



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

Representation No. 1 of 2005
Order dated 20th April 2005

Sou. Rekha Sayaji Patil,
Plot No. 27, Tulshiram Nagar,
61/1, Devpur, Dhule-424 402.....
Versus

Appellant

Maharashtra State Electricity Board,
Dhule Circle, Dhule.....

Respondents

Present:

1. Shri W. G. Gorde, Ombudsman
2. Shri S.N. Yadwad, Secretary

On behalf of the Appellant

1. Sou. Rekha Sayaji Patil

Through her authorized representative Shri Sayaji Tanhaji Patil

On behalf of the Respondent

1. Shri S.U. Mohalkar, Ex. Engr., MSEB, Dhule
2. Shri S.D. Joshi, Asst. Engr, MSEB, Dhule
3. Shri R.C.Chitudkar, Sub Engr, MSEB, Tulshiram Nagar

01 Appellant Mrs. Rekha Sayaji Patil, resident of 27 Tulshiram Nagar, Devpur, Dhule is a low tension domestic consumer of the licensee, Maharashtra State Electricity Board (hereafter called as Appellant and Respondent respectively). The Appellant has submitted the representation dated 15 January 2005 to this office in respect of their grievance against the order passed by the Consumer Grievance Redressal Forum Nashik. The order of the Forum is dated 5th January, 2005. The Appellant stated his case as under:

02 The Appellant is a consumer of L.T. power supply (residential category). The Respondent had installed electromagnetic meter to measure quantity of electricity supplied to the Appellant's premises. Appellant had informed to the Respondent in June 1993 that their meter is not in order and requested for checking up of the said meter. It is alleged that the Respondent did not take any notice of the request and the defective meter was not changed/repared. In the meantime, the Respondent kept on sending the energy bills to the Appellant based on the so-called average billing basis. The Appellant made payments against

these bills from time to time. The Appellant further submits that the amount of bill on average consumption was approximately for 150 units on two monthly basis. The Appellant during the month of June 1998 received a bill for consumption of 400 units and therefore wrote a letter in July 1998 to the Respondent to look into the matter. This was, again followed up by a separate letter written to the Respondent in August, 1998. The Respondent did not take any action on the requests made by the Appellant. The meter was neither repaired nor replaced. Instead, bills on average basis were continued to be sent to the Respondent on faulty meter / status basis.

03 The Respondent removed the said defective electromagnetic meter on 7th of January, 2002 and installed a new electronic meter in the premises of the Appellant. The Appellant paid Rs. One thousand towards the deposit for the electronic meter. The Appellant thereafter received bills based on the readings recorded in the electronic meter. The Appellant did not raise any dispute in respect of the bills so received until August 2003. The Appellant vide his letter dated 25th August 2003, addressed to the Chief Engineer's office of the Respondent informed that the electronic meter runs fast as compared to the electromagnetic disc type meter and therefore bills of inflated amount were being sent to him and demanded to replace electronic meter by disc type meter and refund Rs. One thousand paid as deposit. The Appellant states that the consumer has a right to choose a meter in accordance with law. The Respondent allegedly did not replace the electronic meter by a disc type electromagnetic meter and therefore the Appellant approached Consumer Grievance Redressal Forum, Nashik through his letter dated 27.8.04. The Appellant filed his written submission during the hearing in October 2004. The Appellant requested the Forum to direct the Respondent for replacing the electronic meter by disc type meter and refund the amount of deposit taken by the Respondent for electronic meter. The Appellant also requested for refund excess amount of the bills raised and paid and sought an award of compensation for suffering due to Respondent's negligence.

04 The Consumer Grievance Redressal Forum, Nashik heard the matter and disposed it off by an order on 5th January, 2005. The Forum declined to order the Respondent for refund the deposit. However, the Respondent was directed to investigate the case of delay of over 8 years in installation of new meter and take action against the responsible persons for the delay. The Forum did not grant any relief to the Appellant in terms of compensation, refund, etc.

The Appellant being aggrieved with the order of the Forum, filed this representation to this office under Regulation 16.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 on 15th January, 2005. The Appellant has requested the following relief:

- (i) Permission should be given to use disc type meter instead of the electronic meter and refund of Rs. 1000/- taken by the Respondent as deposit for the electronic meter.
- (ii) Award compensation of Rs. 20000/- for the inconvenience, harassment and delay caused to him in the whole process.
- (iii) Since his old disc type meter was stopped in 1993 till January 2002, he should not be charged any bill beyond 6 months from stoppage of meter in 1993 under the provision of Section 26 (6) of the Indian Electricity Act 1910. Bills paid during this period should be refunded with interest.
- (iv) Since the electronic meter runs fast and recorded inflated units, the excess amount of around Rs. 10000/- paid by him should be refunded.
- (v) Action should be taken against employees for delay in redressing the complaints.

05 The Respondent filed its reply to the above representation and denied the charge of over billing during the stop meter period. It is submitted that bills were sent to the consumer on the basis of average consumption recorded prior to stoppage of meter in the year 1993. The Respondent denied that electronic meter runs fast as compared to electromagnetic meter. It is further stated that the electronic meter installed at the premises of the Appellant was tested on 1st March 2004 upon the instructions issued in the Lokshahi Din by the Collector's Office. Readings recorded by the electronic meter brought for testing and the one installed at the Appellant's premises recorded the same consumption units with no variation at all. The Respondent further submitted that the electronic meter at the premises of the Appellant was again tested in December 2004 upon instructions from The Consumer Grievance Redressal Forum, Nashik. The test conducted from December 3 to December 7 indicated exactly the same readings by all the meters i.e. the one installed during the test period at the Appellant's premises, the electromagnetic meter and the electronic meter brought by the Respondent for the purpose of testing. There was no variation in consumption recorded by any of these three meters indicating that the electromagnetic meter and the electronic meter both indicate the correct measurement. The Appellant however declined to sign this testing report.

06 The matter was heard initially in this office on 9th March, 2005. The representatives of the Respondent and Appellant were heard at length. The Respondent sought further time to make additional clarifications and submission. The matter was therefore adjourned to enable the Respondent and the Appellant to get further time to file additional information.

07 The matter was again heard on 4th April 2005. The Respondent was asked to explain the basis of charging of bills during the stopped meter period from 1993 to January, 2002. Records of units consumed prior to 1993 were not produced either by the Respondent or by the Appellant. Statement of units billed during December, 1997 to December, 2001 submitted by the Respondent indicates variations from 0 to 450 units. It was explained by the Respondent that

the average consumption prior to stopped meter period was 150 units per billing cycle of two months but during the several cycles of billing, mistakes had occurred in reporting the status of the meter and therefore occasionally the bills for 400 units, 165 units, 181 units, 300 units for 4 months, and 450 units for 6 months, etc were issued. These mistakes were corrected by billing zero units on few occasions. By and large, the consumption of around 150 units was billed during the stopped meter period. The average consumption for two months for four years period for which statement of consumption was produced, from December, 1997 and December, 2001, works out to 158 units. The Respondent further submitted that it was an established norm and procedure to increase billed units by 10% after every three cycles to compensate revenue loss during the stopped meter period. On querying whether this 10% was levied throughout the period of stopped meter conditions in accordance with the norms, the Respondent agreed that it was not done so due to incorrect reporting of the meter status on few occasions. Non-billing of the units based on the above norms over a period has resulted into billing of less units as compared to the norms indicated by the Respondent as above.

