

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 91 OF 2022

In the matter of billing

Gurudev Enterprises Appellant

V/s.

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

Appearances:

Appellant : Ramchandra Pandey, Representative

Respondent : 1. Prashant Dani, Executive Engineer, Virar Division
2. Mukund Deshmukh, Addl. Executive Engineer, Virar (East) S/Dn.
3. Ms. D. C. Rathod, Dy Executive Engineer

Coram: Vandana Krishna (Retd. IAS)


Date of hearing: 28th June 2022

Date of Order : 26th July 2022

ORDER

This Representation was filed on 6th June 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 3rd February 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Vasai (the Forum).

2. The Forum, by its order dated 03.02.2022 has partly allowed the application in Case No. 127 of 2021 by directing as below:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



“2. That Respondent is directed to waive off DPC & Interest.

3. That the Respondents shall grant six monthly installments for payment of revised bill, installments shall be paid by consumer along with current energy monthly bill.”

3. The Appellant filed a review application before the Forum on 03.03.2022. The Forum, by its order dated 02.06.2022 dismissed the Review Application in Case No. 022 of 2022.

4. The Appellant has filed this representation against the main order and review order of the Forum. The hearing was held on 28.06.2022. Both parties were heard. Its written submission and arguments in brief are as below:

- (i) The Appellant is a residential consumer (No. 001531674231) from 24.05.2016 at Room No. 3 of Jai Tulja Bhawani Sankul Building No.6, Kargil Nagar, Manvel Pada Road, Virar (East), District Palghar.
- (ii) The Appellant is a builder who has constructed building Tulja Bhawani Sankul having 62 rooms, and electricity connections were installed simultaneously in the years 2016 -17 to all these rooms including disputed Room No. 03.
- (iii) The said electricity connection (No.001531674231) for Room No.3 was permanently disconnected without Notice on 31.01.2018 with meter reading 5514 kWh due to unpaid bill. The said room was not in use; hence the Appellant did not reconnect the supply.
- (iv) The Appellant approached the Respondent’s Section Office in the month of July 2021 for restoration of supply. The Section Officer served a “Site Inspection Report dated 06.08.2021 claiming that the meter was on site and there were old dues of Rs. 1,64,640/-. The Appellant was shocked and surprised after seeing such bogus bill.
 - Allegedly, the Respondent stated in its reply dated 21.01.2022 that the supply was restored in the month of February 2018, and 12038 units were consumed for supply to 20 rooms, and meter recorded reading 17217 kWh up to November 2019.



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai




- (v) However, the following obligations were not fulfilled by the Respondent and hence cannot be considered on merit for this case.
- (a) No disconnection notice was served to the consumer.
 - (b) No proper inspection was done as Panchnama signed by consumer or his representative or independent witness, when meter found on site in month of November 2019 and meter photo reading of 17217 kWh towards alleged consumption.
 - (c) No disconnection notice served in the month of February 2020 when the supply was disconnected for the second time.
 - (d) No photo reading or relevant documents put on record of case to verify what was the actual reading on meter was when supply was disconnected in February 2020.
 - (e) No Legal Recovery Notice was served to the Appellant for amount of Rs.1,63,640/-.

(vi) The various activities of the Respondent (spot inspection, supply disconnections, supplementary bill of Rs.1,20,804.87 for 12038 Units, further bill of Rs.1,63,640/, silent meter reading, meter disconnection in the month of February 2020, etc.) are not done as per provision of Section 7 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005(Supply Code Regulations 2005). The Section 7 is reproduced as below: Section 7 of Supply Code 2005 that quoted below:

“7. Maintaining the Property of the Distribution Licensee

No person other than an Authorised Representative or any other person authorised under the Act and the rules and regulations made thereunder shall be authorised to operate, handle or remove any electrical plant, electric lines or meter or break, remove, erase or otherwise interfere with the seals, name plates and distinguishing numbers or marks affixed on such property of the Distribution Licensee placed in the consumer’s premises:


Provided that such Authorised Representative shall not perform any of the acts under this Regulation 7 except in the presence of the consumer or his representative:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Provided further that the Distribution Licensee shall provide prior intimation to the consumer of the visit of the Authorised Representative to the consumer's premises, except where the Distribution Licensee has reason to believe that any person is indulging in unauthorized use of electricity and/ or is committing an offence of the nature provided for in Part XIV of the Act on such premises."

