

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 36 OF 2022

In the matter of billing

Ramgopal Sharma (Consumer)..... Appellant
Santosh Yadav (User)

V/s.

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

Appearances:

Appellant : Ganesh Datey, Representative of Santosh Yadav

Respondent : Pravin Chakole, Executive Engineer, Ulhasnagar II

Coram: Vandana Krishna (Retd I.A.S.)


Date of hearing : 19th May 2022

Date of Order : 27th July 2022

ORDER

This Representation is filed on 3rd March 2022 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 29th December 2021 in Case No. 2209 of 2021-22 passed by the Consumer Grievance Redressal Forum, MSEDCL Kalyan (the Forum).

Preamble: The Consumer, Ramgopal Sharma, had initially filed a representation in the year 2018 on the same Consumer No. 021513088873 and same subject for the same period which was rejected by the then Electricity Ombudsman. Later on, the Consumer / his Representative started to seek information of relevant documents through RTI Act at the Forum as well as in this office.



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2. The Forum, by its Order dated 29.12.2021 has rejected the grievance application in Case No. 2209 of 2021-22 by observing that the grievance is time barred.


3. The Appellant filed this instant Representation against the said Forum's order. The hearing was held on 19.05.2022 through Video Conference. His submission and arguments in brief are as below: -

- (i) Ramgopal Sharma is a consumer (No. 021513088873) from 12.04.2011 for Industrial activity at Shop No. G 10, Barrack No. 1896, Section 40, Ulhasnagar. At present, the user of electricity is Santosh Yadav, the Appellant who has filed the present Representation.
- (ii) This case is about cheating the consumer by the Respondent with fraud of reading i.e., editing in Meter Header Reading (Main reading which is to be considered for billing purpose), and justice is denied to the Appellant at various Forums i.e., Internal Grievance Redressal Cell (IGRC), the Forum and the Electricity Ombudsman. The decision is given based on fake documents submitted by the Respondent alleging fake signature of the Appellant, non-availability of agreement between owner and user. However, the occurrence of fraud alleged by MSEDCL was not seen at any level. The original grievance is kept aside and seems that the Forums are covering MSEDCL authorities involved in the fraud, which is proved with relevant documents, which were received after rejection of the application by Electricity Ombudsman under RTI Act.
- (iii) These frauds were made by MSEDCL authorities for cheating and harassing of consumer/ Appellant, as main header reading Scam was highlighted by this consumer, whereas justice was given to other consumers where such type of header reading fraud was observed, hence fair justice is demanded in this case.


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- (iv) The Appellant referred the order dated 27.01.2020 of the Electricity Ombudsman (Mumbai) in Representation No.194 of 2019 in respect of Consumer No. 021510944591. The decision was given by Hon'ble Electricity Ombudsman for revision of energy bill in favour of Appellant who was victim of such fraud.
- (v) The meter reading of the Appellant (Meter No: 065-2453806) was recorded manually up to the month of June-2017, and main header counter reading was recorded as 66592 kWh on 12.07.2017 through MRI, but the reading mentioned in the energy bill does not match with the readings recorded in MRI, there is a possibility of corruption of data in the same month. Hence the bill was issued on average basis.
- (vi) As per MRI data of 12.11.2019 as per tamper event data & as per original ASCII file of the said meter which was provided by MSEDCL before hearing at IGRC, the readings are mentioned below, and the successive readings for main header kWh in the month of July-2017 are as follows: 02/07/2017--- 67288.20 KWH, 03/07/2017---67321.70 KWH, 04/07/2017---67354.70 KWH, 06/07/2017--- 67436.50 KWH, 09/07/2017---67490.00KWH, 13/07/2017---67581.30 KWH, 14/07/2017---67589.70 KWH, 15/07/2017---67591.00 KWH and 18/04/2016 --- 56242.10 KWH to 05/10/2017--- 69446.50 KWH.
- (vii) The actual reading recorded on the meter during 29.08.2017, 23.09.2017 & 29.11.2017 were 68611.102, 69191.890, 69698.713 respectively & the final reading was 69948.735 after the meter replacement dated 16th August 2018. Whereas the reading submitted by MSEDCL to the Forum for the period of 02.07.2017 were 67551.000 (as per CPL) and in the ASCII file format, the header reading and file date which were edited, and which were 78560.020, 79140.790, 796476.613, 69948.735 for the month of 29.08.2017, 26.09.2017 and 30.11.2017, 16.08.2018 respectively, and submitted finally the original ASCII file to the Forum on 16.08.2018.


