



Chhattisgarh State Electricity Regulatory Commission

Civil Lines, G.E. Road, Raipur – 492001

Tel: 0771-5073555, Fax-5073553

Petition No.43 of 2005(M)

In the matter of order passed by the Electricity Consumers Grievances Redressal Forum, Raipur

M/s Vimal Construction

: Petitioner

V/s

Chhattisgarh State Electricity Board

: Respondent

ORDER **(Passed on 4/02/2006)**

This is an appeal filed against the order passed by the Electricity Consumers Grievances Redressal Forum (Forum, for short), Raipur on 25/10/2005 in case No. 1 of 2005. As per clause 42 of the CSERC (Redressal of grievances of consumers and establishment of forum and the Electricity Ombudsman) Regulations, 2004, if a complainant is aggrieved by the order or non-redressal of grievance by the Forum, it may make a representation to the Ombudsman within a period of 30 days from the date of the final order. Since the appointment of Ombudsman is yet to be made, in the State, this appeal has been filed in this Commission.

2. The facts of the case are that the petitioner M/s Vimal Construction, Raipur is an HT consumer and has availed of a connection from the CSEB with a total CD of 500 KVA in three stages and on 18/08/2004 a CTPT unit was installed. The CSEB raised an additional demand of Rs. 18,28,126/-, on the ground that the meter was not working properly as could be detected during checking by a team of officers on 16/06/05. The petitioner approached the Forum, Raipur for relief. It is stated by the petitioner that the respondent CSEB had admitted before the Forum that their officers were checking the meter. He was being billed regularly after taking reading every month since its installation on 18/08/04. Had there been any irregularity it would have been recorded on the meter reading card. It was not justified to raise any additional bill after a period of 10 months without giving any opportunity to the petitioner. It has been pleaded that raising of bill for 10 months is against the provisions of Section 26 of the Electricity (Supply) Act, 1948 and the Electricity Act, 2003. It is further stated by the petitioner that charging at the rate of Rs. 3.75 per unit is not correct as the petitioner is a consumer at 11 KV and as per order no. CE/Comm/492 dated 08/06/01, every HT consumer is required to be billed at the rate of Rs. 2.80 per unit. This connection is also covered under this order. In the petition filed before it, the Forum passed an order that billing for 3,50,200 units be made in place of 3,62,655 for the period from 18/08/04 to 16/06/05 and directed the respondent to issue revised bill within three days. It was also ordered that as per the Board's circular CE/Comm/D-29/2299 dated 20/12/04, the excess consumption over and above the average consumption be billed at the rate of Rs.2.90 per unit, which was a special concession.

3. The petitioner was heard. He also submitted a written statement on 19/01/06 wherein it is stated that the CSEB, in compliance with the order passed by the Forum, issued revised bill to the petitioner and payment to the tune of Rs. 12,00,000/- has already been made by it which comes to 60% of the revised bill and balance is being paid in instalments every month. It is brought to the notice of the Commission that there was lack of service by the respondent to the petitioner as there was no mention of "*R-phase not working*" in the meter reading card. Hence the petitioner comes under *no fault principle* within the provisions of the *Consumers Protection Act*. As such respondent is not authorized to recover the amount of revised bill.

4. Secondly, the respondent had done calculation taking the total period of the meter not working properly as 295 days, whereas the period from 18/08/04 to 16/06/05 it works out to 302 days. Further MRI can give detail of only last six months i.e. 180 days. As such the billing should have been done for this period only. There was lack of service by taking MRI only for one month in place of 10 months as provided in the **Supply Code**. Since, the meter became defective and it was not the consumer's fault, the consumer should be billed for only six months. The petitioner has cited two orders passed by the Delhi High Court and the Consumer State Commission, Delhi. According to the Section 26 (6) of the Electricity Act, 1910 Electricity Department can not recover bill for more than six months in case the meter becomes defective. Further, since the meter was defective, CSEB had no right to recover the meter rent. Hence the meter rent should be refunded. Similarly, since proper service was not provided to the consumer, the disputed bill can not be recovered and the petitioner should be compensated for the mental harassment also.

5. The Commission has perused the impugned order passed by the Forum on 25/10/05. The Forum had observed that the Meter Reading Instrument (MRI) is a small equipment which reads the details stored in the meter. The meter stores all the details in regard to reading, consumption, current, voltage, tampering etc. all of which can not be displayed on the small screen of the meter but are kept in memory. Whenever required this could be transferred through MRI and may be down-loaded in the computer, a print out of which could also be taken. The MRI does not read anything except whatever is stored in the meter memory. It takes out data which could be passed on to a computer. The respondent had given HT connection to the petitioner for a load of 500 KVA and installed CTPT unit with a meter on 18/08/04. On 16/06/05, in course of checking by the officers comprising of testing, O&M and vigilance officers, it was found that meter was not getting voltage in one phase. According to the MRI report, meter was not getting voltage in one phase since 19/08/04. This means it was recording only two-third of the actual consumption. The meter and CTPT unit were sealed and were tested on 16/06/05 in the testing laboratory, in the presence of the petitioner's representative. During testing, it was confirmed that the meter was not getting voltage on 'R' Phase. Panchnama made by the inspecting officers of the CSEB on 15/06/05 and inspection report made on 16/06/05 bear the signature of the representative of the petitioner. The period during 19/08/04 to 16/06/05 works out to 302 days. The actual consumption has been worked out as 1075529 units assuming that the meter was recording only two-third consumption. Accordingly, the Forum has passed an order to bill the petitioner for this consumption.

6. The Commission finds that the calculation made by the Forum is based on MRI reading which is technically considered to be authentic. The petitioner has not cited any ground on which its authenticity may be called in question except that an MRI can give details of functioning of meter for last six months only. This was got verified from the officers of the respondent. It was informed to the Commission that details in interval of 15 minutes are stored in an MRI for last two months only but it gives details regarding the functioning of meter for either 6 months or 12 months depending upon type of MRI. In this instant case, the MRI used was capable to give details of functioning of the meter for last 12 months. Hence there is no reason to differ with the order of the Forum. The judgment of the Delhi High Court passed on 31/03/1987 (AIR 1987 Delhi 219) in Civil Writ Petition No. 2004 of 1983 cited by the petitioner has no relevance as the Electricity Act, 1910 has since been repealed by the Electricity Act 2003 and Consumer Protection Act can not be invoked in this Forum.

7. As regards non-levy of meter hire charge, this issue was not covered in the petition filed by the applicant before the Forum and hence it can not be raised at the appeal stage before the Commission. Even otherwise, the argument given by the petitioner does not appear to be correct. The entire billing has been done on the basis of the reading recorded by the meter only, even though the meter was not getting one phase. It was working on two phases and recording consumption for two phases which was taken as the basis for billing purposes. Hence, the petitioner may not be given any relief in the meter rent for the period it was not recording on one phase.

8. In view of the above, the representation (appeal) does not merit acceptance and is disposed of without giving any relief to the petitioner.

Copy of this order may be given to the petitioner and the respondent.

Sd/-
Member

Sd/-
Chairman

True Copy

(N.K.Rupwani)
Secretary