



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. 6 OF 2005

In the matter of burning of meter with a Demand for necessary action and notional compensation

Mr. Ajay Modi, Partner of
M/s. AIM Exhaust System
Gala No. 3,4,5,6,
Sheetal Estate No. 9,
Navghar, Vasai (E).....

Appellant

Versus

The Superintending Engineer,
Maharashtra State Electricity Board,
'Deep ashree Bldg.,
Vasai

Respondent

Present:

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

On behalf of the Appellant

3. Shri Ajay I. Modi
4. Shri Tushar I. Modi

On behalf of the Respondent

5. Shri D.S. Tayade, Ex. Engineer (O)
6. Shri S. A. Kajale, Ex. Engineer (T)
7. Shri A. M. Ramekar, Ex. Engineer (O&M)
8. Shri S.S. Gangurde, Jr. Engineer

Dated: 10th June, 2005

M/s. Aim Exhaust System is a L.T. consumer of M.S.E.B. having connected load of 50 H.P. with the Consumer No. IP22578. Shri Ajay Modi, partner of M/s. Aim Exhaust System (hereafter called as Appellant) filed this representation against the order passed by the Consumer Grievance Redressal Forum, Kalyan on his grievance against M.S.E.B.

(hereafter called as Respondent) regarding compensation for the loss sustained by the consumer and other reliefs like action to be taken against the M.S.E.B. Employees, Meter Manufacturer and finding reason for explosion in the meter, etc. The Forum, by its order dated 25th February, 2005 declined to grant full compensation sought by the consumer and only allowed notional compensation of Rs. 10,000/-. Reason for fire was attributed to some manufacturing defect or fault in some of the components of the meter. The Forum also ordered the M.S.E.B. to procure meters with ISI mark or meters conforming to certain specifications; but did not make any order regarding action against the employees or the meter manufacturer. Being aggrieved by this order, the Appellant has filed this representation on 19th April, 2005 which is registered at Serial No. 6 of 2005.

2. The Appellant in this representation has stated his case as under:
The Appellant has a factory unit no. 2 called 'Aim Exhaust System' located at Gala No. 3,4,5,6, Sheetal Estate No. 9, Navghar, Vasai (E). He has a connected load of 50 H.P. in this unit. It is stated that the Appellant has two more units located at Vasai having electrical power with different consumer numbers. The Appellant states that his factory was closed for the Diwali holidays. On 11th November, 2004 at 5.00 p.m., he had shut down the main T.P. switches of all machines as well as M.C.C.B. on the C.T. meter box. On re-opening after Diwali holidays, on 16th November, 2004, his workers noticed burnt parts and ash of the meter lying on the floor and the meter was found burnt due to fire in the meter box. Based on the information given by the small hotel owner opposite his factory gate, the Appellant states that the explosion took place on the evening of 12th November, 2004 between 6.00 and 6.30 p.m.

3. The Appellant approached the officials of the Respondent on 16th November, 2004 for restoring power supply, who assured to do the needful on payment of the cost of new meter subject to availability. It was told that the new meter was not readily available in the stock and it would take 3 to 4 days to get a new meter. Not satisfied with this, the Appellant approached senior officials of the Respondent for quick replacement of the meter to avoid the production loss. According to the Appellant, power supply was restored on 17th November, 2004 at around 5.45 p.m. after replacing the meter. It is further stated that the Respondent did not investigate and inform the reasons for explosion and burning of the meter. The Appellant further says that, for ensuring safety, he carried out replacement work of cable and other equipments at his cost. He subsequently approached the Consumer Grievance Redressal Forum, Kalyan on 3rd January, 2005 with a request to find out the cause of explosion and burning of the meter. The Appellant also sought guarantee for the new meter and other equipments and claimed compensation of Rs. 1,23,000/- for damage of electrical gadgets, cable, etc which includes a notional compensation of Rs. 10,000/-. The Appellant also sought action against the manufacturer of the meter and employees of the Respondent.

