

**MAHARASTRA STATE ELECTRICITY DISTRIBUTION CO.
LTD.
KONKAN ZONE RATNAGIRI
Consumer Grievance Redressal Forum Ratnagiri**

Consumer case No. – 08/2019

Date :- 06/03/2019

**Samir Ashok Kadam
At/post. Sadye
Tal & Dist Ratnagiri**

Complainant

**Executive Engineer
Maharashtra State Elec.Dist.Co.Ltd.
Ratnagiri Division**

V/S

Opposite Party

Quorum of the Forum

- 1) Mrs. Pushpa S. Tawde
Chairperson**
- 2) R.P.Chavan
Secretary Member**
- 3) Mr. S.B. Mainkar
Member**

On behalf of consumer

- 1) Mr. Jayant Bivalkar
(Representative)**
- 2) Mr. Samir Ashok Kadam
(Consumer)**

On behalf of opposite party

- 1) Mr. R.G. Bele
Executive Engineer
O &M Division Ratnagiri**
- 2) Mr. Surendra Bhutkar
Dy EE, SDO, Jakadevi**
- 3) Mr. Prashat Gavkhadkar
UDC, SDO Jakadevi.**

Consumer Shri. Samir Ashok kadam, Post-Sadye, Tal & Dist-Ratnagiri is consumer having industrial connection with consumer no. 210160005917 has filed the complaint NO. 08/ of 2019 on 6th March 2019 before this forum challenging the bill issued by MSEDCL for the month of January 2019. Since he has not paid the bill MSEDCL has issued the notice to cut off the power supply so he has come before this forum with immediate relief of interim order to stop the disconnection of supply as per notice.

Taking into consideration the consumers request for interim order the hearing was held on 12th March 2019. During the hearing consumer submitted that he has agreed to pay Rs. 2000/- as an amount calculated for the purpose of provisions of proviso to sub section (1) of section 5 & 7 of the Electricity Act 2003 pending the disposal of the dispute before the Forum. Representative of MSEDCL have also agreed to not to disconnect the power supply pending the final disposal of the complaint. Accordingly, the interim order directing MSEDCL to stop the action of disconnecting the power supply as per their notice issued to consumer pending the final disposal of the complaint. The consumer was also requested to pay the regular bill received except the disputed bill.

Consumer Grievance-

Consumer Samir Ashok Kadam has a business of Chirekhani under his Consumer no. 210160005917. The bill of Rs. 364821.72 for 42985 units was issued for the month of January 2019. Consumer by his letter dated 14th Feb.2019 has pointed out that he has never received such high amount of bill in last preceding 3 years. In reply to him MSEDCL by its letter No. 412 dt. 22.02.2019 informed that the given bill is for the use of electricity for the months of October 2018 to January 2019. It is explained in the said letter that meter allotted to the consumer was changed on dt. 07.10.2018 however it was not shown in the computerized system which

resulted into issue of zero units for the month of October 2018 to December 2018. The MSEDCL by its letter No. 115 dt. 14.01.2019 has informed the consumer that the bills received during the period of October 2018 to December 2018 are the provisional bills for zero units taken from the available meter reading.

It is further explained that MSEDCL on receipt of letter dt. 07.01.2019 from Assistant Engineer Kotawade, has issued the bill of January 2019 of Rs. 364820/- for 42991 units on the basis of reading of meter as given by the said letter. However, consumer disagreed with the amount of the bill and orally requested to get the meter tested.

Thereafter the meter was tested on 22.01.2019 in presence of consumer and the meter was found to be correct and without any defect.

The same was informed by the Testing division Ratnagiri by letter no. 100 dt. 07.02.2019. The test report says as follows-

Energy meter test results observed satisfactory for both type of meter carried out as per letter No. DyEE/RTN/RII /152 dtd 18/01/2019.

In view of this the MSEDCL by the letter dated 22/02/2019 requested the consumer to pay the amount of the bill for the month of Jan 2019 of Rs 3,64,820/- since said bill is not excessive or unjustified. However the consumer failed to pay the said bill of Jan 2019. Hence Dy EE Jakadevi by his letter No उपका.अ/रत्ना /ग्रा-२/ जाकादेवी /जा.क्र.४५३ दिनां १/०३/२०१९. issued the notice to the consumer for discontinuing the power supply if the arrears of Rs.3,69,300/- is not paid within the period of 15 days i.e. on or before 15/03/2019. Consumer by his letter dt 05/03/2019 addressed to Dy EE Jakadevi informed regarding the filing of the compliant in the Internal Grievance Redressal Cell on the same day i.e. on 05/03/2019 and also his intention to pay Rs 2000/- against the bill of Jan 2019 as

per proviso to sub- section (1) of section 56 of the Electricity Act 2003 (herein after referred to as ' the said act ')and requested not to disconnect the power supply. On 6/03/2019 the consumer also filed the complaint in the Consumer Grievance Redressal Forum, Konkan Zone (hereinafter referred to as 'the Forum ') and requested to revise the bill of Jan 2019 by considering the use of energy by him and also requested to pass interim order to stop disconnection of the power supply. The Forum requested the Executive Engineer, MSEDCL Division Ratnagiri to submit explanation regarding complaint by the consumer to Forum. Accordingly Dy EE, MSEDCL Sub Division Jakadevi Rural II by his letter No. DyEE/ Jakadevi/507/dtd 11/03/2019 has given the say of the MSEDCL.

