

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 9 of 2023

In the matter of Excess Billing

Lorence Elis Murzello.Appellant

V/s.

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

Appearances:

Appellant : 1. Lorence Murzello Patil
2. Ramchandra Pandey, Representative

Respondent : 1. Prashant Dani, Executive Engineer, Virar
2. Prashant Yenge, Addl. Ex. Engineer, Virar(W) Sub./Dn.
3. P.A. Manojkumar, Dy Manager (F & A)
4. Pallavi S. Kargutkar, Asst. Acct. (I/c)

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 6th June 2023

Date of Order : 13th June 2023

ORDER

This Representation was filed on 4th January 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Appellant Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 31st October 2022 passed by the Appellant Grievance Redressal Forum, MSEDCL, Vasai (the Forum). The Appellant paid the amount of Rs. 25000/- as deposit on 24th January 2023 in



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai




view of Regulation 19.22(h) of CGRF & EO Regulations 2020. This Representation was registered on 24th January 2023.

2. The Forum, by its order dated 31.10.2022 partly allowed the grievance application in Case No. 069 of 2022. The operative part of the order is as below:

- “2. The Respondent is directed to issue revised bills with commercial tariff category making it limited to 24 months prior to date of detection with 2022 units per months excluding DPC & Interest.*
- 3. The Respondent shall grant three monthly installments for payment of revised bill if recoverable, installments shall be paid by Appellant along with current energy monthly bill subject to condition that a single default on the part of Appellant will authorize Respondent to recover the dues in lump-sum with applicable future interest.*
- 4. The Respondent shall adjust the excess amount paid by the Appellant if any, in future ensuing bills.*
- 5. The Respondent is directed to adjust the amount paid by the Appellant if any. Respondents’ concerned officer should be warned that, in future shall submit detailed parawise reply to grievance of Appellant along with spot verification report.*
- 6. Respondent shall take action on the meter reading agency for not taking meter reading.”*

3. Not satisfied with the order of the Forum, the Appellant filed this representation. The e-hearing was held on 06.06.2023 through Video Conference. Both the parties were heard at length. The Appellant’s written submission and arguments in brief are stated as below: -


- (i) The Appellant is the owner of agricultural land having Survey No. 29 admeasuring 7.37 acres in Village Morkam, Virar (W), Tal: Vasai, Dist: Palghar. The Appellant was initially an agricultural consumer (No. 002371507453) from 27.03.2009. The Respondent has changed the tariff category from agriculture to commercial from February 2022 without any intimation to the Appellant.
- (ii) The Respondent is irregular in taking meter readings resulting into average billing frequently, even though the Appellant is regular in payment of bills.
- (iii) The Appellant receives low voltage supply most of the time. The Respondent has not maintained good quality power supply as stipulated in the Standards of Performance of


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



the Maharashtra Electricity Regulatory Commission (the Commission). This has resulted in the non-operating of some of the electric gadgets. The Appellant lodged various complaints of low voltage, however the Respondent failed to improve it.

- (iv) The Appellant planned to develop a “Krushi Paryatan Kendra” i.e. agro tourism business only on 2 acres out of 7.37 acres at Survey No. 29 of Morkam Village, Virar (W). Therefore the Appellant applied for a separate commercial electricity connection at Virar West subdivision office, with an inward no. 2955 dated 01.08.2018, but it was ignored. The new connection was required for construction work. The Appellant completed the construction work of “Krushi Paryatan Kendra” project on a diesel generator which was highly expensive.
- (v) Later all projects were postponed due to Covid – 19 pandemic due to lockdown from 23.03.2020 onwards. The Appellant again gave a new connection request in writing on 20.01.2021 to Assistant Engineer of Arnala Section, who denied the new connection application with the following remarks : “3 phase meter is not available, when available, will provide it as soon as possible”.
- (vi) The Appellant, by his letters dated 18.02.2021 and 07.04.2021 followed up with the Respondent for the new commercial connection orally, but the Respondent did not advise the Appellant regarding any other remedy provided under law.
- (vii) The Krushi Paryatan Project was completed in all respects with all legal statutory permissions with a huge expense of diesel oil.
- (viii) A supplementary bill of Rs.29,37,520/- was issued by the Respondent in May 2022. The Appellant protested strongly and requested to give detailed calculations of the supplementary bill on 18.07.2022 for further legal remedy. In response, the Respondent issued a revised bill of Rs. 27,49,850/- without giving its details. The Appellant’s request letter dated 18.07.2022 was not replied by the Respondent. The electricity of the Appellant was disconnected on 23.07.2022 without giving notice as per Section 56(1) of the Electricity Act, 2003 (the Act).
- (ix) The Appellant is facing financial loss due to disconnection of supply.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (x) The Appellant reapplied for a new Agricultural connection (ID no. 42302787) on 29.07.2022 for part of the land area of 5.37 acres of Survey No. 29 at Morkam village. A copy was also given on 30.07.2022 to the concerned subdivision.
- (xi) The Appellant approached the Forum on 04.08.2022 for resolving his grievance, as the supply was not restored. **The Forum directed the Appellant to pay Rs.7 lakhs as adhoc payment. After this payment, the supply of the Appellant was restored on 09.09.2022.**
- (xii) The Respondent had disconnected the supply illegally on 23.07.2022 in violation of Section 56 (1) of the Act. The Respondent did not follow the directions of the Hon'ble Supreme Court in Civil Appeal No. 1672 of 2020 where the distribution licensee is restricted from disconnecting electricity supply due to non –payment of dues after the period of limitation of two years expires. This caused loss of Rs.3,16,648/- in business as shown in the following calculation:
- “GST paid on business (turnover) of Rs. 29,08,000/ for 3 months, considering one day's profit of Rs. 6442/-. The electric supply was not available for 49 days; hence, loss of profit was Rs. 3,16,648/- (49 x 6442/-) for the period of 49 days from 23.07.2022 to 09.09.2022.”
- (xiii) The Forum, by its order dated 31.10.2022 partly allowed the grievance application in Case No. 069 of 2022. The operative part of the order is captured in Para 2. The Forum failed to understand the basic issue and did not grant any compensation.
- (xiv) The Appellant argued that by his earlier letters dated 30.07.2019, 19.02.2021, and 05.04.2021 he had requested to release the new connection for commercial tariff category. However, the Respondent neglected to sanction the new commercial connection.
- (xv) The Appellant has requested to condone the delay for filing the representation, as the Appellant was out of city due to domestic reasons.
- (xvi) Nature of Relief Sought:

The Appellant prays that the Respondent be directed:

- a. to release the new agricultural connection (Application ID No. 42302787 on 29.07.2022).



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- b. to revise the bill after deducting units from Consumer No.002371507453 used for irrigating agricultural land from June 2018 to May 2022 and onwards till the installation of the new agricultural connection.
- c. to rectify the issue of low voltage on priority and to compensate against diesel expense as per available bills for operating Krushi Paryatan business.
- d. to compensate Rs. 5000/- for no response on request demand of Appellant dated 30.07.2022 for restoring the supply.
- e. to allow a supplementary demand of compensation of Rs.3,16,648/- for loss of profit of business.

4. The Respondent, by its letter dated 06.04.2023 has submitted its written reply. The written submissions along with its arguments are stated in brief as below: -


- (i) The Appellant is an agricultural consumer (No. 002371507453) from 27.03.2009 at Survey No. 29, Village: Mukkam, Mamachi Wadi, Virar (West).
- (ii) The Respondent inspected the site of the Appellant on 07.01.2022. During the site inspection, it was found that the Appellant is using supply for running a resort, with connected load as Fridge – 3 nos., Water Motor – 4 nos., CFL – 20 nos., Fan – 22 nos. and AC – 10 nos. The Appellant was indulging in unauthorized use of electricity from agriculture to commercial, as the Appellant was being billed under agriculture tariff category having lower tariff rate. This was a serious irregularity, and the Appellant can be booked under Section 126 of the Act for unauthorized use of power supply. The Appellant did not inform the Respondent regarding use of electricity supply for resort from agricultural connection.
- (iii) After going through the detailed documents, it was found that the Appellant had applied online on 01.08.2018 for a new connection for commercial use, but the application was incomplete, showing error and hence was not processed further by the System. Hence, no action was taken for sanction of the new connection. Applying with incomplete documentation seems to be a deliberate ploy of the Appellant, so that a record can be created for an application for a new connection, without any real intention of getting the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



commercial connection which carries a higher tariff. It seems that the Appellant's real intention was to use the agricultural connection for the resort, since it carries a lower subsidized tariff.

- (iv) However, instead of charging the Appellant under Section 126 of the Act, the Respondent preferred to bill the Appellant for the tariff difference between agricultural and commercial tariff for the period of June 2018 to Jan. 2022. Accordingly, a supplementary bill of Rs. 24,79,330/- was issued to the Appellant in Feb. 2022. In fact, the Appellant has unauthorizedly used electricity for commercial purpose for the resort from a lower tariff of agriculture category without informing the Respondent. He is liable to be charged at 1.5 times of commercial tariff rate per unit as per Section 126 of the Act. But considering the Appellant's application (which was incomplete), the Respondent preferred to issue plain tariff difference electricity bill. **A digital notice for non-payment of outstanding dues was given on the Appellant's registered mobile number while generating monthly bills.** However, the Appellant did not pay the outstanding dues. The supply of the Appellant was disconnected on 22.07.2022.
- (v) The Appellant filed his grievance application before the Forum on 04.08.2022 with a request for interim relief for reconnection of supply. The Forum directed the Appellant to pay Rs.7 lakhs immediately and after payment, the supply of the Appellant was reconnected on 09.09.2022.
- (vi) The Forum, by its order dated 31.10.2022 partly allowed the grievance application in Case No. 069 of 2022, restricting the recovery to 24 months. The operative part of the order is captured in Para 2.
- (vii) **As per the order of the Forum, the bill of the Appellant was revised for two years for Rs.12,66,520/- only and served to the Appellant on 24.02.2023.**
- (viii) Out of this amount, the Appellant has already paid Rs.7,00,000/- on 14.09.2022 and the remaining amount of Rs. 5,66,520/- was added in the monthly bill and three installments were permitted to the Appellant.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (ix) There was no complaint of low voltage in the vicinity of the Appellant. The Appellant was using power supply unauthorizedly from August 2018 onwards for the resort. As soon as the supplementary bill of tariff difference was served, the Appellant raised this issue of low voltage for the first time to divert attention from the main issue of unauthorized use of power supply.
- (x) The Respondent argued that the competent authority of MSEDCL had directed to check agricultural connections having sizeable consumption as a special drive in the month of December 2021. It was during this drive that the Appellant's irregularity of changing the purpose for using the supply for a resort came to light. The Appellant's nominal reminder letters for a new Commercial connection [as mentioned in paras 3 (v) and (vi)] are just for formality's sake to create a record. The Appellant has unauthorizedly enjoyed power supply for the resort from August 2018 for commercial use.
- (xi) The Respondent also clarified that if the Appellant pays the current outstanding bill; makes a separate demarcation of the plot into two parts, for agriculture and resort, and applies for a separate agricultural connection, it will be released after compliance of the statutory formalities.
- (xii) The allegations made by the Appellant against MSEDCL are not justified, and it is requested to reject the representation.

