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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/ 158/119 Date: 11.06.2019

Hearing Date: 18.12.2018

CASE NO.158/2018

In the matter of billing

Mr. Suresh N. Seth,
Shop No.2, Zenith compound,
Kalyan Road,Near AAs BibI Masjid,
Bhiwnadi-421302

. . . . (Hereinafter referred as Consumer)

Vs

Maharashtra state Electricity Distribution Company Ltd
Through it's Nodal Officer,
Bhiwandi

..... (Herein after referred as Respondent)

Appearance:-

For Consumer – Shri. Pravin Thakkar – Consumer Representative

For Licensee:- Shri. Satish Dope , Deputy Engineer ,MSEDCL,Bhiwandi.

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member Secretary
and Sharmila Rande - Member (CPO)].

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 subsection 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] Here in after 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.

The applicant herein is Mr.Suresh N . Seth bearing Consumer No. 013010002243. The applicant submits that he has having 3 Phase LT connection for the power loom purpose of 22HP. He further submits He has register the complaint at IGRC, MSEDCL, Bhiwandi on date 14.04.2018 but hearing not conducted and decision not given within two months .He alleged that he has made payment towards security deposit but till he has not received interest on security deposit from the date of deposited of security deposit. The applicant also rose that MSEDCL has not provided LTMD base tariff meter (Maximum Demand Recorded meter) and if the meter not provide the MEDSCL cannot recover the demand penalty charges as they recovered from February 2000 to December 2004 of Rs 240/- per month ,total amount Rs 28,000/-.

The applicant submits MSEDCL tariff is demand base tariff and only the LTMD meter base tariff meter can record the additional load and they not installed LTMD meter .Further submits that Hon'ble M.E.R.C. in its order dated 15.12.2005 in case of 2004 has directed that to settle all pending cases related to dispute of additional load and power factor penalty& he also referred PR-/tariff -011704 dated 16.04.2005. He prayed to provide interest on security deposit and refund of additional load penalty of Rs 28,000/- along with interest and DPC

The Notice was issued to the Respondent to submit parawise reply; the Respondent has filed the reply dated 23-01-2018 stating that since 26 Jan-2007, the electricity

distribution and billing in Bhiwandi has been handed over to M/S Torrent Power Limited (TPL) for a period of 10 years. The case is beyond the scope of limitation and having no MSEDCL arrears at present. The applicant is misleading the Forum by submitting that no response was given to his request application. In response to applicants letter dt. 12.06.2018, Nodal office has informed the applicant vide letter SE/BWD/Nodal Office/F&A/669 dt 07.07.2018 that the interest on SD can be given as per provision after the applicant shows the original receipt of SD.

Further submits, the applicant is demanding the revision in bill in respect to penalty on additional demand from Feb-2000 to Dec-2004. It is to bring to notice of Hon'ble Forum that the consumer was regularly billed by MSEDCL till Jan-2007 and thereafter by M/S TPL till date. All the billing details were shown on each bill till Jan-2007, but the applicant has not complained about the bill. Thereafter M/S TPL is billing the consumers and MSEDCL has continuously shown the MSEDCL Arrears as recoverable dues on the monthly bills of the consumer as per section 56(2) of IE-Act 2003 to maintain the claim of MSEDCL on the arrears whereas the consumer on another side has preferred to appeal/apply after a lapse of 18 years 4 months which is beyond the permissible period of limitation as per MERC regulations.

The application is grossly barred by the delay as per MERC Regulation 6.6 of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 which stipulates the limitation for filing grievance within two (2) years from the date on which the cause of action has arisen. The consumer has applied on 12.06.2018 for the grievance of Feb-2000, hence the application is therefore may please not be entertained by the Hon'ble Forum and dismiss the same.

The consumer was billed regularly and the bills were served to him regularly. The remedy was to get the additional load sanctioned then only. The grievance might have

been resolved by then offices by following up with then offices. But there is no such record of follow-up and all of sudden, the consumer raised grievance on 12.06.2018 at Nodal Office, Bhiwandi. It is to bring to notice that since 26th Jan-2007, the electricity distribution and billing in Bhiwandi has been handed over to M/S Torrent Power Limited (TPL), and hence as on today, the fact could not be verified by inspection today. Hence the bill revision cannot be approved by lapse of 18 years since 2000.

The Respondent further submits that, the applicant has paid the bills (Part-Payments) at regular intervals after Feb-2000. Even in the period when Bhiwandi Distribution Franchisee i.e. M/S Torrent Power Ltd. billed the consumer with additional load, the consumer has not complained against billing as per additional load i.e. sanctioned load of 22HP. In view of above, it is justified that applicant was having 22HP connected load and therefore applicant's request for withdrawal of arrears is not correct and applicant has to pay the MSEDCL arrears as demanded in the bill. It is also bring to notice of Forum that, at present the consumer has been extended the benefit of Amnesty Scheme 2018 by which 100% Interest and DPC has been waived and the outstanding arrears of MSEDCL and TPL is NIL. Hence to entertain such cases beyond the scope of limitation will be wastage of time and valuable hours of the Hon'ble Members. The complaint therefore, does not stand on merits and hence liable for dismissal under MERC Regulation 6.9 (a) of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 which stipulates that the "Forum may reject the Grievance at any stage if it appears to it that the Grievance is: frivolous, vexatious, malafide; the respondent prayed to dismiss the case.

Observation and ruling

I have given opportunity to consumer and his representative to appear before the Forum for hearing. I also gave equal and fair opportunities to representative of the Respondent utility and the dispute was heard. This Forum considered all the relevant point for determination of dispute. The applicant first time submit the application to the

respondent on 12.06/2018 and before Forum in schedule 'A' on 04/08/2018 for (A) Interest on security deposit (B) Withdrawal of additional load penalty .

(A)The matter of interest on security deposit redress by the Nodal Officer, MSEDCL Bhiwandi in its letter informed to the applicant interest on security will be after the applicant shows original receipt of security deposit. Therefore there is no need to interfere with it.

(B) The applicant claim to withdraw and refund the additional load penalty which had charged from February 2000 to December 2004 of Rs 240/- per month amounting 28,000/- . The applicant made application to the respondent & Forum after the lapse of 14 years .In this case only question arise whether the applicant application is time barred or not? And whether excess demand charges paid by the consumer should be refundable?

On hearing both side and gone through the provisions of law, MERC (CGRF and OMBUDSMAN) Regulations 2005 and documentary evidence on the record that admitted fact is that the applicant made first time application to the respondent on 12/06/2018 about his grievance about additional penalty charged between February 2000 to December 2004 .It is then contended that Section 42 (5) mandates the petitioner to establish a Forum within 6 months from the appointed date or the date of grant of license, whichever is earlier, for the redressal of the grievances of the consumers. Section 42(6) enables a consumer to approach the Ombudsman if he is aggrieved by the decision of the Forum.

Regulation 2(2.1)(c) of the 2006 Regulations defines a "Grievance" as under :-
"Grievance" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of

endangering of life or property, and grievances in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.”

Regulation 2(2.1)(d) defines the “Cell” as under :-

“Internal Grievance Redressal Cell” or “IGR Cell” means such first authority to be contacted by the consumer for redressal of his/her Grievance as notified by the Distribution Licensee.”

Regulation 2(2.1)(e) defines a “Forum” as under :-

“Forum” means the forum for redressal of grievances of consumers required to be established by Distribution Licensees pursuant to sub-section (5) of section 42 of the Act and these Regulations.”

Regulation 6 (6.1 till 6.6) read as under :- “6. Procedure for Grievance Redressal

6.1 The Distribution Licensee shall have an Internal Grievance Redressal Cell to record and redress Grievances in a timely manner. The IGR Cell of the Distribution Licensee shall have office(s) in each revenue district in the area of supply.

Provided that where the area of supply is the city of Greater Mumbai and adjoining areas, the IGR Cell of the Distribution Licensee shall have at least one (1) office for the area of supply. The Distribution Licensee shall endeavour to redress Grievances through its IGR Cell.

6.2 A consumer with a Grievance may intimate the IGR Cell of such Grievance in the form and manner and within the time frame as stipulated by the Distribution Licensee in its rules and procedures for redressal of Grievances.

Provided that where such Grievance cannot be made in writing, the IGR Cell shall render all reasonable assistance to the person making the Grievance orally to reduce the same in writing:

Provided also that the intimation given to officials (who are not part of the IGR Cell) to whom consumers approach due to lack of general awareness of the IGR Cell established by the Distribution Licensee or the procedure for approaching it, shall be deemed to be the intimation for the purposes of these Regulations unless such officials forthwith direct the consumer to the IGR Cell.

6.3 (a) The office of the IGR Cell shall issue acknowledgement of the receipt of the Grievance to the consumer within five (5) working days from the date of receipt of a Grievance. Where the Grievance has been submitted in person, the acknowledgement shall be provided at the time of submission :

Provided that where the Grievance is submitted by email to the IGR Cell acknowledgement of the receipt of the Grievance to the consumer shall be provided by return email as promptly as possible :

Provided further that the IGR Cells shall keep such electronic records in hard form for ease of retrieval :

Provided further that where the Grievance is submitted by email hard copies of the same shall be submitted forthwith separately to the IGR Cell. (b) Notwithstanding sub-clause (a), the written acknowledgement of receipt of grievance provided by officials (who are not part of the IGR Cell) shall be deemed to be the acknowledgement for the purposes of these Regulations.

6.4 Unless a shorter period is provided in the Act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his Grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the consumer may submit the Grievance to the Forum. The Distribution Licensee shall, within the said period of two (2) months,

send a written reply to the consumer stating the action it has taken or proposes to take for redressing the Grievance.

6.5 Notwithstanding Regulation 6.4, a Grievance maybe entertained before the expiry of the period specified therein, if the consumer satisfies the Forum that prima facie the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made there under or any order of the Commission, provided that, the Forum or Electricity Ombudsman, as the case may be, has jurisdiction on such matters.

Provided further that no such Grievance shall be entertained, before the expiry of the period specified in Regulation 6.4, unless the Forum records its reasons for the same.

6.6 The Forum shall not admit any Grievance unless it is filed within two (2) year from the date on which the cause of action has arisen.

As the cause of action started when additional load penalty charges demanded from the applicant for the period February 2000 to December 2004 and the applicant paid it without protesting the same before the utility . He neither approached to the utility nor to the forum within 2 years from the cause of action if his dispute not redress by the utility, Suddenly he approached to this Forum after lapse of 14 years which is not tenable as per the regulation 6.6 of MERC regulations. It is very specific and settled position of law. The applicant has not filed his grievance before Forum within 2 years from the actual cause of action .It is crystal clear the Grievance of the applicant is time barred. There is delay in judgement due delay in submission of rejoinder and reply from both parties. Hence, I proceed to pass following order.

ORDER

The application in case 158/2018 is hereby dismissed.

No order as to the cost

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

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, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non- compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and 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.