Thereafter the immediate hearing on 12.04.2019 was given to the consumer and MSEDCL and Forum issued interim order instructing MSEDCL to stop disconnection pending the final disposal of the dispute and directed consumer to pay all other bills excepts the disputed bill.

Explanation by the MSEDCL

In respond to the letter of Forum to submit he explanation regarding consumer complaint, MSEDCL by its letter no. 507 dt. 11.03.2019 submitted as follows.

वरील विषयास अनुसरुन आपणास कळविण्यात येते की, श्री. समीर अशोक कदम, ग्रा.क्र. २१०१६०००५९१७ या देयकाची पडताळणी केली असता असे निदर्शनास येते की आपला मीटर दि. ०७.१०.२०१८ रोजी बदलण्यात आला होता. परंतु सदरचा मीटर ऑनलाईन पध्दतीने प्रणालीत प्रविष्ट करणाऱ्या तांत्रिक अडचणी निर्माण झाल्यामुळे, माहे ऑक्टोबर २०१८ ते डिसेंबर २०१८ पर्यंत आपणास झिरा युनिट्सी देयके देण्यात आली होती. प्रत्यक्ष पाहता सदर विद्युत जोडणीवरुन आपण चिरे खाणीसाठी वापर करीत आहात.

संदर्भिय पत्र क्र. ३ ने शाखा अभियंता कोतवडे यांच्याकडून प्राप्त झालेल्या पत्रानुसार त्यांनी दिलेल्या रीडिंगचे अवलोकन करुन संदर्भिय पत्र क्र. ४ ने आपणास ऑक्टोबर २०१८ ते जानेवारी २०१९ पर्यंत उपलब्ध मीटर रीडिंग वरुन प्रोव्हिजनल देयक देण्यात आले होते. त्याच वेळी आपण सदर विद्युत देयकाबाबत नाराजी दर्शवून सदर मीटर तपासणी बाबत या कार्यालयाला तोंडी विनंती केली होती. त्या विनंती नुसार या कार्यालयातर्फे सदर मीटर, तसेच प्राप्त रीडिंग योग्य आहे किंवा कसे हे जाणून घेण्यासाठी तपासणी विभाग, रत्नागिरी यांना संदर्भिय पत्र क्र. ५ ने कळविण्यात आले होते. त्यानुसार आपले समक्ष दि. २२.०१.२०१९ रोजी मीटरची तपासणी केली असता मीटर मध्ये कोणताही दोष आढळुन आलेला नसल्याचे संदर्भिय पत्र क्र.६ ने

तपासणी विभाग, रत्नागिरी कडुन कळविण्यात आले आहे. या पत्रा सोबतच सदर तपासणी अहवाल तसेच सदर मीटरचा MRI अहवाल आपल्या माहितीसाठी जोडत आहे.

वरील अहवालाचा (MRI) व सर्व बाबींचा विचार करता, माहे ऑक्टोबर २०१८ ते जानेवारी २०१९ दरम्यानच्या काळात एकूण ४२९९१ युनिट्सचा वापर झालेला असून, त्यानुसार आपणास माहे जानेवारी २०१९ मध्ये रु. ३६४८२१.७२ चे विद्युत देयक देण्यात आले आहे. सदर विद्युत देयक हे अवाजवी किंवा अन्यायकारक नसून ते योग्य आहे.

MSEDCL has also given the explanation by its letter no. EE/RTN/ ACCT/ No.02342 dt. 24.04.2019 as follows,-

"वरील संदर्भिय विषयास अनुसरून आपणास कळविण्यात येते की, श्री. समीर अशोक कदम, ग्रा.क्र. २१०१६०००५९१७ या देयकाची पडताळणी केली असता असे निदर्शनास येते की ग्राहकाचा मीटर दि. ०७.१०.२०१८ रोजी बदलण्यात आला होता. परंतु सदरचा मीटर ऑनलाईन पध्दतीने प्रणालीत प्रविष्ट करण्यात तांत्रिक अडचणी निर्माण झाली होती. त्यामुळे सदर ग्राहकाचा मीटर बदली अहवाल प्रणालीत योग्य वेळी प्रविष्ट होऊ शकला नाही. सदर अडचण दुर झाल्यानंतर माहे डिसेंबर २०१८ मध्ये सदर मीटर बदल प्रणालीत प्रविष्ट करण्यात आला. प्रत्यक्षात सदर ग्राहकाचा विद्युत वापर चिरे खाणीसाठी होत आहे असे असताना देणिलेले मीटरास माहे ऑक्टोबर २०१८ ते डिसेंबर २०१८ पर्यंत, मीटर बदल प्रणालीत प्रविष्ट होऊ शकला नसल्याने मीटरास झिरो आपणास झिरा युनिट्सी देयके देण्यात आली होती.

