

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 19 OF 2023

In the matter of disconnection without any notice

Pravin Dattaram Thakkar.....Appellant

V/s.

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

Torrent Power Limited (TPL) Distribution Franchisee, Bhiwandi

Appearances:

Appellant : Pravin Dattaram Thakkar

Respondent : 1. Ajay N. Bhasakhetre, Addl. Ex. Engineer, TUC, MSEDCL
2. Rajesh Shanbaug, AGM, TPL
3. Hemangi Bhogvekar, Manager, TPL


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 8th June 2023

Date of Order : 15th June 2023

ORDER

This Representation was filed on 24th February 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


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dated 17th February 2023 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum).

2. The Forum, by its order dated 17.02.2023 has dismissed the grievance application in Case No. 224 of 2022.

3. The Appellant has filed this representation against the order of the Forum. The physical/ e-hearing was held on 08.06.2023. The Appellant and the Respondent Franchisee TPL were physically present, while the Respondent MSEDCL attended the hearing through Video Conference. The parties were heard at length. The submissions and arguments of the Appellant are as below: -

- (i) The Appellant has two single phase Commercial connections having Service No. 13335674884 and 13335610061 at Shop No. 5 and 10, Oswal Park, S.NO.7/3,7/5,P116/22, Kharbav Rd, Bhiwandi from September 2014 and 09.12.2020 respectively.
- (ii) These shops are not in use from their dates of connection due to slackness in business, hence, there is no consumption till date. This can be verified from the Consumer Personal Ledger (CPL). During the hearing it was clarified that these shops are always closed and locked. The monthly bills are inserted into the outer locks of the doors and are collected by the Appellant during his regular visits to the shops. The Appellant actually stays in Thane city.
- (iii) The supply of the Appellant was disconnected due to non-payment of arrears on 07.01.2022 without any proper notice, which is a violation of Section 56 (1) and Section 171 of the Electricity Act, 2003 (the Act). It is binding on the Respondent to serve a notice by registered post with acknowledgement. As per Section 171 of the Act, if the notice is not delivered to the consumer, it is recorded in the Postal Department as it is returned to MSEDCL. Only then can it be pasted on the wall. However, the Respondent failed to act


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as per Section 56(1) and Section 171 of the Act. Pasting of notice on the wall directly without following Section 171 of the Act is illegal and wrong.

(iv) The issue could have been easily resolved in coordination with the Appellant, but the attitude of TPL towards him is negative and insulting. Entry of the Appellant is banned in the customer care center of TPL. It is requested to allow the Appellant's entry into the customer care center. The Respondent MSEDCL vide its circular No. 15871 dated 26.06.2017 has directed its field officers for allowing entry to authorized representatives in the customer care centers.

(v) The Section 171 of the Act is reproduced below:

"Section 171. (Services of notices, orders or documents): --- (1) Every notice, order or document by or under this Act required, or authorised to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt therefor or by registered post or such means of delivery as may be prescribed....."

However, the Respondent did not follow the Section 171 of the Act.


(vi) The Appellant filed the grievance before the Forum on 08.03.2022. The Forum, by its order dated 17.02.2023 has dismissed of the grievance application. The Forum did not understand the basic issue.

(vii) The Appellant has been harassed mentally, physically and financially by the Respondent, TPL. The Appellant has to run from pillar to post without any reason, so it is necessary to penalize the Respondent heavily.

(viii) The supply of the Appellant was disconnected on 07.01.2022 and reconnected on 26.01.2022 which is after a period of 15 days. So, a penalty of Rs.25000/- (Rs.250/- per day x 49 days x 2 connections) should be imposed towards the violation of standards of performance.

(ix) The Appellant also demanded an apology letter from the MD of MSEDCL for the above negligence and deficiency in service.

(x) The Appellant prays :


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- a) To compensate Rs.5 lakhs towards harassment.
- b) To refund Rs.400/- each (Rs.200/- per connection) towards reconnection charges.

4. The Respondent MSEDCL and its Franchisee, TPL filed their written replies dated 21.04.2023 and 07.04.2023 respectively. Their submissions along with their arguments on 08.06.2023 are as below: -

- (i) The Electricity Distribution Network Assets and Billing in Bhiwandi area was handed over to M/s. Torrent Power Limited (TPL) as the Franchisee of MSEDCL for a period of 10 years from 26.01.2007 and further extended to 10 years. The TPL is authorized to send notices of disconnection on behalf of MSEDCL as its extended hand through Franchisee model as per law. Each and every activity of TPL is permitted by MSEDCL, as TPL is a part and parcel of MSEDCL.