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- (viii) In fact, these are actually summation of readings of all Slots. The readings submitted to the Forum completely mismatched from actual header meter reading and the date of reading and ASCII File was modified.
- (ix) The data submitted to Ombudsman for the same period of 2nd July-2017 were 67551.000 (as per the CPL) & the ASCII file format the header reading for 29th August-2017, 23rd September-2017 and 30th November-2017 were 68703.843, 69191.890, 79647.613 respectively, Whereas the reading submitted to Ombudsman for month of August-2017 were excess by 92.741 units to the actual Header Meter Reading recorded on the meter, but the reading during Month of 30th Nov-2017 was Far away from the actual Header Meter Reading recorded on the meter showing Mismatch. The concerned officer of MSEDCL of that time has not even provided original raw data of 12th July-2017 and 29th August-2017 but also destroyed that data, and as per raw data of September-2017 it is crystal clear that slot memory was corrupted in August-2017 resulted to additional jump in slot reading. The difference between the Header reading and summation of all slots came to 09948.900 units (in slot A) in August-2017, due to the corruption of memory resulting to the corruption of previous as well as current all slots memory got corrupted.
- (x) The readings in the ASCII format submitted to the Forum and the Ombudsman were different. These documents are received in the reply of application submitted under RTI Act 2005, which proves the fraud committed by MSEDCL Authorities.
- (xi) The Time of Day (T.O.D.) charges were recovered in the energy bill up to the month of June-2017, as it is illegal for the consumer below the load of 20HP, which should be reimbursed with interest to the consumer through check right from the date of connection till June-2017. The T.O.D. charges were recovered from the bill of December-2015 as per the CPL provided by MSEDCL. The balance details of T.O.D charges should be checked by M.S.E.D.C.L for the refund of the same.


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- (xii) During the month of August 2017, while conversion of raw data of MRI reading to ASCII file, the file was opened in notepad, and editing of main header counter reading (kWh) was made by changing the original main header reading with another reading which was actually summation of slot wise reading of all the slots, which is illegal (as no one has any rights to make any changes or to edit the original data found from the meter of the consumers, in any consumers bill) and it became the main reason of this grievance.
- (xiii) The Respondent is misleading the Appellant-User as well as representative of that time. On questioning from where 11009.002 units came from, it said that “there is some software problem in meter, Header Reading (kWh) is not counting properly the reading units in Slot A,B,C,D and there were some unbilled units in slots, and while manual reading (MR-9) the slot readings were not denoted by the Agency, and the slot reading is main in the meter, of which the total comes to Header reading”.
- (xiv) So, on 15.01.2018, the Respondent installed the new series meter. The old meter reading was 69724 units and series meter was started from 00000. Then on 01.02.2018 both meters’ readings were taken, and old meter’s reading was 69946 which was consumed 222 units and new meter consumption was 221 units which proved the point that there are no unbilled units as the consumption in both meters were same.
- (xv) Considering the consumption recorded in series meter, it is crystal clear that theory of unbilled units was totally wrong. During the testing of meter in MSEDCL testing lab, the meter was found within permissible limit. As per the rules during the testing of the meter, the header reading is considered only (slot reading is not considered for testing) which shows the summation of slot reading for the consumption is totally wrong and misleading theory.