संदर्भिय पत्र क्र. ४ द्वारे याबाबतची माहिती ग्राहकास देण्यात आली आहे. ती अशी की, शाखा अभियंता कोतवडे यांच्याकडून प्राप्त झालेल्या पत्रानुसार त्यांनी दिलेल्या रीडिंगचे अवलोकन करून ग्राहकास ऑक्टोबर २०१८ ते जानेवारी २०१९ पर्यंत उपलब्ध मीटर रीडिंग वरून एकूण ४२९९१ युनिट्सचे प्रोव्हिजनल देयक देण्यात आले होते. त्या वेळी ग्राहकाने सदर विद्युत देयकाबाबत नाराजी दर्शवून सदर मीटर तपासणी बाबत उपविभागीय कार्यालयाला तोंडी विनंती केली होती. त्या विनंती नुसार उपविभागातर्फे सदर मीटर, तसेच प्राप्त रीडिंग योग्य आहे किंवा कसे हे जाणून घेण्यासाठी तपासणी विभाग, रत्नागिरी यांना संदर्भिय पत्र क्र. ५ ने कळविण्यात आले होते. त्यानुसार ग्राहकाचे समक्ष दि. २२.०१.२०१९ रोजी मीटरची तपासणी केली असता मीटर मध्ये कोणताही दोष आढळून आलेला नसल्याचे तपासणी विभाग, रत्नागिरी कडुन कळविण्यात आले आहे.

संदर्भिय पत्र क्र. ३ द्वारे प्रस्तुत प्रकरणी सुनावणी होऊन अंतरिम आदेश प्राप्त झाला आहे. त्यानुसार १. ग्राहकाचा चालु असलेला वीजपुरवठा मंचाचा पुढील आदेश प्राप्त होईपर्यंत खंडित करण्यात येऊ नये. २. मीटराचे वादग्रस्त देयक सोडून पुढील कालावधीचे निव्वळ देयक महावितरण कंपनीस अदा करावे. ३. माहे जानेवारी २०१९ च्या देयकाबाबतचा निर्णय अंतिम सुनावणी नंतर करण्यात येईल. असा आदेश प्राप्त झाला होता. संदर्भिय पत्र क्र. ५ द्वारे ग्राहकाने काही नवीन माहिती व यापुर्वी दिलेली जुनीच माहिती मागवल्याचे कळते. उर्वरित माहिती संदर्भिय पत्र क्र. ६ ने ग्राहकास उपविभागाने दिली आहे. तसेच लेखी स्वरूपात किंवा वैयक्तित भेटून ग्राहकाच्या काही शंका असल्यास त्याचे निरसन करण्याबाबत याच पत्रात उपविभागाद्वारे कळविण्यात आले होते. त्यानुसार ग्राहकाने स्वतः संदर्भिय पत्र क्र. ७ घेऊन दि. २५.०३.२०१९ रोजी उपविभागास भेट देऊन

त्यांच्या असलेल्या शंकेचे उपविभागीय कर्मचारी श्री. गावखडकर (उच्चस्तर लिपीक लेखा) यांच्या कडून समाधान करून घेतलेचे कळते. अशा प्रकारे सर्व आवश्यक ती माहिती उपविभागाद्वारे ग्राहकास वेळोवेळी देण्यात आली आहे.

वरील सर्व बाबीचा विचार करता, माहे ऑक्टोबर २०१८ ते ते जानेवारी २०१९ दरम्यानच्या काळात एकूण ४२९९१ युनिट्सचा वापर झालेला असून, त्यानुसार ग्राहकास माहे जानेवारी २०१९ मध्ये रु. ३६४८२१.७२ चे विद्युत देयक देण्यात आले आहे. सदर विद्युत देयक हे अवाजवी किंवा अन्यायकारक नसून ते योग्य आहे."

In view of this MSEDCL pleaded that the reading given by the meter is correct and the bill of January 2019 is correct.

Hearing

The matter was scheduled for hearing for the second time on 24th April 2019. On behalf of consumer Shri Jayant P Bivalkar remained present on behalf of MSEDCL Shri R G Bele EE, MSEDCL Ratnagiri ,Shri Surendra Rajendra Buthkar DyEE Sub div Jakadevi, Shri Prashant Shrikrishna Gavkhadkar UDC , MSEDCL, remain present.

MSEDCL argued before the Forum relying on the facts stated by it in the letter no. 507 on 11.03.2019, No. 02342 of 24.04.2019 submitted to the Forum and also relied on test reports given by Testing division, Ratnagiri by its letter no. EE/TDR/EEC RTN/100 dt. 07.02.2019

During the hearing the consumer raised the doubts regarding the Test Report given by the Testing Division and pleaded that the report given to him is the report after the corrections were made in the connections of wiring of the meter. Hence he demanded the test report of the meter before the corrections in the connections of the wiring of the meter were made.

The Representative of the MSEDCL explained before the Forum how the connections of wiring before and after the correction do not affect the reading of meter and insisted that the report given regarding the meter reading is of the Testing Division, which is the expert authority regarding the said issue. Secondly, he also explained that it was done in presence of consumer. However ,consumer insisted to have report of the testing before the

correction in connections of wiring of the meter was made. He also made request to give the data files of the meter reading.

