

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 131

Hearing Dt. 03/07/2007 & 13/07/2007

In the matter of releasing new connection against arrears

M/s. Royal S.K.M. Creation

- Appellant

Vs.

MSEDCL

- Respondent

Present during the hearing

A - On the behalf of CGRF, Bhandup

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup (on 03/07/07 first hearing)
- 2) Shri S.B. Wahane, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On the behalf of Appellant

- 1) Shri Dharam C. Patel, Consumer.
- 2) Shri Ravi Anand, Consumer representative

C - On the behalf of Respondent

- 1) Shri V.M. Bhatkar, Ex. Engr., Bhandup.
- 2) Shri A. N. Patil

The consumer registered his grievance with the Forum on 27th June 2007, vide Sr. No. 131. As per consumer's request for interim order, the first hearing was fixed on 03/07/2007 at 2.30 p.m. Accordingly, all the concerned were intimated to attend the case. As hearing was incomplete, the next hearing date

was fixed on 13/07/2007 at 12.00 noon. As Member Secretary has been given an additional charge of the Forum he had to complete some urgent work at his regular charge, the hearing time was postponed from 12.00 noon to 2.30 p.m. The Chairman of the Forum is on the leave, Member Secretary and member of the Forum were present for second hearing. As per clause 5.2 of MERC (CGRF & E.O.) Regulation 2005, except where the Forum consists of a single member, the quorum of the Forum shall be two members. In the event of a quorum is not present the Forum shall be adjourned to the next working day. If at the adjourned meeting also, a quorum is not present, the member present shall be the quorum. Consumer had not appeared in ICGRC Cell.

Consumer's say :

I submitted my grievance to this Forum on 26th June 2007 vide case No. 131. I, M/s. Shri Krishna Inns & Resort Pvt. Ltd. had been allotted SRA Development Project work at CTS No. 441, 441/1 to 49, 442, 442/1 to 12 and 444, 444/1 to 11 village Bhandup, Taluka Kurla. The slum known as Saraswati Chawl, Patil Chawl and Mangatram Chawl Zopadpatti on LBS Marg, Village Road, Bhandup (W). 79 slum dwellers have to be accommodate in proposed project which is allotted to me by Chief Executive Officer (SRA).

I applied for new electricity connection for above project to MSEDCL vide letter dtd. 19/03/2006 which as inwards on 23.03.2006. MSEDCL issued an estimate under ORC scheme on 20/07/2006 vide letter No. EE/BND/Tech/4495. I paid the demanded amount on 28/07/2006 vide receipt No. 0002273 for Rs. 11500/- as supervision charges.

On 7th June 2006, I got a letter vide reference No. EE/BND/Tech/4194, Executive Engineer, Bhandup informing me of the arrears of electricity charges as per the list of 11 consumers of Saraswati Chawl, Laxmi sadan, Saraswati cottage and shankar patil Chawl. As per my view, these above names are not listed in the list provided by Dy. Collector (ENC) and competent authority Kurla-I, Mulund – I asked the information from utility by letter dtd. 10/06/2006, CPL, Date of disconnection, amount to be paid, action taken for recovery of amount. This letter was inwards on 10th Jan-2007, which should be noted. I had not received any reply till date. The said connection also not been released till date. So I

approached this Forum for immediate release of connection for A & B wing. I hope that I will get interim order for immediate release of connection for A & B wing. I have already given an undertaking dtd. 07/03/2007, that if the arrears are belonging to this area, I am ready to make payments of dues even in future.

I also reiterated that utility should provide us the CPL of these consumers. I got a letter from utility on 07/07/2006 vide reference No. EE/BND/Tech/4194 showing the list of consumers and their arrears. Utility requested me to arrange for payment of arrears under Amnesty scheme No.-II, which is introduced by MSEDCL. I would further like to know whether this letter is forwarded to the actual consumers too? If consumer is fails to make the payment of electricity charges, due, it is the duty of utility to recover such arrears from consumer. Did supply company issue any notices to such consumers? or has any legal action been taken against these consumers?

The amount shown in the CPL and the amount given in the utility's letter are differing, what is the reason behind this or is there any malafide intention?

Utility had given their compliance at the time of hearing. It should be given 3 to 4 days before hearing date so that a consumer can prepare his say. In this case I got the compliance copy only at the time of hearing. During the hearing consumer representative has taken the following objections.