4. The Appellant has filed this representation to seek relief as under:

- a) Reason for explosion required to be obtained from M.S.E.B.
- b) To take action against M.S.E.B. manpower and manufacturer of meter on the ground that meter is not upto the mark in respect of ISI marking and other quality standard.

- c) Replacement of entire batch of meters that M.S.E.B. supplied in the year 2000, solely in the interest of all consumers of M.S.E.B., Vasai (E).
- d) Guarantee of the new meter being ISI mark, C.T., and M.C.C.B. from M.S.E.B. alongwith meter healthiness report.
- e) Total electricity gadgets cost Rs. 95,000/-
- f) Labour charges of Rs. 18,000/-
- g) Notional compensation of Rs. 10,000/-
- h) Action against M.S.E.B. and the meter manufacturers.

5. In the written statement submitted on 7th May, 2005, the Respondent states that upon receiving the information from the Appellant on 16th November, 2004, its officials visited the consumer's premises and observed that except burning of the meter, there was no other damage. It, further, states that the meter was replaced on 17th November, 2004 and the power supply restored at 14.59 hours. The Appellant was allowed to procure his own meter to avoid delay in replacement since the Respondent did not have any new meter in stock. The Respondent has, referred the letter dated 16 November, 2004 from the Appellant which is submitted as an annexure-I with the written statement and is taken on record. The letter mentions that the meter has been burnt off completely on 12th November, 2004 when the factory was closed. It further mentions that the Appellant had checked wirings as well as outside building's cable work and that there is no sign of any short circuit and damage of cable and wirings. All the main switches as well as MCCB of C.T. meter box were shut down while closing the factory on 11th November, 2004.

6. The Respondent states that the Appellant later on approached the higher authorities and informed that his panel board is completely burnt and falsely complained against the Dy. Executive Engineer. This is contradictory with the contents in the letter of the Appellant submitted on 16th November, 2004 which does not mention of any damage except the burnt out meter. The Respondent states that it had subsequently carried out investigations and has drawn spot panchnama of the incident on 11th January, 2005. Photographs were also taken to make the facts more clear. The Respondent brought to the notice the following discrepancies and contradictions in Appellant's complaint:

- a) Photo of the meter box shown burnt, shows the Serial no. 325 whereas meter box Serial no. 254 exists at the consumer's premises (Consumer No. IP22578). This box is not replaced after the incidence. The photographs provided by the Appellant is of a different box. The Respondent states that only 3 phase meter of the consumer was found burnt while single phase meter installed on the same panel is not damaged.
- b) The Respondent has contradicted the claim of the Appellant on replacement of cable from main bus bar to the meter box by copper cable. It states that the existing cable from the feeder pillar to the meter box is an aluminium cable of 70 sq.mm x 3¹/₂ core. It is not replaced by the Respondent. Therefore the claim of the Appellant on replacement of cable is false.
- c) Colour of the meter box in the photographs submitted by the Appellant is different than the one existing at the consumer premises.

7. The Respondent submitted a copy of the statement dated 12th January, 2005 of one Shri Bhagat, Electrical Contractor of M/s. Sangita Electrical Corporation. It is taken on record. The statement mentions that after 15th November, 2004, he has only replaced 10sqmm copper cable of machine and no other work is attended by him. His statement further says that he has given a bill of Rs. 18,500/- on demand from the Respondent to show only the cumulative bill for general supervision work for the whole year and that he has given the bill without writing any details which were later on filled by the Respondent.

8. The Respondent further states that the present grievance about the burning of meter due to fire or explosion is not covered under the Regulations and is not within the purview of the Forum. According to the Respondent, the Forum has acted without jurisdiction in granting notional compensation of Rs. 10,000/- and deciding the quality of material by directing the Respondent to procure ISI marked or meters with certain specifications. The Respondent submitted copies of the statements of Engineers, Lineman and MRI data showing no voltages surges in the vicinity. All these documents are taken on record.

