

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission  
under Section 42(6) of the Electricity Act, 2003)

## REPRESENTATION NO. 172 OF 2023

In the matter of theft and recovery under Section 135

Shri. Pundalik Ragho Kadu... ..Appellant  
(Consumer No.028970897722)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Panvel Urban (MSEDCL) . Respondent

Appearances:

Appellant : Sanjay Pundalik Kadu, Son

Respondent : 1 Milind Suryathal Addl. Ex. Engr.  
2. S. S. Sandbhor, Dy. Manager  
3. Rajiv Vaman, Asst. Law Officer

**Coram: Vandana Krishna [IAS (Retd.)]**

Date of hearing : 12<sup>th</sup> January 2024

Date of Order : 23<sup>rd</sup> January 2024

## ORDER

This Representation was filed on 12<sup>th</sup> December 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 30<sup>th</sup> November 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup Urban Zone (the Forum). The Forum, in its Order dated 30.11.2023 has



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rejected the grievance application in Case No.105 of 2023, being beyond its jurisdiction, as it falls u/s 135 of the Electricity Act, 2003.


2. The Appellant filed this representation against the order of the Forum. The hearing was held on 03.01.2024 through Video Conference. Both parties were heard at length. The Respondent filed its reply on 03.01.2024. For easy understanding, the Respondent's submissions and arguments are stated first as below:

**I. Maintainability of "Grievance":**

- (i) The Appellant is a Residential Consumer (No.028970897722) from 13.05.2009 having sanctioned load of 0.5 KW at H.N0.268, Village-Jui, Kamothe, Tal. Panvel.
- (ii) The Respondent issued an assessment bill of Rs.59,910/- on 13.10.2023 as per provision of the Electricity Act, 2003 (the Act) towards Theft of Electricity. The Respondent contends that as per the provisions of Regulation 7.9 of the CGRF & EO Regulations 2020, the Forum/Ombudsman is barred from entertaining cases under Section 135 of the Act. On a perusal of the complaint, it is crystal clear that the Appellant has challenged the action and assessment bill given by MSEDCL under Section 135 of the Act. Therefore, the present Representation does not come under the jurisdiction of the Forum and consequently the Electricity Ombudsman, and hence be dismissed, being not maintainable at the initial stage.

**II. Reply on Merit:**


- (iii) The Assistant Engineer Kamothe of the Respondent inspected the premises of the Appellant on 04.10.2023. The meter (7631563575 having capacity 5-30 A of HPL make) was installed in the premises, but the body seal of the meter was found tampered. A Spot Panchnama of the theft was carried out immediately in the presence of Panchas and the Appellant. The load of the Appellant was found CFL – 11, Fans – 1, TV -2, Fridge- 2 and misc. load.

  
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The load was used for three rooms which were given on rent to 3 tenants. The meter was seized and taken into custody for further inspection and investigation. The meter was then tested on 05.10.2023 in the presence of the Appellant. On opening the meter, the CT was found by-passed by installing an external substance. The meter was tested and found recording 72.05% less consumption. The meter was tested by Accu-check. Thus, the meter was recording only 27.95 % of the total consumption. It was found that the tampering of the meter was done with dishonest intention. The above act is nothing but theft of electricity, therefore the Appellant was booked under Section 135 of the Act and an assessment bill of Rs.59,910/- was served to the Appellant on 13.10.2023 for the period of Oct.2022 to Sept.2023 (one year).

- (iv) Instead of paying the bill, the Appellant gave a protest letter dated 12.10.2023 which was replied to by MSEDCL on 13.10.2023. The Respondent started the process of lodging a FIR in the police station, but then the Appellant fell sick and expressed his willingness to pay the assessed amount. The Appellant paid the assessment bill of Rs.59910/- on 21.10.2023 and the compounding charges bill of Rs.4000/- on 26.10.2023. Therefore, the Respondent did not lodge FIR against the Appellant. The bills for theft assessment and for compounding charges were given separately, and the Appellant paid this amount voluntarily. Therefore, the question of pressuring the Appellant did not arise.
- (v) As per Section 153 and 154 of the Act, only the designated Hon'ble Session Court/Special court has jurisdiction in respect of theft of electricity, and the jurisdiction of all other courts has been barred by Section 145 of the Act. As per the provisions of Regulation 7.9 of the CGRF & EO Regulations 2020, the Forum/Ombudsman is also barred from entertaining a case under Section 135 of the Act.


  
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(vi) The Appellant filed a grievance in the Forum on 19.10.2023. The Forum, by its order dated 30.11.2023 rejected the grievance application. The Forum has addressed all the issues and rightly rejected the grievance of the Appellant by giving a reasoned and speaking order. The intention of the Appellant is to mislead the Hon'ble Electricity Ombudsman. The Respondent has complied with the regulations and has initiated action after observing all legal formalities. Due respect was given to the Appellant, being a Senior Citizen. Hence, nothing ought to be granted against the utility. In view of the above, the Respondent requested to reject the Representation.