Consumer requested the Forum to make available the Testing Report before and after making correction of the connections of wiring of the meter, Spot inspection report and MRI report.

Consumer requested the forum to have some more period to study the documents which will be made available to him and accordingly to reply on that behalf.

Forum directed the MSEDCL to make available the documents as referred in above para to the consumer within two days and directed consumer to submit the reply as early as possible.

As per directions of the Forum DEE Sub division Jakadevi by his letter no. 716 of 25.04.2019 has given report of Testing division Ratnagiri and pointed out that spot inspection report by Shri. Bhutkar is nothing but the MRI report taken on the same day and which is given to the consumer. He also forwarded the soft copy of meter reading.

On the basis of the additional information and all other documents consumer submitted his say which was received by the this office under Inward no. 44 of 29.04.2019. Sum and substance of the said say is as follows-

1) Meter with the consumer was replaced on 07.10.2018 but it was not shown in the computer system till Dec 2018. Hence the bill was issued in Jan 2019. Consumer raised the question regarding why the delay was made in uploading the meter in computer system and what were the problems in doing so?

The MSEDCL to this issue answered that due to new SAP system and due to technical problems, it was delayed. However, that has no effect on the reading depicted on the meter

2) The bill for Oct 2018 to Jan 2019 was issued and thereafter the meter was tested and hence consumer denied that he made oral demand for testing of meter. On the contrary he pleaded that the before issue of the bill the test report regarding wrong connection of the wiring to the meter was being made.

However, in the letter of Dy EE. Sub division Jakadevi Rural -2 No 507 dt 11.03.2019, to the secretary of the Forum pointed out that the provision bill has been forwarded to the consumer and in respond to the said bill consumer orally demanded the testing of report.

3) As per Test Report given by letter No 100 dt 7.02.2019 meter is not defective and hence bill given is correct.

Consumer has stated that letter dt 07.01.2019 of Asst Eng Kotwade and letter dt 18.01.2019 of dy EE. Jakadevi have mentioned about correction of the connection of wiring of meter. In this regard consumer raised the issue that what is right and what is wrong is not made clear and there is no panchnama regarding the same. Now on 25.04.2019 the consumer has received both testing Reports i.e before and after the corrections in connection of the wiring was made. However consumer is not satisfied with same.

Consumer also pointed out that data files regarding MRI Report was given to him but it was not possible for him to read the same. So the reading can not be taken in to consideration.

4) The meter testing was made as per section 163 of the said Act which is not correct.

5) Consumer has raised doubt about connections of wiring in slots for RPh, YPh, BPh, Neutral and has tried to explained how the doubt is created regard wrong and right connection of wiring with reference to RPh, BPh, YPh and Neutral. Hence the test report cannot be considered.

6) Minimum monthly use of power was Zero during the period of Oct 2018 to Jan 2019 and maximum use of power was 4336 units. Prior to Jan 2019 there was no such high amount of units utilization. Consumer pleaded that though the increase of load of 33 kv also result in 33 kw X 7hr/day X 25 days/ mnth resulting into 5775 units. The bills for Feb 2019 and March 2019 are respectively of 1698 units and 1976 units. Hence he has pleaded that bill of Jan 2019 is the excessive billing and hence not correct.

7) As per Supply Code Regulation 2005 and Regulation 2(5) of Standard of Performance Regulation 2014 wiring is the part of the meter and hence wrong wiring would result in defects in meter. Regarding meter testing CEA 2010 Sec 18 (2) provides that it should

8) be done by NABL i.e. from NABL approved institution. Since the decision to get the meter tested is of the MSEDCL the report given by Testing division, Ratnagiri of MSEDCL can not be considered and accept..

In this regard this Forum in its judgment in complaint no. 15 of 2012 at 18.06.2012 agreed that wrong wiring results in defect of meter. The appeal was made by MSEDCL by writ petition No. 3614/2013 of Bombay High Court. High Court upheld the decision given by the Forum.

9) Since the report of testing of meter was not by NABL approved institution and hence can not be accepted. So also evidence to show wrong wiring was removed by MSEDCL by making correction to the wiring without making any Panchnama. So also consumer raised doubt about the nature of actual wrong in connections of wires.

Points for consideration before Forum

On perusal of documents submitted before the Forum, arguments made by the consumers and the distribution company MSEDCL, related records, the points for consideration before the Forum are as follows-

1. Whether the reading obtained from the meter allotted to the consumer is correct for the period of the disputed bill?
2. Whether the bill for January 2019 is correct?

Reasoning

On perusal of the letters submitted by the MSEDCL , it is observed that ,-

- i. Bill of zero units were issued for the months of October 2018 to December 2018 to the consumer.
- ii. On 07.10.2018 the meter allotted to the consumer was changed but because of technical problem it was not shown as accepted in the computer system and hence the bills of zero unit were issued for the period of October 2018 to December 2018.