- 1) All these answers are incomplete, incorrect and false.
- 2) Utility has not given any answer to the question of what action was taken by utility to recover the arrears. Which shows that these arrears are false and fictitious.
- 3) Is Krishna Inns and Resort Pvt. Ltd. the consumer of utility? Utility sent the letters in name of Krishna Inns & Resort Pvt. Ltd.
- 4) Utility had not provided all the papers with the compliance so these arrears are false as consumer was not satisfied with this reply.

- 5) Utility had provided the list of 11 consumers without their names. Only consumer numbers had been mentioned. The address given in the list are also incomplete and improper.
- 6) As per law, utility cannot demand any arrears after 2 years of period, hence he is not liable to pay the arrears.
- 7) Utility should provide him the date of TD and PD for all 11 consumers.
- 8) Utility had not provided all the documents on the hearing date, hence utility has no right to provide any documents to the Forum afterwards.
- 9) As Krishna Inns & Resort Pvt.Ltd. is not a consumer, how does he come into picture?
- 10) This case is not entertainable and bad in Law.
- 11) The legal notices were issued to the some consumers in 2002. Further no action had been taken by utility till 07/07/2006. Utility cannot deny their duty.
- 12) CPL means consumers personal ledger which indicates complete history of the consumer as PD and TD dates must be available. Utility cannot give any excuse for not mentioning the date of PD & TD as lack of memory in computer.
- 13) Utility is quoting the clause 10.5 without full information.
- 14) If the proper procedure was not followed by concerned persons of utility, action should be taken against them.
- 15) He wants to know from utility whether the consumers listed in SRA list at false?
- 16) The amount shown in arrears are with interest or without interest?
- 17) Most of the consumers are PD before 1998.

18) All the cases are time barred therefore arrears amount is not recoverable. Utility should not take the advantage of monopoly.

Prayer of the consumer :

As the arrears shown on premises against 11 specific consumers, names which do not occur in the list of occupants provided by Dy. Collector (ENC) & competent authority Kurla – I (Mulund). There appears to be confusion in minds of officer for that part of area is not covered under this SRS project D.L. may please be directed to release the connection immediately as requested for A & B wings.

Forum should not consider any reply or attachments given by utility further date (after the hearing on 13/07/2007).

Give us favorable judgment in 4 to 5 days.

Utility's say :

Utility submitted their point wise compliances to the Forum on 10/07/2007 are as follows:

- 1) Bills were issued as per recorded reading and bills revised as per actual recorded reading and necessary.
- 2) This office has informed to M/s. Krishna Ins and Resort Pvt. Ltd. for the payment of arrears under amnesty scheme which was beneficial for P.D. consumers.
- 3) Vide this office letter No. EE/BND/Tech/4194, dtd. 07/07/2006. List of consumers along with arrears is already handed over to M/s. Krishna Ins & Resort Pvt. Ltd.
- 4) Notices issued to consumers for recovery of arrears.
- 5) For the payment of arrears notice is already issued to the consumer vide letter No. EE/BND/Tech/4194, dtd. 07/07/2006.

- 6) Mr. J.B. Arora, Con. No. 50163245 was P.D. on 20/02/2003.
- 7) Supply of Con. No. 51165438 was disconnected in the month of April-May 2004 prior to disconnection bills were issued as per recorded reading.
- 8) Rs. 10139/- is arrears and Rs. 1425/- is interest upto the date of disconnection. Supply of consumer No. 51165438 is disconnected in Nov-1994.
- 9) MSEDCL is insisting to pay the unpaid dues.
- 10) M.V. Seth, Con. No. 50163423 is in the same premises. Bills were issued as per recorded reading in time. Consumer has given address Sadan chawl.
- 11) CPL of the 11 Nos. consumers attached.
- 12) Mayurnath V. Seth and Manojnath V. Seth is the same consumer, wrongly printed has Mayurnath V. Seth in letter No. 4194 dtd. 07/07/2006.
- 13) A.R. Harsu, Con. No. 50161676 is disconnected in the month of March-1998 due to non payment.
- 14) Notices were issued for recovery of arrears.
- 15) It is already informed to M/s. Shrikrishna Inns & Resort Pvt. Ltd. for the payment of arrears vide letter No. 4194, dtd. 07/07/2006.
- 16) For the recovery of arrears, notices sent to consumer for payment.
- 17) Connection will be released after necessary payments.
- 18) MSEDCL is insisting only for the pending dues.
- 19) As per MERC (Electricity supply code and other condition of supply) Regulations 2005 Section 10.5 it is require to make the payment of arrears by the legal representative/successors in Law or transferred to the new owner/occupier

of the premises, as the case may be and the same shall be recoverable by the Distribution Licensee as due from such legal representative or successors in law or new owner/occupier of the premises.

