



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
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**NO. K/E/1607/1942 OF 2019-20**

Date of registration : 04/09/2019

Date of order : 01/11/2019

Total days : 58

**IN THE MATTER OF GRIEVANCE NO. K/E/1607/1942 OF 2019-20 OF MR.MANOJ RAMESHLAL CHHABRIA, SHOP NO.2, GURU PUJA, BK NO.437, ROOM NO.9/10, ULHASNAGAR, DIST. THANE, PIN CODE - 421 002 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.**

Mr.Manoj Rameshlal Chhabria,  
Shop No.2, Guru Puja, BK No.437,  
Room No.9/10, Ulhasnagar, Dist.  
Thane, Pin Code - 421 002

(Consumer No. 021513696733 LT - Comm.) . . . (Hereinafter referred as Consumer)  
V/s.

Maharashtra State Electricity Distribution  
Company Limited  
Through it's Nodal Officer/Addl.EE.  
Kalyan Circle - II, Kalyan

. . . (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.M.S.Gavali, AEE, Ulhasnagar - III

For Consumer - Shri.J.S.Rajput (C.R.)

[Coram- Shri. A.P.Bhavthnkar -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 complaint no.1942 of 2019 Mr.Manoj Rameshlal Chhabria, Shop No.2, Guru Puja, BK No.437, Room No.9/10, Ulhasnagar, Dist. Thane, Consumer no. 021513696733 V/s Addl. Executive Engineer, Ulhasnagar Sub Division complaint about plain recovery assessment under section 126. Above name consumer filed this grievance initially before IGRC alleging that Respondent utility visited the premises and found the supply alleged to be used by this consumer for commercial activity. Therefore after receiving the report the Respondent utility issued notice to the consumer for using the said supply since 14/08/2018 as a commercial. The consumer was charged initially under section 126 of IE Act and claimed 12 months arrears recovery along with 126 assessment and the demand notice. Consumer attached copy of spot inspection report dtd.14/08/2018 and plain assessment bill for Rs. 15,390/- and provisional assessment order. After receiving the said bill, consumer approached to IGRC and filed the grievance. Consumer also gave reply to the order of provisional assessment on 25/09/2018. The opportunity was given to the consumer. His documents and assessment, verified by the officer of utility, and according to the utility the consumer agreed for the assessment provisionally, But K-2 order, which was not issued in proper time therefore the consumer approached to IGRC and filed the dispute that the recovery assessment order issued by utility is wrong, though the connection is brought and obtain under industrial category the premises was within the locality and consumer was running the readymade garment shop. Consumer made grievance that, he did not received opportunity to challenge the provisional assessment bill and cannot put up his dispute properly therefore assessment bill for Rs.15,390/- which was issued to the consumer was disputed before this forum. IGRC given the finding that, the dispute fall in the category of provision of 126 and for want of jurisdiction the dispute was not heard. Being the said order, consumer filed dispute against the order of IGRC before this forum and pray that he aggrieved by provisional assessment bill issued to him which is wrong and no proper opportunity to given. As final assessment bill was not given within proper time and the opportunity was not received to the consumer to raise the dispute. After filing the said dispute on 04/09/2019 notice was issued to the respondent utility on 04/09/2019 directing utility to file reply on or before 25/09/2019. After receiving the said notice respondent utility appeared and filed reply on 25/09/2019.

Respondent utility submitted that on 14/08/2018 the premises was visited and found that the consumer not using the said supply for Industrial purpose but using the same for commercial activity. Therefore consumer was initially charged under section 126 of IE Act and provisional assessment bill was issued for amount Rs. 15,390/- payable on 24/08/2018. consumer was also given opportunity for hearing on 10/10/2018 by issuing letter bearing letter no.2082 dtd.01/10/2018 but the hearing was not commence. Thereafter on 11/10/2018 the hearing was made, consumer was given opportunity and final assessment K-2 was given to the consumer. But the said shop was closed, the final assessment bill could not be issued to the consumer. Then consumer was called in the office and final assessment bill K-2 was issued to the consumer. As such from the date of received letter and final assessment order, consumer have right to challenge said order within 60 days before appropriate authority. Respondent utility also submitted that, as the consumer was charged prima facie under section 126 of IE Act, therefore

this forum have no jurisdiction to entertain the dispute. Respondent utility pray for rejection of complaint with cost. Respondent utility attached copy of assessment order, Copy of Inspection report, Copy of CPL, Copy of Notice, Assessment order K-1 and the reports I have perused all the documents filed by consumer Respondent utility. After perusing the rival contention of consumer and Respondent utility, following point arose for my consideration, to which I have recorded the finding to the points for the reason given below :

**Points :**

- i) Whether Respondent utility entitle to recover the final assessment bill amounting Rs.15,390/- from consumer.
- ii) Whether this forum have jurisdiction to try and entertain the complaint in view of consumer was charged under 126 of IE Act previously.
- iii) Whether consumer is entitle for any relief?
- iv) What order?

**Reasoning :**

I have given opportunity to the consumer and Representative of utility for hearing on 25/09/2019. I have perused the dispute raised by the consumer. It appears that, consumer was initially charged under 126 of IE Act and provisional assessment bill and the notice was issued to the consumer. It is alleged by utility that consumer obtain the said connection for Industrial purpose and accordingly the connection was issued in the category of Industrial purpose. The category was changed after the date of inspection. In view of the inspection report, it reveal that, the commercial activity was found in the premises and no Industrial activity was noticed. Therefore the purpose of carrying out commercial activity was not informed to the utility, therefore the action was taken by utility. Provisional assessment bill and notice was issued to the consumer. The opportunity was given and the proceeding under 126 of IE Act was not finally initiated as no prosecution under 126 is filed against the consumer in competent court. The Respondent utility proceeded to issue final assessment bill. In K-2 assessment for Rs.15,390 which is challenged by the consumer. No opportunity was received to the consumer to challenge the said bill. Therefore consumer approach to this forum and file this grievance.

The consumer fails to prove that any Industrial activity was undertaken in his premises as per the intention of obtaining connection for the purpose. But inspection report carried out that commercial activity is apparently seen. In these circumstances final assessment final bill issued to the consumer seems to be proper. The period of assessment which is calculated in final assessment bill 15,390/- is legal valid and proper hence consumer is liable to pay the same.

The utility in its reply filed objection that, the jurisdiction of this forum bars as per MERC 6.8. the consumer was charge under 126 of IE Act.

In my opinion there is no dispute that the consumer has used electricity for commercial purpose only the argument is consumer has not given proper opportunity to put his opinion. In the present case consumer was served with final assessment bill and after that consumer had opportunity to challenge the same to appropriate authority designated under section 127. As per regulation 6.8 of CGRF and Ombudsman regulation, this forum has no jurisdiction to entertain grievance under **Section 126 6.8. (a) which is reproduced here :**

**6.8. (a) runs thus :**

**6.8 If the forum is prima facie of the view that any grievance referred to it falls within the purview of any of the following provisions of the act the same shall be excluded from the jurisdiction of the forum :**

**(a) unauthorized use of electricity as provided under section 126 of the Act.**

This forum has previously dismissed many grievances on the same regulation. In case no.1799 of 2018-19 dt. 06/02/2019 this forum has given finding that *"This court is ousted of jurisdiction to entertain the grievance. This forum has limited jurisdiction and cannot assume jurisdiction to see whether procedure under section 126 has been followed or not. It is specially so when the fact that there is illegal user is not in dispute and Electrical Inspector is competent to entertain such a grievance."*

*In view of above the grievance is liable to be dismissed for want of jurisdiction.  
No order as to the cost proceeding enclosed.*

Hence the order

**ORDER**

The Consumer complaint no.1942 is hereby dismissed.

Date: 01/11/2019

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

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

Sd/-  
(A.P.Bhavthnkar)  
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, Bandra Kurla 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.