9. The Respondent further states that the value of earth resistance measurement test done at the installation of the Appellant was satisfactory. A copy of storage data of a meter of another consumer viz M/s. Aakar Corporation No. IP21642 connected on the same transformer was furnished which is taken on record. The "Event Cumulative Log" of this data for the period of January 2003 to January 2005 reads as under:

Event	Count	Time
High Voltage Event	0	0 days 00.00.00

Above data establishes that this meter was not subjected to high voltage to cause burning during this period.

10. The matter was heard on 24th May, 2005 when the Appellant submitted a rejoinder on the points highlighted in the Respondent's submission. The Respondent also made an additional submission during the hearing. All the documents are taken on record. The Appellant in its rejoinder raised certain issues on admissibility of the documents submitted by the Respondent after the order of the Forum. The Appellant says that M.S.E.B. has falsified and fabricated the statements of the Engineers, helper and the electrical contractor. It also mentions that the documents like statements of the engineers, the electrical contractor, etc did not form part of the proceedings of the Forum. It has mentioned that provisions under the Indian Evidence Act do not allow submission and acceptance of additional documents during appeal when they were not submitted as a part of original application.

11. Shri Modi, representative of the Appellant during the hearing reiterated the background of the case and explained the sequence of events that occurred after burning of the meter. He mentioned that he has one more unit at the same location where similar incident happened in December 2003. The meter was burnt and it was replaced but no investigation was carried out to find the cause of burning of the meter. Since this is a repeated incident in his own factory within a short span, he is concerned about the safety of equipments and personnel. He alleged that the Respondent, although replaced the meter on 17th November, 2004, did not investigate the cause of explosion and burning of meter. He was not satisfied with the casual approach of the Respondent's officials, which compelled

him to approach the senior officials for getting the meter replaced and restoration of power supply.

12. On query, the Appellant explained that he manufactures automobile silencers in the factory unit. There are various types of machines including shearing machine, tube bending machine, power press, drill machine, MIG welding machine, etc. There were 15 workers in the factory. However, few of them left with fear after the incidence happened. He is, therefore, apprehensive of the quality of meter installed in his unit. In view of this, he had requested the Respondent to find out the cause of explosion and burning of the meter. The Appellant further mentions that several meters of datapro make installed in the area burnt or gone out of order in the recent past and this needs to be investigated. He wants the guarantee for new meter and equipments. Further, he reiterated that the entire batch of meters manufactured in the year 2000 by Datapro company should be withdrawn, pending investigations and action should be taken against the manufacturer of the meter.

13. Upon query, the Appellant confirmed that he replaced the main cable from the feeder pillar to the meter box by 70mm copper cable, alongwith other cables and equipments as detailed out in his representation. He has paid the cost of material and labour for this purpose.

14. The Respondent during the hearing stated that it did not have the meter in stock on 16th November, 2004. On the instructions of the Chief Engineer, they located one meter of the 'permanently disconnected consumer' and replaced the meter at the Appellant's premises after testing of that meter. Upon asking as to whether it could provide details of the test carried out on the meter, the Respondent agreed to do so.

15. The Respondent was asked to re-confirm whether its officials visited the site and verified the damage on 16th November, 2004. It was stated that the officials visited the Appellant's premises on that day and noticed that except the meter, no other cable or equipments were damaged. The Appellant at this stage furnished a copy of the verification report signed by the official of the Respondent. The report shows that the main cable was replaced and was verified by the official. Apparently, this is contrary to what the Respondent explained in the written statement and also during the hearing. Doubt, therefore, arises as to which equipments and cables were really replaced in the unit. It is, therefore, necessary to bring out the facts in this context. Secretary to Ombudsman was, therefore, directed to visit the site and Respondent's office, if necessary and carry out the spot inspection and furnish report. Hearing was adjourned to 7th June, 2005 to facilitate the inspection. The spot inspection was carried out by the Secretary on 25th May, 2005.

