



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.35 OF 2005

In the matter of Arrears of Old Consumer in the Same Premises

Shri Jagjivan J. Malviya..... Appellant
Malad(E), Mumbai 400 064.
Versus
Reliance Energy Limited..... Respondent

Present:

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

On behalf of the Appellant:

1. Shri Prem Keswani

On behalf of the Respondent:

1. Smt. Anuradha Shetye, Nodal Officer & Addl. Manager (Legal),
Reliance Energy Limited.

Date: 20th December, 2005

Shri Jagjivan J. Malviya residing at Sati Baugh Room No. 1/1, 1-2, House No. 10-4, Nevatia Road, Malad (E), Mumbai-400 064 has filed the representation on 24th October, 2005 and the same is registered at Serial No. 35 of 2005. The representation arises out of the order dated 5th October, 2005 in the Case No. 33 of 2005 of Consumer Grievance Redressal Forum at Reliance Energy Limited. The Forum has issued the order declining to entertain the grievance on the ground that it is filed by Shri Keswani and not by Shri Malviya and that Shri Keswani cannot make a grievance for Shri Malviya. The Forum also advised Shri Keswani to get the meter transferred in his name and if he has any grievance he should first approach the Reliance Energy Limited and if the grievance is not solved by the company, then he can approach the Forum.

2. The above representation is signed by one Shri Prem Keswani on behalf of Shri Jagjivan Malviya. Shri Keswani has signed as a consumer as well as in the capacity of an authorised representative of Shri Malviya. Shri Keswani, not satisfied with the order issued by the Forum, has submitted this representation claiming a compensation of Rs. 15,120/- from the Reliance Energy Limited.

3. Briefly stated, Shri Keswani says that Mr. Jagjivandas Malviya is a residential consumer in the LF1 category of Reliance Energy Limited (hereinafter referred to as Respondent) and that he is a consumer as defined in Section 2(15) of the Electricity Act,

2003. He received a notice for disconnection on 11th July, 2005 under Section 56(1) of the Electricity Act, 2003 by clubbing the arrears of consumer no. K05050005 who has not paid the bill before disconnection. He is not concerned with this consumer number and uses electricity as consumer no. K05050008 in the same premises. He paid Rs. 5120/- under protest to the Respondent to avoid disconnection of electricity. Being aggrieved with the supplementary bill raised by the Respondent, he approached the Forum for redressal.

4. Shri Prem Keswani (hereinafter referred to as the Appellant) further says the Forum asked him to appear on 5th October, 2005 for hearing which he attended. However, without providing opportunity to hear, the Forum asked him to leave. He states that thereafter the Forum passed the order without any hearing and denied him the natural justice. Being aggrieved with the order of the Forum, the present representation happens to be filed.

5. Notice was issued to the Respondent, Reliance Energy Limited, to offer parawise reply to the points raised in the Representation. The reply filed by the Respondent on 14th November, 2005 submits that Shri Jagjivan Malviya, is a registered consumer and there is a privity of contract between him and the Reliance Energy Limited. There exists no contract between Shri Prem Keswani and Reliance Energy Limited. Shri Keswani is not a consumer and therefore has no locus standi to file the representation. The Respondent adopts the reply filed by it before the Forum and reiterated each and every statement made therein as part of the present reply.

6. The Respondent adds that Shri Jagjivan Malviya, the consumer had two connections, one having consumer no. K05050005 and the other with consumer no. K05050008. The outstanding bills for consumer no. K05050005 of Rs. 15,127/- was due and payable by the consumer. Since it was not paid, the supply was disconnected and the meter removed on 17th August, 2001. It further states that electricity from the other consumer no. K05050008 was being used to disconnected consumer no. K05050005 in the same premises. There were two rooms earlier but now it has been converted into one premises. The Respondent alleges that Shri Keswani has not clarified, with malafide intention, in what way he is concerned with the consumer, Shri Malviya and how and why he is claiming to represent on behalf of the consumer. The Respondent has pointed out that Shri Keswani, instead of approaching the Reliance Energy Limited for transfer of connection in his name as advised by the Forum, he approached the Ombudsman without any cause of action. There is no locus standi to the complainant and therefore prays that Shri Keswani is not entitled for any relief and sought rejection of the representation.