20) For recovery of arrears notices were issued and necessary action will be taken against the concerned as per the Company's rules.

Observation :

Consumer approached to the Forum on 27th June 2007. Consumer representative requested the Forum to issue interim order for immediate release of supply. Forum rejected the request of the consumer as per clause 8.3 of MERC (CGRF & EO) regulation 2006 which states as follows:

Clause 8.3 : *Notwithstanding the provision of Regulation 8.2, the Forum may pass such interim orders, at any stage during the disposal of the Grievance, on the request of the consumer as the Forum considers appropriate pending the final decision on the Grievance :*

Provided that the Forum shall have the powers to pass such interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the consumer satisfies the Forum that prima facie the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made there under or any order of the Commission, provided that, the Forum has jurisdiction on such matters :

Provided further that, except where it appears that the object of passing the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

Consumer representative insisted that the Chairman of CGRF fix the second hearing date within two days. The Forum dismissed the request but the date of second hearing was fixed on 13/07/2007 being the earliest available date.

During the hearing, the consumer representative suggested to the Forum that the compliance copy of utility be made available to the consumer at least 3 to 4 days before the hearing. Forum agreed to the suggestion of the consumer and directed the concerned person of utility to do so. However, in the present case it was not possible to grant sufficient time (that is 15 days) to the utility to submit their compliance utility submitted it during the hearing.

The appellant also raised the point that though M/s. Krishna Inns & Resort Pvt. Ltd. is not a consumer. However, the Forum observed that the appellant was corresponding to utility with the name of M/s. Krishna Inns. & Resort Pvt. Ltd. Hence the objection raised by the consumer representative in this regard is dismissed.

M/s. Krishna Inns & Pvt. Ltd. very well knew the pending arrears of 11 Nos. of consumer before estimate sanction No. SE/TUC/ORC/2006-07/46, dtd. 17/07/2006.

The firm quotation for 15% supervision charge of Rs. 11500/- was issued on 28/07/2006. It was mentioned on firm quotation that "connection will be released after all live and P.D. arrears on the premises are cleared".

Consumer had given the letter from his representative Shri Ravi Anand mentioning the date 10/06/2006 and submitted on 10/01/2007 which is after about seven months from the date of payment of supervision charges. Applicant has not mentioned whether he has given any authority/power of Attorney to Mr. Ravi Anand.

It is also been pointed out that Shri Ravi Anand has given a letter to utility requesting that "do not hold connection for somebody's arrears, we are ready to make payment of bill/dues if they are pertaining to authorised occupant even in future. But he fails to submit any authority from Applicant to utility.

Applicant could not be able to produce any authority letter, if given to any authorised electrical contractor who is going to do the work accordingly to estimate sanctioned.

Applicant yet not produced any work completion report from any authorised electrical contractor. Therefore, above work with respect to estimate sanctioned is completed or not is not confirmed.

During the course of hearing, the appellant was laying stress on the fact that the list of arrears provided by utility was fictitious and false and incorrect. As it did not appear in the list provided by competent authority S.R.A. scheme.

There is a possibility that the original list did not contain these names who were not approved by Govt. authority and who's electrical connections were permanently disconnection a long way back. However, the premises on which the electric connection is sought for is same and with arrears.

The following is the list of defaulting eleven consumers mentioning their details such as names, consumer number, date of P.D., last payment date and arrears amount etc. (This list is prepared on the basis of the CPL provided by utility).

S.No.	Name of consumer S/Shri	Consumer No.	Date of P.D.	Last date of payment	Arrears as on 2006
1	Victor Edward	50161706	01/01/2002	08/03/2000	14992.50
2	Hemchandra Raju	50164837	26/05/1997	01/06/1996	59501.63
3	K.S. Rao	50160773	02/05/1997	07/12/1996	19633.21
4	Ramji Shivaji	50160803	26/11/2002	09/01/2006	4182.68
5	Motilal Shah	50168441	11/03/2002	N.A.	24533.19
6	A.R. Harun	50161676	04/03/1998	N.A.	3950.17
7	Virchand Jain	50166295	03/02/2004	07/01/2002	38840.70
8	Manjunath Seth	50163423	01/08/2003	03/03/2003	23535.38
9	J.B. Aroza	50163245	02/02/2006	01/04/2004	2208.67
10	H. Raju Singh	50161781	01/03/2002	03/05/1993	31648.25
11	Virchand Jain	51165438 CPL not available	N.A	N.A.	10139.00

It is observed from the above list that the connections of consumers are old in nature when asked to utility; utility was unable to provide any details. The respondent representative was very casual in his approach and did not have any proper explanation for this. He produced some documents from available records.

