

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 211 OF 2019

In the matter of billing

Shri Gulabchand Udhamchand Bhandari..... Appellant
(Through Dilip Bhandari)

V/s.

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

Appearances

For Appellant : 1. Dilipkumar Bhandari
2. Jayant S. Mutha, Representative

For Respondent : 1. S.B.Shinde, Dy. Ex. Engineer
2. R.M. Pillai, Asstt. Accountant

Coram: Deepak Lad

Date of Order: 24th February 2020

ORDER

This Representation is filed on 28th November 2019 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 22nd October 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL, Nashik Zone (the Forum).

2. The Forum, by its order dated 22.10.2019 has dismissed the grievance application in Case No.11 of 2019-20.

(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai



3. Being aggrieved by the order of the Forum, the Appellant has filed this representation stating in brief as follows: -

- (i) The Appellant is a LT Commercial Consumer (No.077510000091) at Saraf Bazar, Tal. Manmad, Dist. Nashik from 01.01.1961.
- (ii) The Appellant is having his business as well as residence at one place with consumption of electricity within 300 units per month and 3600 units annually. Hence, as per Commercial Circular No. 207 dated 02.09.2013 of the Respondent, the Appellant is eligible for residential tariff as majority load is residential. The Appellant had requested the Respondent on 18.03.2016 (acknowledged on 29.03.2016) that its use being residential despite the supply being from commercial connection, it should be charged residential tariff as consumption is below 300 units.
- (iii) The Appellant also states that the bills are being issued on average basis without reading the meter for past several months. The Appellant requested the Respondent to issue the bills as per the actual reading of the meter but there was no response. Finally, the Respondent issued an accumulated bill of Rs.47790/- for 4927 units in February 2019. The Respondent issued the disconnection notice in April 2019 for non-payment of bill.
- (iv) The Appellant filed his grievance with the Forum on 26.04.2019 towards illegal disconnection notice and to revise the exorbitant bill.
- (v) In the meantime, after application of grievance with the Forum, the Respondent has added the arrears of Rs.21410/- of permanently disconnected residential connection (No. 077510036274) of Shri Kachardas Gulabchand Bhandari to the Appellant's account. The Forum by its order dated 22.10.2019 has dismissed his grievance.
- (vi) The Appellant does not agree with the findings of the Forum. The issue wise contentions of the Appellant are summarized below: -
 - (a) As per the letter dated 24.04.2019 of the Respondent, the bill is for the recovery of past 34 months. As per Section 56 (2) of the Electricity Act, 2003 (the Act), unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied, the licensee cannot recover the bill prior to 24 months.



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Secretary

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- (b) The Forum contention of time barred case based on his application dated 18.03.2016 is misconceived.
- (c) It is the duty of the licensee to reclassify / recategorize the consumers as per tariff orders.
- (vii) The Appellant prays that: -
- The bill of February 2019 be revised as per Section 56 (2) of the Act without any interest and DPC. Suitable instalments be provided.
 - Appropriate tariff be applied.
 - The arrears of Shri Kachardas Bhandari be cancelled from the Appellant's account.
 - To compensate for not issuing bills as per readings under SOP Regulations.
4. The Respondent filed its reply by letter dated 24.12.2019 stating in brief as under: -
- The Appellant is a LT Commercial Consumer (No.077510000091) from 01.01.1961 at Saraf Bazar, Tal. Manmad, Dist. Nashik for the purpose of jewellery shop. Shri Dilip Kachardas Bhandari has filed this grievance as the connection is in the name of his grandfather i.e. late Gulabchand Udhamchand Bhandari.
 - The Appellant does not allow the meter reader to take the reading of the meter which is inside his premises. He always obstacles the staff of the Respondent in discharge of their official duties. Hence, the Appellant was billed on average basis since last 33 months.
 - The Respondent Dy. Ex. Engineer along with his staff personally visited the site on 12.02.2019, however, the Appellant did not permit to enter the premises for about one hour. Thereafter, the reading of the meter (No. 31602950) was taken and the reading was found to be 13475 units in the presence of the Appellant. Accordingly, the Appellant was billed for 4927 (13475-8548) units for an amount of Rs.47720/- for the period from May 2016 to February 2019.
 - The Respondent, by its letter dated 24.04.2019 has requested for shifting of the meter from inside his shop to outside so that the meter will be accessible for the reading.


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- (v) In the month of June 2019, the Appellant further did not allow to take the meter readings.
- (vi) The Appellant is in arrears as the Appellant did not pay the bill regularly.
- (vii) Late Shri Gulabchand Udhamchand Bhandari is the grandfather of the occupier Shri Dilip Kachardas Bhandari.
- (viii) In his residence, there was a residential connection (No.077510036274) in the name of Kachardas Gulabchand Bhandari. This connection was in arrears of Rs.21410/- and hence it was permanently disconnected in March 2016. The Respondent issued letter requesting to pay the said arrears, however, he did not pay the same. On the contrary, he has extended electric supply to his residence from existing commercial connection unauthorizedly.
- (ix) The arrears of the residential connection were transferred on the Appellant's commercial connection being the occupier and legal heir. Hence, it does not come into the purview of use of residential connection for commercial use and thereby getting the benefits to be charged at residential tariff, if the consumption per month is within 300 units as claimed by the Appellant.
- (x) Arrears due to the Appellant on account of commercial connection which is still being continued are to the tune of Rs.64640/- as at the end of December 2019.
- (xi) The Respondent prays for rejection of the representation.

