

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No. 33 of 2010

In the matter of
Complaint filed by Smt. Juhi Vikas Vartak, under Sections 142 and 146 of Electricity Act, 2003 against Maharashtra State Electricity Distribution Company Ltd., alleging non-compliance of the Order of CGRF, Kalyan Zone dated 1st July, 2009 about flying squad recovery

Shri V. P. Raja, Chairman
Shri V. L. Sonavane, Member

Smt. Juhi Vikas Vartak

.... Complainant

V/s

Maharashtra State Electricity Distribution Company Ltd.
Through Nodal Officer, Virar (East) Sub-Division

.... Opponent

ORDER

Date: 28th October, 2010

Smt. Juhi Vikas Vartak, a consumer of electricity and the Complainant herein, filed a complaint on 23rd July, 2010 under Sections 142 and 146 of the Electricity Act, 2003 (“EA 2003”) against Maharashtra State Electricity Distribution Company Ltd. (“MSEDCL”), the Opponent herein. The present complaint accuses MSEDCL of non-compliance of an Order dated 1st July, 2009 passed by the Consumer Grievance Redressal Forum, Kalyan Zone, Kalyan (“CGRF”) in regard to flying squad inspection related recovery.



2. The Complainant has prayed as under:

“It is requested that immediate action be taken under Sec. 142 and 146 of EA 2003 against officials of MSEDCL for non-compliance of CGRF Order and also allow the petition with heavy cost.”

3. The facts mentioned in the petition are as under:

- a. The Complainant is a consumer of MSEDCL availing electricity supply under the LT-II Category with a load of 17.10 kW, after having purchased the concerned House, No. 418 in an auction held by Vasai Janta Sahakari Bank Ltd., vide a sale deed dated 22nd February, 2008.
- b. The Complainant submits that after purchasing the house she learnt that since 14th May, 2007, the electricity supply to the said house was disconnected as there were arrears of Rs.27,920/- as on 2nd February, 2007 against the electricity connection. The Complainant therefore made an application to MSEDCL, the Opponent, for reconnection of supply. On 14th February, 2008, at the time of reconnecting the electric supply, the Opponent had prepared test report and the concerned engineer showed in the report, an outstanding amount of Rs.61,510/- as arrears.
- c. The Complainant at that time, deposited an amount of Rs.35,000/- and submitted a bond for the remaining outstanding amount after which the electric supply was reconnected. On 7th May, 2008, Complainant deposited the remaining outstanding amount. The Complainant had subsequently paid various amounts to the Opponent, MSEDCL against the bills, and has furnished details of such bills and amounts paid by her upto March, 2009 including the current bills.
- d. At the time of purchasing the aforesaid premises, in the description of the property with the said Bank, the pending arrears on account of Flying Squad inspection was not mentioned and Complainant was also not given any idea about any such recovery or outstanding amount against the concerned electric connection in the said premises. It is submitted that on her enquiry, the Complainant was given monthly bills of the period from 17th April 2006 to 11th April 2008, and, none of the bills indicated any arrears or recovery on account of theft of electricity.
- e. It was noticed that the said bill of Rs.61,510/- (dated 14th February, 2008) was wrongly billed as the electric supply of the said meter was disconnected in November, 2007 by pole disconnection. The outstanding as per bill for April, 2007 was to be considered, since the unit / house was sealed by the bank and the meter reading was not possible. In spite of pole disconnection, two bills were issued on the billing cycle on an average consumption of the meter. The Complainant submits that although the Complainant had already signed the bond for repayment of outstanding amount of bill to the tune of Rs.61,510/-, she was forced to pay the bill for reconnection of the supply, and the Complainant/ user was not given relief of the excess payment made by her. The Complainant further submits that it was promised that the excess amount paid by her will be refunded or adjusted in the future bills, but which was not done by the Opponent.



- f. That on 12th November, 2008, MSEDCL, the Opponent had sent a bill for Rs.1,48,710/- and a notice dated 26th September, 2008 issued by MSEDCL directing the payment of arrears of Rs.1,47,250/- threatening disconnection of the electric supply to her house in case of non-payment within 15 days, which was issued in the name of Smt. Rajani Suresh Hawaldar, the previous owner of the aforesaid premises, for the theft of electricity on Flying Squad inspection recovery charges, for the inspection carried out in the year 2003.
- g. The said property now stands in Complainant's name and she also pays its property taxes. The Complainant submits that she wrote to MSEDCL that since she purchased the said house she has been paying the electricity bills regularly, and is not in arrears of any bill, and therefore the responsibility of the pending arrears of Rs.1,47,250/- lies with Smt. Rajani Suresh Hawaldar, the previous owner of the said premises or with the referred Bank who auctioned the property.
- h. The Complainant, in this regard, requested the Opponent vide letters dated 6th October, 2008 and 7th October, 2008 for reduction of the amount of the said notice by waiving the said amount and also requested that the said arrears be recovered from the previous owner, i.e. Smt. Rajani Suresh Hawaldar or out of the amount of the previous owner in deposit in the Vasai Janta Sahakari Bank Ltd. As per the Complainant, the Opponent did not oblige the Complainant in this respect.
4. Therefore, the Complainant filed a grievance against MSEDCL, the Opponent with CGRF, Kalyan Zone, who passed an order dated 1st July, 2009, after hearing held on 28th April, 2009, directing the Opponent (MSEDCL), Virar Sub-Division, among other directions, that:
- The Complainant is not liable to pay the arrears of Rs.1,47,250/- which were based on the Flying Squad's inspection report dated 9th January, 2003;
 - The Complainant to apply for change of the concerned electricity connection within 30 days of the date of CGRF decision, and the licensee to process the application without insisting on the referred arrears of Rs.1,47,250/-;
 - The compliance should be reported to the CGRF within 90 days from the date of the decision.
5. Subsequently, on being approached by the Complainant, the CGRF by its letter dated 17th March, 2010, i.e. after approximately 8 months after passing of its own order, asked the Opponent to execute the order and also directed to send the compliance report to the CGRF under intimation to the consumer within a week's time. But, the same also does not seem to have taken any effect.
6. Being aggrieved by the non-compliance of the CGRF's order, the Complainant has filed the present complaint with the Commission under Sections 142 and 146 of the Electricity Act, 2003, alleging non-compliance of the CGRF Order by the Opponent.
7. The Commission vide Notice dated 13th August, 2010 fixed a hearing in the matter on 3rd September, 2010.



