

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

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

Date :

Case No. 221

Hearing Dt. 17/11/2008 &
24/11/2008

In the matter of new connection and arrears of previous occupier

Shreeji Balaji Pvt. Ltd (Satynarayan Vaddepalli)

- Appellant

Vs.

MSEDCL, (Vashi), Rebale

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. Kulkarni, Chairman, CGRF, Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 3) Mrs. Manik P. Datar, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri Suraj Chakraborti, consumer representative..
- 2) Shri Satynarayan Vaddepalli.

C - On behalf of Respondent

- 1) Shri K.D. Humane, Dy. Ex. Engr., MSEDCL, Airoli.
- 2) Shri R.P. Chavan, Asstt. Accttn., MSEDCL, Airoli

Consumer's Say:

Consumer registered his grievance with this forum on 07/10/2008 vide case No 221. M/s Shreeji Balaji Pvt. Ltd. had taken the possession of the premises at plot No. W.75 MIDC, Navi Mumbai on 11th June 2007. This consumer applied for electric connection to Dy.E.E Airoli Sub division MSEDCL. MSEDCL informed him that this premises is having some arrears of MSEDCL when it was in possession of M/s Husco Rubber having consumer number 000111330999. M/s Husco Rubber had been P.D. in the year 1996. At the time of P.D., M/s. Husco Rubber was having arrears of Rs.403512/- for energy charges.

When M/s Balaji applied for new connection on dt 03/10/2008, Airoli division asked them to pay a PD bill of Rs 12,21,360/- Hence he approached to CGRF.

Consumer further states that it is unjust and against natural justice to demand previous occupiers arrears from present occupier. It is the duty of MSEDCL to recover the arrears from previous original consumer.

He also stated that previous consumer M/s. Husco Rubber was made P.D. in the year 1998 and MSDCL was failed to recover the arrears from then though 10 years were passed, hence we are not liable to pay time barred arrears of MSEDCL. He also reiterated that as per Reg. No.105 MERC 2005, any charges for electricity, except in the case of transfer of connection to a legal heir, the liabilities transferred under this regulation shall be restricted to a maximum period of 6 months of the unpaid charges for, electricity supplied to such premises. To substantiate his say, consumer enclosed a representation No.81 of 2007, which was decided by Electricity Ombudsman dt.16th Jan 2008.

Consumer also said that as per section 56 of Electricity Act –2003 sub section –2, no sum due from any consumer, under this section due from any after the period of two years from the dated when such sum become first due.

Prayer of the consumer :

To release the connection at the earliest by following MERC regulations and Electricity Act 2003.

Utility Say :

Previous consumer was made T.D. on 24/12/1997 and P.D. on July 1998 due to non payment of arrears.

The arrears were shown in the name of M/s. Husco Rubber having consumer No. 000111330999 (industrial) and 000111331006 (lighting) for Rs. 12,21,360/- and 7426.94 respectively on dtd. 03/10/2008.

As per commercial circular No. 53, dtd. 07/05/2007 it is a liability of incoming consumer to pay the arrears of previous consumer. A case No. 5312, 5313 of 2005 was pending in the Supreme Court, accordingly if the decision goes in favour of MSEB, consumer will have to pay the arrears along with interest. According to the circular NO. 53, MSEB adopted a methodology to take under taking from the consumer. The above consumer had not submitted any undertaking to circle office.

MSEDCL took many efforts to recover the arrears from the previous consumer by sending many letters to them from 04/05/1996 to 22/09/2005, consumer also approached Circle Office of Washi to finalized the matter. MSEDCL had given him a chance to finalized the case but consumer did not pay any amount of arrears to utility. Hence we pray to Hon'ble Forum to dismiss the case.

Observation

1) M/s Husco Rubber is having connection with consumer No.000111330999 (industrial) and 000111331006 (lighting). Consumer was made T.D. on 24/12/2007 and then P.D. on July 98 due to non-payment of arrears.

2) As per circular No.53 which was issued by the utility on 07/05/2007 it contemplates taking an undertaking from new coming consumer seeking power connection. This is because for such recovery is a petition No 5312 - 5313 of 2005 is pending in Supreme Court which is yet to be decided. In case the decision goes in favour of utility the incoming consumer will have clear the arrears of previous consumer.

In the course of hearing on 17/11/2008 the consumer and utility representatives agreed over this solution and the next day the consumer. Submitted an agreement to this effect signed before a notary. It was stated that before submission of this agreement before this forum it was shown to the utility's representative and he approved it the forum also perused it and found that the applicant consumer is initially willing to make payment of amount due as per section 10.5 of as per MERC regulation 2005 and will abide final Honorable Supreme Court and if required make payment to the utility with interest when final decision of Honorable Supreme Court come.

It is to be noted here that provisions of section 56 (2) of electricity Act 2003 do not apply here because the utility failed to make continuous demand of arrears from Nov-2005. Hence Reg. 10.5 of MSEC 2005 will apply here initially to which consumer also agree which requires the consumer to make payment to utility of 6 months arrears at previous consumer.

ORDER

- 1) The applicant consumer M/s. Shreeji Balaji Pvt. Ltd. should pay to the utility arrears amount as per regulation 10.5 of MERC 2005.
- 2) On receipt of payment the utility should grant him power connection by observing the formalities. There upon the utility should observe the time limit while installing the connection as per MERC rules.
- 3) Hon'ble Supreme Court judgement will be binding on the applicant when it is promulgated.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 01/12/2008

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.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP