



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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NO. K/E/1628/1968 OF 2019-20

Date of registration : 01/11/2019

Date of order : 02/12/2019

Total days : 32

IN THE MATTER OF GRIEVANCE NO. K/E/1628/1968 OF 2019-20 OF SMT.RAMBHADAI SINGH, HOUSE BEHIND BK NO.11, ULHASNAGAR -1, DIST. THANE, PIN CODE – 421 001.REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT CHANGE OF TARIFF.

Smt.Rambhadai Singh,
House Behind BK No.11,
Ulhasnagar -1, Dist. Thane,
Pin Code – 421 001

(Consumer No. 021510305059, LT-II 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.J.L.Borkar, AEE, Ulhasnagar S/dn.-I

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) The brief facts of the grievance applications are :

The consumer Smt.Rambhadai Singh residing at House Behind Bk No.11, Ulhasnagar -1, Dist. Thane, submitted that he is running a small shop for his livelihood from his residential premise, and admittedly has been sanctioned electric connection from meter no. 07611142868.

The connection is from 04/11/81 and tariff is applicable as per commercial category since then. It is an admitted fact that consumer is running a small shop from his residential premises for which commercial category was made applicable as per previous rules/provisions.

Consumer further submitted that his monthly consumption is less than '300' units per month and hence action of Licensee to charge him as per commercial category is illegal and not consistent with MERC order mentioned above.

Consumer also stated that Licensee has deprived him from paying the bill as per residential category. According to the consumer it was the duty of the Licensee to inspect his premises and to change his category from commercial to residential. But Licensee did not. Consumer also submitted that on 26/08/2019 he has applied to the Licensee to change his tariff category from commercial to residential, but Licensee has not taken a step till date.

Consumer therefore approached forum and requested,

- i) Directions be given to the Licensee to change his tariff category from commercial to residential.
- ii) Directions be given to the Licensee to refund the excess amount recovered by the Licensee, by applying wrong category, from (the date of Licensee's circular No.175) i.e. from 05/09/2012 till date.
- iii) Consumer claimed compensation towards SOP.

The consumer in support of his contentions relied, on MSEDCL's circular No. 175 dtd. 05/09/2012. Consumer stated that directions were given to the field officers to complete the exercise of re-categorization within one month.

3) Notice was given to Licensee vide letter no.EE/CGRF/Kalyan/425 dt.01/11/2019 to which Licensee appeared and filed replied on 11/11/2019.

4) Licensee submitted that on 28/08/2019 Licensee has received the application of consumer for change of tariff from commercial to residential. Accordingly inspection was carried out on 25/09/2019 Assistant Engineer, Ulhasnagar has reported that consumer is running a small shop from his residential premises and is charged as per commercial category.

5) Licensee further stated that CPL revealed that the consumption pattern of the consumer shows that the consumed units are less than 300 units per month. Hence report to that effect has been submitted to the higher authority for their approval, and category of tariff will be changed from the date of his application subject to approval of higher authority.

6) We have heard the argument made by both the parties and have gone through the documents on record.

The only point which needs to be considered is as to whether the premises of consumer can be charged as per residential tariff category in view of Hon'ble MERC tariff order dtd. 16/08/2012 and MSEDCL commercial circular No. 175 dtd. 05/09/2012.

7) We have gone through the circular of MSEDCL approved by Hon'ble MERC. Which reads as under :

Tariff for small shops operated from home

For residential consumers who runs small business from their household but consume less than 300 units a month and 3600 units per year in last financial year to be covered under LT-I (Domestic) tariff category. This category is applicable for all household consumers who runs small shop, workshop, office, library etc. from their houses and which actually comes under LT-II (Non-residential or Commercial), LT-V (LT-Industry) and LT-X (Public Services) and who consume less than 300 units a month, and who have consumed less than 3600 units per annum in the previous financial year. The applicability of this tariff will have to be assessed at the end of each financial year. In case any consumer has consumed more than 3600 units in the previous financial years, then the consumer will not be eligible for tariff under this category and will be charged as per appropriate category of LT-II/LT-V /LT-X as the case may be. Also in case crosses 300 units per months, the consumer will be required to take separate connection under relevant tariff category. This concession in tariff will be applicable only to the specifically marked/flagged consumers. The filed officers will be required to complete this exercise within one month.

Hence as per the above clause consumer is entitle for residential tariff and it can not be regarded as commercial activity.

We have also noticed the spot inspection report dtd. 24/09/2019 in which it is revealed by the addition Executive Engineer that "above consumer premises is used for residential purpose with small shop. The consumer is having meter supply with commercial category."

Hence as per Hon'ble MERC order dtd. 16/08/2012 and MSEDCL circular dtd. 05/09/2012 the action of Licensee to charge tariff as per commercial category (LT-I) is not within the ambit of the above order.

However it is also an admitted fact that MSEDCL issued circular No. 175 on 05/09/2012 which is approved by Hon'ble MERC, but consumer has made complaint for the first time on 25/09/2019. Hence consumer cannot take an advantage of not knowing the circular/order."

Moreover consumer has prayed to refund the amount charged under commercial category since the date of MSEDCL's circular i.e. from 05/09/2012. In this connection we have asked consumer to produce his shop Licensee to verify from which date he is running the shop but consumer did not produce though sufficient time was given to him. Hence consumer's

request to refund the amount charged under commercial category since the date of MSEDCL's circular i.e. from 05/09/2012 can not be taken into consideration. Consumer for the first time has made an application on 25/08/2019 for change of tariff hence it will be proper to give directions to the Licensee to refund the amount paid by consumer under commercial category along with interest from the date of his first application.

Having regard to the above discussion we do not find any substance in consumer's contentions.

Hence the order

ORDER

- 1) The Grievance application no. 1968 is hereby partly allowed.
- 2) Licensee is directed to refund the amount collected by the consumer under commercial category along with interest, from the date of his first application.
- 3) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

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.