

BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
MADHYA GUJARAT VIJ CO LIMITED
CORPORATE OFFICE, 2ND FLOOR SP VIDYUT BHAVAN,
RACECOURSE, VADODARA 390 007

Subject	Consumer Grievances Complaint No.MG-IV-53-2009.10
Complainant	Shri Surendra Chimanlal Parikh, at Hiravanti Apt-2, OPP: Aryakanya Vidhyalaya, Karelibaug, Vadodara.
Respondent	Shri Y G Mohite, DE Baranpura, MGVL Vadodara.
Date of hearing	31.03.2010

QUORUM	NAME
Chairman	Shri K M Dave, MGVL
Member	Shri K R Shah, MGVL
Independent Member	Dr R C Desai, Vadodara

This complaint dated 03.03.2010 is directed against the recovery arrears of Rs.24854.99 as per bill dated 7.12.2009 issued by the MGVL for the past unpaid bills outstanding against old connection in the name of complainant's late father.

Today on 31.03.2010, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Shri Surendra Chimanlal Parikh, appeared for himself whereas Shri Y G Mohite, DE Baranpura, appeared as respondent on behalf of MGVL before the Forum. Both the parties were heard.

The facts of the case are as follows:

This case appears as a review of the order passed by this Forum at its meeting held on 26.10.2009.

- The complainant is residing at Hiravanti Apt-2, OPP: Aryakanya Vidhyalaya, Karelibaug, Vadodara, having consumer No.16230 / 00403 / 8. His late father Shri Chimanlal Parikh had two connections of erstwhile GEB – one for lighting and the other for domestic at Sureshwar Desai lane, Ghantiada, Ghadiyali Pole, Vadodara. One of these connections, bearing consumer No.14522/04155/1 which was released on 10.05.1988 and was Permanently Disconnected (PDC) before March 1999, was having outstanding arrears of Rs.8771.73. Considering Delayed Payment Charges (DPC), the arrears amount was compounded to Rs.24854.99 in Aug 2009.
- The premises of late Shri Chimanlal Parikh who expired in 1979 were sold out by his son Shri Surendra C Parikh to Shri Prakash Shah as per purchase deed No.4381 registered with Sub-registrar's office at Vadodara dated 16.10.1995. The same premises were later purchased by Shri Upeshkumar P Modi from Shri Prakash Shah as per Purchase deed No.5095 registered with Sub-registrar's office at Vadodara dated

18.07.2008. Shri Upeshkumar Modi is now residing at this premises in Ghantiada, Ghadiyali Pole, bearing MGVL consumer no.14524/03826/7. The arrears due to late Shri Chimanlal Parikh were attempted to be recovered from Shri Upeshkumar Modi, residing in the same premises. Aggrieved by the attempt to recover past arrears, Shri Modi approached this Forum with a complaint letter dated 21.10.2009. This Forum in their meeting held on 26.10.09 on the basis of the record submitted by the Respondent, held that the arrears amount of Rs.24854.99 due to late Shri Chimanlal Parikh be recovered from his son Shri Surendra C Parikh (whose address and consumer number were furnished by Shri Modi) for reasons cited in the Forum order.

- The Baranpura s/dn of MGVL sought to recover the arrears amounting to Rs.24854.99 from Shri Surendra C Parikh by including this amount in his monthly electricity bill of Dec-2009 bearing consumer No.16230/00403/8. Shri Surendra C Parikh was away in Bangalore and under protest, an amount of Rs.23000/ was paid vide MR No.1005 dated 26.12.2009 by his neighbor on his behalf.
- Shri Surendra C Parikh then served a notice dated 18.2.2010 to MGVL through his Advocate Smt Kunjbala J Parikh, arguing that a case of recovery of arrears pertaining to consumer No.14522/03827/5 was taken to civil court (No.338/94) by the erstwhile GEB against late Shri Chimanlal Parikh and was set aside by the Hon'ble Court on the ground that the owner Shri Chimanlal Parikh had expired in 1979.
- However, MGVL Advocate Smt Renu D Gaur in a rejoinder Notice dated 10.03.2010 to Shri Surendra C Parikh contended that the dismissed case pertains to Consumer No.14522/03827/5 whereas the current case of recovery of Rs.24854.99 pertains to another connection of late Chimanlal Parikh bearing consumer No.14522/04155/1.
- In the meantime, being aggrieved by the recovery of arrears, Shri Surendra Parikh also approached this Forum by a complaint letter dated 3.3.2010 seeking refund of the amount paid by him for which he is not liable to pay.