3. The Appellant's written submissions and arguments are stated as below: -

- (i) The Appellant is a residential Consumer (No.028970897722) from 13.05.2009 having sanctioned load of 0-5 KW at H. No.268, At Post Jui Gaon, Kamothe, Tal. Panvel, Dist. Raigad. A meter of HPL make (Sr. No. 7631563575) was installed in the premises of the Appellant.
- (ii) The Respondent i.e. the Assistant Engineer, Kamothe subdivision office, on 04.10.2023, removed the meter on the pretext of it being faulty, made a panchnama without the signature of the Appellant or his representative, and without any intimation to the Appellant took the meter in his custody. The meter should have been given to the meter testing team; instead, the meter was tested at the subdivision office. The Appellant, being a senior citizen, had to travel a very long distance to remain present for this testing, and that too under some personal tension had to accept the statement of the officials at that time.
- (iii) The Appellant reiterated that the action taken by the Respondent under Section 135 of the Act is false, and for this reason he approached the Forum on 19.10.2023. The Forum by its Order dated 30.11.2023 dismissed the grievance application as the grievance was not within its jurisdiction. The Forum failed to understand that the Respondent had threatened to lodge an FIR in the police station against the Appellant

  
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who is a Senior Citizen, 88 years old. The assessment bill (Rs.59910/- towards alleged theft, paid on 21.10.2023, and compounding charges bill of Rs.4000/- paid on 26.10.2023) was paid under protest to safeguard against police action. The Appellant had to suffer without doing any theft.

- (iv) The Appellant prays that a special enquiry be conducted against the culprit of the Respondent who has harmed and seriously troubled the Appellant. The amount paid be refunded.

4. During the course of the hearing the Respondent was directed to submit the calculation sheet of assessment. The Respondent by its email sent the required information which is reproduced below:

<b>Mr Pundlik Kadu (Cons. No. 028970897722)</b>						
<b>Month</b>	<b>Total Assessed units</b>	<b>Amount (Rs.)</b>	<b>Already Charged Units</b>	<b>Amount already levied(Rs.)</b>	<b>Net assessed Units</b>	<b>Net Amount to be levied (Rs.)</b>
22-Oct	340	6352.17	95	724.07	245	5628.1
22-Nov	322	5742.05	90	692.98	232	5049.07
22-Dec	211	3406.09	59	500.24	152	2905.85
23-Jan	361	6843.07	101	761.38	260	6081.69
23-Feb	265	4477.44	74	593.8	191	3883.64
23-Mar	354	6955.38	99	782.21	255	6173.17
23-Apr	304	5547.67	85	661.9	219	4885.77
23-May	340	6768.25	95	761.08	245	6007.17
23-Jun	376	7773.78	105	871.5	271	6902.28
23-Jul	208	3549.56	58	521.58	150	3027.98
23-Aug	168	2643.06	47	450.38	121	2192.68
23-Sep	379	7825.18	106	850.48	273	6974.7
	3628	67883.7	1014	8171.6	2614	59712.1
DPC (Rs.)						200.43
Total Assessment (Rs.)						59912.53
<b>Final Assessment Amount (Rs.)</b>						<b>Rs. 59910/-</b>
Note: As per available office records, no inspection of the said connection was carried out earlier.						

  
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## Analysis and Ruling

5. Heard the parties and perused the documents on record. The Appellant is a Residential Consumer (No.028970897722) at H.N0.268, Village-Jui, Kamothe, Tal. Panvel from 13.05.2009. The Assistant Engineer Kamothe of the Respondent inspected his premises on 04.10.2023, when it was found that the body seal of the meter was tampered. As per the required procedure the Respondent made a Panchnama in the presence of the Appellant and Panchas. It seems that the Appellant might have refused to sign the Panchnama. The meter was seized and taken into custody for further inspection. The meter was then tested on 05.10.2023 in the presence of the Appellant. The entire procedure followed seems to be proper. On opening the meter, CT was found by-passed by installing an external substance. The meter was tested by Accu-check, was found recording only 27.95 % of the total consumption.

6. The Respondent contended that the above act of Appellant is nothing but theft of electricity, therefore the Appellant was booked under Section 135 of the Act and an assessment bill of Rs.59,910/- towards theft of electricity was served to the Appellant on 13.10.2023 for the period of Oct.2022 to Sept.2023. The Appellant paid the assessment bill 21.10.2023 and the compounding charges on 26.10.2023. Therefore, the Respondent did not lodge an FIR. The bills were paid voluntarily. Therefore, the question of pressuring the Appellant did not arise.

7. The Appellant contended that the assessment towards theft is illegal. The Respondent threatened to lodge a police case. The Appellant is a Senior Citizen and there was no alternative but to pay the assessment under threat of police action. The Appellant was deprived of his fundamental rights.

  
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8. The Section 135 of the Act is produced below:


**“Section 135. (Theft of Electricity): --- Whoever, dishonestly,**

- (a) *taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or*
- (b) *tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or*
- (c) *damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,*
- (d) *uses electricity through a tampered meter; or*
- (e) *uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:*  
.....”

9. In this case, the Inspection and Panchnama were carried out on 04.10.2023 and action was taken under Section 135 of the Act by the Respondent. The Appellant has a grievance against the assessment amount under Section 135 and has requested to punish the culprit in the present case. In other words, the Appellant is indirectly claiming that some other party is responsible for the tampering, if any. We find that prima facie this seems to be a clear cut and straight-forward case of tampering and theft. Such cases can only be entertained by the concerned sessions court / special court.

10. The grievance does not fall within the jurisdiction of the Forum as per Regulation No. 7.9 of the CGRF & EO Regulations 2020 which is reproduced below:

*“7.9 The Forum shall reject the Grievance at any stage under the following circumstances:*

  
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(a) .....

(b) ***In cases, which fall under Sections 126, 127, 135 to 139, 152, and 161 of the Act;***

(c) .....

(d) .....

(e) .....

*Provided that no Grievance shall be rejected unless the Complainant has been given an opportunity of being heard.” .... (Emphasis added).*

11. The Forum has given a reasoned order. There is, therefore, no reason to interfere in the order of the Forum. The Representation of the Appellant is rejected and disposed of accordingly.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

