

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

Case No. 08/2019

Date of Grievance : 20.03.19

Hearing Date : 16.04.19

Date of Order : 15.05.19

In the matter of excessive and exorbitant bill.

Shri. Ramesh Dattatray Bende,
At Post – Manchar,
Bendekaka Chawl,
Tal. Ambegaon,
Dist. Pune - 410503
(Consumer No. 172032525739)

APPELLANT

VS

The Executive Engineer,
M.S.E.D.C.Ltd.,
Manchar Division,
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) Mr.Ramesh Dattatraya Bende

C] - On behalf of Respondent

- 1) Mr.Prakash S.Khandekar, Ex.Engr., Manchar Dn.
- 2) Mr.Santosh Talpe, DyEE , Manchar S/dn.
- 3) Mr.Rahul D Shinde, Dy.Manager, F&A Manchar Dn.

The present Appeal by the Appellant Consumer is against (a) faulty meter, (b) incorrect / wrong information / report provided by Flying Squad and (c) case under Section135 of the Indian Electricity Act registered against the consumer. meter faulty and false information given by Flying Squad Unit during inspection of meter and the action was taken of 135 Indian Electricity Act and thereafter the case was registered against the consumer.

The above named consumer had been using the said supply for Commercial purposes. The consumer submitted that, the Respondent Utility continued to issue him the energy consumption bills despite the meter at his premises did not show display. The main concern expressed by the consumer is that the meter installed at his premises didn't have display, how the Respondent Utility could issue the energy bills with specific consumption of the units during the given period. The consumer further submitted that he had already submitted a complaint to the concerned authorities of the Respondent Utility on 27.12.2018 for replacement of the faulty meter. The claim in question of the consumer had also been verified from the documents / papers on record whereupon it had been observed that the application made by the consumer to the authorities concerned for replacement of the faulty meter had been forwarded by the Manchar Sub-Division of the Respondent Utility to the authorities concerned of the Utility at Manchar. The consumer claimed that despite there had been "No Display" and his complaint to this effect to the authorities concerned, the Respondent Utility had been issuing him the bills for energy consumption. The consumer further stated that the Utility had replaced the faulty meter on 28.01.2019.

2. In furtherance to his claim, the consumer pleaded that the Utility had issued him the Demand bill for Rs.40,000/- representing the compounding charges against the alleged tampering of the meter by the consumer leading to theft of electricity by him as claimed in the "Spot Inspection Report" dt. 28.01.2019 wherein the Flying Squad has reported that the meter display was made blank by tampering to the body of the meter. On perusal of the "Spot Inspection Report" in question, it is observed that the same report does not bear signature of the consumer / his representative, but a remark to the effect that "consumer refused to sign". Perusal of the "Panchanama" made at the site on the same day, i.e. 28.01.2019 too does not bear signature of the consumer / his representative, but the identical remarks to the effect that the "consumer refused to sign". The consumer further pleaded that the observations recorded / made by the Flying Squad in their spot inspection are false and that the signature of the son Aniket R. Bende was obtained under threat, which submission of the consumer is contrary to factual position

obtaining in this regard and as commented earlier. The consumer also further claimed that the representatives present at the site for the purpose of spot inspection too did not disclose their identity at the time of inspection on 28.1.2019. The Consumer also further stated that the Flying Squad had taken action against him when he had made complaint/s for replacement of the faulty meter without any action by the Utility in that regard resultantly, the faulty meter was not replaced and that the visit of the Flying Squad was unnecessary and uncalled for with mere motives to lodge complaint against him for alleged theft of the electricity. As stated earlier, "Panchanama" of the entire episode associated with the theft of the alleged electricity and replacement of the meter against the faulty one, together forfeiture of the faulty meter was also prepared and is on record. The consumer claimed that under the given circumstances the bill issued to the consumer on 30.01.2019, under Section 135 of the Electricity Act representing theft of the electricity by the consumer, for Rs.1.20,270.00 together with another bill dt. 19.02.2019 for Rs.45,000/- representing compounding charges was not correct. Following this, the consumer preferred a complaint to the IGRC 02.02.2019 which was registered by the IGRC with distinctive Number being 02/2019. Hearing in the said complaint was held at the Office of the Utility on 21.02.2019. Following rival contentions on the issue, the IGRC did record following observations prior to dismissal of the complaint of the consumer. The IGRC observed as under –