08 Upon the query, the Appellant agreed that he did not raise any dispute regarding the matter of increase in billing due to electronic meter for over 19 months; after it was installed in January, 2002. He further agreed that the comparison test conducted in March, 2004 between the electronic meter installed by the Respondent and the one brought by the Respondent for testing did not show any variation. However, he insisted that the comparison should have been carried out not between two electronic meters but between the electronic meter installed at his residence with some correct disc type meter. The submissions made and the records furnished by the Respondent indicate that such test was carried out between December, 3 and December, 7, 2004 upon the instructions from the Consumer Grievance Redressal Forum, Nashik. The Appellant however, declined to accept the result of this test and declined to sign the report. The result of the test indicated no variation between the electronic meter installed at the premises, an electronic meter in consumption and a disc type meter brought for testing, all three connected in series.

09 On the issue of charging bills during the stopped meter period from 1993 to January 2002, provisions of the Section 26(6) were cited by the Appellant. This Section reads as under:

“26(6): Where any difference or dispute arises as to whether any meter referred to in sub section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of

the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity.”

10 Upon query, the Appellant agreed that he did not make any reference to the Electrical Inspector under this Section but only wrote to the Respondent about the defective meter. The Respondent also did not make any reference to the Electrical Inspector. Therefore, provisions of Section 26(6) of the Indian Electricity Act 1910 would not apply in this case. Moreover, it is not the case of the Appellant that there was no consumption during that period. As such, the Appellant cannot now claim refund of any amount that has been charged and paid after six months from stoppage of meter in 1993 merely because the meter was stopped. In fact, the Appellant has received bills on average basis, paid the bills regularly and therefore now the question of claiming that he should not be charged bills for stopped meter period of over 8 years does not hold any ground. As regards to the claim of the Appellant of excess bill of Rs. 10000 paid due to fast running of the electronic meter, it is observed that the electronic meter installed at his residence has recorded same units as compared with the electronic meter used during the testing in March 2004. Similar observations were recorded during the test conducted in December 2004. Moreover, it is seen from the record of the bills that the Appellant has added extra-connected load between September 2000 and February 2002. Connected load increased many times from 0.2 kw to 3.8 kw as detected in February 2002. Consumption recorded with this increased load ranges around 300 units for two months as against the average of around 158 units levied during the stopped meter period upto January, 2002. The Appellant has not substantiated any thing to conclude that any excess bill is charged due to installation of electronic meter.

11 As regards the delay in replacement of old defective electromagnetic meter, the Respondent could not give any satisfactory explanation. In fact, it is a pathetic situation not to attend the defective and stopped meter for eight long years upto January 2002. In addition, it is indeed a matter of concern that no proper care was taken by the Respondent in preparation and charging the bills during the stopped meter period and the approach in this behalf was casual. Non-observance of their own norms of increasing the units by 10% after 3 cycles has, possibly resulted in charging less units between the year 1993 and January 2002 leading to the loss of the revenue to the Respondent. It is not, however, now open to the Respondent to argue for reviewing the bills charged earlier. In fact, the neglect of the officials of the Respondents is serious and must be dealt with suitably.

12. The Appellant's request to permit installation of electromagnetic disc type meter has to be examined in the line of relevant provision of the Electricity Act 2003. Section 55 of the said Act clearly permits the consumer to purchase his own meter if he so elects. Regulation 14 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply)

Regulations 2005 also allows the consumer to get his own meter. Regulation 14.1.1 reads as under:

“Except where the consumer elects to purchase a meter, the Distribution Licensee may require the consumer to provide security for the price of the meter in accordance with the provisions of clause (b) of sub-section (1) of section 47 of the Act:

Provided that in no case shall the amount of the security exceed the price of the meter:

Provided further that the Distribution Licensee shall pay to the consumer interest at a rate equivalent to the bank rate of the Reserve Bank of India on the amount of security deposit maintained by the consumer under this Regulation 14.1.1.”

However, provision in the Regulation 14.1.3 makes it clear that where consumer elects to purchase a meter from a supplier other than the Distribution Licensee, the Distribution Licensee shall be entitled to test the correctness of the meter prior to installation. Thus, although the Act provides that the consumer is given freedom to procure his own meter, it is mandatory that such meters are in accordance with the specifications laid down by the Central Electricity Authority in the Regulations made under Section 55 of the Act. The provision further says that till such regulations are made by the Authority, the consumers may purchase the meter in accordance with the specifications laid down by the Distribution Licensee.