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- (xvi) After series meter testing, MSEDCL lab testing and as per directives from the Forum, the meter was further sent to the manufacturing company for testing purpose.
- (xvii) The company forwarded a mail on 25.07.2018 for handing over the raw data of the meter reading, the same was not provided by the concerned authorities of MSEDCL (A.E.E. Shri.Ravindar.N.Nilgirkar & Assistant Q.C Shri Yogesh Aute). As per the observations of the company, the T.O.D. data was found mismatched with bill data, and Cumulative data register is corrupted due to memory corruption and meter was found to be faulty.
- (xviii) As per the first decision of the Forum, it is clear that the decision was given without considering the test results of manufacturing company which states that the T.O.D data was corrupted and cumulative data was found proper, instead they gave their own opinion and the opinion is as follows: it seems that the slot wise reading of meter is recording correct data & it is matching with the MRI data of slot wise reading. The total KWH counter of the meter may have got corrupted between the date of installation and July 2017. The said memory corruption period could not be ascertained by the Genus Company, as M.S.E.D.C.L. has already reported that MRI reading is started from July 2017. Considering the above facts, the forum and meter testing report, this forum has opined that the slot wise consumption recorded in the meter cannot be denied and distribution licensee has the right to recover the unbilled units as recorded in meter”, which is incorrect. Here I also want to bring this to your kind attention, that bill revision report{B 80} was generated on 25th February, 2014 which indicated there was no mismatch between the slot reading and header reading, secondly all bills were generated on the basis of Header reading every month and current reading is always ahead of previous reading as per consumption pattern with connected load and slot wise reading was also noted in MR-9 report and T.O.D charges were recovered from user, and the user was not even eligible to pay the T.O.D charges as per tariff rules of MERC.


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- (xix) The letter which concerned MSEDCL authority handed over to the concerned representative of that time on 10.07.2018, they have written that they were providing ASCII files, but the date created on ASCII files were 16.07.2018 at 3.31 PM.
- (xx) The Respondent has not submitted the raw data of the reading from the month of July-2017 till meter replacement to Forum. The decision of Forum is based on manipulated documents as well as manipulation in ASCII files provided by the Respondent at the time of final hearing.
- (xxi) The representative of that time doubted the Forum's order dated 23.08.2018. The doubt was that, after the crystal-clear report from Genus Ltd. was completely in favour of consumer, then how the Forum dismissed the case by giving an opinion that "header reading may have got corrupted".
- (xxii) Reading during Month of June-2017 was 66489.50 kWh. As per the Raw Data of MRI reading it was 67262.80 kWh during the month of July-2017. The Actual reading is recorded on the meter during August-2017, September -2017 & November-2017 were 68611.10, 69191.89, 69698.71 whereas the reading submitted (ASCII file) by M.S.E.D.C.L. to the Forum for the same period were 78560.002, 79140.787, 79647.613 and submitted the finally original ASCII file to the Forum on 16.08.2018 is as below:
- (A) Main header Counter Reading 69948.735 kWh
(B) Total Slot Reading 79897.635 kWh
(C) Jumping Difference (B-A) 09948.900 kWh
- (xxiii) Submission to Ombudsman for the same period were 68703.843, 69191.00, 79647.613 respectively. The readings submitted to the Forum were completely mismatched whereas the reading submitted to Ombudsman for month of August & September – 2017 were nearer to the actual Header Meter Reading recorded on the meter but the reading during Month of November - 2017 is far away from the actual Header Meter Reading recorded on the meter showing Mismatch.


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- (xxiv) The case was filed before the Electricity Ombudsman, Mumbai on 11.12.2018. On discussion, the Respondent firstly objected that the signature on documents is not of consumer. The members of IGRC did not direct the Appellant regarding the correct proceeding for filing the grievance. Secondly, law officer of MSEDCL (legal advisor) and Shri Ashok P. Sawant (Executive Engineer) said that both the Consumers are dead. On this, the representative of that time took objection that without any valid proof how can they say that both persons are dead. Hence, Hon'ble Electricity Ombudsman ordered MSEDCL concerned authorities to bring the valid proof (Death Certificate) within 7 days and ordered the representative of that time that if they brought valid proof then as per law the case will be closed here itself without any further explanation and proceedings.
- (xxv) As per the instruction, the Respondent filed an application on 12.12.2018 in Ulhasnagar Municipal Corporation asking for the Death Certificate of Shri. Vishnu Tolani and Shri Ram Gopal Sharma. Failing to obtain so from Ulhasnagar Municipal Corporation, Mrs. Ashwini Iste (AE QC) visited the premises of consumer on 17.12.2018 and took the signatures on document of workers (1. Harilal Saroj 2. Anishkumar Patel) working nearby, telling them that she is from MSEDCL and has come here for inspection, and needs two witnesses that this site has been inspected. She also took a signature of Mr. Sunil Suryavanshi and convinced him by saying that "she took the signature of 2 witnesses already declaring both the consumers dead" and submitted this panchnama before the Electricity Ombudsman on 21.12.2018.
- (xxvi) With the activity of creating a spot panchnama and declaring someone dead, the Respondent crossed the line and went against the law to hide their fraud of editing scam, as they have no right and authority to declare someone dead. On the basis of panchnama, Hon'ble Electricity Ombudsman dismissed the case by stating that the "*representation filed in the name of Shri Ramgopal Sharma is apparently not genuine & redressal proceedings initiated is not with clean hands. Suppression of*