- (vii) The Appellant approached the Forum on 07.12.2021 with a grievance for restoration of supply of the PD premises. The Forum, by its order dated 03.02.2022 has disposed of the grievance application by directing the Respondent to grant six monthly instalments to the Appellant for payment of revised bill, and to waive off DPC and Interest.
- (viii) Appellant made submission of independent witnesses of his neighbours towards locked room and tried to convince the Forum by rejoinder and arguments in all respect in view of above Regulation, but the Forum was dissatisfied and passed order on 03.02.2022 against law and justice with the following observation:
"it is observed that consumer was using supply to 20 rooms. In view of this Respondent should take correct action for providing supply to all 20 rooms after due verification and completing formalities of new connections."
- (ix) In view of the Forum's observations, Appellant thought that it might be a mistake of the Forum to understand the core grievance from the face of record. The Appellant filed a review application which was registered on 03.03.2022 in Case No. 022 of 2022 by attaching the list of 62 live consumers on 03.03.2022, stating that all rooms have separate and live electricity connections since the year 2016-17. It was new discovered documents of Respondent statement that *"consumer was using supply to 20 rooms"* and was not submitted at the time of hearing or when the order was passed. However, the Forum justified and accepted irrelevant baseless submission of the Respondent. The Forum by its order dated 02.06.2022 has dismissed the review application.
- (x) The Respondent failed to submit relevant documents of Photo Reading, Panchnama that show the meter was on Appellant's site in the month of November 2019 and February 2020. The Respondent is silent on reading when the meter was disconnected for the second time and consumed alleged reading 17217 kWh without any photo.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (xi) The Appellant requests to condone the delay in filing the Representation since the review application was pending before the Forum for hope of justice.
- (xii) Relief sought from the Hon'ble Electricity Ombudsman is as below:
- (a) Interim Relief for supply restoration as early as possible to Room No.3 by old or new connection, because the Room has been sold to the respective purchaser and he has fundamental rights to enjoy electricity as essential services.
- (b) Quashing alleged bills of Rs.1,63,640/-.

5. The Respondent filed its written reply dated 21.06.2022. The written submission along with its arguments dated 28.06.2022 is stated in brief as below: -

- (i) All contentions raised in Representation are denied except those admitted herein below.
- (ii) The Appellant is a developer who has constructed the said Tulja Bhawani Sankul having 62 rooms including disputed Room No. 03 having consumer No.001531674231 from 24.05.2016 to January 2018.
- (iii) The consumer was billed with Normal status for Room No. 3 as per reading up to the month January 2018 (up to reading 5179 kWh). In the month of January 2018, the consumer paid Rs.15210/- by cheque No. 912914 (Saraswat Bank), but this cheque was dishonoured. The Cheque Dishonoured Register Entry No.1436 dated 31.01.2018 is kept on record. The supply of the Appellant to Room No. 3 was disconnected immediately due to dishonoured cheque, which is reflected in CPL in the month of February 2018. The said cheque was issued by one Mr. Bhamble Datta Babanrao. The Appellant paid Rs. 15,320/- in cash on 21.02.2018 against the arrears with statutory charges of reconnection. The supply of the Appellant to Room No. 3 was restored physically by installing a meter at the consumer premise. However, it appears that reconnection of power supply was not fed in the online billing system in 'RAPDRP- NC module.' Therefore, he was not being billed and the system continued to show him as PD. The Appellant happily enjoyed the connection and never brought to the notice of the Respondent that he was not getting any bills


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (iv) There was a special drive for Site Checking of PD Consumers. The Assistant Engineer Ph.-2 of the Respondent visited the site of the Appellant on 24.10.2019 for site checking of PD Consumer. During checking the following discrepancy was found which was noted in Remarks Column.


“Remarks: Consumer found unbilled and using electricity. Meter reading is 17217 KWH. Hence issue energy bill for unbilled period as reading 17217 KWH. Consumer was using supply for R. No.3 as well as for water pump and staircase light of building No. 6 (Ground+ 4 Floor).”

The meter was on site and the Appellant was enjoying power supply, but Appellant remained **unbilled for the period from February 2018 to November 2019**.

