

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

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

Date :

Case No. 403

Hearing Dt. 15/10/2011

Bank of Maharashtra Empl. Co.Op. Hsg.Soc.

- Appellant

Vs.

M.S.E.D.C.L., Mulund

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S. D. Madake, Chairman, CGRF Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri M.D. Totade
- 2) Shri S.D. Nadkarni.

C - On behalf of Respondent

- 1) Shri S.M. Ghayதாக, Dy. Ex. Engr., MSEDCL, Mulund.
- 2) Shri D.S. Shende, Jr.M (P)., MSEDCL, Mulund.

**ORDER**

The complaint is filed by the Bank of Maharashtra Empl. (Mulund) Co.Op. Housing Society against M.S.E.D.C.L. as per provisions of the Electricity Act. 2003. The facts in brief are as under :

The consumer is co-operative housing society registered as per Maharashtra Co.Op. Societies Act. 1960. The Respondent is MSEDCL which provides electricity supply to the consumer society since the formation of society. According to consumer society some part of land and premises which was necessary for supply of electricity to society was given to Thane Electricity Supply Co. on lease. The lease was for a period of 25 years commencing from 1969. As per the lease deed the monthly rent was fixed at ` 50/- p.m. The lease period came to an end on 30<sup>th</sup> March 1994. After the completion of lease period initially MSEDCL was not paying monthly rent, however the rent was paid upto 30/03/1997 after demand by consumer. Then MSEDCL was neglecting to pay rent but due to regular demand of monthly rent, MSEDCL paid rent by cheque of ` 7,800/- towards rent for the period between 01/04/97 to 31/03/2010.

The society contends that at present MSEDCL occupied an area of 550 sq.ft. + 25 sq. ft. red box total 575 sq. ft. since reconstruction of society in 2002. The society submits that MSEDCL forced the builder three times area.

The consumer submits that society approached to Internal Grievance Cell on 28/01/2011 but no cognizance was taken by the Cell. Hence the present grievance is filed before this Forum. Mahavitaran O&M Mulund Division filed say on the complaint filed by Applicant society. It is an admitted fact than an agreement was done with Thane Electricity Co. & society in the year 1969 a period of 25 years for sub-station in these premises for a rent of ` 50/- p.m. It is contended that Dy. Ex. Engr., Neelam Nagar S/Divn. has forwarded following letters to Civil Dept. Bhandup regarding valuation of rent demanded by Appellant society, the said letters are dtd. 05/01/2010 & 26/10/2010. It is contended that, it is a policy matter therefore no decision can be taken by the office.

Forum has heard both sides at length. On persued all the documents produced on record. Admittedly Appellant society gets

electricity from MSEDCL since 1969. Though the copy of lease deed is not produced on record by either side it is an admitted fact that society gave land/premises to MSEDCL on lease for a period of 25 years at monthly rent of ` 50/-. The lease period expired in 1994 and even after completion of lease period the MSEDCL is in possession of the premises and land. There is also no dispute that society has accepted the monthly rent till 2010 even though lease period expired in March 1994.

The society has filed on record the valuation report dtd. 20/12/2009 with respect of electric sub-station at CTs. No. 542 of village Mulund belonging to consumer society. The valuation report is prepared on the basis of relevant data & documents supplied by consumer society. As per the report value of the property is ` 24,59,000/- (` twenty four lacs fifty nine thousand only). It is the case of consumer that the housing society was reconstructed in 2002 and MSEDCL was given possession of premises admeasuring 550 sq. ft.

Forum has given anxious thought to submission of both sides and critically persued all the documents. The consumer society is claiming rent on the basis of market rate. In view of the legal position in order to determine as to whether premises or land which was given in possession of MSEDCL in 2002 was three times than the premises which were given in 1969 the detail evidence is necessary. Hence the issued cannot be decided by summary procedure. The issue or grievance of the society is regarding the enhancement of monthly rent and not relating to fault, imperfection, short coming or inadequacy in the quality nature and manner of performance in pursuance of contract. The grievance of claim of rent on the basis of market rate has to be decided on the basis of lease deed which was executed in 1969. The jurisdiction of this Forum is implied barred in view of the legal position in the light of provision of Maharashtra rent Act 1999. The Appellant society may taken appropriate steps as per Law before appropriate Civil Court for redressal of grievance. Hence this grievance is disposed off with no order as cost.

Both the parties should be informed accordingly.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 19<sup>th</sup> December 2011.

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.

**DR. ARCHANA SABNIS**  
**MEMBER**  
**CGRF, BHANDUP**

**S. D. Madake**  
**CHAIRMAN**  
**CGRF, BHANDUP**

**R.M. CHAVAN**  
**MEMBER SECRETARY**  
**CGRF, BHANDUP**