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facts disentitles the appellant to seek the relief, hence this representation fails & rejected”.


(xxvii) After the order of Electricity Ombudsman, again the representative of that time filed an RTI to Electricity Ombudsman on 20.02.2019 whose reply was received on 14.03.2019 and in the reply we found the New Connection Paper (NSC) which was applied on 06.04.2011, in which it was mentioned in feasibility that

- there was an existing connection in the premises bearing consumer no 021514594101/4 and as per the history of consumer no 021514594101/4 it came to be known that the said connection was already live in the name of Smt.Rekha.G.Chugria at flat no 303,regency palace Bk no: A-832, Room no : 1663,1664 Ulhasnagar -5 since 15th July 2006 in PC – 1.
- The new connection was sanctioned with 10HP (8KW) on 06.04.2011 vide letter : A.E.E./Ulhas – 5/ Tech/LS/471 in which he has mentioned that the connection has been approved after verification of documents, consent/Affidavit submitted by consumer along with the application but in RTI we did not received any ID proof of the consumer Shri. Ramgopal Sharma.

(xxviii) Now again this representation is being filed on the basis that Hon’ble Electricity Ombudsman said that the proceeding initiated under the Forum are not genuine for this case and they have not closed the representation for the user.

(xxix) The tenant (Shri Santosh Yadav) has paid all the energy bills generated from the date of connection till now by MSEDCL and is now seeking fair justice from the Forum again.

(xxx) Hence it is requested to revise the energy bill for the month of August 2017 as per the actual reading recorded in header reading of the meter, and refund the excess amount recovered by the Respondent with interest. The Respondent should refund the T.O.D. charges which were taken from consumer.


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(xxxi) It is also mentioned that there are multiple cases on the same matter & in these cases, the concerned MSEDCL Authorities manipulated various documents and date and hid the original raw data for the month when the dispute arose for almost all the cases.


(xxxii) This whole editing was done just to show more revenue recovered to MSEDCL. The cases are as follows:

The Appellant referred the order of the Representation 194 of 2019 of the Electricity Ombudsman (Mumbai). In this case, the same concerned authority officers (same as in the instant Representation) are writing a letter to head office of billing and revenue department vide A.E.E./Ulhas-5/1647 dated 29.11.2018. In that letter the concerned authorities have written that the readings as per ASCII files are as follows:

Date	Current reading (kWh)	Previous reading (kWh)	Consumption
Sep-17	62728.837	54004.069	8724.768
Oct-17	63146.000	62728.837	417.163
Nov-17	63768.460	63146.000	622.460
Dec-17	56497.212	63768.460	92728.752 (479)
Jan-18	56901.000	56497.212	403.788
Feb-18	56901.000	56901.000	0.000
Mar-18	57482.637	56901.000	581.637
Apr-18	57800.445	57482.637	317.808
May-18	66033.680	57800.445	8233.235

Asking that the main header counter reading is been reversed (which is totally a fake statement as main header cannot go reverse as it has a salient feature to prevent the reading from going reverse) It was pre-plan of MSEDCL officers to show the reverse reading, summation of readings of all slots during the m/o September 2017 and billing done with that reading, but MSEDCL officer mentioned that received in MRI reading. In the m/o December 2017 the wrong reading mentioned less to show the reading reverse. This editing was done just to dismiss the case.