7. The matter was listed for hearing on 21st November, 2005. The Representative of the Respondent was present. However, the Appellant did not attend the hearing. Upon contacting him on telephone, he informed that he has received no intimation or the notice of hearing. In view of this, it was considered just and proper to offer one more opportunity to the Appellant. The hearing was adjourned.

8. The matter was then heard on 9th December, 2005. Shri Keswani attended as the Appellant. He also filed an undated submission during the hearing giving the details of bills between March, 2004 and June, 2005 about the units consumed and the amount paid for the

consumer no. K05050008. The Appellant reiterated his stand that he is a consumer K05050008 and is not concerned with the consumer no. K05050005. He did not, however, furnish any authorisation from Shri Malviya nominating him to represent on his behalf, as required under the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003. Neither any documents showing him as a consumer in the said premises were furnished. Upon asking whether he has approached the Reliance Energy Limited for getting connection transferred in his name as advised by the Forum, he replied in negative and stated that he would do so in course of time. He did not provide any details about Shri Malviya, the consumer in whose name both the connections stand at present. He clarified that he is not aware of Shri Malviya and is unable to give any information about him. He provided a zerox copy of the Demand Draft for Rs. 5120/- paid to the Reliance Energy Limited on 21st July, 2005 towards the arrears. He argued that arrears of one consumer number should not be transferred to another consumer number.

9. Mrs. Shetye, Additional Manager, Legal, on behalf of the Respondent submitted her arguments. She reiterated her stand that Shri Keswani is not a consumer at all, nor he is an authorised representative of Shri Malviya. There are no documents to show that Shri Malviya has authorised Shri Keswani. She alleged the malafide intention of Shri Keswani to represent in the name of Shri Malviya without paying the arrears of the connection of the consumer no. K05050005. She cited a couple of judgements and orders from various courts to show that arrears of one connection can be transferred and legally recovered from the another connection. She further argued that the person having more than one supply may suffer disconnection of any or all those lines if the consumer does not pay arrears of payment in respect of any such lines.

10. On going through the written submissions and arguments from both the parties, the issue arises whether Shri Keswani is a consumer in the present case. It is clear from records that both the connections in the premises referred to above, stand in the name of Shri Malviya. There is no agreement or arrangement between Shri Malviya and Shri Keswani to authorise the latter either to occupy the premises or to use electricity through the above connection. Secondly, Shri Keswani signed on behalf of Shri Malviya as a consumer, assumes the authority himself which he does not have in the first place in absence of any document to show that Shri Keswani is either a consumer or an authorised representative on behalf of the consumer, Shri Malviya. He does not stand a chance to represent the consumer. Consequently, Shri Keswani does not have any locus standi to file this representation. The Forum has dealt the case and arrived at the same conclusion. No additional material is produced by Shri Keswani to consider the matter in any other way. In view of this, Shri Keswani cannot be recognised as a consumer or consumer's authorised representative and therefore it is not necessary to go into the merits of this Representation.

11. Before parting with the order, I must put it on record that the Appellant has not been able to substantiate his allegation against the Forum that he was not given the opportunity to be heard. The order issued by the Forum does make a specific mention that Shri Keswani was asked about Shri Malviya to which he had replied that he does not know Shri Malviya's whereabouts. He was also advised by the Forum to get the meter transferred in his name first and if the grievance still persists, then he should approach the Forum. This indicate that Shri

Keswani was given the opportunity to state his case and there appears no substance in the allegation made by Shri Keswani.

ORDER

In view of the documents and submissions referred to above, the Appellant, Shri Keswani could not establish that he is a consumer in the present case. He failed to produce anything to show that he has been authorised by the consumer, Shri Malviya to represent his case. As such, I am inclined to fully agree with the observations made by the Forum. No interference in the said order is warranted. The appeal is disposed off with this order.

Sd/
(W.G.Gorde)
Ombudsman

Sd/
(S.N.Yadwad)
Secretary