- ***“As per Flying Squad Assessment Sheet, ‘Meter Display’ is made blank by tampering meter body and tiny hole to the backside of the meter,***
- ***Meter is replaced,***
- ***As per the Rule & Procedure in MSEDCL for Redressal of Grievance, letter to all Chief Engineers, Zonal Office, MSEDCL from S.E. TRC Mumbai, Letter No. SE/TRC/CGRF/C-23/No. 14828, dated 18th June, 2018, unauthorized use of electricity s per provided under Section 126 of I. E. Act 2003, are excluded from the jurisdiction of the Forums”.***

With the above observations, the IGRC dismissed the complaint of the consumer. Here it is pertinent to note that the Flying Squad had referred to Section 135 of the Electricity Act in their report as against Section 126 referred to by the IGRC. Being aggrieved by the order of the IGRC, the

consumer preferred the present Appeal before the Forum in “Form No. A” on 18.03.2019, which has been registered with the Forum with distinctive case No. 08/2019 together with the prayer by the consumer as under –

- a) The action taken by the Respondent Utility (under the guise of Section 135 of the Electricity Act is based on false assumptions and observations by the Flying Squad,
- b) The bill issued to the consumer representing compounding charges for Rs.45,000/- is disputed due to action of the Flying Squad being illegal and improper,
- c) Suitable action be initiated / taken against the Flying Squad people for their bias allegations of theft of the electricity by the consumer.

3. It appeared prima facie that though the Utility had invoked Section 135 against the consumer for alleged theft of the electricity, considering the facts that the consumer’s main concerns when he approached the Forum had been against issue of energy consumption bills to him without display on the meter about energy consumption leading to issue of exorbitant energy bills on presumptive basis, the Forum registered the case with this limited objective and issued notices to the Respondent Utility on 22.03.2019 calling upon the Respondents to file their reply to the grievances made by the consumer making point-wise submissions and providing issue-wise comments, together with supporting documents, in support of its defense on or before 06.04.2019. Since the Office of the CGRF failed to receive submission/s from the Respondent Utility on or before the scheduled timeline, CGRF Office issued notice on 09.04.2019 for final disposal of grievance of the consumer on to both – i.e. the Appellant consumer and the Respondents – advising them to remain present on 15.04.2019 at 12.30 hrs. which was postponed to the next day – i.e. 16.04.2019 at the request of the Respondent Utility - for personal hearing in the matter. The Respondent Utility, however, during the intervening period, forwarded its submission to the Office of the CGRF with delay of six days, i.e. on 12.04.2019.

4. During the course of personal hearing on 16.04.2019, the Respondent Utility reiterated its stand, already incorporated in their written submission to