(xxxiii) The Representative of the Appellant argued that as per Article No. 14 of Constitution of India, justice should be given. He also clarified that he is doing


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social service without any payment. He argued further that the connection is in the name of one Shri Ramgopal Sharma but this person does not exist, and the said connection was released on bogus documents, bogus address, bogus photo, bogus name. It is having one more connection which should have been disconnected. The user, Santosh Yadav is paying the bills for his Connection No. 021513088873 for many years, who is the actual occupant / consumer.

(xxxiv) In view of the above, the Appellant prays for justice and request to revise the abnormal bill which was not given previously due to misleading by MSEDCL. It is also requested for disciplinary action against the responsible authority of MSEDCL.

4. The Respondent filed its reply dated 09.05.2022. The Respondent was also heard on 19.05.2022 through Video Conference. Its submission and arguments in brief are as below: -

- (i) Shri Ramgopal V Sharma is LT Industrial Consumer of MSEDCL under Ulhasnagar 5 Sub-Division bearing LT Consumer No. 021513088873. The address of consumer is Shop No. G 10, Near Barrack No.1896, Section No.40, Ulhasnagar-5, Dist – Thane, Pin-421005. The date of connection is 12/04/2011 and Sanctioned Load is 10 HP.
- (ii) The present representation is signed and submitted by one Mr. Ganesh Datey (Consumer Representative) on behalf of Mr. Santosh Yadav. This is not maintainable, since Mr. Santosh Yadav is not the consumer of MSEDCL, and there is no relationship between MSEDCL and Mr. Santosh Yadav in the capacity of Distribution Licensee (DL) and Consumer. Mr. Santosh Yadav does not have any Legal Right or Locus Standi to file the present Case, as he never submitted any registered leave & license agreement or registered lease deed or registered power of attorney between him and & Mr. Ramgopal Sharma (consumer). Mr. Santosh Yadav did not submit any valid authorization letter issued by Mr. Ramgopal Sharma (consumer) for filing the representation. The preliminary objection is that Mr. Ramgopal Sharma, who is the original consumer, has not even signed the


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Representation dated 21.03.2022. Instead, the representative of Mr. Santosh Yadav named Mr. Ganesh Datey has signed the representation. It is strongly objected to the appearance of Mr. Ganesh Datey in this case. In a large number of cases under the Respondent's jurisdiction, Mr. Ganesh Datey is appearing on behalf of various consumers as their representative, and this shows that he is getting remuneration from consumers for filing cases in bulk quantity before the Forum and the Electricity Ombudsman. Hence, hereby submit strong objection and humble request that, kindly do not allow Mr. Ganesh Datey to appear in the present case. The Relevant Regulations No.8.10 and 8.11 of MERC (CGRF and Ombudsman Regulations) are as below:-

"8.10 A Complainant, Distribution Licensee or any other person who is a party to any proceedings before the Forum may either appear in person or authorize any representative other than an Advocate (within the meaning of the Advocates Act, 1961), to present his case before the Forum and to do all or any of the acts for the purpose, subject to production of duly authenticated authorization made by the party in favor of such representative, and subject to the condition that he, -

(a) is appearing on an individual case basis;

(b) has a pre-existing relationship with the Complainant (such as: a relative, neighbor, business associate or personal friend);

(c) is not receiving any form of, direct or indirect, remuneration for appearing before the Forum and files a written declaration to that effect;

(d) demonstrates to the Forum that he is competent to represent the party.

8.11 The Forum may within its discretion disallow any representative to appear before it in any case, for reasons to be recorded in writing, on account of breach of the terms of the undertaking or misconduct or failure in providing proper assistance to the Forum."

