

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

**Case No. CGRF/AZ/AUC/737/2019/22  
Registration No. 2019040134**

Date of Admission : 30.04.2019

Date of Decision : 27.08.2019

Shri. Pankaj Trilokchand Pande, : COMPLAINANT  
Gut No.141, -Beed Bypass Satara,  
Aurangabad-431001  
(Consumer No. 490011905011 )

**VERSUS**

Maharashtra State Electricity Dist. Co. Ltd.,: RESPONDENT  
through it's Nodal Officer, EE(Admn),  
Urban Circle, Aurangabad.

The Addl. Executive Engineer,  
Chawani, Sub Division, Aurangabad

For Consumer : Shri H.A.Kapadia  
For Licensee : Shri. S.K.Chinchane  
Addl. EE, Chawani Sub-Dn.

**CORAM**

Smt. Shobha B. Varma, Chairperson  
Shri Makarand P Kulkarni, Tech. Member/Secretary  
Shri Vilaschandra S. Kabra Member.

**CONSUMER GRIEVANCE REDRESSAL DECISION**

1) The applicant Shri. Pankaj Trilokchand Pande, Gut No.141, Beed Bypass Satara, Aurangabad-431001 is a consumer of Mahavitaran having Consumer No. 490011905011. 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 30.04.2019.

**The brief facts of the dispute are as under:-**

- 2) That, Gut No. 141, is owned by the complainant & he is running Mangal-Karyalaya in the premises. Three Phase electricity connection of 8 Kw is released in January 2009 by the Respondent to him, bearing consumer No.490011905011. That, since the time of releasing connection, the Respondent failed to issue monthly bills regularly. Most of the bills issued were either on average basis or by showing meter status as RNA.
- 3) Since the time of releasing connection till November 2018, all the monthly bill issued by the Respondent are as per tariff code LT II (A) & the same were paid by the complainant.
- 4) It is stated that, in the month of December 2018, the Respondent has changed the tariff category LT II (B) instead of LT II (A), without any reason or justification.
- 5) That, on receipt of bill of December 2018, the complainant had been to Chawani Office of the Respondent for its clarification. The concern officer instructed the complainant to submit application for

- enhancement of load to review the category. Accordingly, on Dt. 22.01.2019 application was submitted by the complainant in A-1 form to enhance to load from 10 Kw to 20 Kw. It was expected about issuance of demand note for additional security deposit & to issue bills as per LT II (A). As per MERC tariff order, LT-II A, category is applicable for load up to 20 Kw.
- 6) That, the Respondent has continued to issue bill as per bill LT II (B). So, on Dt. 21.02.2019, the complainant has submitted application for revision of bill. In March 2019, also bill is issued as per LT II (B) category for Rs.24240, which is not acceptable to the complainant. It was left without action on the part of Respondent.
- 7) **Hence, it is prayed that,**
- 1) Respondent may be restricted from taking coercive action.
  - 2) Respondent may be directed to issue revised bill & all further bills as per LT II-A tariff category & to refund excess amount paid by the complainant along with interest.
- 8) **The Respondent has submitted say (P.No.13,78) as under:**
- 1) On 22.01.2019, the complainant has submitted application for enhancement of load from 10 Kw to 20 Kw. In the same premises, there is another connection bearing consumer No.490011701041 & there are arrears under section 126 of Indian Electricity Act, 2003 against it, so, it is pending as Court matter. So, legal advise is sought by the Respondent from 10 Kw up to 20 Kw , the billing is made as per LT-II A category. When the consumer used more than 20 Kw, then in that month bill is given as per LT II (B). So, bill issued is correct.

- 9) **The complainant has submitted rejoinder (P.NO.20) as under:-**
- 1) Small commercial & industrial consumers having connected load below 20 Kw, separate category is created by the Honable Commission for them & low rates are charged to them. In addition Commission has also exempted them from payment of demand charges, penalties towards power factor. Option is also given to those consumers to select Time of Day (TOD) tariff. Consistently meter disclosed that the load used by the complainant is below 20. As per directives of Honable Commission, an agreement is required to be executed between consumer & MSEDCL. In case of LT consumers, A-1, form is considered as an agreement. The agreement between the parties can't be changed without following proper procedure. Tariff can't be charged abruptly. Honable Commission has not created floating tariff wherein consumer will be billed month to month basis.
  - 10) In the say dtd.30.07.2019 (P.No.133), it is explained that regarding application of the complainant for enhancement of load, on his undertaking about arrears of consumer No.490011701041, the load will be increased.
  - 11) In the say dtd.13.08.2019 (P.No.138), it is submitted that, the reading is taken by MRI machine & file is uploaded & computerized bill is issued. On taking reading on machine, it is transpired that the use by consumer is more than 20 Kw. Whenever programs are held at the Mangal Karyalaya of the applicant more energy is utilized. Hence charges for excess demand & demand charged to the consumer are correct.