- (v) It is observed that Appellant consumed 12038 (17217-5179) units' power from February 2018 to November 2019. Accordingly Debit B-80 of amount of Rs.1,20,804.80 was fed in billing system vide bill revision ID No-10667548, dated 26.10.2019 and Appellant made live in December 2019.
- (vi) Thereafter, Appellant consistently neglected to pay the monthly electricity bill hence supply was disconnected in February 2020. The arrears of Rs. 1,63,640/- is outstanding. The details of the same was informed to the Appellant and he was requested to pay the outstanding arrears vide this office letter No. 1224 dated 25.11.2021.
- (vii) The Appellant approached the Forum on 07.12.2021. The Forum, by its order dated 03.02.2022 has disposed of the grievance application by directing the Respondent to grant six monthly instalments to the Appellant for payment of revised bill, and to waive of DPC and Interest. The Forum has addressed and considered all issues raised in present Representation.
- (viii) In view of above, it is requested to reject the Representation.

6. During the hearing, the Respondent was directed to submit the following:


- (a) the dishonored cheque No. 912914
(b) the final breakup of the outstanding bill of Rs.1,63,640/-.
(c) CPL for the period April 2020 to March 2021.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



7. The Respondent vide its letter dated 29.06.2022 submitted additional reply which in brief is as below: -

- (i) The Appellant issued a cheque of Rs. 15,210/- signed by Shri Bhambale Datta Babanrao having No.912914 of Saraswat Bank but the said cheque was dishonored due to insufficient funds. The supply of the consumer was disconnected accordingly. Later, the consumer paid the arrears amount with interest of Rs.15,230/- in cash at Collection Centre and thereafter, the supply was restored physically by installing a meter at the consumer premises on the same day i.e., 21.02.2018. As supply was restored, the electricity bill for the month of Feb-2018 was generated and paid by the consumer on 16.03.2018, which shows that the meter was installed at site and consumer was using the supply with the same meter. Unfortunately, in the billing System the “Permanent Disconnection” tag given to the consumer was not changed to “Live” by the concerned Section Officer of the Respondent. Therefore, no further bills were issued to the consumer and the consumer remained unbilled. The year wise CPL of the Appellant are kept on record.
- (ii) The meter reading agency took the meter reading as 7242 KWH (Meter No.03159063, Make Palmohan) on 24.03.2018 (March 2018) and 8488 KWH on 24.04.2018 (Apr-2018). The next reading photo was available of 12283 KWH, which means that the reading was progressive, and the consumer was regularly using the electricity supply.
- (iii) From the above photos, it is proved that the meter was physically on site, and the electricity consumption of the consumer is approx.1000 units per month. But the Appellant did not approach the Respondent for non-receipt of electricity bills, and has been happily taking advantage of this mistake.
- (iv) In the same building, there is another common water pump & staircase connection bearing Consumer No.001531663965 (Meter No. 0179586) whose consumption pattern up to March-2018 was more than 700 Units. This connection was being used by the builder for the common facilities. From March 2018 onwards, there seems to be a tremendous consumption drop from 700 Unit to 130 Units till June



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



2018. This shows that the consumer was using supply for water pump & staircase light of G+4 floor building, having about 60 flats from the disputed unbilled meter in respect of M/s. Gurudev Enterprises having meter No.03159063, Make Palmohan for these 3 to 4 months.

- (v) A Spot Inspection was carried out by the Section Officer and a reading of 17217 KWH was observed on the meter No.03159063. This shows the electricity consumed by the consumer from Feb-2018 to Nov-2019. So, in the month of December 2019, the consumer was live with IR-17217 KWH. But the consumer consistently neglected to pay the monthly electricity bill due to which the meter was disconnected in Feb-2020. The outstanding arrears are Rs.1,63,640/- and the details of the same were informed to consumer and he was requested to pay the bill vide letter no. 1222 dated 25.11.2021.
- (vi) Due to non-payment of bill, the supply of the Appellant was made TD and the same was fed in online billing system of MSEDCL in the month of Feb-2020. But as the consumer was not paying the bill, the supply was permanently disconnected (**with final reading 17217 kWH**) on 08.02.2020 physically as per the photo kept on record. The PD status was fed in the online system on 11.06.2021.
- (vii) The consumer approached the Forum. The Forum, by its order dated 03.02.2022 has partly allowed the application in Case No. 127 of 2021 by giving relief of interest and Delayed payment charges.
- (viii) The Appellant was using electricity supply for himself as well as for common water pump and staircase connection illegally, but neglected to pay the electricity bills which were actually issued, and is denying the dues issued to consumer. The above-mentioned facts are true and correct & supporting documents are also kept on record.