- (iii) An earlier representation filed by someone in the name of Mr. Ramgopal Sharma for the same connection (Consumer No. 021513088873) for similar facts and the same points of grievance, is already rejected by Hon'ble Ombudsman on 31.12.2018 vide Case No.220 of 2018. As per Regulation No.7.9 (a) MERC (CGRF and Ombudsman) Regulations -2020, the consumer cannot raise the same grievance again and again, in case the final order is passed by any court, tribunal, arbitrator or authority. In view of this legal provision, the present representation is not

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maintainable and deserves to be dismissed. The Regulation No.7.9 MERC (CGRF and Ombudsman) Regulations -2020 is as below:-

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

- (a) In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;*
- (b) In cases where the Grievance has been submitted two (2) years after the date on which the cause of action has arisen;*
- (d) In cases of recovery of arrears where the bill amount is not disputed; and*
- (e) In the case of Grievances, which are:*
 - (i) frivolous, vexatious, malafide;*
 - (ii) without any sufficient cause; or”*

- (iv) In present case, the above Appellant has filed the grievance before the Forum on 11.06.2021 for the billing dispute of Aug-2017 i.e. after a lapse of 3 years and 10 months, which is clearly time barred and not maintainable as per Regulation No.7.9 (c) of CGRF & EO Regulations 2020 as stated hereinabove.
- (v) The present representation is also not maintainable as per Regulation No.7.9 (d) of CGRF & EO Regulations 2020 as stated hereinabove. The consumer has paid the disputed bill of Aug-2017 without any protest as well as without any dispute, and at present there are no outstanding arrears. As per Regulation No.7.9 (d), in cases of recovery of arrears where the bill amount is not disputed, the grievance is not maintainable.
- (vi) The present representation is also not maintainable as per Regulation No.7.9 (e) of MERC (CGRF and Ombudsman) Regulations as stated hereinabove. The present grievance is false, frivolous, vexatious, malafide and filed without any sufficient cause, hence, it deserves to be dismissed.
- (vii) The billing dispute of this consumer number is for the period of July-2017 and Aug-2017. In this period, the Meter no.065-02453806 was in existence. Till July-2017,


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the meter readings were taken manually. In the month of Aug-2017, the meter reading was taken through MRI. The bill was issued to consumer as per slot wise reading, which is proper, legal, and accurate. (The slot wise readings add up to the total, i.e., header reading. Ideally, the two should match.)

- (viii) The static / digital meter was initially developed considering the header readings. It was found that electricity consumption increased drastically and there was a huge gap between the demand and supply at peak hours. So, “Time of Day” (ToD) tariff concept was introduced to reduce consumption of electricity during peak hours. Hence, electricity was made more expensive during peak hours so that the consumers use less of it.

Ideally, header and slot readings are supposed to be equal. However, if at all, there is a mismatch, then the slot readings should be more reliable than the header reading. This is because the slot readings are original, whereas the header reading is derived from the slot readings as their total sum.

On the complaint of consumer, the meter was tested on two occasions at MSEDCL Lab as well as by Meter Manufacturer Company. On both occasions, the meter was found accurate and normal. Hence, the bill issued to the consumer for the month of Aug-2017 cannot be revised. This fact was already explained to the representative of the original consumer; the original consumer agreed to this and paid the bill without raising any protest and without any dispute.


- (ix) The present representation is filed by an unconnected third party, who is not the consumer of MSEDCL. Thus, the Representation is not maintainable on the point of Locus-Standi (Right of Party to appear in court).
- (x) The present representation may kindly be dismissed as per Regulation no. 19.25 of CGRF & EO Regulations 2020 since it is false, frivolous, vexatious, malafide and filed without any sufficient cause. There is no prima facie loss or damage or


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inconvenience caused to the original consumer, the bill is issued to consumer as per his actual consumption, which is proper and legal.

- (xi) The Respondent argued that the Appellant has referred the order of the Representation in 194 of 2019 which is a unique Case, where the bill was revised considering the report of the Manufacturer who had declared the meter as defective. The ratio of the said order of Representation No. 194 of 2019 is not applicable to this case. The said order is of the year 2020 which is prospective in nature. The meter was tested in testing laboratory and the test result of the meter was found in order. The check meter was installed along with main meter, and the units recorded in both the meters were the same.
- (xii) A large number of cases of main Header reading and Slot readings not matching, have happened only in these areas of Ulhasnagar, even though these types of meters were installed in the total jurisdiction of MSEDCL area throughout the State. In very rare cases this type of anomaly was noticed regarding mismatching of header and slot readings which happened mostly in Ulhasnagar. Modus operandi behind such anomaly is a part of research.
- (xiii) The dishonesty of the Representative of signing in Schedule B was rightly pointed out by the Electricity Ombudsman (Mumbai) in his order dated 31.12.2018 in Rep. no. 220 of 2018 which is ***“All these facts indicate that the representation filed in the name of Shri Ramgopal Sharma is apparently not genuine and redressal proceeding initiated is not with clean hands. Suppression of facts disentitles the Appellant to seek the relief.”***
- (xiv) The Respondent argued that a cost should be imposed on Appellant for inconsequential representation, when the case was already decided by the IGRC and the Forum on merit. He further argued that the instant Representation was initially filed in the year of 2018, which was heard and rejected, being not genuine. This very same Representation is again filed by Santosh Yadav, who is not even the