Brief History of the Case: -

- (ii) The Appellant is the owner of two shops having Service No. 13335674884 and 13335610061. The details of sanctioned load, address, outstanding dues are tabulated as below:

Name of consumer	Service No.	Sancti oned Load (KW)	Shop details	Supply date	Address	Outstanding Dues as on Nov. 2021 (Rs.)	Tariff Category
Pravin D. Thakkar	13335674884	0.32	Shop No. 05	Sept. 2014	Oswal Park, S.NO.7/3,7/5,P116/22,	4104	Commercial
	13335610061	0.24	Shop No. 10	09.12.2020	Kharbav Rd, Bhiwandi	1878	Commercial

The said shops were closed. The bills covered only fixed charges.

- (iii) The Respondent TPL pointed out that the Appellant has made different prayers before the Forum and the Electricity Ombudsman.


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The prayer before the Forum:-


"to charge the penalty of Rs.1,00,000/- to MSEDCL as applicant was harassed mentally, physically and financially also requesting an apology letter from MD of MSEDCL for the negligence, deficiency in the service without any prior intimation to him."

The prayer before the Electricity Ombudsman: -

"to allow present appeal, to consider the refund of re-connection charges of Rs.200/- per connection total Rs.400/- without issuing notice as per Sec.171 of EA 2003, to charge penalty of Rs.500000/-for the harassment and deficiency in the service, to provide interest of complying equality of law of natural justice. "

It is requested not to allow the appeal with a different / revised prayer.

- (iv) The Appellant raised the grievance on 08.03.2022 before the Forum regarding disconnection without notice for two service connections. As per the provisions of the Act and Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021(the Supply Code & SOP Regulations 2021), the TPL had actually served notice under Section 56(1) of the Act to the Appellant on 17.12.2021 for Service No. 13335674884 and 13335610061 due to non-payment of outstanding dues of Rs.4104/- and Rs. 1878/- respectively, and power supply was disconnected on 07.01.2022. The TPL has kept on record the copy of disconnection notices along with the photocopies of the notices pasted on the wall of the shops. During the hearing it was clarified that the only record of the consumer's address available with TPL is that of the shops. No other address of the Appellant is available. Therefore, there is no option but to send notices only at the shops address. In addition, notices are also sent on the Appellants mobile number.
- (v) Thereafter, the Appellant made the payment for both the services on 24.02.2022 along with the necessary reconnection charges. Accordingly, power supply of the Appellant was reconnected on 25.02.2022.
- (vi) Details of payment, notices, disconnection and reconnection are as under:


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Service No.	Payment before Disconnection	Date of Disconnection Notice	Pending Dues (Rs.)	Date of Disconnection	Date of Payment after Disconnection	Date of Reconnection
13335674884	16.09.2021	17.12.2021	4104	07.01.2022	24.02.2022	25.02.2022
13335610061	26.07.2021	17.12.2021	1878	07.01.2022	24.02.2022	25.02.2022


(vii) The Appellant has alleged noncompliance of Section 171 of the Act:-

- There is no non-compliance on the part of the Utility, as the Respondent TPL had served the notice timely and thereafter initiated action in accordance with the Law. The contention related to Section 56(1) and Section 171 of the Act is totally misconceived and false, hence is denied.
- The Respondent TPL has referred to Section 171 (2) of the Act which is reproduced below:

“Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.”

The disconnection notices dated 17.12.2021 were issued by RPAD, however, the same were returned. In addition, the notices were pasted on the wall of the premises of the Appellant. The outstanding dues notices were also sent in digital form to the Appellant through SMS on his registered mobile no. 9766065560. The Commission has allowed such notices to be sent in digital form to the consumers and hence the notices are legal.

(viii) The Appellant has alleged that his entry is restricted in office of the TPL:-


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- The TPL is dedicated to provide best services with transparent processes for all its consumers. A special arrangement has been made to facilitate authorized consumers' representatives/ Licensed Electrical Contractor's for accepting bulk applications. Such arrangements have been made to avoid inconvenience to individual consumers and to facilitate consumers with bulk applications. Representatives with Consumers' authorization letters are attended at customer care centers while other persons claiming to be representatives without proper authorization are not entertained. This is done to respect and safeguard consumers' rights and privacy. The Appellant's reference to MSEDCL circular No 15871 in this regard is totally irrelevant. TPL have received a number of complaints against Mr. Pravin D Thakkar for cheating consumers in matters related with TPL. Shri Pravin Thakkar is banned as a representative but is permitted to appear for his own grievance if any.

- (ix) The Appellant filed his grievance before the Forum on 08.03.2022. The Forum, by its order dated 17.02.2023 has rightly dismissed the grievance application. In view of the above, the Respondent prays that the representation of the Appellant be rejected with cost.

Analysis and Ruling

5. Heard the parties and perused the documents on record. The Appellant has two single phase commercial connections having Service No. 13335674884 and 13335610061 at Shop No. 5 and 10 at Oswal Park, Bhiwandi from September 2014 and 09.12.2020 respectively. These shops are not in use from their dates of connection due to slackness in business, hence, there is no consumption till date. Only fixed charges are being levied. The monthly bills are inserted into the outer locks of the doors which are then collected by the Appellant during his regular visits to the shops, as the Appellant actually stays in Thane city. The Appellant did not pay the current monthly bills regularly, resulting in arrears.