5. Heard both the parties on 21.01.2020 and perused the documents on record. Both the parties argued in line with their written submissions. The Appellant argued that the premises was initially having two meters, one Commercial and the other one Residential. This was as per the requirement felt at that point of time. Over a period of time, the residential connection got disconnected and the Appellant continued to draw supply from Commercial connection. This was possible due to integration of the premises. The Appellant further argued that the bill received by him be charged at residential tariff as the consumption was / is within 300 units. The Respondent issued bills on average basis since last about three years.


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6. The Respondent argued it is an admitted position that the Appellant was using power from Commercial connection in absence of Residential connection which was disconnected for payment of arrears. The premises which was in arrears and with its proper meter in disconnected position, was supplied power from other live connection which happens to be Commercial connection. The Respondent therefore took a lenient view not to initiate any action as the Appellant was paying at a Commercial tariff for residential purpose. The Respondent further argued that the allegation of the Appellant that it served average bills for almost 33 months is totally wrong and misplaced. The Appellant never allowed access to the meter for the meter readers to take the readings. Therefore, there is no propriety for examining the case under Section 56 (2) of the Act.

Analysis and Ruling

7. In view of the submissions, arguments and records available, I have made following observations: -

- (i) The premise was having two meters. One being commercial and the other residential. Due to internal disputes, residential connection was disconnected for non-payment of electricity bills.
- (ii) In absence of power for residential use, connection being disconnected, the occupier continued to draw power from live commercial meter. This was possible due to integrated configuration of the premises.
- (iii) The occupiers, themselves are not interested in having their position secured on the right side of the law as they did not allow the meter reader to take the reading and discharge other official obligations in connection with power supply for the reasons best known to them.
- (iv) The Respondent has fallen prey to the tantrums of the Appellant as it has not lodged any complaint with the police in obstruction of their official duties by the Appellant. The Respondent even did not serve the notice for making the premises available for taking the reading, etc. under Section 163 of the Electricity Act, 2003 (the Act).
- (v) Both the Appellant and the Respondent are not performing their respective roles as envisaged under the Act and the Regulations thereunder.
- (vi) The conduct of the Appellant defies the maxim “*Who he seeks equity, must do equity*”.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



8. It is a fact that the Appellant was using power from independent commercial connection available in the same premises for their residential purpose as the residential connection was disconnected for non-payment of arrears. Action of the Respondent in transferring the arrears on the residential connection to the commercial connection is just and fair in view of the physical set up of the entire premises. Further, the argument of the Appellant that power supplied by Commercial connection for the residential purpose be charged at the Residential tariff, the consumption being below 300 units is not tenable as per the tariff order. On the contrary, it is other way round that if a Residential connection used for some commercial purpose and the consumption is below 300 units, then the tariff order allows the connection to be billed at Residential tariff. Therefore, this prayer of the Appellant cannot be accepted.

9. In order to resolve the issues, it was directed during the hearing that the meter be taken out of the premises so that the readings could be easily taken. However, it was informed subsequently by the Respondent over the phone that the Appellant very much resisted and did not cooperate when they visited the spot for removal of the meter outside the premises. This is proved by the say of the Appellant written on the letter of the Respondent bearing No.142 dated 13.02.2020 which is sent to the Respondent. It is important to record here that it is the prerogative of the Respondent licensee to fix the meter at the appropriate place.

10. Due to this adamant and non-cooperative attitude of the Appellant, the bill has been served for accumulated consumption for which the Respondent is not at all responsible. Therefore, examining the case under Section 56 (2) of the Act does not arise.

11. In view of the above, I pass the following order: -

- (a) Respondent to serve notice under Section 163 of the Act to the Appellant to take the reading. If the readings thus become available, then each month bill be calculated on average basis dividing the total consumption by total months. Slab benefits for each month shall be given for each month during the entire period of accumulation.
- (b) If the Appellant does not cooperate in taking the reading, appropriate police complaint be filed against the Appellant.



(Dilip Dumbre)
Secretary

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- (c) The Appellant is allowed to pay the amount due in six monthly instalments along with the current bill without DPC and interest.
- (d) Meter may be taken out of the premises for convenience of the meter reading.
- (e) The Appellant may apply for fresh Residential connection.

12. The representation is disposed of accordingly.

13. The secretariat of this office is directed to refund the amount of Rs.25000/- to the Appellant immediately.

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



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

