

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 7 OF 2022

(REVIEW OF THE ORDER IN
REPRESENTATION NO. 94 OF 2021)

In the matter of damage to electrical gadgets due to voltage fluctuations
and grant of compensation

Geeta V. Sodha Review Applicant

V/s.

Adani Electricity Mumbai Ltd. (AEML)..... Respondent

Appearances: -

Applicant : Jayesh Sodha, Representative

Respondent : 1. Mritunjay Jha, Dy. General Manager and Nodal Officer
2. Shrikant Pathak, Asst. Vice President
3. Sandesh Mane, Asst. Vice President
4. Suresh Patil, General Manager

Coram: Deepak Lad

Date of hearing: 27th February 2022

Date of Order : 11th March 2022

ORDER

This Review Application is filed on 11th February 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 3rd February 2022 in Representation No. 94 of 2021 passed by the Electricity Ombudsman (Mumbai).


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2. The Electricity Ombudsman, Mumbai, by its order dated 03.02.2022 has rejected the Representation No.94 of 2021.

3. Aggrieved by the order, the Applicant has filed this Review Application by email dated 11.02.2022 which in brief is as under: -

- (i) 90% of the facts and technical aspects of this case are now on record by way of proceedings held at Internal Grievance Redressal Cell (IGRC), the Forum, and the order of the Electricity Ombudsman (Mumbai) which is under review. However, 10% facts are still not on paper if this matter is to be pushed before the appropriate Court of Law. For example, the Electricity Ombudsman had observed during the hearing that ERP record of the Respondent is misrepresenting the fact that power-cut of Applicant was during midnight hours whereas internal ERP of the Respondent has been punched at morning hours. This is clear manipulation of facts in the case.
- (ii) In the order, it was observed that the case is time barred in view of the Regulation 6.6 of CGRF Regulations 2006. The Applicant stated that delayed / time-barred in the Forum cannot be the ground of rejection of justice before the Electricity Ombudsman as Respondent had never reverted to the queries & plea of the Applicant, and that such delays are not binding to this authority as per the Electricity Act, 2003 (the Act).
- (iii) In the order, it was observed that the 'Schedule B' submitted with the Representation was signed by the Representative, and not by the registered consumer. The Applicant's signature issue is badly argued for the rejection of this case. Such clerical error, if any, should not become one of the hurdles in the justice as the undersigned had personally visited the office of the Electricity Ombudsman for signing. No objection has been raised by the said office at the time of filing the Representation.
- (iv) It is felt that the Electricity Ombudsman might have heard this case either by putting a blindfold on its eyes of not seeing the 'powerful' corporate lobby of AEML V/s poor common man or the Chair of Judge should keep both eyes open in getting the facts and answers right.


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- (v) However, it is felt that the Respondent's point-of-view was seriously heard and considered while poor Applicant's point of view was either not seriously heard or not recorded.
- (vi) Why be the losses of gadgets made to borne by poor Applicant for no mistake of his? Interestingly, the Judge has noticed and clearly mentioned that there is a negligence by the Respondent in delayed service of over 3 months against 4 days but not willing to take any action.
- (vii) On records, there has been paradox statements by legal representatives of Respondent, for instance, in IGRC and Forum they have no objection (deem acceptance) about 'Temporary Connection' been exclusively given to said Residential Consumer No.151356328 (amongst entire building meter room). Whereas before the Ombudsman, the Respondent argues that it was 'not temporary connection' for over 3 months. Such bad statements have been disrupting the Justice in this case and needs attention during the proposed repetition hearing 'On Record' by the Electricity Ombudsman as well as High Court /Supreme Court if this gets escalated.
- (viii) Further, before the IGRC and the Forum, the Respondent had accepted the fact that the damaged gadget was inspected by their officer, but in reply of the Representation, the Respondent has taken sudden U-turn that and stated that, no such inspection was done. Such bad fact manipulations are causing injustice.
- (ix) The Respondent has accepted the fact that it was an unprecedented delay in fixing the 'Temporary Connection' for over 3 months and they have no answer to the 'why' as asked by the Electricity Ombudsman during the previous hearing. Thus, the principle of accountability is applicable in Law and that common man cannot be made to bow before the power of corporate and influence the judges and the judgement against justice.
- (x) The order dated 03.02.2022 passed by the Hon'ble Electricity Ombudsman (Mumbai) is unacceptable and have stated the defects in brief as below:
- a) A Judge is expected to be sensible and analytical to correctly get the facts and have empathy for the complainant, a common man fighting for justice. Rather, past 3 years,


