

CGRF formed under the provision of IE Act 2003, sub clause 42(5) as well
Notification No.2/2019 of GERC (CGRF & Ombudsman)

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-01-2023-24
Complainant	Shreeji Education Trust, Jay Ambey Vidhyalay, Vemali, Sama Savli Road, Vadodara
Respondent	Shri Bhavin Rana, Dy Engineer, & Shri Suresh Makwana both from Sama s/dn of MGVCL.
Date of hearing	27.04.2023 & 25.05.2023 at Corporate Office, MGVCL Vadodara

QUORUM	NAME
Chairperson	Shri S P Trivedi, Vadodara
Technical Member	Shri K B Dhebar, (RA&C) MGVCL Vadodara

The complaint dated 28.03.2023 received on 31.03.23 regarding supplementary bill dated 07.03.2017 issued by Sama s/dn of MGVCL.

1.0 On 27.04.2023 complainant has given application to give another hearing date vide their letter dated 27.04.2023 & today 25.05.2023, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Shri Mahendrabhai Shah appeared on behalf of complainant Shreeji Education Trust whereas Shri Bhavin Rana, Dy Engineer, Sama s/dn appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard

2.0 The brief history of the case is as under:

2.1 The complainant was having 75 KW LT connection for their school, Jay Ambey Vidhyalay, Vemali, Sama Savli Road, Vadodara bearing consumer No. 02110/00397/9 under Chhani s/dn, under GLP Tariff.

2.2 The faulty meter at their installation had been replaced by Chhani s/dn on 29.05.2015, OLD METER No:- 4188881 (L&T) (100/5 AMP), NEW METER No.MCT 10254 (SECURE) (100/5 AMP) (INITIAL READING:52 KWH).

2.3 Thereafter, consumer transferred from Chhani s/dn to Sama s/dn having consumer number 15606/02256/7.

2.4 Sama s/dn had checked their connection on 01.03.2017 vide checking sheet No. 1978/1979. During installation checking, it was detected that billing was wrongly carried out using peak hour reading instead of 24 hours KWH reading.

- 2.5 Reason to issue supplementary bill : After replacing meter on 29.05.2015, connection was transferred from Chhani s/dn to Sama s/dn. During installation checking on 01.03.2017, it was found that billing was wrongly carried out taking peak hours reading (LT-1 CKWH) instead of 24 hours reading (TC-KWH) for billing purpose by Meter readers. Hence at that time to have actual consumption, meter data was downloaded by MRI and inspected in lab. During lab inspection, past readings were obtained. As per MRI report and office record, it was concluded that correct bills were not issued as per actual consumption. Accordingly, Sama s/dn had issued supplementary bill on 07.03.2017 vide No.SAMA/REV/ 754 amounting to Rs.14,39,896.56, for 313210 units.
- 2.6 Being a huge amount of supplementary bill, caveat application was filed by Sama s/dn in Vadodara Civil Court on 07.03.2017 (165/2017).
- 2.7 Complainant had given written objection on 14.03.2017 which was replied by Sama s/dn vide their letter No. 866 dated 15.03.2017.
- 2.8 Aggrieved by supplementary bill, complainant has filed their case in Hon'ble High Court of Gujarat vide SCA No.6593/2017 dated 30.03.2017.
- 2.9 Interim Order issued by Hon'ble High Court of Gujarat on dated 30.3.2017 ORAL ORDER "considering the fact that the petitioner-Trust, is running a school wherein 7000 students are studying, Notice returnable on 20.4.2017. No coercive action shall be taken against the petitioner, on condition that the petitioner shall deposit an amount of Rs.2.5 Lakhs before the Registry of this court on or before 6.4.17. Direct service is permitted today".
- 2.10 As per High court order, complainant had deposited Rs.2.5 Lakhs vide DD No:- 849 dated 3.4.17 to the Registrar, Hon'ble High Court of Gujarat.
- 2.11 Final order dated 06.12.2022 by Hon'ble High Court of Gujarat as under:
- (1) "the supplementary bill dated 7.3.17 would not fall within a case of provisional assessment under sec.126 of the Electricity Act,2003 and therefore the appeal was not entertained as the same was not maintainable. In view of the above, the petition is disposed of with a liberty to the petitioner to approach the Forum.
 - (2) The amount of Rs. 2.5 Lakhs which is lying with the Registry shall be transmitted in favour of the respondent MGVL on learned counsel for the Electricity Company furnishing the account details to the registry.
 - (3) It is clarified that during the pendency of the complaint before the competent authority, the interim relief that is granted by this