None of the parties in this matter has produced information on regulations made by the Central Electricity Authority in this regard. Therefore, provision contained in the first proviso of Regulation 14.1.3 would apply and accordingly the consumer will have an option of procuring his own meter but in accordance with the specifications laid down by the Distribution Licensee / Respondent in this case.

13 During the hearing, the Respondent has submitted a copy of the commercial circular issued on 9th March 2005, publishing the make and type and models of meters, which can be procured by the consumer if they so wish. It is, thus, clear that the consumer can opt and procure his own meter subject to the above stipulation, which is also in consonance with the order passed by the Honourable High Court of Judicature at Bombay in the Writ Petition No. 1671 of 2001 which is cited by the Appellant in his representation.

ORDER

- (i) As regards the request of Appellant to procure his own meter, he should be allowed to exercise his option to get a meter from the market in accordance with the provisions contained in the Regulations. It is, however, subject to the approval of make and type of such meter from the Respondent. In case he exercises his option within a period of two months, the Respondent shall refund the amount of Rs. 1000/- taken as

- deposit or adjust the same in the next or the subsequent bills. Such permission would be subject to provisions under the Act and Regulations.
- (ii) As regards the request for award of compensation, there appears no provision in the Indian Electricity Act 1910 to levy any penalty on the Distribution Licensee or compensate to the consumer for delay in replacement of the meter and therefore no order on compensation is passed.
- (iii) The Appellant has not made any reference to Electrical Inspector and raised any dispute regarding the defective meter and therefore provisions 26(6) of the Indian Electricity Act, 1910 cannot be invoked and the issue of the bills already paid on the basis of the average bills raised by the Respondent during the period of stopped meter in 1993 to December 2001 cannot be reviewed now. As it appears from the submissions made by the Respondent, it is likely that the Respondent may have levied bills for less number of units during the stopped meter period of over 8 years, it is not now open even to the Respondent to seek any review in the matter. The loss of revenue to the Respondent if any in billing less number of units is clearly due to negligence of concerned officials and it is open to the Respondent to act against such officials.
- (iv) The allegation of the Appellant that electronic meter runs fast as compared to the disc type meter was not substantiated with any evidence. Moreover, result of the test conducted on 1st March, 2004 and again in December, 2004 by the Respondent indicate no variation in the consumption of units recorded by the electronic meter and the electro magnetic disc type meter. As such, the relief sought has no ground and is therefore rejected.
- (v) The delay in replacement of the defective meter is inordinate and no satisfactory explanation has been put forward by the Respondent and this reflects poorly on the part of the Distribution Licensee / Respondent in discharge of their public duties. The fact that the Indian Electricity Act, 1910 or Rules thereunder did not provide any recourse to the consumer for claiming any compensation in this behalf, should not be treated as any solace to the Respondent. Action against the concerned officials needs to be taken that is commensurate with the Act of omission, dereliction and negligence.

The representation is disposed off with the above order.

This representation received on 18th January, 2005, was heard and disposed off after the specified time limit mainly on the following considerations.

The Consumer Grievance Redressal Forum, Nasik directed in the order dt. 5-1-2005 that the Chief Engineer Of the Respondent MSEB should instruct the Sup. Engineer Dhule Circle to conduct inquiry of lapses on the part of concerned officials and complete the action within two months. The hearing of this representation by the Ombudsman was therefore scheduled after that period to enable the Respondent to comply with the directions in the Order of the Forum. The Respondent had also sought more time to file additional information and its other commitments in view of the financial year-end work.

Sd/
W. G. GORDE)
Ombudsman

Mumbai
20th April 2005

Sd/-
(S.N.YADWAD)
Secretary