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the Applicant is burning and fail to understand why she is to bear the loss for Respondent's bad services?

b) Fact of Incident: First 'no power supply' complaint by the Applicant (Consumer No. 151356328) at Flat no. 402, Girnar Co-op. Hsg. Soc. Ltd., S. V. Road, Malad West, Mumbai was made during midnight on 07.06.2019 followed by few power fluctuations resulting in damages to the home gadgets like television, air conditioner, refrigerator and washing machine. All with similar problem of PCB of these gadgets were adversely affected.

c) 'Temporary Connection' as stated in the official record of the Respondent was given since first 'no power supply' on 07.06.2019 for over 3 months without a valid reason while 'Inspection' of damages was observed and attended by an officer of Respondent to the damaged gadgets.

d) The judge should have applied his mind to question and answer whether so many gadgets getting damaged was just a co-incident or consequence of an event due to power fluctuations and sudden power-cut exclusively in only one meter of Applicant amongst all other regular meters in the Society's Meter room.

e) The Judge is aware of the inappropriate punching of records in the ERP system of Respondent (as exposed during argument) wherein crucial time of complaint is wrongly recorded in morning hours instead of actual mid-night power-cut on 07.06.2019 but has no mention of the same in his order dated 03.02.2022.

f) The Judge has blindly accepted the argument by the lawyer of Respondent who claims that 'No Inspection' of damage of gadgets has happened. However, this point of inspection been done by the officer of the Respondent is on record in IGRC as well in Forum and that Respondent had not denied it then.

g) 'No Justice' for clerical error of some missing signature by Applicant in some form is unacceptable. No objection was raised during filing the case.

h) The Forum was ok with two years delay in Forum process as argued by Respondent. The fact is that post IGRC, Applicant was insisting to jointly let Consumer Court hear such non-billing matter, which the Respondent had avoided with no reply, rather insisted to approach the Forum for its comfort.


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i) Undersigned complainant objects to the 'Analysis and Ruling' in Point 8 of Order dated 03.02.2022 in Representation 94 of 2021 to answer Point-by-Point as follows:

Para 8(a) of the order under Review: 'Temporary Connection' word is not coined by Applicant but is official from internal record of the Respondent themselves addressed during follow-up of repeated 'no power supply' and power fluctuation issues during the disputed period.

Para 8(b) of the order under Review: Order states "strongly denied by Respondent" that AEML officer inspected the damaged gadget - This is already on record in IGR and CGR and now upon oral argument by the lawyer is getting acceptable is a real poor justice with prejudice attitude.

Para 8(c) of the order under Review: It's silly to write at such advance level of hearing happening post IGR & CGR to state "main issue (damages suffered) which is conspicuously absent in the entire adjudication process" - By common sense, the whole issue revolves around the damages suffered by the Applicant and labelling it as non-issue is shocking. Further, inspection been done and tons of email & telephonic complains made are sufficient proof of submission.

Para 8(d) of the order under Review: Ref. silence on technical question on protection system at premises - Know that Applicant is a common consumer of electricity services and not technician to answer on tech-systems.

The Judge is enough to observe the weakness of lack of tech.-knowledge of Applicant but do not observe the deficiency in delayed services over 3 months against normal 4 days correction in the entire order, nor the Judge is bothered to take on record that ERP system of Adani Electricity is indicating false data of crucial time of the disputed event of 'no power supply' on 07.06.2019.

Para 8(e) of the order under Review: Adequate data on emails and other records have been addressed to state the valid reason for the delay in CGR process and that Respondent-AEML's diplomatic no reply to plea for Consumer Court is no ground to deny justice to Applicant. Rather, AEML is to be blamed for no reply to the consumer's legal query.


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Para 8(f) of the order under Review: Provision vide EO Regulation 2006 admits "to pay such amount as may be awarded by it as compensation to the consumer for any loss or damage suffered by the consumer" in fact, the Applicant was kind enough to give an option to directly REPLACE the damaged gadgets as his loss is actual for which he is forced to suffer for negligent service by Respondent-AEML. Thus, Applicant is clean of not laying any conspiracy in the name of damages

Para 8(g) of the order under Review: Legal query by Applicant with plea to address this matter post IGR to Consumer Court was not intentionally answered by Respondent-AEML for over 2 years and so, blaming Applicant for this delay is bad in law

Para 8(h) of the order under Review: Missing signature in authorization letter is a clerical matter and can be rectified at any point, BUT it cannot be a cause of denying justice.

The Applicant prays that the present Review Application be allowed as per Regulation 22 of CGRF & EO Regulations 2020 and accepted in the interest of justice, The impugned order be set aside, and prayers made in the Representation for billing month September 2020 which is under review be allowed/granted along with compensation of Rs. 25000/- towards mental agony, travelling, manpower lost for follow up.

4. The Respondent vide its letter dated 21.02.2022 has submitted its reply which is stated in brief as below: -

- (i) As per the provisions of Regulation 22 of the CGRF & EO Regulations 2020, application for review can be filed only upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the applicant 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. The review application filed by the Applicant does not disclose discovery of any such new or important matter or any mistake or error apparent from the face of the record.
- (ii) The principal issue raised by the Applicant in her representation was inter-alia related to replacement of alleged damaged TV, AC, Washing Machine, Refrigerator or seeking


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compensation of Rs. 125000/-. It is further alleged by the Applicant that, there is negligence of over three months with regards to 'Temporary Connection' causing gadget loss due to power fluctuation. This Hon'ble Authority has decided the representation in substance by completely dealing with the issue and recorded reasons as provided under regulation 20. 3 of the CGRF & EO Regulations 2020 in the interest of justice and ensured transparency while exercising its power.

- (iii) The Respondent submits that the present review application is nothing but repetition of arguments which have already been considered by this Hon'ble Ombudsman in the proceedings. All issues raised by the Applicant in the present review application have already been replied and orally argued by the parties before this Hon'ble Ombudsman during the hearing of the representation.
- (iv) The various allegations levelled by the Applicant are unfounded, unwarranted in review application. The Respondent has represented the entire facts in its reply dated 18.01.2022 while deciding Representation No. 94 of 2021. There is no misrepresentation as alleged by the Applicant. The same is not repeated here for the sake of brevity.
- (v) Therefore, the contention of the Applicant does not sustain either in law and or on facts. The issues raised in the review are not tenable, since a review is by no means an appeal in disguise whereby a decision is to be re-heard and corrected but lies only for patent error.
- (vi) The Respondent referred and relied upon the Judgments passed by Hon'ble Supreme Court in Review Petition (CRL.) No. 453 of 2012 in Writ Petition (CRL.) 135 of 2008, in Case of Kamlesh Verma Vs Mayawati & Ors, in which it is observed 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.” Emphasis added

The Respondent also referred and relied upon the judgment passed by the Hon'ble Supreme Court in Case of Jain Studios Ltd. vs. Shin Satellite Public Co. Ltd., (2006) 5 SCC 501, the Hon'ble Supreme Court held as under: -


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*“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.” (Emphasis added)*

- (vii) There is no mistake that could constitute a legally valid ground for filing the present review application. The review application is not tenable under law and liable to be rejected by this Hon’ble Authority.
- (viii) In view of the above-mentioned facts, the Respondent prayed that the review application be dismissed with exemplary cost in the interest of justice.

