



BEFORE THE OMBUDSMAN

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

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051
Tel. / Telefax: 022-2659 2965

REPRESENTATION NO. 10 OF 2006

In the matter of Compensation for Wrong Bills and Disconnection

M/s. Kamakshi Pressings, Jejuri..... Appellant
V/s
Maharashtra State Electricity Distribution Co.Ltd..... Respondent

Present:

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

On behalf of the Appellant:

1. Shri S. V. Raikar, Proprietor, Kamakshi Pressings
2. Shri R. S. Sardesai, Grahak Panchayat

On behalf of the Respondent:

1. Shri R. L. Sonule, Ex.Engineer, MSEDCL
2. Shri R.D. Deshpande, UDC, MSEDCL, Saswad
3. Shri S. D. Kolte, Sub Engineer, MSEDCL, Saswad
4. Shri V.B. Pandhare, UDC, MSEDCL, Nira Sub division

Date: 22nd March, 2006

ORDER

M/s. Kamakshi Pressings, the Appellant, in the present case, filed its Representation on 16th February, 2006 against the order of Consumer Grievance Redressal Forum at Pune. The Forum issued the order on 2nd September, 2005 directing the consumer to pay the sum of Rs. 27,832/- as against Rs. 48,634/- demanded by the Maharashtra State Electricity Distribution Co. Ltd. The Forum further directed that the Appellant should deposit the amount in three monthly equal instalments and pay Service Line Charges Rs. 5440/- towards the additional load of 4.5 H.P. The Forum did not pass any order regarding compensation claimed by the Appellant. The Representation is registered at Serial No. 10 of 2006. The Appellant, not satisfied with the said order, has submitted its case as under:

2. The Appellant is a Low Tension electricity consumer of Maharashtra State Electricity Distribution Co. Ltd. and is located at MIDC, Jejuri, Pune district. The Maharashtra State Electricity Distribution Co. Ltd (hereinafter referred to as the Respondent) connected the supply on 27th June, 1994 and installed the meter with multiplying factor of 0.5. However, instead of applying this multiplying factor, the Respondent incorrectly calculated the bills by applying the multiplying factor of 1.00 and thus, charged the bills for twice the consumption of units. Further, the Appellant submitted its written complaint on 1st June, 1998 regarding stopped meter. The Respondent neglected his request for change of meter purposefully and

instead continued to send the bills on abnormal average basis. The meter was finally replaced in August, 1999 by a correct CT operated meter.

3. In the meantime, on 3rd February, 1997, the Flying Squad of the officials of the Respondent visited the factory unit and wrongly reported the connected load in the factory as 62.91 H.P. as against 44.5 H.P. Moreover, it reported that the factory unit has not provided capacitors of adequate size and further that the multiplying factor for calculation of bills should be taken as 2.00 instead of 0.5. This resulted in over charging the bills in an exorbitant manner.

4. The Appellant protested on the issue of wrong bills to the officials of the Respondent. However, they neglected to redress his complaint. Instead the Respondent issued a notice for disconnection and finally disconnected the supply in December, 2002. Bill of Rs. 3,75,305.37 was also issued while disconnecting the supply. After continuous follow up, on 13th February, 2004, the bill amount was reduced to Rs. 2,60,513/-. This was further reworked out to Rs. 2,07,870/- in August, 2004 and to Rs. 1,36,643/- in April, 2005.

5. Not satisfied with the actions taken by the officials in correcting the bills, the Appellant approached the Internal Grievance Redressal Cell of the Respondent. The Cell took cognizance of the complaint and wrote to the Appellant on 7th April, 2005 confirming that the bills issued to the Appellant earlier by applying multiplying factor of 2.00 were incorrect. The Respondent's officials were instructed to correct the bills by applying the multiplying factor of 0.5 and sort out the matter. Accordingly, the Respondent corrected the bill on 21st May, 2005 to Rs. 48,634/- and called upon the Appellant to pay the amount of arrears.

6. In the meantime, the factory unit remained closed after disconnection of electricity from December, 2002. Some of the machinery had to be disposed to pay the instalments to the bank. Workers were rendered unemployed and Western Maharashtra Development Corporation (WMDC) cancelled the subsidy and sales tax incentive sanctioned to the factory unit. Further, property of the factory unit was auctioned by WMDC to recover its dues. The Appellant says that due to incorrect action of the Respondent, he had to suffer by way of financial loss as well as, mental agony.

7. The Appellant approached the Consumer Grievance Redressal Forum, Pune with a request to direct the Respondent to start its electricity supply without charging any penalty or interest. Prayer was also made seeking instalments for payment of the bills finally given on 21st May, 2005. The Appellant requested the Forum to direct the Respondent to express its regret and sought an appropriate compensation for its sufferings.

