

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATIONS NO. 175 OF 2022

(Review of the Order in
Representation No. 89 of 2022)

In the matter of excess billing

SRK Real Height Pvt. Ltd..... Applicant

V/s.

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

Appearances:

Applicant : 1. Rajeev Chopra, Director
2. Ramchandra Pandey, Representative

Respondent : Sanjay P. Kolhe, Deputy Executive Engineer, Palghar S/Dn

Coram: Vandana Krishna [IAS (Retd.)]


Date of hearing: 10th January 2023

Date of Order : 18th January 2023

ORDER

This Review Application was filed on 28.11.2022 under Regulation No. 22.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) for review of the Order dated 30th October 2022 in Representation No. 89 of 2022 passed by the Electricity Ombudsman (Mumbai).


2. The Electricity Ombudsman, Mumbai, by its order dated 30.10.2022 has rejected Representation No. 89 of 2022.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



3. The Applicant has filed this review application against the order of the Electricity Ombudsman, Mumbai. The e-hearing was held on 10.01.2023 through Video Conference. Both the parties were heard at length. The Applicant's written submission and arguments in brief are as below:

- (i) The Applicant is a residential consumer (No.003101551473) having sanctioned load of 5 KW for common purpose like lift, staircase, and water pump at Building Complex, at Namo Shivastu City, Palghar (East). The Respondent installed a Meter No. 53124451997 for the said electric connection for one wing of a building in the residential complex on 01.06.2019.
- (ii) The MRI data submitted by the Respondent did not indicate detailed half hourly load survey. The main MRI data of hourly load survey was not given. Hence, cannot be considered for analysis purpose. It is difficult to believe the alleged consumption of 44242 units in four months from 19.10.2019 to 22.02.2020 with average of 11060 units per month.
- (iii) The manufacturer did not analyze the reason of high consumption recording. The Appellate Authority has also ignored the analysis of abnormal consumption for the said period. This is some mistake or error apparent from the face of the record in the order No. 89 of 2022.
- (iv) The residential complex construction was completed in 8 years from 2012 to 2020. There was no high consumption in range of 11060 units per month. Hence, the Respondent misleded the Appellate Authority that "*the Appellant might have used this meter for various construction related activities, and the meter has accurately recorded the consumption.*"
- (v) The abnormal consumption was nothing but misbehavior of the meter and jumping of reading, which might have happened due to abnormal surge, fault, or breakdown. The specific month of jumping of meter reading is not clear as the Respondent failed to give half hourly data of the meter during the disputed period of 19.10.2019 to 22.02.2020.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (vi) In view of the above, there is an error apparent on the face of the record in the said order dated 30.10.2022, and can be corrected while exercising Regulation 22.1 of CGRF & EO Regulations 2020.
- (vii) The supplementary bill needs to be revised as per Commercial Circular No. 133 of 2011 as per connected load, use of electric gadgets and data from MRI report of the specific disputed period. If MRI data is not available due to circumstances, then the bill should be revised on the basis of the other meter (No. 7603745501, Consumer No. 003101551481) which was installed in the same complex for another wing for the same purpose, i.e., for lift, staircase, common lighting, and water pump.
- (viii) The Appellant prays that the Respondent be directed to revise the abnormal bill as per connected load and use of electric gadgets as per provision of Commercial Circular No. 133 of 2011 of the Respondent, and the excess amount paid be refunded.

4. The Respondent filed its written reply on 03.01.2023. Its written submission along with its arguments on 10.01.2023 is stated in brief as below: -

- (a) The Appellant is a residential consumer (No. 003101551473) from 01.06.2019 having sanctioned load of 5 KW for common purpose like lift, staircase, water pump and common lighting at SRK Real Heights Pvt. Ltd., Namu Shivastu City, Palghar (East).
- (b) The Respondent installed a Meter No. 5314451997 of L& T make for the said electric connection for one wing of the said building complex.
- (c) **During the hearing on 22.07.2022 of the Original Representation No. 89 of 2022, the Respondent was directed to send the meter to the manufacturer. Accordingly, the Respondent sent the meter for testing to the manufacturer, M/s. L & T Electrical & Automating on 26.08.2022. As per email dated 22.10.2022, the Manufacturer has sent the Test Report of the meter and conveyed that the meter is found in order.**


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (d) The meter of consumer was tested and found in order. As per the request of the Appellant, Meter tampered MRI data of meter Sr. No 5314451997 is available for the entire period. As per the MRI report there is no abnormality found in the said meter. The detailed MRI data report is kept on record.
- (e) The 44242 units recorded on the meter are consumed by the Appellant for the period of about 9 months from **01.06.2019 to 22.02.2020**. The average consumption comes to 4916 units per month. The Appellant is trying to mislead this period as 4 months from 19.10.2019 to 22.02.2020 in the review application. This issue was already cleared in the last hearing and reflected in the said order also.
- (f) The points raised for review by the Applicant were already on record for perusal while deciding the original Representation. This is not a fit case for Review, as the Applicant has not pointed out any new discovery in the matter. 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 22 of the CGRF & EO Regulations 2020.

Analysis and Ruling

5. Heard both the parties and perused the documents on record. After careful reading of the Review Application, it is seen that the Review Applicant has repeated what it has already brought on record in the original Representation No. 89 of 2022, the order of which is under review. The Review Applicant has not brought out any new issue which it did not know at the time of filing the original Representation.

6. The Respondent contended that the disputed meter was working properly which has been confirmed by the manufacturer. The Appellant / Developer might have used the said connection for various activities on site. The disputed meter (L & T) was installed in series with a check meter (HPL), and it was found that both the meters have recorded the same consumption. This shows that the meter was accurate and working satisfactorily. The meter was sent to M/s. L & T Electrical & Automating on 26.08.2022 as per direction of the Appellate Authority. As per


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



email dated 22.10.2022 of the manufacturer, the recorded 44242 units on the meter are consumed by the Appellant for the period of about 9 months from **01.06.2019 to 22.02.2020**. The average consumption comes to 4916 units per month.

7. The scope of Review under Regulation 22 of the CGRF & EO Regulations 2020 is very limited. The said Regulation is quoted below: -

“22 Review of Order of Electricity Ombudsman

22.1 Any person aggrieved by an order of the Electricity Ombudsman, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the Electricity Ombudsman, under the following circumstances:

(a) Where no appeal has been preferred;

(b) on account of some mistake or error apparent from the face of the record;

(c) 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.


22.2 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.

22.3 The review application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.

22.4 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.

22.5 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. I am of the opinion that all important issues in sum and substance have already been covered in the original order. The review application is nothing but a repetition of the original representation barring a few exceptions. The Applicant is trying to seek an appeal under the guise of review which is not permitted. The scope of review is very limited. The alleged mistake on the face of record in the order need not necessarily be searched through a microscope, it


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



should be clearly visible at first glance. The undersigned has the power to review its ruling to correct a patent error and not a minor mistake of inconsequential import. This principle has been stipulated in many judicial pronouncements of the Constitutional Courts which are quoted below: -

- (a) *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.”

- (b) *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.”

9. In view of the above, I am of the considered view that there is no substance in this Review Application, and it is therefore rejected and disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

