



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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NO. K/E/1595/1922 of 2019-20

Date of registration : 26/06/2019

Date of order : 11/09/2019

Total days : 77

IN THE MATTER OF GRIEVANCE NO. K/E/1595/1922 OF 2019-20 OF PADAMSHI K.GAJRA & H.R.BHANUSHALI (USER NAME – MR.HEMAL GIRISHKUMAR SHAH), PLOT NO.48, S.NO.164, ROYAL IND.HUB, NEAR KAMAN STN., NEAR JAIN TEMPLE, KAMAN, VASAI (E). DIST. PALGHAR, PIN – 401 202 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.

Padamshi K.Gajra & H.R.Bhanushali
(User name – Mr.Hemal Girishkumar Shah),
Plot No.48, S.No.164, Royal Ind.Hub,
Near Kaman Stn., Near Jain Temple, Kaman,
Vasai (E). Dist. Palghar, Pin – 401 202
(Consumer No. 002128336373) . . . (Hereinafter referred as Consumer)
V/s.

Maharashtra State Electricity Distribution
Company Limited
Throughit's Nodal Officer/Addl.EE.
Vasai Circle, Vasai . . . (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.V.M.Gokhale, UDC, Vasai (E) S/dn.

For Consumer - Shri.Vasant Vaze (C.R.)

[Coram- ShriA.M.Garde-Chairperson, Shri A.P.Deshmukh-Member Secretary
Mrs.S.A.Jamdar- Member (CPO)].

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005]. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of

Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Consumer herein is Padamshi K.Gajra & H.R.Bhanushali and user Mr.Hemal Girishkumar Shah, having Industrial connection at Vasai (E). Contention of Mr.Shah is that upto the month of Apr-2019 he has paid all the bills. Vide letter no. 3054 dtd. 02/05/2019, a supplementary bill was sent to him for Rs.4,46,320/-. In the same letter it was directed to make payment within 15 days under the threat of disconnection of supply. The recovery is shown against MF-2 instead of MF-1. Consumer Representative demand revision of bill for 24 months against assessment of 57 months. Consumer Representative also demands revision of bill from Jul-2018 to minimum as there was no use since Jul-2018.

3) Notice was given to Licensee vide letter no.EE/CGRF/Kalyan/298 dt.26/06/2019 to which Licensee appeared and filed reply on 07/08/2019.

4) **Distribution Licensee it's reply contends that :**

i) *That Shri. Padamshi K.Gajra is consumer MSEDCL consumer no. 002128336373 having date of supply 4 July 2014. The consumer having sanction load 40 HP for Industrial purpose. Meter no.00420103 having CT ratio 50/5A & CT connection is of 100/5A.*

ii) *That, inspection in month of March-2019, it is observed that as per meter CT ratio & connected CT consumer shall be billed as per MF-2 but consumer was billed as per MF-1 therefore consumer was liable for recovery between MF-1 to MF-2 period of from date of connection i.e. 04/07/2014 to March-2019. Inadvertently and by human error the MF correction was remained to be carried from 04/07/2014 till the inspection on 19/03/2019. In inspection dtd. 19/03/2019 of the metering of consumer the mistake of correction of MF was observed and accordingly mistake has been rectified by applying proper MF i.e. MF-2 from May -2019 and recovery for period 04/07/2014 to 19/03/2019 has been carried out and supplementary bill of Rs.4,46,320/- issued. The consumer did not paid said arrears and hence same was debited in energy bill of June 2019. (The copy inspection report dtd. 19/03/2019 and supplementary bill is attached herewith and marked as Annex A & B)*

iii) *That, the S 56 (2) of E.A. 2003 is not applicable in present case the recovery in present case remained to be claimed only due to human and technical errors. As per ratio laid down by Hon'ble Bombay High Court in Shri. U.A. Thadani & Another Vs B.E.S.T. undertaking and another on 17 January 2000, the recovery of MF beyond two years is permissible and S.56 (2) is not applicable to MF recovery case of past period. The conflicting view of Hon'ble Bombay High Court in case M/s Rototex Polyester and ors. And Avdesh Pandey and ors is referred to Larger Bench of Bombay High Court and which has been decided May 2019 i.e.*

1st time for recovery of MF for period of July -2014 to March 2019 on basis of inspection dtd. 19/03/2019 and hence said supplementary bill is recoverable as per law.

5) We have heard both sides and gone through the documents kept on record and heard the arguments, the MF recovery is for period of 04/07/2014 to 19/03/2019 i.e. 57 months. From CPL meter was working normal till Jun-2018 and after that consumer billed on average till Jan-2019. As per IE Act 2003 section 56 (2) Distribution Licensee is not entitled to recover assessment beyond 2 years. Hence Distribution Licensee to revise the assessment for the period of 24 month prior to date of inspection (i.e.19/03/2019). As far as billing for the months Apr to Jun-2019 is concerned Distribution Licensee to bill the consumer on average considering average of healthy 12 months prior to Jun-2018. The issue of wrong F.R. was raised by Consumer Representative i.e. while calculating assessment Distribution Licensee considered FR '53417' instead of '45747' which is actually recorded in CPL. But during the argument Consumer Representative agreed that the assessment will be accepted if Distribution Licensee restricts the recovery for the period of 24 months as per section 56 (2) of IE Act. Consumer Representative demanded minimum bill for 8 months from July-2018 as there was no use but the same cannot be granted as Consumer Representative does not produce any evidence showing there was no use.

Hence the order

ORDER

- 1) The Grievance application of consumer is hereby allowed.
- 2) Distribution Licensee to recover the bill for 24 months only prior to 19/03/2019. Amount already paid by consumer to be adjusted against the revised bill Recovery prior to 24 months is set aside.
- 3) Distribution Licensee to issue corrected bill for month of Apr-2019 to June-2019 as per average as explained in Para no.5
- 4) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 11/09/2019

Sd/-
(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

Sd/-
(A.P.Deshmukh)
Member Secretary
CGRF, Kalyan

Sd/-
(A.M.Garde)
Chairperson
CGRF, Kalyan

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, BandraKurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.