8. The Forum considered the matter and concluded that demand made initially by the Maharashtra State Electricity Distribution Co. Ltd. was illegal and uncalled for which resulted in permanent disconnection of electricity in December, 2002. The Forum directed the Appellant to deposit Rs. 27,832/- towards the arrears and Rs. 5440/- towards the Service Line Charges for additional load. However, no order on granting any compensation, was made by the Forum.

9. In its representation, against the order of the Forum, the Appellant reiterated its prayer for rectification of wrong bills and claimed the compensation of Rs. 5000000/- against the wrong disconnection of electricity and hence the mental agony caused to him. Details of compensation sought by the Appellant are as under:

A	Special Capital Incentive of WMDC	Rs.4,75,400.00
B	Sales Tax Incentive by WMDC	Rs.9,43,252.00
C	Loss of Income	Rs.34,00,000.00
D	Bank Interest, Workers Compensation, Loss of Goodwill and Mental Torture	Not Specified
	TOTAL	Rs.50,00,000

10. Notice was issued to both the parties. They were advised to explore the possibility of working out the proposal for settlement by mutual agreement. However, there is no such proposal from either of the parties. The Respondent submitted its written statement of defence on 13th March, 2006.

11. The Appellant has filed the representation on 16th February, 2006 against the order of the Forum dated 2nd September, 2005 i.e. after a lapse of 156 days. The Appellant has prayed for condonation of delay in filing the representations as he was in financial crisis and also he had no knowledge of the law and procedure and about the Appellate Authority over the Forum. A delay of 96 days in filing the representation is hereby condoned.

12. The Respondent says that the Appellant was directed by the Forum to deposit Rs. 27832/- towards the arrears and Rs. 5440/- towards the service line charges for reconnection. The arrears were expected to be paid in 3 instalments as per the Forum's order. The Appellant paid the first instalment of Rs. 9280/- on 5th October, 2005 but failed to pay the remaining two instalments amounting to Rs. 18552/- and also the service line charges of Rs. 5440/-. Officials of the concerned sub division informed vide letter dated 5th January, 2006 to the Appellant to deposit the remaining amount of two instalments and the service line charges. Instead of depositing the amount, the Appellant preferred to file the present appeal. Payment of first instalment by the Appellant shows that he accepted the order of the Forum and therefore he has no right indeed to prefer an appeal. The Respondent in its written submission conceded that at the time of connection (which was released on 27th May, 1994) 100/5 CT was not available and therefore 50/5 CT was installed in the factory unit. Multiplying factor of 0.5 was applicable for this CT, however, the software was not accepting the fractional multiplying factor and therefore the bill was issued to the Appellant as per the multiplying factor equal to 1. After the 100/5 CT was available, previous CT was replaced on 14th February, 1997.

13. The Respondent adds that the flying squad officials, during the site visit on 3rd February, 1997 observed that the Appellant has 62.9 HP as connected load as against sanctioned load of 40 HP. Accordingly, supplementary bill of Rs. 278799.82 was issued on 22nd June, 1999 as per the report of the flying squad. The Appellant was paying only the current bills since November, 2000 without paying these arrears. The electricity was,

however, not disconnected, on this account. Subsequently, the Appellant failed to pay even the current bills and therefore supply was temporarily disconnected in December, 2001. The Respondent submits that the consumption of energy in the factory unit of the Appellant drastically dropped after October, 2000 due to its internal difficulties. Subsequently, due to non payment of current bills, the electricity supply was permanently disconnected in December, 2002.

14. As regards the excess connected load observed in the factory unit, the Respondent says that the Appellant submitted the test report on 12th February, 1997 showing a total load of 44.5 HP (additional load of 4.5 HP) as against the original sanctioned load of 40 HP. The Respondent reiterates that it had no intention to harass the Appellant. Additional revised bill was issued to him at a latter stage. It has prayed that the representation may be dismissed without any compensation

15. The matter was heard on 17th March, 2006. Shri S.V.Raikar, the Appellant was present himself. Shri Sonule, Executive Engineer accompanied by his officers, represented the Respondent. Shri R.S. Sardesai of Grahak Panchayat was also present to assist Shri Raikar, the Appellant.

16. The Appellant narrated the entire sequence of events that took place from the date of connection to filing of the Representation. He explained that the Respondent had installed a CT operated meter with 0.5 multiplying factor while the bills were issued by assuming the multiplying factor as 1. This resulted issuance of bills for twice the consumption of units. He deposed that the Respondent purposefully issued the wrong bills to trouble him from time to time. On 21st June, 1998, he complained to the Respondent about the stopped meter but the Respondent ignored his complaint and delayed replacement of meter until, August, 1999.

