

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

Case No. 11/2019

Date of Grievance : 22.03.19

Hearing Date : 16.04.19

Date of Order : 30.05.19

In the matter of accumulated bill.

M/s. Indus Towers Limited,
2010, E-Core, 2nd Floor, Marval Edge,
Vimannagar, Pune -411014.

---- APPELLANT

(Consumer No. 174213057888)

VS

The Executive Engineer,

---- RESPONDENT

M.S.E.D.C.Ltd.,

Manchar Division,

Pune.

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. D.S. Talware, Representative
- 2) Mr. Dhirendra Shrivastav, Representative

C] - On behalf of Respondent

- 1) Mr. Prakash S. Khandekar, Ex. Engr., Manchar Dn.
- 2) Mr.Rahul D.Shinde, Dy Manager, F&A Manchar Dn.

Consumer No. 174213057888, Tariff – LT V

The consumer has filed the complaint of refund of Security Deposit amount and grant of compensation of breach of SOP 2014 for delay in refund of Security Deposit amount. The above named consumer initially made application to the Respondent Utility Official requesting for permanently disconnection of his supply and refund of Security Deposit amount of various

consumers of Respondent Utility under this Zone office alongwith interest. Consumer has also requested to refund the said amount by cheque in favour of "Indus Towers Ltd." in the same application in the month of Feb.- 2018. The consumer was requested to transfer of litigation Security Deposit amount to other live connections and giving consent for transfer the said amount and adjust it against the energy bill and requested to take proper action and informed him accordingly and also the consumer has submitted the live consumer no. 174970003663 for transfer the S.D. The consumer has attached the copy of electricity bill and the copy of SOP Regulations, 2014 alongwith his earlier complaint for considerable long time.

The consumer prefers to receive the proper reply or any communication from Utility but not received within proper time and hence on dated 09.01.2019 the consumer made grievance in Form No. "X" to IGRC requesting for refund of Security Deposit amount of the permanently disconnection was not within the proper time and claiming compensation for breach of SOP. The consumer was given various consumer Nos. to the Respondent Utility Zonewise and various quantum of Security Deposit amount and requested for refund of the said amount within time. According to the consumer his earlier request in the month of Feb.- 2018 was not considered within 30 or 45 days. As per SOP Regulations therefore he is entitled for refund of Security Deposit amount with interest and in addition to compensation for breach of SOP Regulations. After following the said grievance before IGRC case is registered 03 of 2019. The notice was issued to the Respondent Utility. The Respondent Utility gave the reply in the IGRC orders stating that

1. Consumer complaint No.03 of 2019 is partly allowed.
2. All Sub Divisions Officers are directed to refund the remaining SD amount after deducting any dues, within one months from the date of this order if all related documents i.e. Original SD receipt/related necessary undertaking (as per prevailing MSEDCL rule) duly signed by signing authority with Board's resolution for signing authority, submitted by the applicant.

The Respondent Utility submitted that the consumer was made P.D. after deducting the last energy bill and the balance Security

Deposit amount was transfer/refund to the next billing cycle to the live consumer no. as per consumer's request. The outstanding bill amount was already adjusted in some cases immediately against the Security Deposit after giving the first representation as all the formalities was completed by the consumer as per Rules and Regulations. The Respondent Utility submitted that the demand regarding refund of Security Deposit amount even not made within 2 years from the date of permanent disconnection because in some cases the consumer was not submitted any relevant documents or not provided the original receipt of Security Deposit and undertaking duly signed by authorize signature. Therefore request of the consumer at initially step could not be processed. According to Utility, the consumer is not legal person and it is in the name of "Limited Co." Hence the proper authorization for entitlement of refund of Security Deposit and request of permanent disconnection and adjustment of amount was not properly represented. After giving opportunity of hearing on dated 21.02.2019 and IGRC proceed to pass order on 28.02.2019 and giving direction to all sub/dn. officials to refund the remaining Security Deposit amount after deducting any dues within a month from the date of this order if all related documents are submitted by the consumer. Also it is mentioned that after depositing original Security Deposit receipt and undertaking necessary for the same duly signed by signing authority with Boards Resolution for signing authority within stipulated time.

After receiving the said order and non-satisfaction of IGRC order, the consumer approached to the Forum and filed his grievance in form No. A on 22.3.2019 and made request for refund of SD along with interest and compensation for delay in refund, breach of SOP, after filing the said dispute before this Forum on 22.3.2019. This office has issued the notice to the Respondent Utility for filing the parawise reply on the grievance of consumer.

After receiving the said notice, Respondent Utility filed the reply on dated 12.4.2019 alongwith copy of CPL, B-80 report etc. and submitted reply stating that the issue of refund of Security Deposit amount as per original request of consumer already transfer to the live

connection and it was already reflected in next billing cycle. As such the request of the consumer in most of the cases already complied. The Respondent Utility pray for dismissal of the complaint of compensation of breach of SOP delay on the part of consumer himself.

After perusing rival contention of consumer and the Respondent Utility following points arose for my consideration to which I have given my findings to the issue alongwith reason given below:-

1. Whether consumer is entitled for refund of Security Deposit amount with interest?
2. Whether the consumer is entitled for compensation for delay in breach of SOP Regulation and not refunded Security Deposit amount within 30/45 days?
3. Whether consumer is entitled for any other relief?
4. What order?

Reasoning:-

On dated 16.4.2019 I have given an opportunity to the consumer and his representative and Nodal Officer representative of Utility of various Zones. The detail of the submission of Utility reply and record is verified by these Forums. It appears from the Prima facie dispute consumer choses to transfer and adjust balance Security Deposit amount to other live connection though prayer of Security Deposit amount made with his alternative. The said application is filed in the month of Nov.2017 and in some cases it was admittedly the same matter since the date of application earlier till to grievance is filed in Form No.- X on before IGRC and consumer himself not taken any action.