5. Physical Hearing was held on 28.02.2022 by following Covid-19 epidemic safety norms. The representative of the Applicant argued that this grievance redressal mechanism has limited powers to award compensation for negligence of the Respondent, and so she had intended to file this grievance before the District Consumer Forum for the same and had been asking the Respondent to provide a letter to settle this matter before the District Consumer Forum, but the Respondent diplomatically avoided to issue such letter. The Appellant further argued that only her electric connection, out of about 28 meters of the premises, had power fluctuations. There was no power supply on the midnight of 07.06.2019 at her home. Hence, a complaint was lodged which was resolved immediately by giving temporary connection. This connection arrangement continued for about 3 months. The power fluctuation was observed which had resulted damages to gadgets. The Appellant further stated that there was no power supply on 22.08.2019 and was attended subsequently. Only in September 2019 the electric connection was normalized. The Appellant further argued that numerous emails, letters, and phone calls were made between the period from June to September 2019 on power fluctuation issues. However, no prompt action was taken by Respondent. She also stated that Mr. Patil, officer of the Respondent had inspected the damaged gadgets at her premises. The Appellant further state that


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- The wrong data punched in ERP system of crucial 'No Power' on 7.6.2019 midnight being mis-mentioned at morning 8 a.m. hrs.
- 'Temporary Connection' was only given to the Review Applicant in the entire building and that too for more than 3 months against 4 days.
- 'Temporary Connection' is officially on record as informed by the Customer Care during complain but Respondent's lawyer argues in writing that no such connection was given. It is a misrepresentation of facts.
- Due to negligence in service for more than 3 months, repeated power fluctuations were observed, and complaint was made. Consequently, home gadgets got damaged with PCB burn issue which cannot be coincidence.
- Inspection done by Mr. Patil of Respondent is duly recorded and unobjected in IGRC and the Forum but sudden U-turn by the Respondent's lawyer before the Hon'ble Electricity Ombudsman that such inspection never happened shows its bad misrepresentation of facts.

The Applicant approached the Respondent in time to solve her grievance, however, the Respondent has delayed for attending her grievance. The Applicant requested the Respondent to jointly go to the Consumer Court, instead of 3-tier grievance redressal mechanism established by the Commission. However, the Respondent did not reciprocate diplomatically. Hence, time barred is not correct as per Regulation.

By law of Management principle: Rights (Bill pay) comes with Responsibility (for services) and Accountability (For losses). Why should the Respondent not be accountable towards clear evidence of negligence and delay services to Appellant? Why submission of over-smart Lawyer being seriously accepted who is not a witness to ground reality? This is nothing but misrepresentation. Statement like 'no temporary connection given' and 'no inspection done on loss of gadgets' has been taken seriously in the impugned order.

The Applicant prays for seeking replacement of damaged TV, A.C., Refrigerator, Washing Machine or Compensation of Rs.1,25,000/- as deem fit against the negligence of the Respondent.

6. The Respondent reiterated its written reply dated 24.02.2022. The points raised for review by the Applicant were already on record for perusal while deciding the original Representation. This is not the 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


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review is not maintainable considering the provision of Regulation 22 of the CGRF & EO Regulations 2020.

Post hearing, the Respondent stated that the representative (Mritunjay Jha) of the Respondent is law Graduate and is not advocate as defined in Advocate Act.

Analysis and Ruling

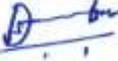
7. Heard both the parties and perused the documents on record. At the outset, it is important to take note of the fact that the email dated 11.02.2022 vide which the Review Applicant submitted by her is also copied to the Hon'ble Supreme Court of India, the Hon'ble Chief Minister of Maharashtra, the Hon'ble Maharashtra Electricity Regulatory Commission, Chief Executive Officer of the Respondent, and the Forum. The Applicant request to take this case for Review in the interest of Justice. Further, while perusing the submission of the Review Applicant in IGRC, then in the Forum, and finally the Representation and Review Application with the undersigned, it is felt that there is no homogeneousness / consistency in stipulations of the Review Applicant.

8. Similarly, the Applicant sent email dated 13.02.2022 which is addressed to the Hon'ble Supreme Court of India, the Hon'ble Chief Minister of Maharashtra, the Hon'ble Maharashtra Electricity Regulatory Commission, and copy to the Electricity Ombudsman, Mumbai, and Chief Executive Officer of the Respondent.

9. During hearing, the Applicant pointed out that the Respondent is being represented by a lawyer. Hence the following issues were clarified with the Respondent verbally.

- (a) Whether Mr. Mritunjay Jha is legal consultant of AEML or regular employee of AEML?
- (b) Whether he is practising advocate with valid registration from the competent authority?