16. The matter was again heard on 7th June, 2005 wherein the Appellant was asked to clarify certain events like filing of first information report, payment of bills towards replacement of the cables and equipments as well as insurance claim lodged, if any, to claim the damages. The Appellant confirmed that FIR was lodged with the police by its letter dated 29th November, 2004 which was actually receipted by the police station on 2nd December, 2004. The delay of about two weeks in lodging FIR, was attributed by the Appellant to the reluctance of the police station to acknowledge the complaint. The

Appellant stated to have lodged a claim with the insurance company towards damages due to burning of the meter and equipments. Copy of the letter dated 14th December, 2004 and the claim form dated 28th December, 2004 submitted to the Insurance Company do not show details of damages, except the mention about the explosion and fire in the meter.

17. The Appellant on query replied that factory unit is in regular production and produce around 1000 silencer units per month. It works on single shift basis. It was also stated that the unit has turnover close to Rs. 1 Crore per annum.

18. On the issue of the visit of Respondents' officials on 11 January, 2005, the Appellant stated that M.S.E.B. officials did not take any permission to visit the unit and that no permission from Ex. Magistrate was obtained for this purpose as required under provision of Section 163 (1) of The Electricity Act, 2003. The Appellant mentioned that around 15 officials of the Respondent visited the factory without permission and threatened the Appellant. The Respondent during the hearing denied the allegations made by the Appellant. It refuted that the officials threatened the Appellant in any way and insisted that 8 officials visited and conducted the inspection and verification work. They stated that due intimation was given to the Appellant who was present at the time of their visit. The Appellant then agreed that the short intimation was given to them although 24 hours notice was required under the rules.

19. On query, the Respondent mentioned that the burnt meter at the Appellant's premises was replaced on 17th November, 2004 by another meter which was duly tested in the laboratory. Copy of the test report and the extract of issue register were furnished in support of their say. The meter was tested and found to be in order as per the test report. The Respondent at this stage was again asked to explain the sequence of events on 16th November particularly on the status of the cables and the other equipments. It was stated that cover of the meter box was found open and some parts of the burnt meter were in place while some parts were seen on the floor. He mentioned that except damage to the meter and ELCB no other damage was seen. In fact, on the next day, the meter was replaced and the power was recommissioned with the same cables and connections.

20. On the issue of the test report signed by the official of the Respondent, it was mentioned that he signed the test report on 27th December, 2004, in token of verification of connected load in the unit and the installation. Verification does not relate to replacement of the cables and equipments shown in the last column of the said certificate which are entered by the Electrical Contractor. It was reiterated that except the meter, no other cable or equipments were changed on 17th November at the time of recommissioning power supply. The test report no. 29978 Form D-1 of the Licenced Electrical Contractor in respect of fixing 70 sqmm copper cable is false.

21. A point was raised during the earlier hearing about the quality of the meter, which got burnt on 16th November, 2004. The Respondent produced the copies of issue details of the burnt meter, which show that the meter was duly tested and then issued for installation in September, 2001. Copy of the test report of the meter installed at the Appellant's premises

on 17th November, 2004 was also produced, showing that the meter was duly tested and found O.K.

22. At this stage, the issues raised by the Respondent and the Appellant on the point of jurisdiction and admissibility of evidence were taken up for consideration. The Respondent made out the point that the list of activities for which compensation is permissible under the Standards of Performance of Distribution Licensee Regulations 2005, does not cover the cases of burnt meters. The Appellant stated that any documents or evidence, which was not furnished before the Forum, should not, now be allowed during appeal under the provisions of the Evidence Act.

23. In view of this, it is necessary to examine the points raised by the Respondent and the Appellant before taking up the main issues for consideration. As regards to the point of jurisdiction raised by the Respondent, it is true that list of activities mentioned in the Standards Of Performance Regulations, 2005 does not indicate burning of meters as one of the activity for which the compensation levels are prescribed. Various activities mentioned in the Regulations in this context relate to provision, restoration and quality of supply, reconnection of power, etc. These are essentially time-related activities for rendering services within prescribed time limits. These do not cover various situations leading to loss or damage suffered by the consumer as envisaged under Regulation 8.2 (3) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 wherein appropriate compensation can be awarded. The Forum has, therefore, full jurisdiction in considering such issues of compensation. The point raised by the Respondent in this behalf is devoid of any merit.