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6. The Appellant contended that the power supply to his shops was disconnected due to non-payment of arrears on 07.01.2022 without any proper notice. During the hearing, the Respondent reiterated that copies of the disconnection notices were sent by post on the billing address; however, it was returned. Hence copies of both the notices were pasted on the front wall of the said premises, as is allowed in the regulations and were also sent through SMS on 18.12.2021 on his registered mobile No. 9766065560. The Appellant was specifically asked whether he checked his mobile phone for messages regarding disconnection notices, etc. to which the Appellant replied that he may not have checked his mobile phone for such notifications. The Respondent was directed to submit a copy of the SMS Notice sent on the Appellant's mobile phone. The Respondent has sent the SMS Notice for the two Service Numbers to this office by email on 14.06.2023, and they are found to be valid. The notices are tabulated as below:

Source	Mobile	Message	Request date time	Dr_Stat
TPOWER	919766065560	Dear Customer, your Rs 4104 bill for S. No 685674884 is still unpaid, notice for disconnection dated 17.12.2021 has been issued under section 56 (1) of EA, 2003 for non-payment of energy dues. Kindly pay your dues within 15 days to enjoy uninterrupted power supply. To pay online, click on link https://tinyurl.com/84byrp46 . Ignore, if already paid. Torrent Power.	18.12.2021 11:46:55	DELIVRD
TPOWER	919066065560	Dear Customer, your Rs 1848 bill for S. No 685610061 is still unpaid, notice for disconnection dated 17.12.2021 has been issued under section 56 (1) of EA, 2003 for non-payment of energy dues. Kindly pay your dues within 15 days to enjoy uninterrupted power supply. To pay online, click on link https://tinyurl.com/84byrp46 . Ignore, if already paid. Torrent Power.	18.12.2021 11:46:55	DELIVRD

7. There is no dispute that the shop premises of the Appellant are vacant and locked. The last payment made for the said Service No. 13335674884 and 13335610061 was on 16.09.2021 and 26.07.2021 respectively. The outstanding dues are more than the Security Deposit of the two connections and the Appellant has not paid these dues in time. The Respondent TPL served the disconnection notices on 17.12.2021 and both the connections were disconnected on 7.01.2022 after 15 days as stipulated in Section 56 (1) of the Act. We hold that the disconnection notices, pasted on the premises' door and also sent by SMS on the Appellant's registered mobile No.


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9766065560 are legally valid. It was the Appellant's duty to check the SMS messages or notifications about pending bills that he received on the mobile phone, yet he neglected to do so.

8. The Commission issued the Supply Code & SOP Regulations 2021 on 25.02.2021. Regulation 16.5.10 stipulates that the Distribution Licensees can serve notice under Section 56 of the Act through Digital Mode such as Whatsapp message, e-mail, SMS etc., in case the consumer neglects to pay the bills and outstanding dues. Regulation 16.5.10 is reproduced below:-

"16.5.10. The Consumer who neglects to pay his bill is liable for levy of delayed payment charges and interest on arrears in accordance with relevant orders of the Commission and/or appropriation of security deposit. A notice of disconnection to a Consumer under Section 56 of the Act shall be served in the manner provided for in Section 171 of the Act:


Provided that Distribution Licensee can serve notice under Section 56 of the Act through Digital Mode such as Whatsapp message, e-mail, SMS etc:

Provided further that it shall be responsibility of Distribution Licensee to ensure the delivery of notice through Digital Mode and that communication is complete:

Provided that such notice may be served only where the Consumer neglects to pay any sum or any charge under Section 56 of the Act:

Provided further that such notice shall be served separately and shall not form part of the bill but the said separate notice can be attached/sent with the bill."

... (Emphasis added)


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9. In view of the above facts, we do not find any violation of provisions under the Electricity Act, 2003, and the Rules / Regulations laid down by the Commission on the Respondent's part in issuance of disconnection notices.


10. The Appellant finally made the payment for both the services on 24.02.2022 along with the necessary reconnection charges, and accordingly, the power supply of the Appellant was reconnected on 25.02.2022. Nothing survives in the instant Representation. Hence, all the prayers of the Appellant in this Representation are rejected.

11. While issuing the order, I am constrained to take cognizance of the manner in which the Appellant has argued his case regarding not seeing the SMS messages, which is unbelievable. In this period of technology, everything has become digital, e.g. in the banking sector where all messages from banks are received digitally by their customers. The Appellant must be used to seeing such messages, so why not the electricity disconnection messages? There is no consistency in his arguments.

12. The Forum has rightly analysed the case and hence no interference is needed in the order of the Forum. The Appellant has unnecessarily and hastily filed this representation leading to unnecessary waste of administrative time and resources.

13. The Forum's order is upheld. The instant Representation is rejected and disposed of accordingly.

Sd/-
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


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Secretary
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