- iii. Provisional bill for the month of January 2019 was issued to the consumer.
- iv. Consumer did not agree with the bill and raised the doubt about the meter reading and the meter.
- v. MSEDCL in order to ascertain correctness of the reading and the meter, got the meter tested from the Testing Division Ratnagiri.
- vi. Meter was tested in presence of the consumer and report by Testing Division, Ratnagiri was given by its letter no. 100 of 07.02.2019. Reports says that energy meter test observed satisfactory for both type of meter connections carried out.
- vii. The reference to both types of connections is related to the observations made by Deputy Executive Engineer Jakadevi while assessing of PC o consumer was done. He has pointed out as follows-

“ Section officer has connected Neutral in R- Ph slot, R Ph in Y Ph slot, Y ph in B Ph slot and B ph in Neutral slot from the date of connection in October 2018. The above problem was resolved by him by making connection as per manual on 07.01.2019 ”

Further he requested to guide him for assessment of units to be billed to consumers upto 05.01.2019 and also to guide whether during this wrong connection period recording on the meter is correct or not.

He has sent the data file of both time i.e. before correction and after correction along with his letter No. 152 dt. 18.01.2019 to the Executive Engineer, Testing division office, Ratnagiri.

- viii. Regarding this the observation made by Testing division at both the times (i.e. when there was wrong connection of wiring as pointed out above and when the wiring was made as per manual.) shows that the percentage error is 0.35% and 0.52 % respectively.
- ix. The MSEDCL argued that consumer never thereafter applied for testing of meter. Testing division Ratnagiri is the authority for testing meter and for all time report of the said division have been accepted as authentic by the

Forum and court unless it is challenged specifically by either of the party. i.e. consumer or distribution license.

On perusal of the submission made by the consumer it is observed that-

- i. Consumer has objection regarding delay in installing meter.
- ii. Consumer has decided that he demanded for testing of meter.
- iii. Consumer has raised the doubt about the result of the test report as there was wrong connection of wiring of meter before testing of meter as pointed out by the Dy.Ex.Engineer Jakadevi by his letter dt. 18.01.2019 What is correct wiring and what is wrong wiring with reference to Neutrals, R, Y and B phases slot is not made clear by the MSEDCL and hence Test report can not be considers.
- iv. Consumer has got the increase in the load recently and now it is 33kV. As per his calculations and his visualization regarding the days and hours of per day the meter reading would be $33KW \times 7hrs \times 25/days = 5775$ units.
- v. As per supply code regulation 2005 and regulation 2 (5) of Standard of Performance Regulation 2005 wiring of the meter is the part of the meter. Hence wrong wiring would result in defects in the meter. So also consumer has pleaded for getting meter tested by NABL i.e. from NABL approved institution. In this regard he has relied on judgment by this Forum in complaint no. 15 of 2012 on 18.06.2012 which was upheld by the Bombay High court in writ petition No. 3614 of 2013.
- vi. Consumer took objection regarding authenticity of the test report since it is tested by the Testing division Ratnagiri, and argued that it should have got tested as per provisions obtaining in the Indian Electricity act 2010 regarding testing by the NABL approved institution.

- vii. Consumer also pleaded that MSEDCL has made corrections to the wiring of the meter without making any panchnama and hence he has doubts about what the wrong connection and hence bill can not be raised for excessive reading. He has relied upon the supreme court decision Bombay Electric supply v/s Laffans (India) pvt. Ltd.and others given on 21 April 2005 and quoted the relevant part as follows-
“ The most material evidence being the meter itself has been lost by the act of appellant in removing the incorrect meter. The appellant can not be permitted to take advantage of its own act and omission.- The act of removing the meter and the omission to make reference to the Electrical Inspector ”
- viii. Provision of regulation 15.4.1of the Supply Code of Maharashtra commission can not be made applicable since testing was not made by approved institution.
- ix. While calculating the average of units utilized only the period of Oct 2017 to June 2018 and February 2019 to March 2019 shall be considered for calculation of average unit utilization.
- x. a. consumer requested to set aside the bill of January 2019.
b. To set aside the notice of the disconnection of electricity.
c. To release the bill of January 2019 as per his average utilization.

On analysis of the above observation Forum came to the conclusion that –

1. There was delay in uploading the meter in computerized system and hence billing for October 2018 to December 2018 was done of zero unit. The provisional bill was disagreed by the consumer. Regarding delay
2. On detection of error of connecting wires of meter MSEDCL got correction as per manual and the meter reading was got tested by the Testing division. Reports of testing and data files for reading before and after the

correction in connections of wire of meter was examined by both the parties of dispute.

3. The report of the Testing division is accepted as authentic report for all purpose unless it is further challenged in writing and sent to NABL as pointed out by consumer.

Consumer has raised doubts about the correctness of the report given by the Testing division, Ratnagiri and submitted that the meter should have been got tested from NABL.

The Forum after considering the above facts and analysis has come to the conclusion that-

1. It is true that there is delay in updation of meter in the computer system by the MSEDCL. However MSEDCL has submitted that because of introduction of new SAP-computerized system, the technical problem are being faced by the MSEDCL and hence it resulted in delay in updating the meter in computer system.

In this regard Forum accepted that there is delay and the bill for 4 months are issued to consumer which is in lakhs of rupees and obviously would land the consumer in problem to pay the same. However it has no effect on the correctness of the meter reading or correctness of meter. The only relief to the consumer can be given to pay the bill in installments.