8. In response to the above referred Notice from the Commission, the Opponent, MSEDCL vide letter no. SE/VC/Tech/06946 dated 26th August, 2010 from the Superintending Engineer, Vasai Circle, has conveyed among other points that “... *the order was passed by the concerned officials of MSEDCL vide letter no. EE/VRR/Rev/3720 dt. 25.08.2010 without insisting for the payment of F. S. recovery of Rs.1,47,250/...*”
9. The Opponent also submitted in the above letter dated 26th August, 2010, that they *have already complied with the order of CGRF Kalyan*, and that, *though there has been some procedural delay on their part, the consumer has not suffered any hardship*. MSEDCL therefore requested the Commission to condone the delay in complying the order of CGRF.
10. A hearing in the matter was held on 3rd September, 2010, where the Complainant had appeared in person, while the Opponent was represented by MSEDCL’s Shri V. B. Jagtap, Ex. Engr., Virar Div.; Shri S. Purohit, Ex. Engr.(Admin.), Vasai Circle, alongwith others.
11. The Complainant while re-iterating the matter as stated hereinabove, also submitted that because of delay on the part of the Opponent in settling the matter, she suffered some financial loss, since the premises could not be leased out in view of the disputes with MSEDCL. This has happened in-spite of CGRF writing to MSEDCL vide letter dated 17th March, 2010, asking them to comply with the order. Further, the Complainant submitted that in the last four months, MSEDCL have not been collecting payment towards her present bills which had again put her into the possibility of having her premises being disconnected any time.
12. The Opponent responded by submitting that it has already complied with the CGRF’s order dated 1st July, 2009. The change of name of the consumer i.e., the Complainant, has also been done, and that a fresh agreement has to be made. It was submitted that all the remaining formalities will be completed within one week’s time. The Opponent’s representative also submitted that the delays were mainly procedural, and apologized for the delays that had taken place in the matter.
13. Having heard the parties and after considering the materials placed on record, the Commission is of the view that there is no dispute as regards the compliance by the Opponent, MSEDCL, of the Order of CGRF, Kalyan Zone dated 1st July, 2009. Regulation 8.7 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 provides that “*Any order passed or direction issued by the Forum shall be implemented or complied with by the Distribution Licensee or the person required by the order or direction to do so and **within the time frame stipulated in the order/ directions and further intimation of such compliance shall also be made to the Forum within the time frame stipulated in that regard in the order/ directions.***” {Emphasis supplied}. The Order of CGRF, Kalyan Zone, dated 1st July, 2009 directed the Complainant to apply for change of the concerned electricity connection in her name within 30 days of the date of CGRF decision. The other time frame was given for reporting of compliance to the CGRF within 90 days from the date of the decision. Therefore by around 1st



October 2009 the matter was required to be completed in terms of the Order of CGRF, Kalyan Zone, dated 1st July, 2009. But the Complainant waited till 23rd July, 2010, for about nine months, to file the present complaint before the Commission. In the circumstances, the Commission is not inclined to impose any penalty under Section 142 as there have been delays by both the parties. In any case the matter stands resolved. The Commission is of the view that this is not a fit case to invoke the provisions of Section 146 as there is no such circumstance which would require the Commission to file a complaint with a civil court under Section 151 to take cognizance of an offence punishable under Section 146 with imprisonment or fine or both.

During the hearing of the matter before the Commission, the Opponent's representative submitted that the delays were mainly procedural, and apologized for the delays that had taken place in the matter. During the hearing the Commission had directed the Opponent (MSEDCL) to complete all the remaining formalities in the case of the Complainant within one week, i.e. by 10th September, 2010, without causing any harassment to the Complainant. MSEDCL is directed to report compliance to the Commission of the said direction within two weeks from the date of this order.

The present complaint is disposed of accordingly without any order as to costs.

(V. L. Sonavane)
Member

(V. P. Raja)
Chairman

(K. N. Khawarey)
Secretary, MERC

