



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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NO. K/DOS/145/1964 of 2019-20

Date of registration : 17/10/2019

Date of order : 02/12/2019

Total days : 46

IN THE MATTER OF GRIEVANCE NO. K/DOS/145/1964 OF 2019-20 OF SMT.ASHA L.BANSWANI, (USER – SEEMA R.CHHABRIA) HR SCHOOL NO.17, R.NO.5, BLOCK NO. C 60, ULHASNAGAR-3, DIST. THANE, PIN CODE - 421 003. REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT DISCONNECTION OF SUPPLY.

Smt.Asha L.Banswani,
(User – Seema R. Chhabria),
HR School No.17, R.No.5,
Block No. C 60, Ulhasnagar-3,
Dist. Thane, Pin Code – 421 003
(Consumer No. 021513082140, LT-IICom.)

... (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 - 1) Shri.U.R.Thakare, AEE, Ulhasnagar S/dn.-III
2) Shri. AtulZingre, AE, Section - III

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

[Coram- Shri.A.P.Bhavthankar-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.1964 of 2019, Smt. Asha L. Banswani, HR School No.17, R.No.5, Block No. C 60, Ulhasnagar-3, Dist. Thane. V/s. MSEDCL Addl. Executive Engineer, Ulhasnagar S/dn.-III. Complaint about recovery of assessment bill under section 126. Above name consumer filed this grievance directly before CGRF alleging that supply is disconnected without notice for recovery of bill assessed under section 126 of IE Act 2003. Consumer Representative contends that consumer is using supply from 19/05/2010 vide consumer no.021513082140. In month of Mar-2019 suddenly adjustment amount of Rs.53,612/- added in the bill. No explanation given to her regarding this high bill. First time on dt.16/10/2019 it has been told that the recovery is charged under section 126 of IE Act 2003 for unauthorized Commercial use instead of Residential use. Consumer Representative further contends that no procedure is followed under Section 126 no provisional assessment K-1 issued to consumer, no hearing conducted as per Section 126, no final assessment k-2 issued to consumer. Hence consumer did not get the opportunity to appeal before appropriate authority. The action under section 126 of IE Act 2003 to be set aside and supply to be reconnected.

3) After filing the said dispute on 17/10/2019 notice was issued to the Respondent Utility on 18/10/2019 directing utility to file reply on or before 22/10/2019. After receiving the said notice Respondent Utility appeared but did not file reply. Finally the reply submitted on 18/11/2019.

Respondent Utility submitted that bill is issued to consumer on 02/02/2019 under Section 126 of IE Act 2003. The consumer did not pay the charges hence connection of consumer disconnected. The consumer has paid the bill and reconnection charges hence the connection is reconnected now Respondent Utility submitted copy of 'Panchanama' letter issued to consumer regarding payment of bill under Section 126 on dt. 02/02/2019. Bill copy of Rs.53612.56 issued under section 126 of IE Act 2003. We have perused all the documents filed by Respondent Utility after perusing the rival contention of consumer and Respondent Utility following point arose for my consideration to which we have recorded the finding to the points for the reason given below.

Points :

- i) Whether the forum has jurisdiction to try and entertain the complaint in view of consumer is charged under section 126 of IE Act 2003?
- ii) Whether Respondent Utility entitled to recover final assessment bill amounting Rs.53612.56 from consumer?
- iii) Whether consumer is entitled for any relief?
- iv) What order?

Reasoning :

We have given opportunity to the consumer and representative of utility for hearing on 22/10/2019. We have perused the dispute raised by consumer. It is alleged by the utility that consumer obtain the said connection for Residential purpose and she was using the said connection for Commercial purpose, therefore the action was taken by utility. Assessment bill of Rs. 53612.56 under Section 126 of IE Act 2003 is kept on record, as well as letter was issued to consumer on 02/02/2019 to pay the assessment amount, is also kept on record. The consumer failed to prove that any residential activity was under taken in her premises as per the intention of obtaining connection for the purpose. Inspection report carried out for Commercial activity is apparently seen. In this circumstances bill issued to consumer seems to be proper. In our opinion there is no dispute that the consumer has used electricity for Commercial purpose, the only argument is consumer has not given proper opportunity to put his opinion. In present case consumer was served with assessment bill, after that consumer had opportunity to challenge the same to appropriate authority designated under section 127 of IE Act 2003. As per regulation 6.8 of CGRF and Ombudsman Regulation 2006 this forum has no jurisdiction to entertain grievance under Section 126. Regulation 6.8 (a) 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;

In my opinion this forum is outset 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 use is not in dispute and electrical inspector is competent to entertain such grievance. In view of above the grievance is liable to be dismissed for want of jurisdiction.

Hence the order

ORDER

The Consumer Grievance application no. 1964 is hereby dismissed.

Date: 02/12/2019

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

Sd/-
(A.P.Bhavthankar)
Chairperson
CGRF, Kalyan

Sd/-
(A.P.Deshmukh)
Member Secretary
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.