The Respondent submitted that he is not a legal consultant of the Respondent, AEML. He is a regular employee with designation of Dy. Manager (Legal) and also Nodal Officer for grievance redressal mechanism and drawing a monthly salary. He is not a practising advocate and does not hold valid registration from the competent authority to practice in court of law.


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On this submission, I referred to some of the important provisions of the Advocate Act 1961 which are as follows: -

Section 2:

- (a) “advocate” means an advocate entered in any roll under the provisions of this Act;
- (k) “roll” means a roll of advocates prepared and maintained under this Act;
- (n) “State roll” means a roll of advocates prepared and maintained by a State Bar Council under Section 17.

Section 6:

Functions of State Bar Councils: (1) The functions of a State Bar Council shall be (a) to admit persons as advocates on its roll

Section 22:

Certificate of enrolment. — (1) There shall be issued a certificate of enrolment in the prescribed form by the State Bar Council to every person whose name is entered in the roll of advocates maintained by it under this Act.

Section 29. Advocates to be the only recognised class of persons entitled to practise law.—Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one class of persons entitled to practise the profession of law, namely, advocates.

Section 30. Right of advocates to practise.—Subject to provisions of this Act, every advocate whose name is entered in the 1[State roll] shall be entitled as of right to practise throughout the territories to which this Act extends,— (i) in all courts including the Supreme Court; (ii) before any tribunal or person legally authorised to take evidence; and (iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practise.

In view of the above provisions of the Advocate Act 1961 and explanation submitted by the Respondent, the primary objection of the Review Applicant does not sustain.

10. 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. 94 of 2021, order of which is under review. The Review Applicant has not brought out any new issue which she was not knowing at the time of filing the original Representation. The Review Applicant has tried to emphasize the wrong recording of the No Power Complaint in the ERP System assuming that what


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the Review Applicant trying to put on record, the time of occurrence and the time recorded by the Respondent are different, it has no bearing on the outcome of the order.

11. I failed to understand as to why the learned Representative of the Review Applicant is ignoring the fact that there exists no regulatory provision which empowers the adjudicating authority, the undersigned, to grant compensation for indirect, consequential, incidental loss of the Review Applicant. In this case, the damages to home appliances. Even the Review Applicant is aware that it is a fact and for such damages, it is to approach the District Consumer Dispute Redressal Forum. All these issues have been recorded in the order dated 03.02.2022 in Representation No. 94 of 2021.

12. Scope of Review under the 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.”


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This apart, another important fact is that the Review Applicant approached the Forum after two years from the cause of action. The erstwhile Regulation 6.6 of CGRF & EO Regulations 2006, and now Regulation 7.8 of CGRF & EO Regulations 2020 is quoted below: -

“The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”

This issue has already been discussed at the Forum as well as in the order dated 03.02.2022 in Representation 94 of 2021. The Applicant approached the IGRC on 25.11.2019 on the grievance of June 2019 where the cause of action has arisen. The IGRC has passed its order on 14.01.2020. Thereafter, the Applicant approached the Forum on 30.09.2021 and the Forum has issued its order on 01.12.2021. It is mandatory that the Applicant should approach the Forum within two (2) years from the date on which the cause of action has arisen. This Regulation is appropriately evaluated in W.P. No. 6859, 6860, 6861 and 6862 of 2017 decided on 21.08.2018 by the Hon. Bombay High Court, Bench at Aurangabad which is very much relevant to the instant Representation. The relevant portion of the Judgment is quoted below:-

“37. As such, owing to these distinguishing features in the Electricity Act r/w the Regulations and from the facts before the Hon'ble Supreme Court in the S.S. Rathore case (supra), it becomes necessary to reconcile Regulation 6.2 and 6.4 with 6.6 and 6.7. The Law of interpretations mandates that the interpretation of the provisions of the statutes should be such that while appreciating one provision, the meaning lend to the said provision should not render any other provision nugatory. In short, while dealing with such provisions, the interpretation should lead to a harmonious meaning in order to avoid violence to any particular provision. Needless to state, if it is inevitable, a Court may strike down a Regulation or a Rule as being inconsistent/incompatible to the Statutes. In no circumstances, the rules or the regulations would override the statutory provisions of an enactment which is a piece of parliamentary legislation.

