



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. 07 OF 2006

In the matter of taking incorrect meter readings.

Shri Sanjeev Borade.....

Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Kalyan.....

Respondent

Present:

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

On behalf of the Appellant:

1. Shri Sanjeev Borade
2. Shri Raju Borade

On behalf of the Respondent:

1. Shri R.A.S. Rathour, Junior Engineer, MSEDCL, Kalyan

Date: 28th February, 2006

ORDER

Shri Sanjeev Tukaram Borade, resident of Lok Gram, Kalyan (E) has filed the representation against the order of the Consumer Grievance Redressal Forum, Kalyan, who declined to hear the grievance on the ground of jurisdiction. The Forum, in its order dated 7th November, 2005 has ruled that the present case comes under Section 135 of the Electricity Act, 2003 and as such, it is not within the purview of the Consumer Grievance Redressal Forum.

2. Shri Sanjeev Borade, the Appellant in the present case, is aggrieved with the above order of the Consumer Grievance Redressal Forum and filed this representation, which is registered at Serial No. 7 of 2006. The Appellant has sought redress in the matter especially in respect of the bill of Rs. 82,124/- raised by the Maharashtra State Electricity Distribution Co. Ltd. (hereinafter referred to as the Respondent). The Appellant in the representation has stated his case as under:

3. The Appellant is a resident of Lok Gram, Dronagiri Building, B-3/309, Netivali, Kalyan (East) and is supplied electricity by the Maharashtra State Electricity Distribution Co. Ltd., the Respondent, in this case. The bills are issued in the name of Lok Developers, the

developer of the residential complex wherein Shri Borade is the occupant of the flat no. 309 in building B-3 of the complex. On 18th October, 2004, there was a surprise check by the officials of the Respondent, who found that the meter was running slow and tampered. The meter was removed and replaced by a new meter within a week's time. Average bill for July to September, 2004 was around Rs. 1650/- towards consumption of electricity. However, for the period from September to November, 2004, the Appellant says that the Respondent handed over a bill of Rs. 42,910/- which was very high as compared to the normal consumption. The Appellant conceded that if the meter was found slow by 88% during the inspection on 18th October, 2004, he was willing to pay for the damages and the appropriate charges for the period during which the meter was slow.

4. Subsequently, the bill was reduced to Rs. 18,540/- but the Appellant refused to pay the same as he contends that nothing wrong was done by him and was prepared to pay only for 21 days during which the meter was found slow. He followed up the matter with the Internal Redressal Cell of the Respondent, which did not evoke proper response. The Respondent wrote after a period of 5 months calling upon the Appellant to be present for the testing of the meter. It is alleged that no engineer was present at the given time and he had to go back without witnessing the test.

5. In the meantime, he received a bill of Rs. 30,481/- after which he lodged the complaint with the Internal Redressal Cell. Instead of taking proper action on his request, the Respondent's staff disconnected the power supply, which remained disconnected for five days from 4th November, 2005. Further, the Respondent handed over the bill of Rs. 71,215/- and also filed a case in the Court for electricity theft under Section 135 of the Electricity Act, 2003.

6. The Appellant further contends that the Respondent pressurized him for making payment and finally he paid Rs. 82,124/- as demanded by the Respondent. The Appellant says that no explanation was given on how the bills for various amounts, the last being for Rs. 82,124/-, were given without any details of the penalty and the period. He states that he has not tampered the meter and there is no theft of electricity on his part. In view of this, he approached the Consumer Grievance Redressal Forum, Kalyan. The Forum heard the matter and observed that the Respondent, Maharashtra State Electricity Distribution Co. Ltd. had already filed the case in the Court for theft of energy as per Section 135 of the Electricity Act, 2003 and therefore concluded that the matter does not fall within the purview of the Forum. The Forum relied on the inspection report and panchnama submitted by the Respondent.

7. Notice was issued to both the parties on 24th January, 2006 to submit their say in the matter. They were also advised to consider working out a proposal to facilitate settlement, conciliation or mediation. Since there is no such proposal from either of the parties, the matter was posted for hearing on 21st February, 2006.