2. It is the fact that the test report of the Testing division, Ratnagiri was made on 22.01.2019. The disputed bill was issued on 08.02.2019.

Regarding the correctness and authenticity of the testing report Forum has noted as follows-

Test report given by the Testing division reveals that because of wrong wire connections with reference to slots of R phase, Y phase, B phase and Neutral do not affect the reading of the meter. On perusal of test report before the correctons of connection of wires in proper slot shows 0.52 %.

The error percentage is in permissible limit as per the report. Hence Forum has come to the conclusion that

wrong wire connection as in this case, has not resulted on the speed of running of meter as slow or fast beyond the permissible limit.

The meter testing was made in the presence of consumer-

As far as the case law cited by the consumer is concerned Forum has following views.

In the referred case, the wire connection of one phase was connected in the other phase slot and thus was resulted in two connections in one slot which resulted in affecting the meter reading by 34% and the report to that effect was given by the Test report and hence the Forum held that wrong wire connection resulted in the variation of meter reading. Hence Forum has come to the conclusion that wrong wire correction resulted in variation in meter reading. In the case before the Forum correcting the wire connections has not affected the meter reading as rightly pointed out by the test report of the Testing division.

As far as the authenticity of the test report of Testing division is concerned the Forum has come to the conclusion as follows-

1. The Testing division, Ratnagiri is the authority for testing of meter and for all time report of the said Testing division has been accepted as authentic by the Forum and court unless it is specifically challenged by either of the parties i.e MSEDCL consumer .

In this case there was no proposal or demand for testing of meter. In the routine checking of the meter it was observed by the Section officer Kotawade that wrong wire connections and he informed the concern Dy.Ex.Engr and in turn the test report was obtained from the Testing division Ratnagiri. It is submitted by MSEDCL that the practice and the procedure of the MSEDCL that if any doubt is detected regarding the meter, the meter is sent to Testing division. Many a times it is sent on the demand of the consumer. In this case consumer has denied that he has demanded testing of meter and there is nothing on the record to show that consumer demanded testing of meter

from any of the institution. However the MSEDCL to clarify the doubt raised by section officer Kotawade got the meter tested. The base for doubt about the reading was of meter connections of wire of the meter. The said doubt has been cleared by the testing report. Even on perusal of the test report it reveals that in both the situation of wiring connections (i.e. right and wrong) the error percentage is within the permissible limit and there was no demand to get the meter tested by any other institution. It is also to notes that meter never reported to be defective but there was apprehension that wrong wiring would have resulted in wrong working of the meter. The said query of the consumer is resolved in view of the percentage of error shown by the test report and since there was no specific demand for testing of the meter by authorized institution, question of accepting the objection that Testing was not done from NABL approve institution does not arise.

The argument that wiring of the meter is part of meter is accepted, However, here is a question that whether the reading shown by the meter is affected by wiring of the meter. The answer given by the test report is whatever error was observed in both situation of wiring was within the permissible limit.

As far as the argument regarding making of corrections of wiring of the meter without making Panchnama, the argument of the MSEDCL that it was routine checking of the meter and whatever things are to be done necessary to come to the conclusion regarding correctness of the meter was done by the officer is acceptable. Even the testing of meter was done by MSEDCL on its own so as to find out whether wrong wire connections has resulted on working of meter. The wrong that was removed or corrected has been noted by the officer and the reading to that effect was also taken and data files to that effect was also given to the consumers. Consumer could not brought on the record any evidence which would affect reading of the meter because of wrong wire connections. Making of panchnama though it is ideal action for recording wrong doing

or for not destroying evidence, Forum is of the view that the action of not doing Panchnama, in this case, has not affected the conclusion regarding the meter reading. It is not practice of making panchnama for every testing incidence in routine checking of meter.

So act of not making panchnama and omission of not sending the report to NABL approved institutions in absence of serious defects in the meter or in absence of demand by the consumer to NABL approved institution have not direct effect on testing of meter and its reading.

In view of the above explanation the Forum has come to the conclusion that test report given by the Testing division is the report of the expert and is accepted for taking reading of the meter. Hence the reading shown by the meter is valid reading.

Regarding the formula given by the consumer for calculating the average reading is not acceptable for i) the first reason that the meter is not defective and the reading of the meter is valid and for ii) the another reason that formula contains two variables i.e. no. of working hours per day and no. of days per months which can not be accepted without any valid base.

The point no. 1 for consideration before the Forum has to be answered positively i.e. meter reading is correct and has to be accepted for calculation of bill amount.

Answer to point no. 2 is also positive i.e. January 2019 bill which is disputed is correct.

However, Forum is of the opinion that in view of delay caused in giving the bill by MSEDCL which has resulted in bill for 4 months at a time, the amount of the bill of January 2019 may be allowed to pay in 4 installments.

Order

- 1) Complaint is rejected.
- 2) Consumer is directed to pay the amount of the bill for the month of January 2019 in four equal installments and the MSEDCL is directed to accept the amount paid by the consumer in installments.

If consumer is not satisfied with the decision he may file representation within 60 days from the date of receipt of this order, to the Electricity Ombudsman, at the following address.

