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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/ 64/ 116 Date: 11.06.2019

Hearing Date: 19.06.2018

CASE NO.64/2018

In the matter of billing

M/s. Ankita Industries,
Plot No. D-7/4,Road No.33,
Wagle Industrial Estate
Wagle Eatate, Thane-400604. (CONSUMER NO.0000103834463)
. . . . (Hereinafter referred as Consumer)

Vs

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

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

Appearance:-

For Consumer – Mr.Abhinandan Joshi – Consumer Representative
For Licensee:- Shri. Rajendra K. Marke, Additional Executive Engineer,
Wagle Sub-division

[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 M/s Ankita Industries bearing Consumer No. 000010383463. The applicant has submitted that his company manufacturing company and manufactures Gears, Gera Boxes and EoT cranes & stainless steel fabrication. Grievance of applicant is penalty put to him of Rs 2,01,734/- in year Jan 2011 to Sept 2011 and interest on it and IGRC passed order on date 13/06/2017 against him. Being aggrieved with order the applicant filed application to Forum. The applicant further submit that as per provision the appeal should be done in 30days against the order of IGRC but due to unavoidable circumstance beyond control could not approach to the forum still August 2018. The applicant further submits that as per provision of section 56(2) recoveries is time barred.

The Notice was issued to the Respondent to submit parawise reply; the Respondent has filed the reply dated 26-02-2018 stating that the grievance is relating to the period February 2010 to September 2011. The Respondent further submit that the electric supply to M/s Siachin India was permanently disconnected in June 2002 due to non payment of energy bill arrears of Rs 213060/- then industries got auctioned through MSFC and Mr. Abhinandhan Joshi of Ankita Industries took over this industries. The Respondent further submits that the applicant has filed Writ Petition no 10756 of 2004 regarding said billing dispute. The Hon'ble high court directed to applicant on dated

26.06.2015 to approach the Hon'ble Ombudsman but the applicant failed to file any representation till date.

The Respondent submits that the present case is clear time bared case as per clause 6.6 of MERC (CGRF) Regulation. In present case ,the applicant submit the grievance in 2018 regarding power factor penalty for period of Feb 2010 to September 2011.The Power factor penalty is levied properly due to worst capacitor installed by consumer . The Respondent further submit that applicant is raising the dispute which is not having any technical base and has partly paid PF penalty and partly paying the regular bills and interest and DPC is levied through the system on balance amount and prayed the grievance filed by consumer kindly be rejected.

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 filed WP No 10576/2014 regarding to subject (A) Restoration of supply (B) Removal of penalty in this write petition. It was mutually decided in parties that the applicant complainant pays Rs. 5, 72000/- keeping Rs. 3, 81000/- towards penalty.During pendency of this case the amicable settlement was prepared and submitted letter in December 2014 to Assistant Engineer of Utility about payment Rs 5,74,000/- and 3, 81,000/- is amount of dispute it should be waived off.

As per respondent the matter came from Hon'ble High Court and dispute period for the matter is 2009 to 2011.Therefore this Forum has no jurisdiction to decide this as it was mutually settled before Hon'ble high Court, at the same time the dispute under question is of 2009 to 2011. Therefore it is straight way bar by limitation as per Regulation matter time bared and IGRC has rejected the matter therefore consumer filed this

application. Whereas, the applicant requested for condonation of delay in filing the application and relied on LIC 1974 Supreme Court 237 therefore applicant submits that the delay in filling application before CGRF may be condoned under section 6(5) of limitation Act matter may be heard under it.

The Respondent submits that as per applicant written statement 26.02.2000 grievance is regarding period September 2010 to 2011 and W.P 10756 of 2014 was decided date 26.10.2015 by the Hon'ble High- Court to approach to Hon'ble Ombudsman. But applicant failed to present representation up to 26.06.2015 till this date therefore this can totally time barred. Therefore this is totally time barred and other side the applicant requested for condonation of delay in filing the application.

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 Hon'ble High Court in WP 10756 of 2014 which is decided on 26.10.2015 instructed to approach hon'ble Ombudsman .The applicant file the case to Forum in schedule 'A' on 01/02/2018.

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 as Hon'ble High Court pass the order in WP 10756 of 2014 was decided on date 26.10.2015. The applicant could not approached to this Forum within 2 years from the date of cause of action 26.10.2015 if did not get remedies to his grievance .Therefore, the application of the applicant is not tenable as per Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006 regulation 6.6 which clearly speak about time frame which grievances to be redress. The applicant grievances not fall within period of

2 years from the date of cause of action there is delay in order as both parties want to submit rejoinder. Hence, I proceed to pass following order.

ORDER

The application in case 64/2018 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.