24. The Appellant has raised the issue of admissibility of documents and evidence produced by the Respondent during the appeal. Provisions in the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal & Ombudsman) Regulations, 2003 in this context are very clear. Regulation 16.10 reads as under,

“16.10 The Ombudsman shall be guided by such factors which in the opinion of the Ombudsman are necessary in the interest of justice and shall ensure transparency while exercising its powers and discharging its functions. Provided however, that the Ombudsman shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872 (1 of 1872).”

25. It is evident from the above that the Ombudsman is not bound by provisions of the Code of Civil Procedure 1908 or the Indian Evidence Act, 1872 in respect of conduct of proceedings. In fact, both the Appellant and the Respondent were given opportunity to produce additional documents or evidence in order to bring out facts more clearly even during the hearing stage. The Appellant has not submitted anything to support his statement that the Respondent has falsified and fabricated the statements of the Engineers, helper and the electrical contractor. The point raised by the Appellant is therefore not valid.

26. After deliberating on the issues of jurisdiction and admissibility of additional evidence, following issues are framed for consideration of the case:

- a) Whether the burning of meter has caused damage to other equipments and cables.
- b) Whether any compensation as claimed by the Appellant is payable by the Respondent.
- c) Whether the meter installed in the Appellant's premises was of substandard quality that led to its burning.
- d) Whether the meter replaced on 17th November, 2004 was of an approved make and type and was properly tested.
- e) Whether any action is warranted against the officials of Respondent and the manufacturer of meters.

27. In this connection, it is relevant to peruse the initial report filed by the Appellant with the Executive Engineer, M.S.E.B. on 16th November, 2004 which is on record. The report states that electrical 3 phase meter has been blast off and completely burnt when the factory was closed for Diwali holidays. The main switches as well as C.T. Meter box were shutdown. The Respondent confirms in the same report that he had checked wirings as well as cable work outside the building and that there was no sign of any short circuit or damage of cable and wirings. There is no reason to dispute the contents of this report. The statements of the Jr. Engineer, helper and the Dy. Ex. Engineer clearly show that except 3 phase meter which was found burnt, there is no damage to other equipments and cables including a single phase meter installed on the same board.

28. The report of the Secretary clearly shows that the equipments and accessories like plywood board, meter box, M.S.E.B.'s incoming cables, as well as the cables from the consumer's T.P.switches to production machines are the same as before and are not replaced. It is concluded in the site inspection report that the meter must have burnt inside the meter box with closed doors. There is no dent or damage to the meter box. There is no trace of spreading of smoke or heat from the meter outside the meter box. There is no possibility of burnt meter pieces to fall down alongwith the fixing nuts and bolts on the mat on the floor without burning the mat. There were no such signs. Photographs submitted by the Appellant show a different meter box number than the one, which is existing at the installation site. This shows that the photograph relates to some other meter box. The original meter box is still at site and is in order. The report further says that the main cable from the M.S.E.B.'s pillar to the meter box is the old aluminium cable and not the new copper cable as claimed by the Appellant. There is no evidence to suggest that the main cable, meter box, board and other equipments were replaced. The statement of Shri Bhagat, the electrician of Sangita Electrical Corporation, confirms that he has not carried out any work except replacement of 10mm copper cable of the machine within the premises of the Respondent. He has given a cumulative bill for general supervision work for the whole year. The entire evidence on record shows that except the 3 phase meter there was no damage caused to any other equipments or cables. The claim of the Appellant about damages is therefore disproved.

29. In view of the above, there is no case for compensation to be awarded to the Appellant. There is no loss or damage suffered by the consumer as contemplated in Regulation 8.2(3) of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2003. Therefore, the notional compensation granted by the Forum to the Appellant as their workers have been mentally

disturbed is devoid of any merit. No such notional compensation therefore could be considered and awarded.