court, shall continue to operate. The petition is disposed of, accordingly.

2.12 Sama sub division has written letter to Advocate, Dr. L.K. Bhaya for transferring Rs..2,50,000/- from the Registry of the high court to MGVCCL with reference to C/SCA/6593/2017 as per oral order dated 06.12.2022 vide letter No.SAMA/LEGAL/2023/1704/ 12.04.2023.

3.0 The complainant vide letter dated 28.03.2023 submitted to CGRF as under:

1. The applicant is a registered trust and is engaged in the activities of Education through its school Ambey Vidhyalay at Vadodara and the applicant is an electricity consumer of the Respondent with a consumer no. 15606/02256/7.
2. The applicant is an electricity consumer of the opponent since 2005 and the applicant was consuming electricity and the bills provided by the opponent are regularly paid by the applicant.
3. The opponent providing electricity and the opponent is constituted under the Companies Act and having his registered office at Vadodara and having a sub-division office including a sub-division office, sama sub-division Vadodara.
4. The opponent had installed an electric meter for recording of consumption of electricity at the place of applicant. When the electric meter was installing no panchnama was prepared by the opponent. Hence, the applicant having no knowledge regarding a mechanism of the said electric meter as well as the opponent had never informed in writing to complainant regarding the figures of consumption of electricity. It is a great mistake committed by the opponent and as well as it is against the Terms and Conditions mentioned in the booklet (Electricity Supply Code and related matters) of the opponent particularly a condition no.6.1.2 of the said matters.
5. The meter reader of the opponent used to visit at the place of applicant recording the consumption of Electricity but at any time the meter reader of the opponent had never informed regarding the consumption of electricity and there meter functioning.
6. The opponent had never informed to the applicant since 2005 upto dated 07.03.2017 by way of a letter/notice regarding a mechanism of electric meter.
7. The officer of the opponent company visited the premises of the applicant on the pretext of inspection of meter even at that time they said officer had not inform the petitioner by way of any letter regarding a mechanism of meter.
8. The officer of the opponent company again visited on dated, 01.03.2017 and the said officer has checked the electric meter without informing or

any prior intimation to the applicant and after checking the electric meter, the said officer had not informed a petitioner regarding mechanism of electric meter.