Utility produced a legal notice sent to Mr. Hemchandra Raju and Mr. H. Raju Singh. Utility claims that these are a few samples notices which are available with utility from their old records and that these should be treated as proof enough for having taken action against all the consumers. The Forum agrees with the view point of the utility.

Regarding the consumers at serial No. 1 to 10 arrears are admissible subject to MERC (Electricity supply code and other conditions of supply) Regulation 2005, provision 10.5 reads as under :

10.5: *Any Charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives/successors-in-law or transferred to the new owner/occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner/occupier of the premises, as the case may be:*

Provide that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises

Hence, Forum has come to the conclusion that all the liabilities of previous owner are transferable to developer and the amount of electricity dues standing in the name of previous owner/s is a liability to pay by the developer as per given in his agreement.

As per the consumer's view, the arrears on this premises is time barred, hence it can not be recovered. (As per the section 24 of I.E. Act 1910, any dues for electricity charges attached with any premises, the new supply cannot be released unless old dues are cleared by any the parties). Hence consumer's submission is not acceptable

In the present case, the incoming consumer is not a legal heir. Therefore in the terms of the provision under regulation 10.5 the liability so transferred is restricted to a maximum period of six months of unpaid charges for electricity supplied to such (defaulters) consumers, so the respondent is entitled to recover the charges of electricity which remain unpaid by above consumers limited to maximum for a period of six months of unpaid dues with interest.

As far as the consumer in serial No. 11, no records including CPL is available with utility. Hence the claim against this consumer is not admissible to the utility.

ORDER

- 1) The respondent (MSEDCL) shall intimate to the appellant, the charges of electricity which remain unpaid by all consumers except the consumer in serial No. 11 to a maximum period of six months of unpaid charges which the appellant is liable to pay with interest before getting electric connection in the referred premises.
- 2) On payment of the above charges by the appellant the respondent shall release the said connection by maintaining S.O.P.
- 3) The stand taken by the officials of utility not to release the connection in defaulting premises without payment of arrears is very correct, hence they are not liable for any penalty towards non-maintaining of S.O.P.
- 4) The compliance of this order shall be reported to the Forum within one month of the date of receipt of this order.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 31st of July 2007.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

2) If utility is not satisfied with order, it may go in appeal before the Hon. High Court within 60 days from receipt of the order.

MRS. M.P. DATAR
MEMBER
CGRF, BHANDUP

S.B. WAHANE
MEMBER SECRETARY
CGRF, BHANDUP

S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

**CONSUMER GRIEVANCE REDRESAL FOURM
MAHARASHTRA STATE DISTRIBUTION COMPANY LTD**

Ph. No. 25624315
25624316
25624322

Consumer Grievance Redresal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S. Marg, Bhandup (W),
MUMBAI - 400 078

REF.NO. Secretary/CGRF/MSDCL/BNDUZ/Case No. 131/

Date :

To

M/s. Royal S.K.M. Creation,
25-26, Patil Bhawan,
Raju Sadan, S.N. Road, Bhandup (W),
MUMBAI – 400 078.

SUB : Decision issued in respect of case No. 131.

Dear Sir,

In response to the grievance put up by you with the Forum vide case No. 131 dt. 20/06/2007 hearing is completed on dated 13/07/2007 & the order passed on vide this office order No. 00125 dtd. 31/07/2007 is enclosed herewith for your information please.

Thanking you,

Yours faithfully

Encl : As above

SECRETARY
CGRF, MSEDCL,
BHANDUP

-2-

c.s.w.r. to :

- 1) Chief Engineer (L.M.),
M.S.E.D.C.Ltd., H.O.,
Prakashgad, Bandra (E),
MUMBAI – 400 051.
- 2) The Chief Engineer, MSEDCL, BNDUZ, Bhandup.

Copy f.w.cs. to :

1. The Executive Engineer (Office) & Nodal Officer,
Consumer Grievance Internal Redressal Cell,
Office of the Superintending Engineer,
O&M Circle, MSEDCL, Thane.
2. The Executive Engineer, O&M Division, MSEDCL, Bhandup.

