

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
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Case No. 12 of 2008

In the matter of
Complaint filed by Maharashtra Electricity Consumers Association alleging non-compliance of CGRF's interim order.

Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

Maharashtra Electricity Consumers Association
Regd. Office H. No.27, Pall's Compound, 1st Floor
Opp. Aasbibhi, Kalyan Road, Bhiwandi 421 302,
Dist. Thane

... Complainant

Versus

Maharashtra State Electricity Distribution Co. Ltd.,
5th Floor, Prakashgad, Bandra (East),
Mumbai – 400 051.

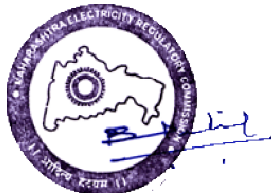
Torrent Power Ltd.
Old Agra Road, Anjur Phata,
Bhiwandi 421 302.

... Opponents

ORDER

Dated: July 16, 2008

The Maharashtra Electricity Consumers Association (MECA) filed a complaint on March 18, 2008 alleging non-compliance of CGRF interim order dated January 25, 2008 by MSEDCL and Torrent Power Ltd., Bhiwandi. The complainant has also sought to invoke Section 142 and Section 149 of the Electricity Act 2003 ("EA 2003") for the imposition of penalty. It is averred in the complaint that the case is for non-compliance of the interim order issued by the CGRF against the Nodal Officer, MSEDCL, Bhiwandi and against the General Manager (Tech), Torrent Power Ltd., Bhiwandi (Franchisee).



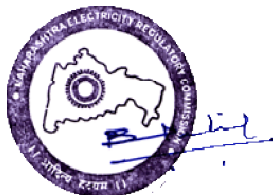
2. This complaint relates to an interim order dated January 25, 2008 wherein the case of Shri Fatte Mohmd. Shaikh, Bhiwandi was taken up. The consumer's meter was burnt on January 9, 2008. He was being issued with average energy consumption bill. He complains about average billing as well as replacement of burnt meter that was not attended by the utility, which recovered from him a part payment of Rs.20,000/-.

3. The CGRF came to the finding that the utility instead of attending to the burnt meter complaint of the complainant went on slapping bills on average basis. On this finding the CGRF admitted the grievance. The CGRF ordered the utility to replace the power meter of the consumer immediately to restore the energy supply. The said order also contained a request for the delivery of the said order to MSEDCL's franchisee viz. Torrent Power Ltd., for ensuring compliance.

4. M/s. Torrent Power Ltd. filed its reply on May 16, 2008 wherein it has primarily contended that it was not heard by CGRF before the said interim order was passed. Besides raising its objection on maintainability, Torrent Power Ltd. has brought a new fact on record that the consumer unauthorizedly used load of 34 HP although the sanctioned load was 15 HP. The aforesaid amount of Rs.20,000/- was basically a part of the total outstanding dues of the said consumer aggregating to Rs.51465/-. Torrent Power Ltd. also stated that this consumer is a persistent defaulter in paying energy bills. On receipt of its complaint about burnt meter the consumer was asked to pay for the cost of the meter as also the outstanding arrears. The consumer did not show any willingness to pay. Thereafter, the consumer approached the CGRF culminating into the interim order dated January 25, 2008. Torrent Power Ltd. has submitted in its reply that on February 1, 2008 it has replaced the meter of the consumer. On May 7, 2008 the CGRF has passed an order. Thus, Torrent Power Ltd. has complied with the CGRF's order. Till date, the consumer is in arrears due to non-payment of bills from February 2008. In the circumstances, Torrent Power Ltd. submitted that the complaint should be dismissed with costs. Thereafter, MSEDCL filed its reply repeating and reiterating the contents of the reply filed by Torrent Power Ltd.

5. An admissibility hearing was held on May 21, 2008. For the complainants, Shri Mohd. Fatte, Shri M.M. Akhtar, Shri Shakil Ansari and Shri Pravin Thakkar appeared. Smt. Deepa Chavan appeared for MSEDCL. In the said hearing, the Commission had observed that the matter shall be deemed to be dismissed if no steps towards prosecution of this case are taken up by the complainants within one month.

6. Having heard the parties and after considering the material placed on record, the Commission finds that this specific matter relates to a billing dispute for a specific consumer. The Commission is of the view that the Commission has no jurisdiction to proceed with the matter in view of a judgment of the Appellate Tribunal for Electricity passed on March 29, 2006 in Appeal No.30 of 2005, 164 of 2005 and 25 of 2006 holding that billing disputes between consumers and utilities cannot be decided by the Commission but will be decided by the CGRF and which judgment has been endorsed by



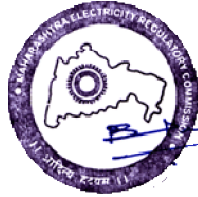
the Supreme Court in its judgment dated August 14, 2007 passed in Civil Appeal No.2846 of 2006. Moreover, as against the main direction under the CGRF's interim order to the utility to replace the power meter, the Commission has taken on record the statement made in the Affidavit in Reply filed by Torrent Power Ltd., wherein it is stated that on February 1, 2008 the meter of the consumer has been replaced by Torrent Power Ltd.

7. In view of the above, the Commission is of the view that nothing more survives in the matter and therefore, the question of invoking the provisions of Sections 142 and 149 do not arise. The complaint is dismissed with the above observations.

8. With the above observations, Case No. 12 of 2008 stands disposed of.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member



(P.B. Patil)
Secretary, MERC