Area, N-11-M;CIDCO Lane  
Near Power House Sector, CIDCO,  
Aurangabad  
(Consumer No. 490014143596)

**VERSUS**

Maharashtra State Electricity Dist. Co. Ltd., : RESPONDENT  
Through it's Nodal Officer /  
The Executive Engineer, MSEDCL,  
Urban Circle, Aurangabad.

The Addl.Executive Engineer,  
CIDCO Sub Dn., Aurangabad

For Consumer : Shri. Akhtar Ali Khan  
For Licensee : Shri. A.K. Karale  
Addl. EE, CIDCO, Sub-Dn.

**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. Rauf Sattar Pathan Plot No. 8 Area, N-11-M; CIDCO Lane Near Power House Sector, CIDCO, Aurangabad-431001 is a consumer of Mahavitaran having Consumer No. 490014143596. 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 26.02.2019.

2) Present dispute is filed challenging change of category. The Respondent has changed category of consumer from residential to commercial. It is submitted that, relevant documents are not provided to the consumer. Hence, it is prayed,

1) To withdraw the bill of February 2019, changing category from residential to commercial.

2) Not to disconnect the electric supply.

3) The Respondent has submitted say as under:-

That inspection of the premises of the complainant was made on 25.06.2018 & proposed action under section 126 of Indian Electricity Act, 2003 (hereinafter preferred as I.E. Act.) & issued provisional bill dtd.05.07.2018, final bill in June 2018.

4) On perusal of documents submitted by the Respondent, since, it appears that the case is under section 126 of Indian Electricity Act, hence both parties are heard on the preliminary point of jurisdiction.

5) Following points are formed & we have recorded our findings on it, for the reasons to follow:

| Sr.No. | Preliminary point                                       | Finding      |
|--------|---|--------------|
| 1      | Whether this forum has jurisdiction to try the dispute? | No.          |
| 2      | What order?   | As follows:- |

### REASONS

6) The electric connection category of the consumer was residential. On Dt. 25.06.2018, spot inspection was made by Additional Executive Engineer, Flying squad & report (P.No.23) goes to show that it was observed that as per billing recored consumer was billed LT-I (Residential) tariff, however, use was found for construction activity i.e. LT-II, hence action under section 126 of I.E. Act-2003 was initiated. Accordingly, Assessing officer has issued provisional Assesement bill of Rs. 1,06,881 & also fixed hearing & called upon the petitioner on dt. 29.06.2018 for hearing at 3.00 P.M., in the office at flying squad . It appears that, postal communication was made, postal receipt is on record (P.No.25). On 29.06.2018 during hearing petitioner was present & submitted his objection & signed it, which is evident from copy of recorded objection (P.No.26).

7) Thereafter final assessment order dt.05.07.2018 (P.No.32) was made final bill dtd.09.07.2018 (P.No.31) was prepared & final assessment order dtd. 11.07.2018 (P.No.27) was sent to the petitioner.

8) Considering, the aforesaid procedure undergone & final assessment was passed within thirty days from the date of provisional order, we feel that, in view of 6.8 of MERC Regulations, 2006 (CGRF & Ombudsman), this forum has no jurisdiction to try the dispute. Remedy is available to the petitioner under

Section 127 MERC Regulation, 2006 (CGRF & Ombudsman) R.6.8 of MERC Regulation (CGRF & Ombudsman)2006 speaks as under:-

*“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.”*

8) The Respondent has relied upon the ratio laid down in the case W.P.No.596/2017 MSEDCL V/s Suresha Shivram Savant, wherein following ratio is laid down:-

*“Bare reading of the 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.”*

9) Hence, considering the aforesaid provision & ratio laid down in aforesaid case we answer point No. 1 in the negative & proceed to pass following order, in reply to point No.2

**ORDER**

- 1) The petition is hereby rejected.
- 2) The petitioner is at liberty to approach before compent authority,  
under I.E. Act,2003

Sd/-  
Shobha B. Varma  
Chairperson

Sd/-  
Laxman M. Kakade  
Member / Secretary

Sd/-  
Vilaschandra S.Kabra  
Member