17. The Appellant submitted that on 3rd February, 1997, the flying squad officials of the Respondent visited his factory unit and showed that the total connected load was 62.91 HP and also instructed the officials to work out the bills by assuming the multiplying factor of the meter as 2. The report was prepared without taking any signatures of the witness. He disagreed with the said report and therefore on 13th February, 1997, he submitted a correct test report showing the load as 44.5 HP. However, the Respondent's officials did not communicate sanction of the additional load for more than one year thereafter. The Respondent continued to send the exorbitant bills towards the arrears. He protested to the officials from time to time but it did not evoke any response. The Respondent instead of correcting the mistake in the bill, temporarily disconnected the electricity supply, in December, 2001. This resulted in stopping of the operation in the factory unit. Finally, he approached the Chief Engineer of the Respondent at Mumbai on 5th September, 2002, who in turn, on 7th October, 2002 informed that the Superintendent Engineer (Rural) to look into the matter and take necessary action. In spite of these instructions, the officials of the Respondent did not correct the bills and finally disconnected his supply permanently, in December, 2002.

18. After disconnection, the Respondent handed over a bill of Rs. 3,75,305.37 towards the arrears. He continued to protest for correction of the bills. This went on for around 2^{1/2}

years when, finally on 21st May, 2005, the bill was corrected to Rs. 48,634/-. In the process, he suffered tremendous mental agony as well as financial loss due to closure of his factory. Upon query, he conceded that the Consumer Grievance Redressal Forum by its order finally directed the Respondent to correct the bill to Rs. 27,832/-. He is, by and large, satisfied with the corrected bill. He reiterated that although the bill was corrected after intervention of the Internal Cell and the Consumer Grievance Redressal Forum, compensation cost was not awarded to him for his sufferings and losses over a period of time. He prayed that the necessary compensation should be awarded.

19. The Respondent explained during the hearing that there was no intention to harass the Respondent at any point of time. He agreed that the CT unit installed in the factory of the Appellant had a multiplying factor of 0.5 but the software available for billing did not accept the fractional multiplying factor, resulting issuance of the wrong bills. He could not, however, explain as to why the mistake was not corrected for several months by issuing the bills manually. The representative did not have any satisfactory explanation. He conceded that issue of wrong bills caused suffering and inconvenience to the Appellant but mentioned that it was not intentional.

20. On the issue of flying squad's visit, the Respondent agreed that the squad reported the connected load in the factory as 62.91 HP as against the sanctioned load of 40 HP. It was also conceded that the Appellant, within a week's time from the visit of the squad, submitted a revised test report showing the correct connected load as 44.5 HP. However, sanction of the revised load was not communicated to the Appellant until several months thereafter. No satisfactory explanation for this lapse was given. He also conceded that the flying squad reported to work out the electricity bills by assuming the multiplying factor as 2 (instead of 0.5). The Respondent conceded this was a mistake but any way bills were not raised considering the multiplying factor as 2. Upon query, he agreed that the Chief Engineer (Commercial) had instructed the Superintendent Engineer (Rural) to take necessary action in this case but the action of correcting the bills was inordinately delayed.

21. On the issue of temporary and permanent disconnection of the electricity, the Respondent mentioned that the disconnections came as a result of non-payment of current bills by the Appellant. It is not correct to say that the disconnection were wrong since the Appellant did not pay the arrears as well as the current bills also. He explained that although the bills towards the arrears were wrongly issued, the disconnection did not come as a result of non-payment of the arrears. He pointed out that the Appellant was not regular in making payments of even the current bills. He produced a copy of the Consumer's Personal Ledger for the relevant period to demonstrate this point. The Respondent categorically denied that disconnection of electricity was the sole cause of closing down the factory. It was argued that operations in the factory unit as seen from the consumption of the energy, were more or less normal upto October, 1999. Consumption of energy was around 4000 units. It declined drastically in the subsequent billing cycles. This was attributed to the internal problems of the factory. Temporary disconnection in December, 2001 came as a result of non-payment of the current bills and not because of the arrears. Similarly, non-payment of current bills subsequently resulted in the permanent disconnection in December, 2002. To sum up, the Respondent submitted that it is not at all responsible for closing down the unit, which

happened due to internal difficulties of the Appellant and therefore no compensation should be awarded.

22. Documents on record and submissions made during the hearing make it evident that there were serious mistakes in calculating the energy bills. First, on account of assumption of wrong multiplying factor, which caused issue of bills for double the consumption of units. The Respondent clearly has not taken any steps to correct the bills in time. Lack of proper software is only an excuse and cannot be treated as adequate explanation for not correcting the bills for several months. The visit of flying squad officials compounded the grievance in raising bills for connected load at 62.91 HP for several months even though the connected load was found to be only 44.5 HP, a week after the visit of the flying squad. The Appellant is not at all responsible for this chain of events. Lapse in issuing wrong bills for a long time has not been satisfactorily explained. It is also clear from the submissions that the Appellant has taken up this issue from time to time with the Respondent at all levels. The Respondent has not acted responsibly in taking corrective action in time despite the instructions on 7th October, 2002 by the Chief Engineer (Commercial). The whole process has certainly caused harassment and agony to the Appellant.

23. As regards to temporary and permanent disconnection of electricity to the factory unit of the Appellant, it would be worthwhile to go through the consumption of the energy units as seen from the consumer's personal ledger for the relevant period. It is evident that the factory unit did register consumption of 4000 units in a billing cycle till October, 1999 which declined to 1574 units in December, 1999. There is a further decline to 1030 units in February, 2000 followed by again a sharp decline to 640 units in April and June, 2000. Pattern of consumption even upto November, 2001 shows that there were hardly any operations, in the factory and the consumption recorded was very low. Consumption in the billing cycle of October, 2001 is barely around 10% as of the consumption in the billing cycle of October, 1999.

24. As regards the payment of energy bills during the same period, it is seen that the Appellant has not paid even the current bills regularly from March, 1999. There were no payments between 30th March, 1999 until 30th August, 1999, when the Appellant had paid Rs. 13,675/- which appears to be a current bill. Subsequently, there is no payment until, February, 2000 when the Appellant has paid Rs. 40,000/-. This was followed by payment of Rs. 10,000/- each in April and July, 2000. Analysis of the above events, would demonstrate clearly that there is no disconnection carried out by the Respondent inspite of irregular payments made by the Appellant towards the current bill. There is no payment by the Appellant towards the arrears, which subsequently proved to have been incorrectly issued. However, this leads to the conclusion that there is no correlation between the temporary disconnection effected in December, 2001 and non payment of arrears by the Appellant. Same thing is true for permanent disconnection of electricity effected in December, 2002. Therefore, there is nothing on record to conclude that closure of the factory unit is attributable to the actions or inactions of the Respondent.

25. To sum up, the Appellant could not establish that the closure of his factory unit took place solely due to temporary disconnection of electricity in December, 2001 followed by the

permanent disconnection in December, 2002. The Appellant could not bring out clearly as to how the Respondent is directly responsible for reduction of the consumption of energy units after October, 1999 and the subsequent continuous decline in consumption even when there was no disconnection. He also conceded that he was irregular in making payments of even the current bills due to paucity of funds. While understanding and appreciating the difficulties expressed by the Appellant, the Respondent cannot be blamed for the chain of events that led to the closure of the factory unit and the losses that may have been caused due to closure. Since I do not find any material on record to hold the Respondent responsible for the losses mentioned by the Appellant in the representation, the prayer for compensation in that behalf cannot be accepted.

26. In any case, observations in the above paragraph do not absolve the Respondent of multiple and serious lapses in not redressing the billing grievances. The ordeal of the Appellant started right in the year 1994 when the CT operated meter with multiplying factor 0.5 was installed but the Respondent billed him wrongly for double the units with a multiplying factor of 1. This continued for a long time. Later, the problems were compounded after the visit of the flying squad on 3rd February, 1997 when its report indicted the Appellant for having an excess connected load. Beyond this, the squad instructed to issue bills by assuming the multiplying factor as 2 instead of 0.5. It is pertinent to note that despite the visit of the squad in February, 1997, nothing was communicated to the Appellant for over two years. It was in the month of June, 1999 that the Respondent issued a huge bill of Rs. 2,78,799/- on account of the observations made by the squad. The Respondent completely ignored the revised test report submitted by the Appellant on 12th February, 1997 showing the correct load in the factory. The connected load penalty was levied with effect from June, 1999 and continued till September, 2002 for over 3 years. The bills were erratically issued for huge sums and altered on atleast four occasions upto April, 2005. It is clear that the ordeal of the Appellant lasted for about a decade causing anxiety and harassment. This displays a sense of apathy and lack of sensitivity of the Respondent towards the consumer, which caused tremendous sufferings and agony to the Appellant for a long time. The Respondent must, therefore, be held responsible for this.

27. In view of the above, it will be, therefore, just and proper for the Respondent to compensate for misfeasance in public office by the officials who are responsible for causing harassment and agony to the Appellant. I am, therefore, inclined to award a compensation of Rs. 25,000/- to the Appellant and direct the Respondent to pay the same within a period of 30 days from the date of this order.

28. The Representation is disposed off with the above order.

Sd/
(W. G. Gorde)
Ombudsman

Sd/
(S. N. Yadwad)
Secretary