Secretary,
Electricity OMBUDSMAN,
Maharashtra State Electricity Regulatory Commission,
606/608, Keshava Building,
Bandra Kurla Complex,
Mumbai – 400 051.
Phone No.022 – 2659 2965.

Shri. R.P. Chavan
Secretary
Ex.Engineer,C.G.R.F.
Konkan Zone

Smt.Pushpa S. Tawde
Chairperson ,
C.G.R.F.
Konkan Zone

Date : 09.05.2019

Place : Ratnagiri

DISSENTING OPINION

Case no 08 Dt. 06/03/2019

Shri. Samir Ashok Kadam

At/post. Sadye

Tal & Dist Ratnagiri

I , Suhas B. Mainkar, Member (CPO) of this Forum, do not agree with the findings and the order passed by the Forum and therefore I am giving my dissenting opinion with the reasons therefor.

It is clear from the records available and the submissions made by both parties during hearing on 12.03.2019 and again on 24.04.2019 followed by the written submission by the consumer on 29.04.2019 that Dy. Ex. Engr. Mr. Bhutkar visited the premises of the consumer on 05.01.2019 and observed that the wiring of the meter was wrong. It is confirmed by AE Kotawade in his letter dt. 07.01.2019 addressed to DYEE Jakadevi that the wiring was wrong and has been corrected as per the instructions of DYEE and has informed the meter reading details as on 07.01.2019. DYEE Jakadevi sent a letter dt. 14.01.2019 to AE Kotawade enclosing therewith provisional bill of Rs. 3,68,320/- (for accumulated units of 41371) as meter replacement not inserted / fade to the computerised system and the AE was requested to handover the provisional bill to

the consumers under proper acknowledgement . It is not clear whether the said bill was delivered to the consumer. But the fact remains that MSEDCL has issued the provisional bill on 14.01.2019 pending the feeding of meter replacement in the system. On 08.02.2019 the bill for the period 01.01.2019 to 30.01.2019 was issued for Rs. 3,64,820/- for 42,985 units. MSEDCL submitted that thought

the period on bill is January 2019 the bill pertains to four months from October 2018 to January 2019. On 14.02.2019 consumer raised objection for such huge amount of bill in spite of limited consumption of energy during the past three years. On 18.01.2019 DYEE, Jakadevi wrote a letter to Testing division stating wrong wiring sequence and asking for test report of both conditions i.e. of wrong wiring and of correct wiring stated to have been done as per manual. Test report dt. 22.01.2019 reveals that energy meter test results observed satisfactory for both type of meter connection carried out as per letter under above reference. (Testing division letter no. 100 of 07.02.2019)

Consumer has expressed shock over the amount of bill and asked MSEDCL to look into the matter as to why such huge amount of bill generated but he never questioned the status of the meter nor asked for the testing of the same either orally or in writing. MSEDCL has not collected any testing charges from the consumer even though they have alleged that consumer had orally requested to test the meter.

The meter was replaced on 07.10.2018 at the consumer premises because of additional load sanctioned. It is argued by MSEDCL that the details of the meter replacement could not be feed to the system due to technical reasons. However there is no correspondence produced to substantiate this claim of MSEDCL. On the contrary, the delay of almost four months (07.10.2018 to 08.02.2019) in feeding the details to the computer system is not justifiable on any count considering the provisions of the Electricity Act 2003 and the

regulations regarding conditions of supply and standard of performance.

Though the data was not feed to the system, the meter displays the units consumed and therefore it was possible for MSEDCL to issue provisional bill on the basis of physical meter reading on monthly basis from the date of installation of the meter. But MSEDCL has not done this. Had this

been done, the consumer would have an opportunity to raise the objection to the quantum of amount of bill in November 2018 itself.

MSEDCL has informed to consumer that after testing of the meter at site on 22.01.2019 the bill raised requires no correction and therefore requested consumer to pay the bill. Non payment of the bill by consumer resulted in issuance of notice of disconnection under section 56 by MSEDCL on 01.03.2019. The consumer was given interim relief on 12.03.2019 by restraining MSEDCL to disconnect the supply pending the final disposal of the complaint. Mean time consumer requested for some documents from MSEDCL but the documents were alleged to have not been given to the consumer. During the second hearing on 24.04.2019 MSEDCL was directed to give documents including the test report when the connection was wrong (which was not given to consumer in spite of written request and oral follow up.)

Consumer has given his written say on the basis of documents supplied and also on the basis of submission of MSEDCL which is not required to reproduce as it has been stated / quoted above. Now the question remains unanswered as to how the connection of wiring was found to be wrong by DYEE , Jakadevi on 05.01.2019 as there is no spot inspection report or Panchnama of wrong wiring. The wrong wiring was removed and the correct wiring was done. But AE Kotawade in his letter to the DYEE Jakadevi has not stated what was wrong wiring and how the wiring was corrected. The testing done by the Testing division is on the

basis of what has been written by DYEE Jakadevi in his letter dt. 18.01.2019. Consumer has raised doubt about the exact position of wrong wiring and the correct wiring on the basis of which testing has been done. There is no evidence to show that full continuous load was utilized while testing the meters under both conditions (wrong and correct wiring). The duration of the test is too short (Ten minutes only).

