

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION 17 OF 2020

In the matter of retrospective recovery

Prafulla M. Parmar..... Appellant

V/s.

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

Appearances

For Appellant : Hemant Hatkar, Representative

For Respondent : V.R. Sonawale, Additional Executive Engineer

Coram: Deepak Lad

Date of Order: 27th February 2020

ORDER

This Representation is filed on 10th January 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 23rd December 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum).


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Secretary
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2. The Forum, by its Order dated 23.12.2019 has partly allowed the grievance application in Case No. 20/2019. The operative part of the order is as below: -

“2. The respondent utility hereby directed to recover only arrears from the applicant for the period of 24 months only.”

3. Not satisfied with the order of the Forum, the Appellant has filed this representation stating in brief as below: -

- (i) The Appellant is a L.T. industrial consumer (No.000080590628) having sanctioned load of 65 HP at Gala No. 8, Bldg No.1, Rajashree Industrial Estate, Manpada, Thane.
- (ii) The Respondent carried out spot inspection on 20.02.2018 and debited differential amount of Rs.6,95,026/- in the bill towards 33% less recording of the meter for the period February 2015 to January 2018. The Spot Inspection Report and Meter Reading Instrument (MRI) Report of the meter was not handed over to the Appellant to ascertain correctness of the facts.
- (iii) The Appellant paid the entire supplementary bill in 10 instalments under protest. The Appellant filed the grievance application in the Internal Grievance Redressal Cell (IGRC) on 15.03.2019 to restrict the retrospective recovery only for 24 months as per Section 56 (2) of the Electricity Act, 2003 (the Act) alongwith waival of interest and delayed payment charges (DPC). The IGRC, by its order dated 10.05.2019 has rejected the grievance.
- (iv) The Appellant referred the judgment of the Larger Bench of Bombay High Court dated 12th March 2019 in Writ Petition No. 10764 of 2011 with other Writ Petitions for clarity of Section 56 (2) of the Act.
- (v) The Appellant approached the Forum on 14.06.2019 to resolve the grievance. The Forum, by its Order dated 23.12.2019 has partly allowed the grievance and has restricted recovery for 24 months as per Section 56(2) of the Act without clear direction of waival of interest and DPC. The order of the Forum was not given in time.
- (vi) The Appellant prays that the Respondent be directed :-


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- (i) to refund the excess amount collected alongwith interest towards slowness of the meter (beyond 24 months) as per the order of the Forum based on Section 56(2) of the Act.
- (ii) to waive the interest and Delayed Payment Charges (DPC) in toto.
- (iii) to provide MRI copy of the meter to ascertain correctness of the facts.
- (iv) to pay compensation of Rs.50,000/- towards mental torcher.

4. The Respondent MSEDCL filed reply by its letter dated 15.02.2020 stating in brief as below: -

- (i) The Appellant is a LT consumer (No. 000080590628) from 24.10.1991, having sanctioned load of 65 HP at Gala No. 8, Bldg. No. 1, Rajshree Ind Estate, Manpada, G. B. Road, Thane (W).
- (ii) As per Spot Verification Report dated 20.02.2018 of the Assistant Engineer of the Respondent, it is found that 'Y' phase voltage of meter is missing. Hence, meter is recording low consumption due to non availability of 'Y' phase voltage at the meter terminal. There was a loose connection where it was tapped from the cable. After re-tightening the connection of Y phase at tapping terminal, the voltage was found in order at the meter terminal. After that the testing of the meter was carried out by accucheck and test results of the meter were found in order.
- (iii) The Appellant is underbilled by 33% of the consumption for the period from February 2015 to January 2018 as per the study of Consumer Personal Ledger (CPL). Accordingly, the Appellant is intimated in January 2018 and the supplementary bill of Rs.6,94,259.82 is debited in the bill of March 2018.
- (iv) The Appellant also agreed with the supplementary bill amount and requested to pay in instalments. Accordingly, monthly instalment of Rs.70,000/- was given. The Appellant has paid all the instalments.
- (v) The Appellant informed by his application dated 30.03.2019 that he has paid all the bills in 10 instalments and requested to waive of the interest on arrears. The Appellant has not paid supplementary bill under protest. So there is no valid reason to waive of the interest and DPC.


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- (vi) The Appellant filed the grievance application in the IGRC on 15.03.2019. The IGRC, by its order dated 10.05.2019 has rejected the grievance.
- (vii) The Appellant approached the Forum on 14.06.2019. The Forum, by its Order dated 23.12.2019 has allowed the grievance and directed to recover only arrears from the Appellant for 24 months as per Section 56(2) of the Act.
- (viii) As per order of the Forum, the recovery bill for the period of February 2015 to January 2018 (year wrongly written as 2016) is withdrawn and the revised bill for the period February 2016 to January 2018 is prepared and sent to the competent authority for approval on 05.02.2020. Reduction in bill amounts to Rs.1,86,272.66.
- (ix) Since the Appellant has consumed the energy, he is supposed to pay the bill for the same.
- (x) Considering the above submission, nothing remains to be resolved. Hence, the Representation of the Appellant be disposed of accordingly.

5. During the hearing, the Appellant argued in line with its submission. The Appellant further argued that order of the Forum is ambiguous to the extent that it does not speak about withdrawal of DPC and Interest though impliedly it means that DPC and Interest is withdrawn. Hence, the Appellant prays for grant of unambiguous direction for withdrawal of DPC and Interest. Moreover, the Respondent has not given calculation sheet of the arrears and copy of MRI report. The same may please be directed to be given.

6. The Respondent argued that the Forum has passed the order and the appropriate relief that would accrue is also prepared and submitted to the Competent Authority for approval being an internal process. Even DPC and Interest are not considered in the calculations. As regards MRI data, the same could not be taken out for some technical snag. However, calculation sheet of the arrears to be paid will be given to the Appellant.

Analysis and Ruling

7. Heard the parties. I perused the documents on record. The appropriate relief has already been ordered by the Forum in light of Section 56(2) of the Act. I agree with the argument of


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the Appellant that the Forum's order does not explicitly mention waiver of DPC and Interest. In view of the above, I pass the following order.

- a) DPC and Interest on the amount of arrears, if not waived of, is hereby waived.
- b) The Respondent to hand over calculation sheet to the Appellant within 30 days from the date of this order.
- c) Rest of the prayers of the Appellant are not granted.

8. While parting with the order, I am constrained to pen down that the order of the Forum is signed by two members only. Nothing is mentioned about the third member as to whether he was absent or refused to sign or put up a dissenting note whereas on the opening page of the order, the coram is shown to be consisting of three members. These types of lapses are not expected in the Forum's order.

9. This Representation is hereby disposed of with no order to cost.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