- 12) We have gone through the pleadings & documents placed on record by both the parties. Heard C.R. Shri.Kapadia & Shri. S.K.Chinchane for Chawani Subdivision. Following points arise for our determination & we have recorded its findings for the reasons to follow:-

Sr.No.	POINTS	ANSWER
1	Whether the petitioners bills be revised as per LT II (A) category for the months where it is changed as LT II -B ?	No.
2	Whether the petitioner is entitled for refund of excess amount alongwith interest ?	No.
3	Whether further bills are required to be issued as per LT-II A category?	Does not survive
4	What order & cost ?	As per final order

#### REASONS

- 13) **PONIT NO.1 to 3:** Parties are not at dispute about the fact that in the premises bearing G.No.141, at Beed-by-pass Road, Aurangabad, the petitioner is running Mangal Karyalaya. That, in the said premises the Respondent has released three phase electricity connection of 10 Kw, bearing consumer No.490011905011. Admittedly, the petitioner's connection being for Mangal Karyalaya tariff code LT-II (A) is applicable. That, up to November 2018, there was no dispute regarding tariff category.
- 14) That, following bills are issued by the Respondent to the petitioner by applying tariff category LT-II (B).

Sr. No.	Months	KVA recorded	Tariff Category	Bill Date	Page No.
1	December-2018	27	LT II B	14.01.2019	107
2	January-2019	24	LT II B	06.02.2019	109
3	March -2019	23	LT II B	05.04.2019	113
4	May-2019	30	LT II B	07.06.2019	129
5	June -2019	28	LT II B	12.07.2019	131

- 15) The only explanation given in the say by the Respondent is that from 1 Kw to 20 Kw, billing is made as per tariff code LT II-A. When 20 Kw load is exceeded by the complainant then LT-II B tariff code is applied in that particular Month.
- 16) MERC order dated 12.09.2018 in case No.195/17 speaks about applicability of tariff for FY 2016-17 to 2019-20. Tariff category LT II is for non residential, non-industrial & or commercial premises and for consumption 0-20 Kw LT-II (A) is applicable. For more than 20 Kw upto 50 Kw tariff category LT-II B is applicable.
- 17) MERC order dated 12.09.2018 passed in case No. 195/17, P.No.589 speaks as under :

*“In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional amount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand).*

*Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the action to be taken would be governed by the provisions of the Supply Code Regulations.”*

- 18) Considering the above directions passed by MERC, the Respondent has rightly charged applicable demand charge rate as per tariff LT-II B & additional charged amount of 150% of the applicable demand charge for the reason, that in the calendar year 2018-19, the petitioner has

- exceeded contract demand i.e. in the month of December 2018 - 27, January 2019 - 24 & March 2019 - 23. As such, only in those months tariff LT-II B is rightly applied by the Respondent. However, since the consumption in calendar year 2018-19 does not exceed 20 kW demand for more than three occasions, hence, category does not change permanently. As such, notice was not issued to the petitioner.
- 19) On the point of giving opportunity to the consumer, Consumer Representative Shri. Kapadia has pointed out the ratio laid down in Appeal No. 153 to 161/2008 & 164/2008, 166 to 168/2008, 170/2008, 177 & 178/2008. Poona Hospital & Research Centre V/s MERC & other (Appeal No.153/08) & others wherein common Judgment was pronounced by the Hon'ble Appellate Tribunal for Electricity dt.23<sup>rd</sup> April- 2009.
  - 20) In that case MERC, by its order Dt. 20.06.2008 fixed tariff in respect of their business of distribution of appellants for the year 2008-2009. The various hospitals have impugned the said order before Appellate Tribunal on the ground of blatant change in their tariff design without giving opportunity of hearing to them. The Hon'ble Appellate Tribunal has remanded the dispute to MERC mainly for the reason of not giving opportunity to them at the time of recategorization.
  - 21) Since, the tariff category in this case is not permanently changed, ratio of the aforesaid case is not applicable to present dispute.
  - 22) Considering the aforesaid discussion, it is found that action taken by Respondent is in accordance with the directions issued by Hon'ble MERC in its order dated 12.09.2018 in case No.195/17 & it is correct. As such, revision of any of the bill as claimed by the petition is uncalled.

Therefore petitioner is not entitled for any refund & interest on it. Consequently, we answer point No. 1 & 2 in the negative.

- 23) About future bills, at this stage, no conclusions can be drawn in advance. The said claim therefore does not survive point No.3 is answered accordingly.
- 24) For these reasons, we proceed to pass following order in reply to point No.4

**ORDER**

- 1) Petition stands dismissed.
- 2) Parties to bear their own cost.

Sd/-  
Shobha B. Varma  
Chairperson

Sd/-  
Makarand P. Kulkarni  
Member / Secretary

Sd/-  
Vilaschandra S.Kabra  
Member