the CGRF on 12.04.2019, that the Consumer be directed to pay compounding charges of Rs.45,000/- following dismissal of the complaint by IGRC. In furtherance to their written submission dt. 12.04.2019 and oral submission to the CGRF, followed by supplementary submission received at the Office on 26.04.2019, the Respondent Utility stated that the consumer had made an application on for change of the of the meter on 27.12.2018 whereupon a notice was issued to the consumer on 01.01.2019 for visit of the premises by the authorities of the Utility. Accordingly on 28.1.2019 Flying Squad paid visit to the premises of the consumer and and found that the meter display was blank together with tampering volume of the meter from back side, under which a hole was maneuvered exactly behind the meter display / unit meter terminus. Following this, the old meter was sealed and removed after making required 'Panchnama' and required process under Section 135 of the Electricity Act was initiated – viz. assessment and compounding action was taken under Section 135 of the Indian Electricity Act and that the consumer was charged with electricity bill for the period from Sept.-2018 to Jan.-2019 for aggregate of 7200 units amounting to Rs.1,20,270/- which was paid by the consumer subsequently on 08.02.2019 against the receipt together with a copy of the report of Flying Squad having been issued to him. The consumer, however, did not admit the said proceedings and filed a complaint before IGRC which had eventually been dismissed by the IGRC, as referred to hereinabove, for want of jurisdiction to entertain the grievances arising out of action by the Utility against the consumer under Section 135 of the Indian Electricity Act. It is further submitted by the Respondent Utility that in view of action against the consumer under Section 135 Indian Electricity Act 2003, the demand for compounding charges of Rs.45000/- raised on the consumer by the Utility has not yet been deposited by the consumer and, therefore, the Forum did not have jurisdiction to entertain the complaint of the consumer for inherent bar on its jurisdiction. On this backdrop, the Respondent prayed for dismissal of the consumer complaint together with costs.

5. After going through the nature of the consumer complaint and responses of the Utility to it, following issues arose for my consideration to which I have recorded my finding with reason for it given below:-

- a) Whether the consumer complaint challenging the demand of the Utility for compounding charges of Rs.45000/- is legal, valid and proper?
- b) Whether the consumer complaint is maintainable in view of the provisions contained in Section 135 of the Indian Electricity Act together with the action taken against the consumer?
- c) Whether consumer is entitled for any relief?
- d) What order?

Reasoning:-

6. The Respondent Utility had filed a copy of each of the following documents, viz. CPL, assessment sheet, Flying Squad inspection report, Panchanama, bill representing assessment of compounding charges and Bill Revision Report. I have perused the same. I have also given an opportunity to the consumer for submission in person before this Forum. The Respondent Utility is also heard. During the course of hearing on 16.04.2019, directions were issued to the Respondent Utility to file copy of the proceedings under Section 135 and the action is taken against the consumer. Accordingly the Respondent Utility filed all the relevant documents with the Forum on 26.04.2019. I have perused the same. It appears that the meter display lost assessment bill for the period Sept. 2018 to Jan.2019 for aggregate consumption of 7820 units with bill amount of Rs.120270/- is already paid by the consumer, hence there is no billing dispute which was apparent from the face of record at the first instance. I have also perused copy of order of IGRC and gone through the same and substance of consumer complaint. It appears that the consumer had challenged / disputed the assessment bill for Rs.45000/- issued to him on 19.02.2019 representing compounding charges. During the course of proceedings on 16.04.2019, the consumer was convinced to understand the proceeding which was initiated by the Utility on the basis of the report of the Flying Squad and the consequences of failure to pay the assessment charges and compounding charges properly in time. In view of the said provision under 135 Indian Electricity Act consumers is required to challenge the action of Flying Squad under 135 of the Electricity Act before the Appropriate Forum. The IGRC had rightly pointed out the reasons for dismissal of the complaint since proceeding under the provisions of Section 135 of Indian Electricity Act had already been initiated by the

Respondent Utility against the consumer and, therefore, there is statutory bar on this Forum preventing to consider / entertain the dispute grievance arising out of action initiated by the Respondent Utility which falls under section 135 of the Indian Electricity Act. Further, such complaint can also not be entertained by this Forum in view of the provisions contained in Regulation No. 6.8 (b) of MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006” which reads as under –

“6. Procedure for Grievance Redressal –

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

–

(a)

(b) Offices and penalties as provided under sections 135 to 139 of the Act,

(c)

(d)”

7. In view of the foregoing, I am not inclined to grant any relief to the consumer and, therefore. I have no other option but to dismiss the Appeal filed by the consumer.

Hence I proceed to pass the following order:

ORDER

1. Consumer Appeal in Case No.08 of 2019 stands dismissed.
2. No order as to the cost.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 15th May - 2019.

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