9. The applicant had received a surprise a notice demanding amount of Rs.14,39,869.56 dated.07.03.2017 and inform with that notice to pay the said amount within 10 days.
10. Before issuing this supplementary Bill dated 07.03.2017, no opportunity was granted for explanation by the petitioner as well as the assessing officer had not issue a notice to the petitioner for explanation as per the provisions of Indian Electricity Act, 2003 and the opponent company had prepared arbitrarily, illegal supplementary bill amount of Rs. 14,39,869.56/- which is illegal and will not liable to be paid by the applicant.
11. After receiving Supplementary Bill dated. 07.03.2017, the applicant filed an appeal as per section 127 of Electricity Act, 2003 and the said appeal was dismissed on dated 15.03.2017 and the opponent company issued another notice to the petitioner dated 20.03.2017.
12. The Applicant was not satisfied with the arbitrary action of the opponent. Hence, they have filed Special Civil Application no. 6597/2017 against the opponent company in the High Court of Gujarat at Ahmedabad and in the said matter the Hon'ble High Court of Gujarat had granted a stay order in favor of application not to disconnect the supply of electricity subject to a payment of Rs.2,50,000/- and the said amount is already deposited by the applicant in the court.
13. After final hearing the Hon'ble High Court of Gujarat passed an order on 06.12.2022 and directed the petitioner to approach the Forum as per section 42(5) of the Electricity Act, 2003 and also protect the electric connection by way of Interim Relief and with that Interim Relief the electric connection of applicant is not disconnected by the opponent company.
14. As per the order passed by the High Court of Gujarat on dated. 06.12.2022 and 28.02.2023 addressed to the opponent company to provide a detail address of Consumer Redressal Forum constituted under section 42(5) of Electricity Act,2003 and after that the opponent company inform the applicant with that letter dated.02.03.2023 and provide address of the forum with that reason the applicant has filed this appeal as per direction given by High Court of Gujarat is as under.
 - i) The Supplementary Bill dated. 07.03.2017 is absolutely against the settle principal of Law, arbitrarily and illegal.
 - ii) The applicant is a consumer of electricity since year 2005 and has paid all the bills of Electricity issued by the opponent company except the disputed supplementary bill dated 07.03.2017.

- iii) The Opponent company had installed electricity meter to record the consumption of electricity at the place of applicant but at the time of installing electric meter no panchnama was prepared of the said panchnama is not provided, so it is a total violence of a booklet known as electricity supply code and related matters published by the opponent company.
- iv) The opponent company had never informed to the petitioner by letter regarding consumption of electricity of the said meter.
- v) After year 2005 till the dated. 07.03.2017 the opponent company had never informed to the applicant regarding the mechanism of the said meter.
- vi) The opponent officer visited on dated. 27.02.2017 and 01.03.2017 to check the electricity meter of the applicant they have never informed to the applicant regarding mechanism of electricity meter by way of letter.
- vii) While preparing a supplementary bill of Rs. 14,39,869.56 before that as per the provisions of Electricity Act, 2003. The opponent act had never given an opportunity in writing for explanation.
- viii) The meter reader he used to visit electricity meter of applicant on each month, he has never informed the applicant in writing regarding a mechanism and consumption of electricity by way of letter
- ix) The opponent company had not act as per section 56 of Electricity Act, 2003 as well as the applicant/ opponent was not acted as section 56(2) of Electricity Act. So it is a great violation of Electricity Act,2003
- x) The letter dated. 07.03.2017 along with supplementary bill whatever is stated in the said letter is absolutely illegal and no opportunity was granted in favor of applicant for explanation
- xi) Another letter dated. 15.03.2017 issued by the opponent company and for that letter no opportunity was granted in favor of applicant. So the averments made in dated. 07.03.2017 and 15.03.2017 are totally illegal, arbitrarily and all got up theory by the opponent company and it is against the settle principal of law as well as against the principle of Natural Justice
- xii) The supplementary Bill dated. 07.03.2017 and 15.03.2017 which is issued in favor of the applicant by the opponent company with their malafide intention to hide their mistake and for which the applicant should not be suffered.

- xiii) It is a gross negligence or the party of applicant company regarding a levy of Electric charged from the applicant by way of their mistake.

From the above stated grounds and other grounds may be urged at the time of hearing. The applicant pray that -

1. An supplementary bill of Rs.14,39,869.56/- dated 07.03.2017 issued by the opponent company is illegal and it is against the settle of principal of law. Hence, that supplementary bill is set aside and allows this appeal.
 2. During the pendency of this applicant the electric connection of the applicant may not be disconnected.
 3. The cost of this application may be awarded to the applicant from the opponent company.
 4. Any other relief may be granted in the interest of Justice in favor of applicant.
15. Complainant Shri Mahendrabhai Shah, present before Forum on 25.05.2023 wherein he personally submitted written arguments requesting to set aside supplementary bill issued by the opponent on 07.03.2017 as under:
1. It is true that the opponent had installed a new electric meter in the year 2005 at the premises of applicant. At the time of installing new electric meter the opponent had not prepared any Panchnama regarding the said electric meter and the electric meter was not installed in the presence of authorized person of applicant Trust as well as no particulars was provided by the opponent to the applicant in writing regarding the name of companies who has manufactured these electric meters and also not provided how to take reading of consumption in these electric meters. Duty is caste upon details in writing to the applicant trust. So, it is a great mistake has committed by opponent.
 2. The opponent had not followed a condition no. 6.1.2 of the Electricity Supply Code and Related Matters.

