

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REVIEW APPLICATION NO. 06 OF 2019

IN

REPRESENTATION NO. 131 OF 2019

In the matter of billing

Sameer Ashok Kadam. Applicant
(Original Appellant)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Ratnagiri (MSEDCL)..... Respondent

Appearances

For Applicant : None

For Respondent : None

Coram: Mr. Deepak Lad

Date of Order: 29th November 2019

ORDER

This Review Application is filed on 11.10.2019 under Regulation 19 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) for review of the Order dated 11th September 2019 passed in Representation No. 131 of 2019.

2. The Representation No. 131 of 2019 was partly allowed by the order dated 11.09.2019 interalia directing the Respondent MSEDCL as below :

- “a) The Respondent is directed to revise the bill of the Appellant for the month of Oct- 2018 to Jan-2019 with 6763 units consumption and 33 kVA MD.*
- b) Interest and delayed payment charges levied, if any, is waived of.*
- c) The bill is to be paid in three equal instalments along with the current bill.*
- d) The concerned officer who configured the meter with wrong wiring be cautioned suitably.*
- e) The order of the Forum is modified to this extent.”*

3. The Applicant has filed this review application against the order dated 11.09.2019 in Representation No. 131 of 2019 stating as below: -

- (i) The load of 17 KW was enhanced to 33 KW from February 2018 as per record of the Consumer Personal Ledger (CPL). When the new meter was not installed before monsoon, the average consumption worked out to 1691 units per month for the period from February 2018 to June 2018.
- (ii) The mistake of wiring of the meter was rectified on 07.01.2019, the average consumption with increased load of 33 KW, works out to 1921 units per month for the period January 2019 to April 2019. It is observed that after increase in load, both the averages of recorded consumption in old meter and new meter (with corrected wiring) rebut the possibility of proportionate increase in consumption at 1.94 times.
- (iii) Hence, the Applicant summarized his review as follows:-
 - a) The average consumption of 3486 units per month during the period from September 2017 to November 2017 may not be enhanced by 1.94 times for assessment for Oct 2018, Nov 2018 and Dec 2018 as the recorded consumption after already increased load by 1.94 times from February 2018, does not justify such increase once again.
 - b) The average consumption, whether enhanced or not, as decided appropriate by the Electricity Ombudsman, may be considered for 3 months and actually recorded consumption after removal of defect in wiring from 07.01.2019 to 31.01.2019 may be added for the purpose of assessment.

(iv) The Applicant prayed that the review application be allowed, and relief be given as summarised above.

4. The Respondent has filed its reply by letter dated 14.11.2019 and stated that the points raised for review by the Applicant were already considered while deciding the Representation No. 131 of 2019. The Applicant has not pointed out any discovery of new and important matter or evidence. The Applicant has failed to show any error on the face of record. As such the present review is not maintainable considering the provision of Regulation 19 of the CGRF Regulations.

5. The hearing was scheduled on 15.11.2019. The Applicant intimated vide application dated 11.11.2019 that due to health problems, he would not be able to attend the hearing and along with his application, he has also submitted his further written statement. The Appellant reiterated in this statement that the new meter was installed on 07.10.2018 and the corrected wiring were carried out on 07.01.2019. The assessment be considered on day to day basis and not for lumpsum four months. The recorded consumption from 07.01.2019 to 31.01.2019 is available i.e. 1614 units. Hence, the review application be considered.

6. As the Applicant has intimated his inability to attend the hearing, the Respondent also requested to decide the case on its written submission. The bill of accumulated consumption of 42991 units for four months (October 2018 to January 2019) was issued for an amount of Rs.364821.72. There was a minor correction in the wiring. The said meter is found in order with both the configuration of wiring as per the testing report dated 07.02.2019 of Executive Engineer, Testing Division. The reading available as per MRI is tabulated as below: -

01.12.2018	- 21599 KWH
01.01.2019	- 37083 KWH
01.02.2019	- 42991 KWH

The Forum has rightly observed this in its order. Considering this aspect, the review application be rejected.

Analysis & Ruling

7. Perused the documents on record. This review has been filed by the Applicant under Regulation 19 of the CGRF Regulations which inter-alia provides as below:-

19.1 Any person aggrieved by an order of the Electricity Ombudsman, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent from the face of the record, may apply for a review of such order, within thirty (30) days of the date of the order, as the case may be, to the Electricity Ombudsman.

19.2 An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record. The application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.

19.3 When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application. Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

19.4 When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.

8. In this Review Application, the Applicant has raised new plea regarding assessment to be done on day to day basis. This plea was not in Forum as well as in the Representation before the Electricity Ombudsman, hence, it cannot be entertained in the Review Application. On the contrary, there is no discovery of new and important matter or evidence, and no mistake apparent on the face of the record in the order dated 11.09.2019 is made out. The Applicant has simply reiterated contentions raised earlier in the representation. The Respondent has also reiterated on the same issues.

9. In the matter of review of the order, the following Judgments of the Supreme Court are reproduced below: -

Kamlesh Varma v/s Mayawati and Ors reported in 2013 AIR (SC) 3301, the Supreme Court has held as under: -

“8) This Court has repeatedly held in various judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over


ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient.”

In the matter of *Jain Studios Ltd v/s Shine Satellite Public Co. Ltd.* reported in (2006) 5 SCC 501, the Supreme Court held as under: -

“11. So far as the grievance of the Applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the Applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negated. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.”

10. In view of the above as the Applicant did not raise any new issue which were not considered in the original representation nor did it point out any mistake on the face of record, I am of the considered view that there is no substance in this Review Application and hence is not maintainable and therefore rejected.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

