



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. 12 OF 2006

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

Smt. Smita 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: 27th March, 2006

ORDER

Smt. Smita Sharadchandra Parachure (hereinafter referred to as the Appellant), residing at 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 20th February, 2006 against the order of the Consumer Grievance Redressal Forum, Latur, issued on 16th January, 2006. She also submitted along with the representation, copies of submissions made before the Internal Grievance Redressal Cell as well as the Consumer Grievance Redressal Forum. The Forum, in its order held that that the outstanding arrears of Rs. 24084.58 pertain to the permanently disconnected connection in the name of the Appellant. The Forum also observed that the matter was decided by the Consumer Disputes Redressal Forum, Latur vide its judgement no. 1309/99 of 3rd February, 2000 and the Appellant misguided the Forum by not disclosing this fact while filing the grievance. Therefore, the Forum dismissed the grievance of the Appellant and instructed the Respondent to take action to recover the arrears as per rules. The Appellant has stated her case as under:

2. The Appellant submits that she is not holding the electricity consumer no. 610550140805-4 as alleged by the Respondent and she was surprised to have received a bill of Rs. 24080/- with notice for this connection. The alleged connection is said to have been provided to her of which the case was already decided on 3rd February, 2000. The case pertains to records as old as of the year 1999 and questioned the claim of the Respondent on the ground of limitation. The Respondent has not ever or any time notified her about the pending bill from April 2000 to June 2005. The Appellant states that she certainly remembered to have already

overpaid the amounts to the Respondent on account of this connection and the said connection was already closed. The matter was also decided by the Consumer Court long back in the year February – 2000 and she was not required to pay any more amount had the proper appropriation of accounts been done by the Respondent. The Appellant has questioned whether the ordinary consumer is expected to keep records intact for so much over run period. She took the exception that the Forum has decided the case ex-parte and hence the Appellant has prayed to review the matter which was decided by the Forum based on erroneous grounds.

3. Notice was issued to both the parties on 21st 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. The matter was posted for hearing on 17th March, 2006.

4. The matter was heard on 17th 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 reiterated his submission made in the representation to say that it is not a consumer of the Respondent for the alleged consumer no. 610550140805-4. As such, it is not liable to pay any amount of bills raised by the Respondent. He conceded that the said consumer number belonged to the Appellant earlier. The billing dispute in respect of this connection was referred to the Consumer Disputes Redressal Forum in the year January, 1999 and the Forum decided the matter in February, 2000. The Appellant claims that it had paid the bills raised by the Respondent in respect of this consumer number and there should be no arrears left on this account. The Appellant also raised issue of limitation. It was argued that the alleged claim of the Respondent is indeed barred by limitation and not recoverable. The Respondent submitted the statement of Consumer Personal Ledger to the Forum on 5th January, 2006. He also took an exception to the Consumer Grievance Redressal Forum's order made ex-parte on receiving the statement of consumer's personal ledger without giving it a chance to explain its stand. Upon query, the Appellant was asked as to why the information regarding the case decided in the Consumer Disputes Redressal Forum in February, 2000 was not brought to the notice of the Consumer Grievance Redressal Forum, there was no explanation, put forth by the Appellant.

5. The Appellant has argued that she is not a holder of the consumer no. 610550140805-4. She does not remember whether she held the consumer no. 610550140805-4. She has not categorically refused that she never held this connection. Record of the case including the CPL produced by the Respondent indicates that the said consumer number belonged to the present Appellant although she did not have any record of the same at present.

6. The Respondent during the hearing agreed that it was aware of the fact that the subject matter was already decided by the Consumer Forum in the year 2000. Accordingly, the revised bill was issued to the Appellant on 6th July, 2001. He also produced a copy of the Consumer Personal Ledger for the relevant period to show that the arrears were reflected continuously in the ledger and the bills for the arrears were issued. He could not, however, explain as to what specific steps were taken to recover dues in terms of the Order under reference.

7. Records of the case and submissions made by the parties bring out clearly that the alleged arrears arise out of the old connection having consumer no. 610550140805-4. This connection

as per records, was owned by Smt. Smita Parchure, the Appellant in the present case. It was admittedly disconnected earlier although exact details thereof are not available on record. It is further seen that the matter regarding arrears in respect of this connection was considered by the District Consumer Disputes Redressal Forum, Latur in the year January – February, 2000. Copy of the order issued by the Forum is not filed by either of the parties although it was shown for perusal by the Respondent during the hearing. The fact, however, remains that the issue was then decided by the Forum under the provisions of Consumer Protection Act, 1986. None of the parties has denied the existence of the order.

8. In view of the above, the Respondent, Maharashtra State Electricity Distribution Co. Ltd. was expected to proceed in accordance with the directions given in the said order. It is also not clear as to whether and to what extent the Respondent has acted at that time, in terms of the said order, for recovery of dues, if any. Events after the said order i.e. from February, 2000 onwards are also not brought on record by the Respondent who is claiming arrears of Rs. 24080/- on account of the permanently disconnected consumer which happened to be in the name of the Appellant. The Appellant has taken the stand that she does not hold the said consumer number against which the arrears are reported to be due and the case of which was already considered and decided by the Consumer Disputes Redressal Forum.

9. Documents on record and proceedings during the hearing certainly lead to the conclusion that the Appellant and the Respondent were aware of the order of the Consumer Forum issued in the year 2000. If there were any arrears due from the Appellant in terms of that order, it was obligatory on the part of the Respondent to initiate the process of recovery of the arrears. No details or reasons have been given by the Respondent for not having done so, for a long time until it issued a notice on 5th September, 2005 to the Appellant who is now holding the consumer no. 610550147419. However, a copy of one letter dated 6th July, 2001, showing the bill towards the arrears raised was shown during the hearing for perusal. Incidentally, submissions by the Respondent in response to the representation filed by the Appellant, is conspicuous by absence of these details. The propriety and the procedures laid down in the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2005 demand that the Respondent should have apprised the Consumer Grievance Redressal Forum about the action taken if any as per the order in the case decided by the Forum under the provisions of the Consumer Protection Act, 1986.

10. Provision under the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 reads as under:

16.4 (4): *“No representation to the Ombudsman shall lie in cases where a representation for the same grievance by the consumer is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or a final order has already been passed by any such court, arbitrator or authority.”*

In the light of the above, it clearly emerges that the subject matter was earlier adjudicated before the Forum under the Consumer Protection Act, 1986 and was decided in the February, 2000. Therefore, the same issue cannot now be raised and adjudicated before the Forum or the Ombudsman constituted under the provisions of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003.

11. In view of the above, the Representation is clearly not maintainable. The Consumer Grievance Redressal Forum has also taken a similar view. It is, therefore, not necessary to deliberate and make any order on the merit of the case. As such, I do not find it necessary to interfere in the Forum's order. The Respondent has claimed some arrears while the Appellant has disputed the claim. There is nothing on record to show conclusively amount of arrears if any, still unpaid in terms of the Order of the Consumer Disputes Redressal Forum issued in February, 2000. In case, the Respondent intends to proceed with the recovery of past arrears if any, it may so consider but not without following the provisions and procedures laid down under Section 56 (1) and (2) of the Electricity Act, 2003.

12. The Representation is disposed off with the orders as elaborated in the preceding paragraphs.

Sd/
(W.G. Gorde)
Ombudsman

Sd/
(S. N. Yadwad)
Secretary