The Respondent Utility submitted that transfer and adjustment of remaining balance Security Deposit amount in this case was already taken place through B-80 and it was reflected in the next billing cycle immediately and its relevant copies was filed alongwith the reply and it was verified through the CPL. Though the said work is already done before filing grievance to the IGRC but it was not communicated to the consumer. It creates misunderstanding of result of earlier application given by the consumer was already complied but not in time.

It appears from the order passed by the IGRC without any verifying the detail record and IGRC gave directions for refund of remaining Security Deposit amount in common order which was required to follow by Utility but before this Forum when hearing was conducted by us, the Utility Officials pointed out that the balance Security Deposit amount already transfer to the live connection as per original request of consumer. On the merit it appears that consumer himself not sure of the prayer made nor insisted for refund of Security Deposit amount with interest, nor file any proper document at the time of making application, i.e. original Security Deposit or Indemnity bond and consent letter for transfer etc. documents.

Therefore action taken by consumer to approach IGRC and file complaint in form No. X it result of frustration of non-communication of his request. In this circumstances when consumer himself not followed the action of his earlier request in the year of 2017 till 3rd Jan.2019 and making complaint to IGRC and claim for compensation for breach of SOP delay. Going through the reasoning and circumstances, prevailing consumer himself not give details of original Security Deposit amount receipts nor give indemnity bond properly. The Respondent Utility Official also fail to give the directions consequences of not produce the receipt of Security Deposit and not followed the Circular of MSEDCL which is as follows:-

In this circumstances non-persuasion of cause of action properly and delay was not intentionally. Compliance by Utility already on the first request of consumer to transfer and adjust Security Deposit amount on other live connection which is already complied. Therefore financially benefit in most of the cases already given. The Respondent Utility acted upon as per provisions of Electricity Act 2003 at Section 57 and followed the Circulars and procedures as per MSEDCL's Rules and Regulations. The Security Deposit adjusted due to arrears of consumers and transfer remaining S.D. amount to other live connection and followed the Regulations. The request of refund of Security Deposit amount, the consumer allow for permanent disconnection of supply and after lapse of time demanded refund of Security Deposit amount or transfer and adjustment which is not bonafide claimed. In this circumstance compensation for delay in breach of SOP cannot be justified. In this circumstance I am not inclined to grant any compensation for breach of SOP

to the consumer. However the Respondent Utility shall verified remaining Security Deposit amount transfer or adjust as per the request of consumer or now must be reflected in next billing cycle and communication should be made to the consumer accordingly. In the result, the consumer complaint is bound to fail.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered due to group matter. Hence I am inclined to allow the consumer complaint partly and proceed to pass the following order.

Therefore, I am not inclined to grant any relief at this stage to this consumer and I proceed to pass the following order.

I agree,

Sd/-
Beena S.Savant
Member Secretary
CGRF:PZ:PUNE

Sd/-
Anil Bhavthankar
Chairperson
CGRF:PZ:PUNE

Member (Anil Joshi)

I have gone through the above reasoning and my views are different:

- a) The Utility should avoid insistence on surrender of the original Security Deposit Receipt by the consumer for refund of the balance amount, if any,
- b) The Utility should avoid insistence on execution of undertaking – whether stamped or unstamped, whatever it may be – by the consumer for the same.
- c) The consumer be paid interest for the delayed period calculated for the delayed period based on the instructions contained in MERC Regulation No. 11.5,
- d) The consumer be paid SOP @ Rs.100/- per week or part thereof as provided in Appendix 'A' to SOP Regulations, 2014, for closure of account – Time period for payment of final dues to the consumer from the date of receipt of application for closure of account being 30 days. So the consumer is eligible for compensation of breach of SOP beyond 30 days from the date of receipt of application of the consumer by the Respondent Utility on 23.02.2018.

Submitted for kind and judicious consideration

Sd/-

ANIL JOSHI
Member
CGRF:PZ: PUNE.

I have perused the objections raised by the Member

The above observations raised by Member, Shri. Anil Joshi was read carefully regarding Utility insisted on surrender of the original Security Deposit receipt of the consumer for refund the same and if any original receipt was not available then Indemnity Bond of Rs.100/- stamp paper will be furnished by the consumer. Considering this, the Security Deposit was not refunded by the Utility properly i.e. within prescribed limit. This objected by CPO and hence the consumer will be entitled to refund the Security Deposit amount with interest and also consumer required to grant SOP for delay in refund of Security Deposit amount as per Rs.100/- per week in view of MERC SOP Regulation,2014.

I have already gave the reasoning that, the Respondent Utility already acted upon the request of consumer within a proper time. In view of earlier, the original request of the consumer is to adjust the said amount i.e. Security Deposit amount shall be adjusted in the energy bill and balance amount shall be transfer to the live connection of another consumer no. which was mentioned in the above matter already by the consumer. Hence the action taken by Utility from the date of subsequent request fulfill. Therefore there is no question of grant of SOP and now the Security Deposit amount already transfer and adjusted on live connection. Hence consumer disentitled for any relief therefore I wish to confirm the order passed earlier.

Hence order by the majority.

ORDER

1. Consumer Complaint of Case No.11 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 30th 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~~

Sd/-
Beena S.Savant
Member Secretary
CGRF:PZ:PUNE

Sd/-
Anil Bhavthankar
Chairperson
CGRF:PZ:PUNE