8. The Respondent vide its letter dated 8th February, 2006 submitted its statement of defence and the parwise reply to the points raised by the Appellant. It stated that this matter was heard by the Forum but the Forum did not pass any order being the case of theft of

energy under the provisions of Section 135 of Electricity Act, 2003. While elaborating on the points being raised by the Appellant, it states that the meter was showing less consumption compared to the earlier pattern and the bills were issued on average consumption on faulty status for the month of September to November, 2004. Surprise check by its staff on 18th October, 2004 revealed that the meter was running slow by 88% and the seals were found tampered. The meter was resealed with the sticker and the fresh seal to restrain the Appellant from tampering the meter again. The meter was tested in the presence of the Appellant and the report bears the signature of the Appellant's representative. The meter was again tested in the laboratory on 27th March, 2005 and the result of the test indicated the meter to be slow by 83.76%.

9. The Respondent furnished the details of the bills issued for recovery on the basis of slowness of meter for the period of six months from May to September, 2004 amounting to Rs. 42,910/-. Upon detailed investigation, the bill was revised to Rs. 60,643/-. The Respondent states that the meter was made slow by using artificial means i.e. loop wire. In view of this tampering, the Respondent proceeded to file the complaint under Section 135 of the Electricity Act, 2003. It is submitted that upon filing the case, the Forum has already decided the matter on 17th November, 2005 against which the Appellant has filed an appeal on 23rd January, 2005, i.e. beyond the stipulated period of 60 days. The appeal is, therefore, not tenable being filed beyond limitation and without any sufficient reason for the delay. The Respondent further states that the matter would be outside the jurisdiction of the Forum and the Ombudsman in view of the provisions contained in the Act as well as in the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003.

10. The matter was first heard on 21st February, 2006. The representatives of the Appellant were present while one Ms. Rekha Lokhande was present on behalf of the Respondent. No other official on behalf of the Respondent was present. Ms. Rekha Lokhande pleaded that she needs more time for getting further instructions and clarifications from the Respondent. As such, she requested for short adjournment. The Appellant did not object to this request. The matter was, therefore, adjourned to enable the representative to come with clear instructions from the Respondent.

11. The matter was again heard on 28th February, 2006. Shri Raju Borade and Shri Sanjeev Borade were present on behalf of the Appellant while Shri R.A.S. Rathour, Junior Engineer represented the Respondent. The Respondent submitted that it has again verified the records of the case to conclude that the assessment of charges levied was correct. No further change in the assessment is required. He narrated in short the sequence of events that led to filing of the case under Section 135 of the Electricity Act, 2003 and explained that the matter has already been heard and decided by the Competent Court. Moreover, the subject matter of theft of energy falls under Section 135 of the Electricity Act, 2003 and therefore it would be outside jurisdiction of the Forum and the Ombudsman. He also highlighted that the Representation filed by the Appellant is time barred as it is delayed by 7 days. No application for condonation of delay has been filed and therefore, the appeal would become non maintainable.

12. The Appellant explained the events that led to this Representation. He agreed that he has signed the affidavit that the Maharashtra State Electricity Distribution Co. Ltd noticed the theft of energy in his meter no. 900123446 and that he is agreeable to compensate the loss due to this theft. He, further, conceded that he has paid the compounding charges and the bills raised by the Respondent in this behalf. He also undertook not to resort to any theft of energy in future. Based on his affidavit, the Competent Court has already disposed off the matter.

13. While agreeing to have signed the affidavit and the consent, he, however added that he did so under duress as he was very much depressed during that period. He requested that the case might be considered afresh on the basis of his earlier and current consumption of energy.

14. Documents on record and submissions made during the hearing make it abundantly clear that the Appellant had indeed consented to the Act of theft, although he differed on the period for which the penalty has been charged by the Respondent. He further consented for levy of charges for the alleged theft for a limited period of about 3 weeks during which the meter appeared to have been tampered. The case has already been compounded under the provisions of Section 152 of the Electricity Act, 2003 and the necessary sum of money for compounding has already been paid, in addition to the assessment charges worked out by the Respondent. The Court has already decided this matter under Section 135 of the Electricity Act, 2003. Considering the sequence of events and the material on record, there appears no doubt that the case is within the ambit of Section 135 of the Electricity Act, 2003. As such, it is clearly outside the ambit of the Ombudsman. The Forum has also taken the same view. There is no reason to take a different view in appeal on the representation. The Representation is, therefore, disposed off as being beyond the jurisdiction.

Sd/
(W. G. Gorde)
Ombudsman

Sd/
(S.N. Yadwad)
Secretary