5. The Respondent was asked to give details regarding the Appellant's application dated 01.08.2018 i.e. in what respect it was incomplete or erroneous. However, the Respondent has been unable to provide these details. This indicates incompetence or negligence on the part of the Respondent, which led to large scale unauthorized misuse of agricultural connections.

Analysis and Ruling

6. Heard both the parties and perused the documents on record. The Appellant is an agricultural consumer (No. 002371507453) from 27.03.2009 on Survey No. 29 admeasuring 7.37 acres in Village Mokkam, Virar (W), Tal: Vasai, Dist: Palghar. This area is seemingly notorious for


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




unauthorized use of agricultural connections for commercial purpose as there are many agro-tourism resorts which have recently come up in this area.

7. The Respondent inspected the premises on 07.01.2022 under a Special Drive, and found that the Appellant was unauthorizedly using electricity supply released for agricultural purpose for running a resort with connected load as follows:- Fridge – 3, Water Motor – 4, CFL – 20, Fan – 22 and AC – 10.

8. The Appellant contended that he had earlier applied online on 01.08.2018 for a new connection for commercial use, but that the Respondent did not sanction the same. The Appellant apparently issued many reminders for sanction of the commercial connection; however, the Respondent did not respond. The Appellant also contends that he used a diesel generator to develop / run the resort, while the Respondent contends that he unauthorizedly used the agricultural connection, which is on record as mentioned in the para above. From the inspection report, it is apparent that the Appellant used the agricultural supply for Krushi Paryatan Kendra, as the Appellant had heavily invested for its development.

9. Regarding the Appellant's contention that he had earlier applied for a commercial connection on 01.08.2018 and had issued several reminders from January to April 2021, it is not clear why the Appellant did not raise the grievance in 2018 or 2019, but waited for 2 ½ years to even issue reminders. This raises a doubt as to their intention, i.e. whether they were serious about the Commercial connection, or whether they were simply trying to avoid the penalty under Section 126 of the Act.

10. The Respondent issued a supplementary bill of Rs. 24,79,330/- for tariff difference between agricultural and commercial tariff for the period of June 2018 to Jan. 2022. The majority of the load was used for commercial purpose; hence the Respondent has correctly billed it under Commercial tariff category. The Forum, by its order dated 31.10.2022, has already extended the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



benefit of Section 56(2) of the Act. The Appellant's supplementary bill of Rs. 24,79,330/- for the period of 3 ½ years from June 2018 to January 2022 was revised for 24 months amounting to Rs. 12,66,520/- .


11. The Respondent pointed out that as the Appellant had not paid his dues of Rs. 24,79,330/- from June 2018 to Jan. 2022, monthly disconnection notices were sent by digital mode through the system on the Appellant's registered mobile number while generating monthly bills and there is no irregularity regarding disconnection. The Appellant did not pay the supplementary bill; hence the connection was disconnected on 23.07.2022.

12. The Respondent also contended that the Appellant was using power supply sanctioned for agriculture unauthorizedly from August 2018 onwards for Krushi Paryatan Kendra. As soon as the supplementary bill of tariff difference was served, the Appellant raised the issue of low voltage for the first time. On perusing the documents, this office also found that the first complaint of low voltage was made by a simple letter dated 10.06.2022.

13. The order of the Forum is a reasoned and speaking one, and hence is principally upheld, with a few modifications. The Forum has already allowed three instalments.

The Respondent is directed as under: -

- (a) To release the agricultural connection, if applied, after payment of outstanding balance amount of 24 months.
- (b) To check the voltage of the consumer's premises, and to maintain proper voltage as per standards of performance.
- (c) Compliance to be submitted within two months from the date of issue of this order.
- (d) Other prayers of the Appellant are rejected.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



14. The Representation is disposed of accordingly.

15. The secretariat of this office is directed to refund Rs.25000/- taken as deposit with the Respondent by adjusting in the Appellant's ensuing bill.

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



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