38. While considering the Law of Interpretation of Statutes, the Apex Court has concluded in the matter of Progressive Education Society and another Vs. Rajendra and another [(2008) 3 SCC 310] that while embarking upon the exercise of interpretation of statutes, aids like rules framed under the Statute have to be considered. However, there must be a harmonious construction while interpreting the statute alongwith the rules. While concluding the effect of the rules on the statute, the Hon'ble Apex Court observed in paragraph No.17 that the rules cannot override the provisions of the Act.

39. In the matter of Security Association of India and another Vs. Union of India and others, the Hon'ble Apex Court held that it is a well established principle that there is a presumption towards


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the constitutionality of a statute and the Courts should proceed to construe a statute with a view to uphold its constitutionality. Several attempts should be made to reconcile a conflict between the two statutes by harmonious constructions of the provisions contained in the conflicting statutes.

42. I have concluded on the basis of the specific facts of these cases that once the FAC Bill is raised by the Company and the said amount has to be deposited by the consumer to avoid disconnection of the electricity supply, the consumer cannot pretend that he was not aware of the cause of action. As such and in order to ensure that Section 42(5) r/w Regulation 6.2, 6.4, 6.6 and 6.7 coexist harmoniously, I am of the view that the consumer has to approach the Cell with promptitude and within the period of 2 years so as to ensure a quick decision on his representation. After two months of the pendency of such representation, the consumer should promptly approach the Forum before the expiry of two years from the date of the cause of action.

43. If I accept the contention of the Consumer that the Cell can be approached anytime beyond 2 years or 5/10 years, it means that Regulation 6.4 will render Regulation 6.6 and Section 45(5) ineffective. By holding that the litigation journey must reach Stage 3 (Forum) within 2 years, would render a harmonious interpretation. This would avoid a conclusion that Regulation 6.4 is inconsistent with Regulation 6.6 and both these provisions can therefore coexist harmoniously.

44. Having come to the above conclusions, I find in the first petition that the FAC Bills for December 2013, February and May 2014, are subject matter of representation of the consumer filed before the Cell on 08/08/2016. In the second petition, the FAC Billing from June to November 2012 are subject matter of the representation dated 27/08/2016. In the third petition, the FAC Bills from January to March 2010 are subject matter of the representation to the Cell, dated 26/06/2016. In the last matter, the representation before the Cell for the second electricity connection is dated 08/08/2016 with reference to the FAC Bills of December 2013, February and May 2014.

45. As such, all these representations to the Cell were beyond the period of two years. The impugned orders, therefore, are unsustainable as the Forum could not have entertained the said grievances under Regulation 6.6 and 6.7 after two years from the date of the consumer's grievance.

46. As such, all these petitions are allowed. The impugned orders of the Forum are quashed and set aside. The grievance cases filed by the Consumer are rejected for being beyond the limitation period.”

Therefore, order dated 03.02.2022 in Representation No. 94 of 2021 has been appropriately decided by the undersigned, both on merit and limitation.

13. I am, of the opinion that all important issues in sum and substance, has been covered in the original order. The review application is nothing but repetition of the original representation barring few exceptions. The Applicant is trying to seek appeal under the guise of review which is


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not permitted. The scope of the review is very limited. The mistake on the face of record in the order need not necessarily be searched through a microscope, it should be clearly visible at the first glance. The undersigned has 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.”

14. As set out in the opening paragraph of the Analysis and Ruling, the action on the part of the Review Applicant in sending emails to the Hon’ble Supreme Court of India, the Hon’ble Chief Minister of Maharashtra, the Hon’ble Maharashtra Electricity Regulatory Commission is not appropriate, particularly, when the order has been issued and the Review Applicant has intended to file this Review Application. This amounts to influencing the adjudicating authority, the undersigned and further tantamount undue interference in the administration of justice. Moreover, the language used in the Review Application is not appropriate and to some extent is derogatory in nature, and casting aspirations on the adjudicating authority. I failed to understand the propriety in dealing the issue in such a fashion tone and toner of which is uncalled for. It does not augur well for the learned representative of the Applicant.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



15. This is a fit case for awarding cost on the Review Applicant, however, I intend to go soft on the Review Applicant and for the very reason, not awarding any cost.

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

Sd/
(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