8. The Representative of the Appellant, by his letter dated 05.07.2022, has submitted additional information signed by himself and without the signature of the Appellant.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




Analysis and Ruling

9. Heard the parties and perused the documents on record. The Appellant is a developer who has constructed “Tulja Bhawani Sankul” having 62 rooms including disputed Room No. 3 having electricity connection (No.001531674231) from 24.05.2016. The Appellant was billed with Normal status for Room No. 3 as per actual reading of 5179 kWh up to the month January 2018. At that time, the Appellant was in arrears for Rs.15210/-. This was paid by cheque No. 912914 (Saraswat Bank), but this cheque was dishonoured. The supply of the Appellant to Room No. 3 was disconnected immediately due to dishonoured cheque, which is reflected in CPL in the month of February 2018. The said cheque was issued by one Mr. Bhamble Datta Babanrao, who might be a Society Member. The Appellant paid Rs.15,320/- in cash on 21.02.2018 against the arrears with statutory charges of reconnection. From the discussions, it seems that this connection was being used by the developer for the common facilities of the building.

10. The Respondent contended that thereafter the supply of the Appellant to Room No. 3 was restored physically by installing a meter at the site. However, this restoration of power supply was not fed in the online billing system in ‘RAPDRP- NC module.’ Therefore, he was not being billed and the system continued to show him as PD. The Appellant enjoyed the power supply and never brought to the notice of the Respondent that he was not getting any bills. During the “Special Drive of PD Consumers” of site checking in October 2019, the Assistant Engineer, Ph.-2 of the Respondent visited this site of the Appellant on 24.10.2019, and it has observed the following discrepancy which was noted in the Remarks Column.

“Remarks: Consumer found unbilled and using electricity. Meter reading is 17217 KWH. Hence issue energy bill for unbilled period as reading 17217 KWH. Consumer was using supply for R. No.3 as well as for water pump and staircase light of building No. 6 (Ground+ 4 Floor).”

This indicates that the meter was on site and the Appellant was enjoying power supply, but remained **unbilled for the period from February 2018 to November 2019 i.e., for 22 months.**


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




The consumption pattern of the Appellant for the period from June 2017 to January 2018 is tabulated as below:

Month	Initial Reading (KWH)	Final Reading (KWH)	Diff.(F.R.-I.R.) Units / month
Jun-17	1174	1414	240
Jul-17	1414	1991	577
Aug-17	1991	2379	388
Sep-17	2379	2683	304
Oct-17	2683	3027	344
Nov-17	3027	3728	701
Dec-17	3728	4399	671
Jan-18	4399	5179	780

This clearly establishes that there was a rising trend of consumption from November 2017 onwards. The Respondent put on record the photo dated 24.04.2018 of meter No. 03159063 showing reading as 008448 kWh. There was another photo of the same meter showing reading as 012283 kWh.

The Respondent carried out spot inspection of the premises on 24.10.2019. The Respondent found the said meter with reading of 17217 kWh. The Respondent prepared a supplementary bill of Rs. 1,20,804.80 for 12038 (17217 – 5179) units for the period February 2018 to November 2019. The consumer was made 'Live' in the system in the month of December 2019 along with supplementary bill. However, the Appellant did not pay the same. Thereafter, there was no consumption on this meter, hence, the meter was temporarily disconnected as per the photo of meter cabin dated 08.02.2020 for outstanding dues of Rs.1,63,640/-. Subsequently, the connection was made PD in July 2021.

11. In view of the above discussion, I am of the opinion that the Appellant has consumed the power supply of 12038 units for the period February 2018 to November 2019. The Appellant has to pay the outstanding dues.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



12. The Forum, by its order dated 03.02.2022 has rejected the grievance and disposed of the grievance application by granting six monthly instalments for payment of revised bill without any Interest and DPC. This order of the Forum is a reasoned and speaking one and hence there is no necessity to interfere in the order of the Forum.

13. The representation is rejected and disposed of accordingly.

14. The secretariat of this office is directed to adjust the amount of Rs.25,000/- by transferring it to the Respondent so as to adjust it in the bill of the Appellant.

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



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

