



## 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. 11 OF 2006**

In the matter of Recovery of Old Consumer's Arrears.

Shri Sharadchandra Parchure..... Appellant

V/s

Maharashtra State Electricity Distribution Co. Ltd, Latur..... Respondent

Present:

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

On behalf of the Appellant:

1. Shri L.N.R. Gupta, Representative on behalf of Smt. Smita Sharadchandra Parchure

On behalf of the Respondent:

1. Shri V.G. Padile, Junior Engineer, MSEDCL , Latur

**Date: 27<sup>th</sup> March, 2006**

### **ORDER**

Shri Sharadchandra M. Parachure (hereinafter referred to as the Appellant), resident of Vishwasadan, Vivekanandpuram, Latur is a consumer of electricity supplied by the Maharashtra State Electricity Distribution Co. Ltd. (hereinafter referred to as the Respondent). The Appellant has filed the representation on 20<sup>th</sup> February, 2006 against the order of the Consumer Grievance Redressal Forum, Latur issued on 18<sup>th</sup> January, 2006. The Forum, in its order held that the arrears of Rs. 5840/- pertain to the tapping connection number C-100145-4 in the name of the Appellant having consumer no. 610550100145 in the name of Omkar Industries situated at Latur Industrial Estate, shed no. 4. The Appellant has filed a false complaint and the Respondent is free to recover the arrears as per rules. Aggrieved with the order of the Forum, the Appellant has filed this representation. The Appellant has stated his case as under:

2. The Appellant has pleaded that he is not a consumer of the Maharashtra State Electricity Board nor the Maharashtra State Electricity Distribution Co. Ltd since over 20 years and is not holding consumer no. 610550100145-4 as alleged by the Respondent. He is surprised to have received a bill of Rs. 5840/- with notice. The alleged connection is said to have existed in the name of Omkar Industries, at shed no. 4 in the year 1979 to 1982 in the name of the Appellant. The Appellant has questioned whether the alleged arrears are not governed by Law of Limitation and whether the ordinary consumer is expected to keep records intact for so much over run period. The Appellant further states

that the Forum has decided the matter ex-party erroneously and hence prayed to review the order of the Forum, which he claims to have been passed on erroneous grounds.

3. Notice was issued to both the parties on 21<sup>st</sup> February, 2006 calling upon the Respondent to file its written submission. They were also advised to explore the possibility of working out the proposal to facilitate settlement through conciliation or mediation. There was no response to this suggestion from either of the parties. Therefore, the matter was posted for hearing on 17<sup>th</sup> March, 2006.

4. The matter was heard on 17<sup>th</sup> March, 2006. Shri L.N.R. Gupta represented the Appellant while Shri V.G. Padile, Junior Engineer was present on behalf of the Respondent. The Appellant, during the hearing, made an additional written submission to say that he is not a consumer no. 610550100145-4 since last 20 years. He argued that the decision made by the Forum in this case was on erroneous ground. He said that on 29<sup>th</sup> November, 2005, he attended the hearing in the Forum's office when the Respondent did not file any papers. The Forum fixed the next date for hearing on 6<sup>th</sup> January, 2006 but the Appellant was apprised on 1<sup>st</sup> December, 2005 not to remain present and that the Forum would make an order and send the copy to him. It has contended that the Respondent furnished Service Connection Report and the Consumer's Personal Ledger to the Forum on 5<sup>th</sup> January, 2006 based on which the Forum decided the case ex-party and made an order on 18<sup>th</sup> January, 2006.

5. Aggrieved with the above order, the Appellant filed the review application to the Forum on 30<sup>th</sup> January, 2006. The Forum, in turn, by its letter on 8<sup>th</sup> February, 2006 informed that the matter has already been decided by the Forum and advised the Appellant to approach the Ombudsman if he is not satisfied with the said order.

6. The Appellant furnished alongwith the representation, the copy of the Forum's order, review application and the copy of the bill dated 20<sup>th</sup> September, 2005 for Rs. 5840/- raised by the Respondent. The Appellant reiterated the points made in his representation. He stressed on the point that the Forum has decided the case on erroneous ground and that the demand in respect of arrears made by the Respondent is very old, dating back to 20 years and argued that the demand is barred by limitation. He concluded his arguments by making a prayer that the decision of the Forum should be reviewed on the ground stated above.

7. The Respondent furnished a copy of statement generated on 6<sup>th</sup> January, 2006 showing the details of the account in the ledger book. He argued that the Appellant had electricity connection under the consumer number 610550100145-04 for his factory unit located in the Latur Industrial Estate Area at shed no. 4. Connection was in the name of the Appellant as owner of Omkar Industries. The service connection report shows that the electricity was connected on 7<sup>th</sup> January, 1981. The Appellant made the last payment in August, 1991 for this connection. He stated that the said connection was permanently disconnected on 16<sup>th</sup> March, 1995 for non payment of bills.