6.1.2

Meter and Metering Apparatus and enclosures installed at Consumer's Premises shall be properly sealed, at all important points. Intimation regarding all seals affixed on the meter and metering Apparatus shall be given in duplicate (one copy signed by the Consumer shall be retained by Distribution Licensee) to the Consumer at the time of release of connection as well as subsequent replacement. The consumer shall ensure that all seals affixed on the meter and metering Apparatus shall remain intact and are not damaged, or tampered with. Further the meter reader shall check the meter, meter seals and cut

out during meter reading at each billing cycle. Information about any visible abnormalities or irregularities in meter or meter seals or cut outs shall be given to consumer as well as to designated personal of Distribution Licensee for taking corrective actions. One copy of such intimation shall be signed by the consumer, which shall be retained by the Distribution Licensee and another copy shall be given to the consumer.

3. As per condition no. 6.1.2 when the opponent install a meter at the consumer premises a panchnama is required to be prepared and one copy of that panchnama signed by the consumer shall be retain by distributing licensee.
4. As per condition 5.8.2 of the Electricity Supply Code and Related Matters read as under,
 - A Distribution Licensee or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate and after giving not less than twenty-four hour's notice in writing to the occupier -
 - Enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;
 - Enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of electricity belonging to the consumer.
5. The opponent had never informed the applicant in writing before the entry in my premises but on dated. 01.03.2017 the officer of the opponent had entered in the premises of the applicant without giving prior intimation in writing. Hence, the so-called visit on dated.27.02.2017 and 01.03.2017 is totally illegal and arbitrarily. As per above stated condition 5.8.2 the duty is caste upon the applicant to issue a prior intimation in writing to the applicant. So the entry in the premises in the applicant by the opponent officer on dated.27.02.2017 and 01.03.2017 is totally illegal and against the Terms and Conditions mentioned in the said booklet and to hide this illegal action by the opponent, they have issued arbitrarily illegal disputed bill of Rs.14,39,869.56.
6. As per Condition 6.1.17 of the of the Electricity Supply Code and Related Matters is read as under,
Reading of Meter:
 - i) Readings of meters will be taken by the employees of the Distribution Licensee once in each billing period or at such other intervals or times as the licensee deems expedient. Such meter readers shall have access to the Consumers Premises at all reasonable times for the purpose of such reading. The readings of each meter shall be

entered by reader in the meter card and the consumer, if present and so desires shall be shown the reading.

- ii) When a Consumer leaves his installation connected to the mains of the Distribution Licensee but locks up the meter or otherwise makes it inaccessible for reading by the Distribution Licensee's employee, then, for the first billing period of such inaccessibility, the Consumer shall be charged on the basis of the consumption recorded in respect of the immediately preceding billing period subject to the minimum bill therefore under the provisions of the appropriate tariff and the consumption so billed shall be subject to adjustment as explained under sub-clause (iii) below.
- iii) When the meter is made accessible by the Consumer for the purpose of reading by the Distribution Licensee's employee and settling the account therefore the Consumer shall be charged an amount on the basis of the meter reading less the Consumer shall be charged an amount on the basis of meter reading less the consumption recorded in the bills issued in respect of the preceding billing period when the meter remained inaccessible subject to minimum bill for the billing period in question.
- iv) If the meter remains inaccessible during the subsequent billing period(s) as well, the Consumer shall be charged on the basis of the consumption actually recorded in the latest preceding billing period subject to adjustment as explained under sub-clause (iii) above. A consumer, who willfully denies or created condition of inaccessibility to the meter, shall be served a notice of not less than 7 days to give facilities for reading the meter by the Distribution Licensee's employee at a fixed time and date. If the Consumer fails to comply with the notice as aforesaid, the supply to the Consumer's Premises shall be disconnected.