The complainant Shri Surendra Parikh made oral submission besides contentions raised in his complaint letter dated 3.3.2009. He cited the case No.338/94 decided by the Hon'ble Civil Court of Vadodara on 18.03.2000 for recovery of arrears of Rs.6910.83 outstanding against consumer bearing con No.14522/03827/5 filed by the erstwhile GEB against Shri Chimanlal Parikh which was set aside by the Hon'ble Court as the respondent Shri Chimanlal Parikh had expired in 1979, before filing this case. However, he accepted that the current recovery of Rs.24854.99 was for another connection bearing consumer No.14522/04155/1 pending since March-April 1999 as per the rejoinder notice by the MGVL Advocate Smt Renu D Gaur.

He further contended that after his father Shri Chimanlal's demise in 1979 he inherited the premises which were sold to Shri Prakash H Shah in 1995 who ought to have got the connection transferred to his name thereafter but he did not do so. But the fact remains that he had ceased to be the owner of the premises after 1995 and so if there were any outstanding arrears appearing in ledger of 1997 or 1999, he was not responsible for its payment. He, therefore, urged that the amount of arrears of Rs.24854.99 sought from him and paid by him under protest be refunded.

He further submitted that the owner of the premises in 1997 and 1999 was Shri Prakash H Shah when the arrears crept in. It is, therefore, not just to recover the aforesaid arrears amount from him.

He had managed to pay the arrears amount included in Oct-2009 electricity bill in good faith as he was away in Bangalore and not because he was responsible for it. He also doubted the correctness of consumer No.04155 for his premises in GEB area code 14522 as most of the consumer numbers were 03826, 03827, 03828, 03829 etc in his locality prefixed by area code of 14522.

The Respondent Shri Y G Mohite, DE Baranpua, of MGVCL in his written and oral submissions contended that Shri Chimanlal Parikh had two connections at his premises in Ghantiada (1)14522/03827/5 and (2) 14522/04155/1. A case of recovery of past arrears for aforesaid connection No.1 was set aside by the court. The present case of recovery of Rs.24854.99 pertains to aforesaid connection No.2 which was released on 10.05.1968. It was permanently disconnected before March 1999 with outstanding dues of Rs.8771.73 which compounded to Rs.24854.99 considering DPC.

He further contended as per his written document showing the history of the two connections that the outstanding arrears appeared in the Book Ledger in 1997 and computer ledger in 1999. This document was not submitted to this Forum at its meeting held on 26.10.2009. The premises were purchased by Shri Prakash H Shah in 1995 from Shri Surendra Parikh son of late Shri Chimanlal Parikh. But Shri Prakash Shah did not transfer the connection to his name till PDC was executed around 1999 and the arrears of Rs.8771.73 pertains to that period. Therefore, it was attempted to recover the arrears from Shri Surendra Parikh son of late Shri Chimanlal Parikh. The same premises were later purchased by Shri Upeshkumar Modi in 2008 and he got the connection transferred to his name on 22.08.2008 bearing consumer No.14522/03826/7.

The Forum Members present at the hearing considered contention of both the parties and perused the records. We have noticed additional information with regard to court case and the period of origin of arrears. Had this information been furnished during the hearing on 26.10.2009 for the same matter of recovery of arrears it would have been of immense help in correctly deciding the person responsible for payment of arrears. It appears from the document submitted by the respondent that the arrears pertains to the period

1997 & 1999 as per record in ledger when Shri Surendra Parikh was not the owner of premises. On perusal of purchase deed, it is evident that the premises were purchased by Shri Prakash Shah in 1995 and he alone is responsible to pay the pending arrears of Rs.24854.99 which crept-in in the ledger of 1997 & 1999. It is, therefore just that Shri Surendra Parikh be relieved from payment of the arrears and the amount paid by him towards arrears in good faith under protest be refunded to him.

Shri Prakash Shah being the owner of the premises when the arrears crept-in in the ledger in 1997 & 1999, is responsible and liable to pay the arrears and the same be recovered from him.

ORDER

The Forum directs the Madhya Gujarat Vij Co Limited to refund the full amount paid towards arrears of Rs.24854.99 paid by him and the same be recovered from Shri Prakash Shah, the owner & occupant during the period from 1995 to 2008.

(K R Shah)
Member

(Dr R C Desai)
Independent Member

(K M Dave)
Chairman

PS :

If the complainant is not satisfied with the order of this Forum, the complainant may approach the Ombudsman, Gujarat Electricity Regulatory Commission, 1st floor, Neptune Tower, OPP: Nehru Bridge, Ashram Road, Ahmedabad 380 009 in accordance with Chapter-5, Clause No.13 of GERC Notification No.4 of 2005.

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>