30. As regards the reasons for burning of the meter, report from the Electrical Inspector and the storage data of the meter of M/s. Akar Corporation connected on the same transformer are the only relevant documents on record. They show that there are no indications of any short circuit or voltage surge and therefore the exact reason for burning of the meter could not be ascertained. Executive Engineer, Testing Division, Kalyan states in his letter that the meter was fully burnt and no testing could be carried out and no conclusion on the reason of burning could be derived. MRI records of a meter installed at the distribution transformer centre submitted by the Respondent show that there was no surge or over voltage in the consumer's premises during that period which may lead to burning of the meter. Totality of the evidence does not bring out clear reason for the burning of the meter.

31. It is pertinent to note that the meter in the premises of the Appellant was rarely read. In fact, billing record from the C.P.L. indicates that for 16 consecutive months i.e. from September 2001 to January 2003, the premises were shown as locked and for many other months, the readings were not taken with the remark that readings not available. It is barely on 2 or 3 occasions that the meter readings were recorded. The factory unit was regular in production as reported by the Appellant during the hearing. In view of this, there is no way to ascertain the condition of the meter in absence of any such visits to the premises by the Respondent's officials. Moreover, the C.P.L. details indicate total consumption of only 775 KWH in 39 months from September 2001 to November 2004 i.e. less than 20 units per month. The Respondent and the Appellant were asked to explain this ridiculously low consumption as compared with the connected load of the consumer's factory in regular production of around 1000 silencers per month and a turnover of around Rs. One Crore per annum. Both the Respondent and the Appellant were silent on this issue. The phenomenon is observed to have continued till the meter was burnt destroying the last meter reading.

32. In view of the above, C.P.L. of the second adjacent unit of the Appellant is obtained on record. In that unit also, no consumption has been shown since date of connection until February 2003 followed by a meagre consumption of around 100 units on an average per month till the said meter was reportedly burnt in December 2003.

33. Sequence of events seen from the record leads to the conclusion of utter neglect on the part of the Respondent's officials in the matter. Ridiculously low billings till the date of burning of the meter indicate a possibility of clear malafide on the part of the Respondents' officials. It is essential that the Respondent must investigate the matter and initiate suitable action against the concerned officials for this apparently a criminal neglect.

34. As regards to quality of meter that burnt in November, 2004, records produced by the Respondent show that the meter was installed in the Appellant's premises in September 2001 which was duly tested in the laboratory. Similarly, the meter now replaced was also tested before its installation on 17th November 2004. Therefore, there appears no reason for doubting the quality and standard of meter. However, it will be worthwhile to act on the suggestion of the Forum and also the prayer of the Appellant that the Respondent should

procure the meters only with ISI mark to maintain the quality and reliability. The procurement of the meters with proper specifications and ISI mark would ensure the reasonable guarantee and reliability of performance of such meters.

ORDER

- 1) Based on the report of the Electrical Inspector, there was no indication of any short circuit near the meter box. Data retrieved by MRI and furnished by Respondent shows that there was no over voltage or surge during the period. Thus, burning of the meter cannot be attributed to over voltage or short circuit in and around the meter box. Serious neglect of Respondent officials led to lack of monitoring of the meter and its performance that could have given clues regarding working of the meter and the installation. The Respondent is directed to further investigate the possible cause keeping in view of the observations made in paragraph 31 to 33.
- 2) As regards the quality and standard of the meter installed at the premises of the Appellant, it is seen that the meter was of approved make and type and was duly tested before its installation, although it did not have any ISI mark. Therefore, quality and standard of the meter cannot be doubted at this stage.
- 3) In view of the order at Serial No. 2 above, the request of the Appellant to replace the entire batch of meters supplied by M/s. Datapro in the year 2000 is not reasonable and is therefore rejected. The Respondent should hereafter procure the meters with ISI mark to ensure reasonable amount of guarantee and reliability in operation.
- 4) The claim of the Appellant in respect of the damages is completely disproved and therefore no compensation is payable on this account. There is also no basis for awarding any notional compensation. The order of the Forum to this extent is hereby set aside.
- 5) The order should be complied immediately and the compliance reported within a period of two months.

Sd/
(W.G.Gorde)
Ombudsman

Sd/
(S.N.Yadwad)
Secretary.