7. As per condition 6.1.8 mentioned in the of the Electricity Supply Code and Related Matters read as under,

In this matter the opponent has tested the meter not in the presence of a authorized officer of applicant and what is the outcome of the test of the meter has never been informed by the opponent to the applicant. As per this condition the billing period is for 3 months only immediately precedent to the date of inspection of the meter while the letter dated 07.03.2017 issued by the opponent in that letter no details are provided for period they have count it. So, the opponent is working against their own terms and conditions mentioned in the booklet.

8. The meter reader of the opponent was taking a reading of the meter regularly but the meter reader had never informed regarding how to record of the meter and how many figures to be taken for filing purposes when the meter reader was taking reading at the premises of applicant at that time a authorized person of the trust is used to

remain present and at that time the meter reader had never pointed out how to take a reading of meter and how many figures are required to be taken.

9. But the procedures adopted on dated.01.03.2017 for which the officer of opponent they have not prepared any panchnama/ rojkam and the so called checking meter on dated 01.03.2017 is absolutely false and fabricated by opponent.
10. When the meter was checked on dated 01.03.2017 at that time an expert of a manufacturing of the meter was not present as well as no record was provided to the applicant regarding a manufacturing company of meter. It is duty bound by the opponent to obtain an expert report from the manufacturing company of the said meter. So, in the absence of the expert report to prepare a supplementary bill is absolutely illegal and arbitrarily.
11. The opponent company is constituted under the companies act and the opponent is a body come into existence as per Electricity Act,2003 and the public body the opponent cannot hide the correct facts as per the record of the company. When the meter was purchased by the opponent company from the manufacturing company at that time the manufacturing company did provide a detail for the Electric meter and all the details are with Opponent Company but the opponent company had hide the correct facts and it is not fare on the part of public body like opponent.
12. The opponent company ought to have inform in writing to the applicant regarding how to record a consumption of electricity from the said meter as well as after installing the meter at the premises of the applicant the meter reader as well as the opponent company has never informed in writing to the applicant regarding the method of recording of consumption of electricity.
13. The applicant says that as per the say of opponent that they have checked the meter on dated 27.02.2017 and 01.03.2017 during this so called visit by the officer of the opponent so at that time also they have not inform the applicant in writing regarding a method of consumption of record.
14. The opponent says that the so called meter was checked in the laboratory of opponent at that time an expert of the manufacturing company of the meter was not present as well as in the laboratory no literature regarding the meter of manufacturing company was produced so in the absence of this things they cannot be a positive result in the laboratory and the so called laboratory report is in question.
15. While filing an affidavit of Vinayak Kale in the High Court no such documents were produced in the High Court.

16. The Deputy Engineer Shri Vinayak Kale had filed an affidavit in reply in Special Civil Application no.6593 of 2017 in High court of Gujarat and declared on the oath that installation of applicant was checked on 01.03.2017 and the meter was checked with Accu-check meter and its accuracy was found to be correct. This procedure was not adopted any presence of authorized officer of the applicant trust and for the so-called accuracy of the meter no Panchanama was prepared on 01.03.2017. So, the procedure adopted on 01.03.2017 regarding accuracy of meter is totally false, and fabricated.
17. The Deputy Engineer of opponent Mr Vinayak Kale also declare on the oath that the meter reader had taken a reading on dated. 28.02.2017. When the meter reading was compared with meter displayed it was noticed that inadvertently the meter reader had not taken 24 hrs (CHAWH) reading. Hence, the meter MRI data was downloaded at the sight. The applicant says that the meter reader used to take a recording of consumption of electricity since year 2015 till 28.02.2017. But during this period he has never informed regarding the procedure for recording of consumption of electricity.
18. As per the affidavit of Mr Vinayak Kale he declared on the oath that MRI data was examine in the laboratory. But, the opponent had never informed the applicant to remain present in the laboratory regarding examination of MRI data so called procedure adopted in the laboratory of opponent for MRI data examination in the absence of the authorized person of the applicant trust. So the so called MRI data examination in laboratory is absolutely doubtful and it is not binding to the applicatnt and at any point of time the opponent had not provided a copy of a MRI data examination in laboratory.
19. As per the affidavit of Mr Vinayak Kale he declares on the oath that the supplementary bill was issued to the applicant.
20. As per Section 126 of Electricity Act,2003 read as under,
Section 126 – Assessment
 - i) If on an inspection of any place or premises or after inspection of the equipment's, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.
 - ii) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.
 - iii) The person, on whom a notice has been served under sub-section (2), shall be entitled to file objections, if any, against the

provisional assessment before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment of the electricity charges payable by such person.

- iv) Any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him: Provided that in case the case deposits the assessed amount, he shall not be subjected to any further liability or any action by any authority whatsoever.
- v) If the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, it shall be presumed that unauthorized use of electricity was continuing for a period of three months immediately preceding the date of inspection in case of domestic and agricultural services and for a period of six months immediately preceding the date of inspection for all other categories of services, unless the onus is rebutted by the person, occupier or possessor of such premises or place.
- vi) The assessment under this section shall be made at a rate equal to one and half times the tariff applicable for the relevant category of services specified in sub-section 5.
Explanation: For the purposes of this section,

- 1) "Assessing Officer" means an officer a State Government of Board or licensee, as the case may be, designated as such by the State Government;
- 2) "Unauthorized use of electricity" means the usage of Electricity-
 - 1. By any artificial means; or
 - 2. By a means not authorized by the concerned person or authority or licensee; or
 - 3. Through a tampered meter; or
- 4. For the purpose other than for which the usage of electricity was authorized.

Looking to the section 126 , of the Electricity act,2003 particularly sub-clause 3 provides that the consumer shall be entitled filed an objection if any against the provisional bill before assessing officer while in this matter the assessing officer had never informed the applicant to file an objection if any as well as the assessing officer has not prepared an issue and provisional assessment bill but the assessing officer had straight way issued a supplementary bill of Rs.14,39,869.56.So it is a total violation of Section 126 of Electricity Act,2003.

21. As per the affidavit of Shri Vinayak Kale a supplementary bill was prepared by assessing officer and issued to the applicant on dated.07.03.2017. While as per Section 126 of Electricity Act, 2003 it provides that a assessing officer should first issued a provision assessment bill to the applicant and the applicant is entitled to filed an objection and after giving a reasonable opportunity for hearing then pass an final order for assessment. While in this matter no provisional bill is issued to the applicant and no opportunity was granted in favor of applicant to filed an objection and as well as no opportunity was granted for hearing before the assessing officer and without following above procedure a straight way a supplementary bill is issued by assessing officer dated. 07.03.2017.
22. The assessing officer had not adopted a procedure laid down in section 126 and prepared arbitrarily a supplementary bill. Hence the supplementary Bill of Rs.14,39,869.56 itself is a illegal and not liable to be paid by the applicant.
23. The opponent is a company constituted in the companies act and being a company they have to appoint internal auditor to audit the accounts and etc. The internal auditor of the company had never found it out since year 2005 ought to 07.03.2017 regarding a so called Bonafide mistake. As per the letter dated 07.03.2017 addressed to the applicant in that letter there is no averments is made regarding so called Bonafide mistake as well as in the letter addressed to the applicant dated 15.03.2017 in that letter it is not mentioned regarding a so called Bonafide mistake. The Bonafide mistake has been used for the first time in the affidavit of Vinayak Kale. The applicant says that it is not a Bonafide mistake committed by meter reader and/or by billing section of opponent office but it is a great error has been committed by the opponent and to hide an error committed by the opponent. So, arbitrarily, illegally they have prepared a supplementary bill.
24. As per section 126 of Electricity Act , the opponent had violated the provisions of Section 126. It is true that the assessing officer has not followed the procedure for assessment of supplementary bill as well as the assessing officer not prepared initially a provisional bill and not served that provisional assessment bill to the applicant as well as the assessment officer has not given an opportunity to the applicant for hearing and not following the procedure as per section 126 of Electricity Act, 2003 the assessing officer has passed an :order for supplementary bill so the applicant has ignored the total provision of Section 126. Under section 126 of Electricity Act, 2003 the Hon'ble High court of Gujarat a delivering judgment in the matter of Executive Engineer (O and M) PGVLC Vs. Mrs. High Tech investments and others reported in year 2018 (2) of Gujarat Law Reporter Page no.1447 that the procedure for the assessment of supplementary bill –held, first provisional assessment of the bill required to be served to the consumer and he being given a opportunity to raised his objection against it, then after considering objection of consumer and giving him opportunity of hearing assessing

officer has to passed an order for assessment – considering this procedure not followed – supplementary bill illegal.

25. As per section 126 of Electricity Act, 2003 and the above stated the judgment of HC of Gujarat both are applicable in this matter, it is true that before issuing a supplementary bill a assessing officer has not prepared a provisional bill and send it to the applicant and no opportunity for hearing was granted by the assessing officer and straight way without following a procedure issued a supplementary bill, so that supplementary bill is illegal.

26. The applicant requests the Hon'ble Forum with these Written Argument to allow the appeal and set aside a supplementary bill of Rs.14,39,869.56 issued by the opponent dated 07.03.2017

4.0 The respondent vide his email dated 11.07.2023 submitted written reply against the written arguments submitted by the complainant on 25.05.2023 as under :

4.1 The electrical connection is provided under GLP tariff having consumer no.15606/02256/7.

4.2 The applicant has paid electricity bill provided by the company till date.07/03/2017

4.3 MGVL is the Distribution licensee working under the norms and regulations of GERC.

4.4 There is no dispute regarding electricity connection and billing from the date of installation of meter for new connection (27/07/2005) till meter replacement date by Chhani s/dn on dated 29/05/2015. So there is no any issue regarding Panchnama at the time of release of new connection. Also consumer has paid all the electricity bill from date of connection to date of replacement of meter without any objection (27/07/2005 to 29/05/2015). So there is no any error committed by the company.

4.5 There is no provision to check the electrical meter of the consumer giving prior notice to the consumer.

4.6 From the date of new connection till date of checking the meter reader have prepared the bill of electricity connection after taking reading of the meter installed at consumer premises visiting the consumer installation physically.

4.7 The officer of the company has tested the meter in the presence of Shri Kiritbhai S. Patel who is the authorized person of the school and the sign of him was also taken in the checking sheet after completion of checking.

