



Consumer Grievance Redressal Forum, Kalyan Zone
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No. **K/N/136/1082 of 2015-16**

Date of grievances : 18/05/2015

Date of order : 13/01/2017

Total days : 606

IN THE MATTER OF THE GRIEVANCE NO. K/N/136/1082 OF 2015-16 IN RESPECT OF SANTOSH LALJI GUPTA, ROOM NO.A/101, AMBEY APARTMENT, HIGH TENSION ROAD, PRAGATI NAGAR, NALASOPARA (E), TAL. VASAI, DIST. PALGHAR – 401 209, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING NEW CONNECTION TO PREMISES BY KEEPING ASIDE PD ARREARS RAISED & COMPENSATION TOWARDS SOP.

Santosh Lalji Gupta,
Room No. A/ 101,
Ambey Apartment,
High Tension Road,
Pragati Nagar,
Nalasopara (E)
Tal. Vasai , Dist. Palghar,
Pin Code 401 209,
(Consumer No. 001900118933)

..... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy Executive Engineer,
Sub Divn, Vasai Circle

..... (Hereinafter referred as Licensee)

Appearance :For Consumer–Shri Pandey - Consumer's Representative.

For Licensee- Shri Hanumant Dhok, AEE, NLSP(E)

Shri D.A.Kini,AEE (QC), NLSP (E)

[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and Mrs.S.A.Jamdar- Member (CPO)].

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] The brief facts of the grievance application are –

The applicant states that he is the owner of Room no. A/101 Jay Ambe Apartment , High Tension Road, Pragati Nagar, Nalasopara (E) Tal. Vasai. The applicant applied for new connection on 20/10/14 and followed up with the Licensee for several times. The consumer Shri Rambahadur Singh was a builder of A-Wing.

3] The connection of the entire building was in the name of Rambahadur Singh from 24/1/2011.

4] It is further submitted by the applicant that he received a notice (without date) for arrears of Rs.26,930/- towards the above premises.

5] The consumer also submitted that he has tendered an application for new connection on 20/10/14 and as per the rules and regulations laid down by Hon'ble MERC, Licensee was supposed to provide new connection within stipulated time. However, Licensee failed to do so. Consumer therefore, approached IGRC, however, IGRC also failed to resolve his grievance. Consumer therefore, approached to this Forum with a prayer to ---

A] direct Licensee to provide new connection to his premises,

B] direct Licensee to pay compensation / SOP due to delay caused for the entire process.

6] The notice was issued to the Licensee who approached and filed reply. Licensee submitted ,

I] The applicant had applied for new connection to CFC under Virar Division.

ii] Accordingly survey was carried out and the concerned section Engineer noticed that (at room No.A-101, Jay Ambe Apartment, Pragati Nagar (Nallasopara (E)) There are PD arrears at the same premises in the name of one Mr. Rambahadur Singh.

iii] The arrears of the consumer No.001900118933 belonged to flat No.A-101 which is owned by consumer.

Iv] As per the provision of Supply Code (MERC Regulations 2005. Licensee is entitled to recover arrears from the applicant/consumer regarding PD connection of consumer no.001900118933.

V] Licensee also stated that the staff of Licensee has inspected A-Wing and B-Wing of Jai Ambey Apartment. They found that in B-wing a

separate consumer is existing bearing consumer No.001900200826 and its date of supply is 3/8/2011.

Vi] The supply of flat No.101 of A-wing is already disconnected and present applicant/consumer is asking for new connection in the same premises. He has to pay the full arrears.

7] We have gone through the submissions made by both the parties and the record kept before us and our observations are ,

A] Flat No. 101 exists in two wings i.e. Wing A & Wing-B at Jai Ambey Apartment. The grievance of the consumer is related to Awing. The another consumer having consumer No. 001900200826 flat No.101 is connected on 3/8/2011 and live till date. Therefore, it is very clear that the consumer no. 001900118933 (PD) is different from consumer no. 001900200826.

B] Consumer is not ready to pay the arrears as per the proposal given by Licensee u/s. 10.5

C] Now applicant contends that he has purchased the said flat no.101 under a registered agreement and has been in possession thereof since 10th of July 2009. He goes on to allege that since then he has been waiting for electricity. There is absolutely nothing on record to show that he made any efforts to get the electricity connection and that he was denied the same. On 20/10/2014 for the first time he made an application for supply. It is at the outset very difficult to accept the factual roposition on probabilities, though it may not be an impossibility .

D] Second aspect to be seen is Licensee contends in the reply, *inter alia*, that the concerned building Jay Ambey was constructed by Rambahadur Singh and he got sanctioned all the meters for the building for 30 rooms / flats and 9 shops. As per rule when the power supply is given to

the building sanction is given to all the flat and shops in the building. So connection with consumer No. 001900118933 was given in the name of Rambahadur Singh on 24/1/2011. Bills were being paid for consumption of electricity. Applicant Santosh Lalji never made any complaint all through. This circumstance is to be seen alongwith the fact that the applicant herein makes a suitable statement that he was waiting for electricity for about five years after taking possession in 2009, there being not a single application made to MSEDCL.

E) There is another glaring fact brought to the notice of this Forum, by the Licensee, that one Mr. Chourasia a resident of the same Jai Ambey Apartment has stated during enquiry that he knows the applicant Santosh Lalji Gupta since March 2011. He states that applicant Santosh Gupta never used to stay there in Flat no.101 A wing but he had let out the same to a tenant. He had also seen tenant using electricity in the said flat. To this applicant simply states that respondent made silent inspection without producing documents as requested on 26/10/15. Applicant does not say that Chourasia is a fictitious person or that he is telling a lie, that he has an axe to grind. These proceedings are no governed by strict principles of Evidence Act. Hence considering this a strong probability arises, that since 2009 premises in question has been in occupation of the applicant as he himself admits, that the meter stood in the name of builder Ramabadur Singh, that applicant never resided there but had let it out to tenant. Tenant was consuming electricity and any how bills were being paid. It is contended that PD was done on 21/6/12 for six months arrears. This is the apparent reason why applicant did not apply to MSEDCL for supply for five years. Now he asks for fresh connection. The inference would be that the arrears

are of the applicant himself applicant has been taking help of some Technicalities .

F] Be that as it may considering the entire case, exercising our discretion at the most taking best case for applicant, applicant being a transferee 10.5 of Supply Code may be applied but there would be no SOP in view of a bonafide dispute as to the arrears, and also applicant did not say that he was ready to pay arrears as per Clause 10.5 of Supply Code.

G] We have also observed that as per Electricity Supply Code Regulation, 2005 Clause 10.5 if he premises is by the previous owner and if there are arrears /dues to the Licensee on the said premises, then it is binding on the transferee to repay the said amount.

Clause No.10.5 of MERC (Electricity Supply Code and other Conditions of Supply) Regulations, 2005, reads as under-

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 or any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successor –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:

Provided 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.

8] Taking into consideration, all the above observations, we are of the view that as provided under said regulations 10.5 the electricity charges in arrears has been made as a charge on the premises and would be transmitted to the new owner or occupier of the premises and said liability is restricted to the maximum period of 06 month of the unpaid charges for the electricity supplied to such premises.

This matter could not be decided in time as the Hon'ble Chairperson has taken the charge of this Forum on 20/9/2016 and the matter was reheard.

Hence the order.

ORDER.

1] Grievance application of the consumer is partly allowed.

2] Licensee is hereby directed to recover electricity charges in arrears from the applicant/consumer only for the period of six months of unpaid charges preceding the month in which disconnection of electricity to the said premises took place.

3] On aforesaid compliance in respect of electricity charges and compliance of other documents, new connection be released to consumer's premises in accordance with Law.

4] Compliance be reported to this Forum within 45 days from the date of receipt of this order.

Date: 13/01/2017.

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(L.N.Bade)
Member Secretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.