Consumer consulted expert and his written opinion was submitted to the Forum in which it has been suggested the testing of meter for 24 hours for each right and wrong connection with proper evidences of connections and if possible in the presence of neutral expert in the electric field.

Section 55 (1) of Electricity Act 2003 provides installation of a correct meter in accordance with the regulation to be made in this behalf by the Authority (Central Electricity Authority). CEA has made regulation in 2006 with short title CEA (installation and operation of meters) Regulations 2006 and regulation no. 18 (2) provides the procedure for the testing of meters upto 650 Volts at site. It was mandatory for MSEDCL to use the standard reference meter of better accuracy class than the meter under test for site testing of consumer meters upto 650 Volts. It is also stated in regulation no. 15.2 of above regulations also provides to follow the procedure given Electricity supply code of appropriate Commission. There is also provision for placing of additional meter for recording Electricity consumed by the consumer (Regulation no. 19). However , procedure laid down was not followed by MSEDCL while testing the meter at site on 22.01.2019.

The consumer has relied upon the case laws in r/o writ petition no. 3614 of 2013 where in Bombay High court has up held the decision of Forum . The case was based on wrong grouping of wire and supplementary bill issued in pursuance of wrong grouping. Consumer has also relied on civil appeal no. 3615 of 1996(Bombay Electric Supply and

... Laffans (India) Pvt Ltd. and another decided by Supreme court on 21.04.2005.

While applying the ratio of above case to this case it has to be noted that no evidence of how the wiring of the meter was wrong has been produced by MSEDCL. On the contrary MSEDCL has said that no separate inspection report is prepared. No panchnama is done. The testing is based on the

version of MSEDCL. In above referred Supreme Court case reference of Belwal Spinning Mills case occurs. In this case Supreme Court has held that any unilateral decision of either of the parties about correct status of the meter is not to be accepted by other party if other party raises objection as to the status of the meter. It also held in case no. 3615 of 1996 that most material evidence being the meter itself has been lost by the act of the appellant in removing the incorrect meter. The appellant can not be permitted to take advantage of its own act and omission- the act of removing the meter and omission to make a reference to Electrical Inspector. In the case under consideration the wrong wiring alleged to have been done has been removed and the testing has been done by MSEDCL on site without following the proper procedure as outlined in CEA regulations in this behalf. As a result consumer has no choice to challenge the test report as material evidence has been destroyed. Therefore the principle laid down in above Supreme Court case equally applies to this case.

Considering the past history of the consumption pattern as observed in CPL of above meter since January 2016, the average consumption is less than 2500 units per month. considering the added load the average consumption as worked out by consumer for a month is 5775. The total consumption of 42,985 units from October 2018 to January 2019 shows the average consumption shows 10,746 units per month. Interestingly the consumption for February 2019 and March 2019 is 1698 and 1976 units. This consumption is

after the meter wiring is corrected and this is the peak period of the business the consumer carries out. The wiring of meter is included in the definition of meter in SOP regulations and conditions of supply regulations of MERC.

MSEDCL orally submitted that the interchange of phases or wrong wiring in advanced technosavy meters does not matter much so far as the recording of consumption of energy is concerned. Forum asked MSEDCL officials as to

why then wrong connection was corrected. No answer to this question of Forum was given by the official present. Secondly no evidence was produced like manual of the meter to substantiate the above claim of the MSEDCL.

To sum up I would like to state that

1. Consumer raised objection towards amount of bill.
2. MSEDCL observed wrong connection and removed it and made correct connection without leaving any evidence of wrong connection.
3. Testing done on the basis of what has been informed by MSEDCL without any supportive evidence.
4. No evidence as to utilization of full continuous load while testing.
5. Consumer aptly raised doubts about the wrong connection without any evidence and the sequence followed by Testing division and absence of details of wrong and right connection in letter of AE Kotawade referred above.
6. CEA (installation and operation of meters) Regulations 2006 not followed strictly in its letter and spirit while testing the meter at the site.
7. The ratio of case laws cited by consumer apply to this case as discussed above.
8. The consumer has been deprived his right to require MSEDCL to get the meter tested in NABL accredited laboratory as the material evidence has been destroyed

9. Consumption pattern for period from January 2016 to September 2018 shows average consumption of less than 2500 units and the consumption pattern in post correction period is less than 2000 units. Therefore the probability of erratic behavior of the meter during October 2018 to January 2019 can not be entirely ruled out.

In view of the document submitted in this case and the submissions (oral and written) of both parties and the reasoning given above, I am of the opinion that MSEDCL has no right to raise the bill in view of the failure to follow the law and procedure as discussed above and as such the bill in question for January 2019 be set side and fresh bill be issued on the basis of average consumption of 2500 units (for the period from January 2016 to September 2018) and after giving credit of the amount of Rs. 9680/- paid in December 2018 and January 2019.

Suhas B Mainkar

Member (CPO)

C.G.R.F.

Konkan Zone

Date : 09.05.2019

Place : Ratnagiri