- 4.8 The supplementary bill of Rs.14,39,869.56 was issued by company as per the rules and regulation of the company, from date of meter replacement to date of checking with the help of MRI data which was taken at the time of checking in the presence of Shri Kiritbhai S Patel who is the authorized person of the school.
- 4.9 The company has not disconnected electricity supply of the school as per the stay order given by the Hon'ble High court of Gujarat for special civil application No.6593/2017.
- 4.10 Hon'ble High court of Gujarat passed and final order on dated 6/12/2022. Hon'ble Justice Mr. Biren Vaishnay in oral order dated 6/12/2022 has ordered the supplementary bill dated 7/03/2017 would not fall within a case of provision assessment under sec.126 of the Electricity Act,2003 and therefore the appeal was not entertained as the same was not maintainable. In view of the above the petition is disposed of with a liberty to the petitioner to approach the forum.
- 4.11 The amt of Rs 2.5 lakhs which is lying with the registry shall be transmitted in favor of the respondent MGVCL on learned counsel for the electricity company furnishing the account details to the registry.
- 4.12 The officer of the company has tested the meter in the presence of Shri Kiritbhai S Patel who is the authorize person of school and the sign of him also taken in the checking sheet after completion of checking.
- 4.13 There is no any provision and rules to get remain present of expert of the meter manufacturing company during checking by the company.
- 4.14 At the time of checking on dated 01/03/2017 the recording of the electricity used and accuracy of the meter found OK. So the question of methodology of recording of consumption of electricity is not having any merit in this case. The same is also mention in the checking sheet. So there is no case to hide any facts to the consumer.
- 4.15 There is no any provision and rules to get remain present of expert person of meter manufacturing company during laboratory inspection of the meter.
- 4.16 The officer of the company has tested the meter in the presence of Shri Kiritbhai S Patel who is the authorize person of school and the sign of him also taken in the checking sheet after completion of checking.
- 4.17 During checking on dated 1/07/2017, it was found that meter reader was taking different parameter other then CKWH (24 hours reading) for billing. For getting correct CKWH reading for the past period the MRI data was taken at the time of checking.

- 4.18 The Meter was tested in the presence of the complainant's representative Shri Kishorbhai S Patel at the premises of the complainant with AQ Check Meter and MRI data was taken.
- 4.19 The supplementary bill issued on dated 7/03/2017 was not prepared under section 126 of the Electricity Act, 2003. So there is no any process as per rules and regulations are followed as per section 126 of Electricity Act 2003.
- 5.0 The Forum Members present at the hearing considered contention of both the parties and perused the records and considering them in detail, findings are as under:
- 5.1 The respondent has followed the procedure as per supply code, 2015, section 6 Metering & Billing.
- 5.2 Meter was checked in the presence of appellant's representative and he has signed the checking sheet.
- 5.3 As per checking sheet Meter was found ok at the time of checking and there was no error in the accuracy recorded.
- 5.4 Meter readers had made error in preparing Monthly reading & billing of the consumer, which came to notice at the time of checking on 01.03.2017
- 5.5 The supplementary bill amounting to Rs.14,39,896.56 for 313210 units issued by the respondent was due to bonafide mistake committed by the Meter Reader while taking the reading for the purpose of billing. This does not fall under section 126 of The Electricity Act, 2003.
- 5.6 The supplementary bill amounting to Rs.14,39,896.56 for 313210 units was calculated for the difference of the actual consumption already recorded in the Meter and incorrect consumption taken by Meter reader for only peak hours at the time of meter reading.
- 5.7 In view of above, the supplementary bill of Rs.14,39,896.56 is issued by respondent is in order.

ORDER

6.0 The Forum has come to the conclusion that -

- 6.1 The supplementary bill amounting to Rs.14,39,896.56 for 313210 units issued by the respondent was due to bonafide mistake committed by the Meter Reader while taking the reading for the purpose of billing. This does not fall under section 126 of The Electricity Act, 2003.
- 6.2 The supplementary bill amounting to Rs.14,39,896.56 for 313210 units was calculated for the difference of the actual consumption already

recorded in the Meter and incorrect consumption taken by Meter reader for only peak hours at the time of meter reading.

6.3 In view of above, the supplementary bill of Rs.14,39,896.56 issued by respondent to complainant Shreeji Education Trust, Jay Ambey Vidhyalay, Vemali, Sama Savli Road, Vadodara, is in order.



(K B Dhebar)
Technical Member



(S P Trivedi)
Chairperson

PS :

If the complainant is not satisfied with the order of this Forum, the complainant may approach Ombudsman only after payment of minimum 33% of the bill amount issued to the party in question. **The Office address of the Ombudsman is:** 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.3.19 (viii) of GERC Notification No.2 of 2019.

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