

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. 27 of 2009

In the matter of
Complaint filed by Smt. Meena Kishinchand Tunya, Ulhasnagar, against MSEDCL for non-compliance of Order dated 19th December, 2008 passed by the CGRF, Kalyan Zone

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

Smt. Meena Kishinchand Tunya,
Hardwar Apartment, Link Road, Ulhasnagar- 421 003

.....Complainant

V/s

Maharashtra State Electricity Distribution Co. Ltd.
Through its Deputy Executive Engineer, Sub Div II, Ulhasnagar

.....Opponent

Present during the hearings

For the Complainant: Shri D. C. Ledwani
 Shri Naresh P. Tunya
 Shri B. R. Mantri

For the Opponent: Advocate P. H. Sachdev
 Shri P. H. Kachhot, E.E, MSEDCL
 Shri M. V. Vaydande, E.E, MSEDCL
 Shri C. S. Damse, Dy. E.E., MSEDCL
 Ms Kalpana V. Kamble, Jr. Law Officer

ORDER

Date: 11th April, 2012

Smt. Meena Kishinchand Tunya, the Complainant, filed a complaint against Maharashtra State Electricity Distribution Company Ltd. (“**MSEDCL**”), on 14th May, 2009, under Section 142 of the Electricity Act, 2003 (“**EA 2003**”), seeking directives of the Commission against MSEDCL, for non-compliance of the Order dated 19th December, 2008 passed by the Consumer Grievance Redressal Forum (“**CGRF**” or “**Forum**”), Kalyan Zone.

2. The prayer made by the Complainant are:

“It is, therefore, prayed that Hon’ble Commission be pleased to direct the respondent to comply with the order dated dt.19/12/2008 passed by the Hon’ble Consumer Grievance Redressal Forum, Kalyan.”

3. Facts of the matter submitted are:

A. The Complainant, an electricity consumer of the Opponent, owns a shop having three-phase supply and is billed as per Commercial Tariff. The shop is open on all the days of the week.

B. From June 2007, the Opponent had not taken the meter readings regularly and the bills were issued on average basis, mentioning the remark LOCK/RNT. From January 2008, the Complainant requested the Opponent to issue the bills regularly as per actual consumption. However, the Opponent ignored the Complainant’s request. After a gap of six months, the Opponent issued a bill for Rs.73,350/- in June 2008, which was disputed by the Complainant.

C. Subsequently, the meter was inspected and then replaced. The Complainant paid Rs.300/- as fees for testing the old meter. As per the test report, the old meter was found as stopped. As per the Complainant, the monthly consumption pattern of the Complainant before and after the replacement of meter was almost the same, in the range of 400 Units.

D. The Complainant filed a grievance with CGRF, Kalyan Zone, which passed an Order dated 19th December, 2008 in favour of the Complainant, quashing the energy bill dated 31st October, 2008 for Rs.1,01,350/-, and directed that if any payment was made by the consumer against the said bill, the same should be adjusted in future bills. Also, the Opponent was directed to charge the Complainant only for 1167 Units, without DPC and interest and refund the meter testing fees.

E. However, the Opponent did not comply with the CGRF's Order. Therefore, the Complainant filed the present complaint before the Commission, alleging non-compliance of the CGRF's Order.

4. The Commission vide Notice dated 15th June, 2009, scheduled a hearing in the matter on 7th July, 2009. Subsequently, the Opponent vide letter dated 16th June, 2009 submitted to the Commission that the Opponent had filed a Special Civil Suit (No.136 of 2009) on 16th March, 2009, in the Court of Civil Judge S. D. Kalyan, against the CGRF's Order. Further, the Opponent, on 6th July, 2009, submitted that it had also filed an application for grant of an injunction, where the Consumer i.e. the Complainant in the present case, had avoided the service of the summons, and the Opponent had obtained an Order of "*status quo*" till 20th July 2009, with respect to the CGRF's Order.
5. During the hearing held on 7th July, 2009 before the Commission, the Complainant submitted that it had not been served the copies of the proceedings filed in the Court of the Hon'ble Civil Judge, S. D. Kalyan. On Commission's direction, the Opponent served upon the Complainant copies of the required documents. In view of the matter pending before the Hon. Court of the Civil Judge, S. D., Kalyan, the Commission adjourned the matter.
6. During the next hearing, on 5th March 2010, Representatives of both sides were present. The Opponent submitted that the injunction was confirmed by the Hon'ble Civil Court and the suit was pending there.
7. Further, eight (8) more hearings have been held in the matter, before the Commission, as follows:- on 13th December, 2010 , 31st January, 2011 , 9th March, 2011 , 4th May, 2011 , 11th May, 2011 , 23rd August, 2011 , 5th January, 2012 and 28th February, 2012 . During all these hearings, no representative of the Complainant was present whereas the

Opponent was represented at all the hearings. It is, however, noted from the records that for some of these hearings, the Complainant had conveyed in advance its inability to attend the hearing.

Upto the hearing held on 23rd August, 2011, the matter was adjourned by the Commission after every hearing, in view of the pendency of the Opponent's said suit before the Hon'ble Civil Judge, S. D. Kalyan.

8. During the hearing held on 5th January, 2012, the Opponent submitted that subsequent to the Judgment passed by the Hon'ble Civil Court, Kalyan, on 27th September, 2011, against the representation made by the Opponent, the Opponent had complied with the Order of CGRF, Kalyan Zone, dated 19th December, 2008. The Commission directed the Opponent to submit the Compliance Report on affidavit.
9. The Opponent submitted an affidavit on 25th January, 2012, stating that the amounts pertaining to the Value of Suit (Rs.1,01,350/-), meter testing fee (Rs.300/-), interest (Rs.37,912/-), DPC (amounting to Rs.2,674.45) and the Lock credit which was already adjusted in November 2008 (amounting Rs.25,791.65), have been deducted from the Complainant's electricity bill for December 2011.
10. During the hearing held on 28th February, 2012, the Opponent reiterated its earlier submission. Subsequently, the Opponent has submitted a photocopy of the letter dated 2nd March 2012, from the Opponent to the Complainant, conveying that "the Order passed by C.G.R.F. dated 19.12.2008 has been implemented by the office of the Dy. Executive Engineer for correction of the energy bill in the month of Dec., 2011". The Opponent has also furnished, to the Commission, a fresh Affidavit dated 2nd March 2012, confirming that the Order dated 19th December, 2008 passed by the CGRF, Kalyan Zone, has been implemented.
11. It has been noted that during the course of the matter pending before the Commission, the Complainant has added the prayer that 'it be paid by the Opponent a fine amount of Rs.1000/- per day from the date 19.12.2009 till compliance of order'.

12. The fact is that the Opponent has complied with the Order passed by CGRF, Kalyan Zone, after the representation made by the Opponent before the Hon'ble Civil Judge, S.D. Kalyan, has been rejected by the Hon'ble Court, with cost. Hence, nothing survives in the matter. When the Hon'ble Civil Judge, S.D. Kalyan has already awarded costs, it will not be justifiable to impose another round of costs on the Opponent.

Accordingly, Case no. 27 of 2009, stands disposed off. No order as to costs.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman