

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
MADHYA GUJARAT VIJ CO LIMITED
CORPORATE OFFICE, 5TH FLOOR SP VIDYUT BHAVAN,
RACECOURSE, VADODARA 390 007**

Subject	Consumer Grievances Complaint No.MG-I-11-2016-17 (A-1)
Complainant	Shri Kantibhai Mohanlal Patel, 316 Kadamnagar Society, Nizampura, Vadodara
Respondent	Shri K M Panchal, Deputy Engineer of Halol Rural s/dn of MGVCL.
Date of hearing	30.06.2016 at Halol

QUORUM	NAME
Chairperson	Shri P J Patel, Gandhinagar
Independent Member	Harsha S Chauhan, Vadodara
Technical Member	Shri B J Upadhyay ACE (RA&C) MGVCL Vadodara

The complaint dated 16.06.2016 regarding to waive up arrears amount in respect of industrial unit at Survey No.77/2 village Vaseti, Tal: Halol & S No.241/2 village Vitoj, Tal: Halol.

On 30.06.2016 at Halol, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Shri Kantibhai Mohanlal Patel as complainant and also his son Shri V K Patel appeared whereas Shri K M Panchal, Deputy Engineer of Halol Rural s/dn appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard.

The brief details of the case are as under:

- 1) M/s. Patel Agro, having consumer No.0731-03002-38 at LS No.77/2 village Vaseti, Tal: Halol, is having pending arrears amount of Rs.49,384.71 as on dated 27.03.2004.
- 2) M/s. Jay khodiyar Oil Industries, having consumer No.0702-60088-3 at LS No.241/2 village Vitoj, Tal: Halol, is having pending arrears amount of Rs.50,703/- as on May 2004.
- 3) Both connections were purchased by complainant Shri Kantibhai Mohanlal Patel in the year 1993 through GSFC auction by complainant.
- 4) There was civil suit No.79/89 filed with Godhra court filed by erstwhile GEB (MGVCL) whose decision is in favour of erstwhile GEB (MGVCL).
- 5) There was also civil suit No.59/95 filed with Joint Civil Judge Halol court filed by erstwhile GEB (MGVCL) whose decision is in favour of erstwhile GEB (MGVCL).

- 6) Complainant do not want to clear arrears of both the units as they have purchased the premises through auction which is done by GSFC and requested Forum to waive up.

The complainant contended that :

1. As both units were purchased through GSFC auction and arrears amount of both units are belonging to former consumer so he is not liable to pay the same. There are number of cases in which the purchaser of units through GSFC auction is relaxed for payment of arrears of previous consumer.
2. Due to non-availability of documents with erstwhile GEB (MGVCL) they have not considered any relaxations.
3. The case has already been heard in Complaint Redressal Committee (CRC) at divisional level on 11.04.16 & circle level at 21.04.16.

In CRC order of division office MGVCL has requested complainant to produce GSFC certificate for relaxation and in CRC order of circle level MGVCL has endorsed order of divisional CRC as final.

4. The complainant is not satisfied with the order of CRCs. He has also represented that as per GSFC Section 29, GoG circular dated 07.02.2014 and Federation of Small Industries' letter dated 23.04.2004, MGVCL should not insist for recovery of past arrears.
5. The complainant has narrated the cases as under that MGVCL has not recovered past arrears from him:
 - i. M/s. Gujarat Metal Cast Industries' connection was released even though there was an arrears of earlier consumer.
 - ii. M/s. Innovative Tyres Limited at Savli, in which connection is given without recovery of arrears.
 - iii. As one of the consumer Shubham Enterprise is relaxed for the payment of earlier dues of similar ground. These two units are also been relaxed for payment of past arrears.

The respondent contended that both the above units who is having outstanding arrears, the civil suits was filed for recovery of arrears amount and the judgement of Hon'ble court is in favour of erstwhile GEB (MGVCL). Darkhast for the same also been filed for recovery of arrears. The judgement for M/s. Patel Agro is for recovery of arrears along interest @ 18% and for M/s. Jay Khodiyar Oil, the judgement for recovery of arrears with 8% interest. Both recovery is still not materialized, hence, the connection cannot be given where both cases having arrears. The connection can only be released after payment of all dues, premises for both the cases are under arrears.

It is also a common rule as per Condition No.2(j) of the Conditions of Supply of erstwhile GEB (MGVCL) it would enable the distribution licensee to recover outstanding dues of previous consumer / owner or occupier of the premises from the new applicant for the same premises. This also being supported by Hon'ble GERC Supply Code under condition No.4.6 read as "Where the applicant has purchased or intends to purchase an existing property whose electricity connection has been disconnected, it shall be the applicant's duty to verify that the previous owner has paid all dues to the licensee and obtained a "no-dues certificate" from him. In case such "no-dues certificate" has not been obtained by the previous owner before change in ownership of property, the new owner may approach the licensee with details of previous connection for availing such a certificate.

The licensee shall acknowledge receipt of such request and shall either intimate in writing the dues outstanding on the premise if any, or issue a "no-dues certificate" within 1 month from date of receipt of such application".

Respondent also contended that for relaxation in recovery of the arrears, the Competent Authority has to approve with certain conditions in instant case, there is no approval from Competent Authority. Hence, the arrears cannot be waived. It is also given an opportunity to take benefit of waiver of the interest amount under SAMADHAN YOJANA in the year 2004. Both the parties were informed to remain present for SAMADHAN YOJANA but they were not remain present in SAMADHAN YOJANA. Under these circumstances, the arrears amount is liable to pay and cannot be waived up as per rules.

The Forum Members present at the hearing considered contention of both the parties and perused the records and observed that complainant has acquired both the units in 1993 through GSFC auction and thereafter 23 years' time left. The previous arrears status of both industries is known to the complainant. Also being subjudized matter in cases of both units Hon'ble court have given decision in favour of licensee but the complainant has not paid the arrears till day so the licensee has filed Darkhast. The complainant had not participated in "SAMADHAN YOJANA 2004" in which interest / delayed payment charges was being relaxed, for relaxation for payment of previous owner due where the premises purchased through GSFC, no stay order submitted by either parties. MGVCL is recovering past dues in all such cases also.

Looking to above facts, as per Supply Code, licensee is allowed to recover the arrears amount.

ORDER

The Forum directs the complainant Shri Kantibhai Mohanlal Patel, 316 Kadamnagar Society, Nizampura, Vadodara, that outstanding dues of both survey number i.e. 77/2 at village Vanseti, Tal: Halol and 241/2 at village Vitoj Tal: Halol, is recoverable as per norms so MGVCL will give new connection after payment of all arrears.

(B J Upadhyay)
Technical Member

(Harsha S Chauhan)
Independent Member

(P J Patel)
Chairperson

PS :

If the complainant is not satisfied with the order of this Forum, the complainant may approach The Staff Officer, Office of the Electricity Ombudsman, Gujarat Electricity Regulatory Commission, Barrack No.3, Polytechnic Compound, Ambawadi, Ahmedabad 380 015 in accordance with Clause No.2.63 Chapter-2 of GERC Notification No.2 of 2011.

Procedure to make representations before Ombudsman***

1. Representation should be in writing duly signed by the complainant with his name and address.
2. Representation should be supported with affidavit.
3. True copy of order of Forum and original complaint made before Forum should be attached. Enclosed documents should be certified copies of the original documents.
4. The representation before Ombudsman should be submitted within 30 days from the date of order of Forum.
5. Copy of representation should be submitted at the office of Ombudsman. Copy of representation should be submitted to all respondents.
6. If the complainant is required to pay any amount according to the order of Forum, one-third of such amount should be deposited by complainant and proofs should be attached along with the representation.
7. The matter should not be pending before the competent Forum or any other court, tribunal, arbitrator or any other authority.
8. All representations should be with a sufficient cause, reasonable diligence causing the consumer prima facie loss and damages / inconvenience.
9. Representation may be submitted in English or Gujarati language

*** <http://www.gercin.org/docs/Cosumer%20Grievances/Procedure/Procedure.pdf>