8. Upon query, the Respondent agreed that although the supply was permanently disconnected in the year 1995, no further steps were taken to recover the old arrears. There was no action for at least 10 years until the Respondent raised the bill of Rs. 5840/- on 20<sup>th</sup> September, 2005. There was no submission or explanation in this behalf by the Respondent.

9. The facts as seen from the submissions are quite undisputed to the extent that the Appellant had indeed taken the electricity connection in his name for the unit called Omkar Industries. This dates back to the year 1981. It is also clear from the documents on record that the Appellant made the last payment for electricity charges for this connection in August, 1991 and thereafter the Respondent had permanently disconnected the connection on 16<sup>th</sup> March, 1995 apparently due to non payment of the bills. It is also clear from the submission made by the Respondent during the hearing that no steps were taken for recovery of amount of arrears from the Appellant. It is only in September, 2005 that the Respondent for the first time after the year 1995 raised a bill for the old arrears and informed the Appellant to pay. It is also necessary to put on record that the Respondent did not file any written statement of defence beyond furnishing a copy of statement of permanently disconnected consumers, generated in January, 2006. No reasons have been given for non submission of any statement of defence.

10. The Appellant is aggrieved with the decision of the Forum on the ground that the Forum did not grant any opportunity to the Appellant to submit its say after the Respondent submitted copy of the service connection report and the consumer's personal ledger to the Forum on 5<sup>th</sup> January, 2006. As the facts appear, the Forum did not offer any opportunity to the Appellant to present its say on the submissions made by the Respondent on 5<sup>th</sup> January, 2006. It would have been certainly fair in the interest of justice, on the part of the Forum to offer an opportunity to the Appellant.

11. It is also necessary to note that the arrears accrued in the year 1991 after the last payment made by the Appellant which resulted in subsequent disconnection of electricity on 16<sup>th</sup> March, 1995. The Respondent has failed to take any steps for its recovery since that time. Raising a claim after a lapse of over 10 years is certainly an issue, which the Forum should have considered while making its decision. By any stretch of imagination it cannot be considered reasonable for the Respondent to raise the claim after such a long delay. It is true that the Indian Electricity Act, 1910, did not prescribe any time limit in this behalf. It does not, however, allow the Respondent to raise the bills towards the arrears after an unreasonably long time. The Supreme Court, in its order passed on 25<sup>th</sup> January, 2000, in the Civil Appeal No. 631 of 1994 between Corporation Bank and others versus Navin J. Shah, has held as under:

*“claim could not have been filed by the Respondent at this instance by time. Indeed at the relevant time, there was no period of limitation under the Consumer Protection Act to prefer claim before the Commission but that does not mean that the claim could be made even after unreasonably long delay.”*

The Court further adds,

*“What is reasonable time to lay a claim depends upon the fact of each case. In the legislative wisdom, three years period has been prescribed as the reasonable time under the Limitation Act to lay a claim for money. We think, that the period should be the appropriate standard, adopted for computing reasonable time to raise a claim in a matter of this nature. For this reason also, we find the claim made by the Respondent ought to have been rejected by the Commission.”*

12. It is in this background that I am inclined to observe that the Respondent has failed to lay its claim for unreasonably long time without any plausible explanation. The claim has undoubtedly become very stale and thus barred by time. Moreover, the Forum should have appreciated the argument made by the Appellant in his representation in this behalf.

13. There is also substance in the argument of the Appellant that the Forum should have heard it after the Respondent submitted some documents including the copy of Consumer's Personal Ledger on 5<sup>th</sup> January, 2006. The Forum has observed that the Appellant has, purposefully filed a wrong grievance. This does not appear to be correct except the fact of non-disclosure of his old electricity connection in the name of Omkar Industries. Letter dated 15<sup>th</sup> September, 2005 from the Appellant to the Dy. Ex. Engineer, Latur clarified that he does not remember any old connection number and sought the details thereof from the Respondent. He also promised to pay the dues, if any, if liable. It would have been just and fair to afford an opportunity to the Appellant to present its say on every point raised or submitted by the Respondent.

14. It is on the backdrop of the situation explained in the preceding paragraphs that I am unable to concur with the views expressed by the Forum. The Forum's order is therefore, liable to be and is hereby set aside for the above reasons.

15. The representation is disposed off with the above order.

Sd/  
(W. G. Gorde)  
Ombudsman

Sd/  
(S. N. Yadwad)  
Secretary