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original consumer, nor has he applied for change of name. Ramgopal Sharma did not come in picture at that time, whether he is alive or not. The Respondent also argued that whatever information is sought through RTI Act should not be used as evidence in a legal case. The Respondent also stated that the report of the testing of meter was submitted by the Genus Company. After analysis of the meter, it was found that the cumulative data (the sum of the parts) was corrupt, whereas the individual slot wise header readings were correct.

- (xv) The Respondent argued that there is no reason to alter or modify the readings of the Appellant as the Respondent is a Government Undertaking and its working is transparent. The allegations made by the Appellant are baseless.
- (xvi) In view of the above, it is respectfully submitted that, the present representation may kindly be dismissed with heavy costs, as it is false, frivolous, vexatious, malafide and filed without any sufficient cause. The present third-party complainant is well aware that, this Hon'ble Ombudsman had already dismissed the same representation. The Respondent, hereby, humbly prays that, huge costs may be imposed on above third-party complainant, in order to avoid future vexatious and malafide representations of similar nature and to save the precious time of Hon'ble Ombudsman.

Analysis and Ruling

5. Heard the parties and perused the documents on record. Mr. Santosh Yadav, the complainant in this case, does not have any locus standi to file the present Representation, as he never submitted any registered leave & license agreement or registered power of attorney between him and Mr. Ramgopal Sharma, the consumer on record. Nor did he ever apply for change of name.


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6. The main contention of the case is that there was a difference or mismatch between the header reading and slot readings of the meter. The static / digital meter was initially developed considering the header reading. It was found that the electricity consumption increased drastically and there was a huge gap between the demand and supply at peak hours. Hence, ToD tariff was implemented to reduce consumption of electricity during peak hours. The electricity is made more expensive during peak hours, so that the consumers use less of it.


7. The header reading is subdivided into slot readings as follows:

Zone of Time of Day of the Meter	
Time of Day Slot Reading	
A Zone	22.00 hrs. to 09.00 Hrs.
B Zone	06.00 hrs. to 09.00 hrs. & 12.00 hrs. to 18.00 hrs.
C Zone	09.00 hrs. to 12.00 hrs.
D Zone	18.00 hrs to 22.00 hrs.

The total sum of the four time slots adds up to the header reading for the whole day. Ideally, the header and slot readings should be equal.

8. It is important to note that the Forum in its order dated 23.08.2018 has disposed of the grievance **on merit** in Case No. K/E/1374/1621 of 2017-2018 of Shri Ramgopal Sharma V/s. MSEDCL through Nodal Officer, Kalyan II. The relevant portion of the order is quoted as below:

“We heard both sides & gone through the record kept before us. From the record kept before us it is clear that, as per meter display, total of four slots (i.e. A, B, C, D zone) KWH readings are not matching with the total KWH readings of the meter.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Sr.No.	Existing Old Meter (2453806)			New Series Meter (3374304)		
	I.R.	F.R.	Diff	I.R.	F.R.	Diff
Total KWH Reading	69724	69946	222	0	221	221
A Zone Reading	23837	23863	26	0	23	23
B Zone Reading	27968	28061	93	0	93	93
C Zone Reading	10861	10902	41	0	42	42
D Zone Reading	17006	17067	61	0	61	61
Total of slot Reading	79672	79893	221	0	219	219
Reading of MRI for Total KWH	-	69946	-	-	-	-

From the above analysis it is clear that the total of slot wise KWH reading is not matching with total KWH reading counter on meter display and it is not matching with the MRI report for total KWH reading.....

.....
 In our opinion it seems that the slot wise reading of the meter is recording correct data & it is matching with the MRI data for slot wise reading. The total KWH counter of meter may have got corrupted between date of installation to Jul-2017. The said memory corruption period could not be ascertained by the Genus Company. Considering the above facts the forum and meter testing report this forum has opined that **the slot wise consumption recorded in the meter cannot be denied** and Distribution Licensee has right to recover the unbilled units as recorded in meter. When the same slot wise meter reading is recorded in the MRI also.” **(Emphasis added)**

Note: Clarification for above quote:

I.R. – Initial Reading

F.R.- Final Reading


Diff.=F.R.- I.R. (Actual consumption)

Total KWH Reading – Displayed on meter

Hence, the then Forum has rejected the grievance on merit.

9. The then Electricity Ombudsman (Mumbai) in his order dated 31.12.2018 in Rep. no. 220 of 2018 states **“All these facts indicate that the representation filed in the name of Shri Ramgopal Sharma is apparently not genuine and redressal proceeding initiated is not with clean hands. Suppression of facts disentitles the Appellant to seek the relief.”**

10. It is observed that the instant Representation for the very same electricity consumer No. 021513088873 at the same address of Shop No. G 10, Barrack No. 1896, Section No.40, Ulhasnagar was initially filed by Mr. Ramgopal Sharma in the year 2018 on the same subject


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



matter. That representation was signed by third party in the name of Ramgopal Sharma who never came into picture at that time. It was disposed of, for not being apparently genuine, and redressal proceeding initiated was not with clean hands. Also, with a remark that suppression of facts disentitles the Appellant to seek relief. This fact has been deliberately suppressed by the Appellant, by giving a false and misleading declaration in Schedule B.

Even if the representation is allowed on the issue of locus standi, the important factor remains that Schedule B, which is signed by the present Appellant while submitting the present Representation, contains the following declaration

“13 **DECLARATION**

(a) *I/ We, the consumer /s herein declare that:*

(i) *the information furnished herein above is true and correct; and*

(ii) *I/We have not concealed or misrepresented any fact stated in hereinabove and the documents submitted herewith.*

(b) *The subject matter of my / our representation **has never been brought before the office of the Electricity Ombudsman by me/ or by any one of us or by any of the parties concerned with the subject matter to the best of my/our knowledge.***

(c) *The subject matter of my / our representation has not been settled through the office of the Electricity ombudsman in any previous proceedings.*

(d) *The subject matter of the present representation has not been decided by any competent authority/court/arbitrator and is not pending before any such authority / court / arbitrator.”*

(Emphasis added)

Now it seems that the Appellant is contending that the case was ‘not settled’ as per his liking. Thus, it is seen that the Appellant has given a false declaration, and in the instant Representation also, the Appellant has not come with clean hands. Therefore, this Representation is liable to be rejected being vexatious and malafide. The said Regulation is reproduced below:


“19.25 *The Electricity Ombudsman may reject the representation at any stage, if it appears to him that the representation is:*

(a) *frivolous, vexatious, malafide;*

(b) *without any sufficient cause;*

(c) *there is no prima facie loss or damage or inconvenience caused to the Complainant*

Provided that the decision of the Electricity Ombudsman in this regard shall be final and binding on the consumer and the Distribution Licensee:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Provided further that no representation shall be rejected in respect of sub-clauses (a), (b), and (c) unless the Complainant has been given an opportunity of being heard.”

11. In view of above, as per Regulation 19.22 (f) of the CGRF Regulations 2020, the instant Representation cannot be entertained by the Electricity Ombudsman being a subject matter already settled in previous proceedings. The said Regulation is reproduced as below:


“19.22 The Electricity Ombudsman shall entertain a representation only if all the following conditions are satisfied:

(f) The Electricity Ombudsman is satisfied that the representation is not in respect of the same subject matter that has been settled by him in any previous proceedings.”

12. The Representation is dismissed of accordingly.

13. In view of the above, a cost of Rs.2000/- is hereby imposed upon the Appellant towards repetition of representation and deliberate suppression of this information.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

