



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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IN THE MATTER OF GRIEVANCE NO. K/E/240/265 OF 2009-2010 OF THE SECRETARY, YOGIDHAM MELBOURNE CHS LTD. AND TWO OTHERS OF KALYAN (WEST) REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN FOR COMPENSATION TO REIMBURSE THE EXPENSES INCURRED FOR CHANGING THE FAULTY CABLE.

- 1)The Secretary,
"Yogidham Melbourne" CHS Ltd. B-12
- 2)The Secretary,
Auckland CHS Ltd. B-11,
- 3)The secretary,
Yogidham, Lourds CHS Ltd. B-4,
Yogidham, Gauripada,
Kalyan (West), Dist : Thane

(Here-in-after
referred
as consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Executive Engineer
Kalyan West Division, Kalyan, Dist:Thane

(Here-in-after
referred
as licensee)

1). Consumer Grievance Redressal Forum has been established under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

2). The consumers are L.T. consumers of the licensee connected to their 415-volt network. The Consumers are billed as per residential tariff. The consumers registered grievance with the Forum on dated 29/04/2009 for compensation to reimburse the expenses incurred for changing the faulty cable. The details are as follows : -

Name of the consumer :-1)The Secretary, Yogidham Melbourne

CHS Ltd. B-12

2)The Secretary, Auckland CHS Ltd. B-11

3)The secretary, Yogidham, Lourds CHS Ltd. B-4

Yogidham, Gauripada, Kalyan (West), Dist : Thane

Address: - As above

Consumer Nos. : - 020461134638 & others

Reason of dispute: Failure of L.T. cable forcing the consumers to change the same at their cost.

3) The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/403, dated 29/04/2009 to Nodal Officer of licensee. The licensee through Nodal Officer filed reply vide letter No. 2755, dt. 03/07/09 as directed by this Forum at the time of hearing on 20/05/09 and subsequent letters.

- 4) The Forum heard both the parties on 20/05/2009 @ 15.00 Hrs. in the meeting hall of the Forum's office. Shri V. B. Kadam, Shri R. S. Chaudhary, the Consumer Representatives, and Shri Pachpohe, Dy. Ex. Engr., Shri Davis, Jr. Engr., and Shri C. S. Sakpal. LDC, all representatives of the licensee attended hearing. Proceedings of the hearing including submissions made by both the parties are recorded and the same are kept on the record and the said submissions made by the parties shall be referred at the time of deciding grievance made by the consumer, in order to avoid repetition.
- 5) The consumers claim that electric supply was suddenly stopped to their housing societies in the morning on 22nd May 2008. The cable supplying electricity was burnt due to short circuit as disclosed to them by Shri Khadtare, Dy. Engineer when they contacted him after disruption in electric supply as above. The electric supply remained disconnected for five days from 22/06/08 to 26/06/08 (which should be 22/05/08 to 26/05/08). During the said five days, the members of concerned societies contacted various authorities of the licensee but none of them listen their grievances and turn deaf ears towards their request. The builder, contractor and the licensee did not change the said cable inspite of their request. They have to remain without electric supply and hence suffered a lot during the said five days. Thereafter they filed a complaint about the said fact with Mahatma Phule Police Station, Kalyan on 26/05/08. On the advise of Shri Khadtare, Dy. Engineer and Shri Garud, Contractor they themselves replaced the said burnt cable at their cost of Rs. 01,26,000. It is their case that the builder/contractor or the licensee are liable to reimburse the said expenses incurred by them to change the said faulty cable and therefore, they have made grievance about it before the IGRC Kalyan vide application dt. 25/07/08. The IGRC Kalyan after hearing them

directed the licensee to write a letter to the builder/contractor to reimburse the said amount of expenses to them, within 60 days and to hand over the Xerox copy of agreement in between the contractor/builder and licensee to Shri Chaudhari, Secretary of one of the said societies within 15 days from the date of the said decision, vide order dt. 12/09/08. The consumers further claim that however, the licensee neither supplied them the copy of the said agreement and also did not take any steps to get the amount of expenses of Rs. 01,26,000 reimbursed to them by the contractor/builder and therefore, they have filed the present grievance application before this Forum on 27/04/09 and the same was registered on 29/04/09.

- 6) The licensee claims that the estimate for supply of electricity with 630 KVA Transformer, with lines and cables and other material for electric supply subject to the licensee's rules and conditions was sanctioned by Kalyan Circle Office vide letter No. SE/KCK/Tech/2250, dt. 15/05/2004. As per the said sanctioned estimate the consumer/electrical contractor appointed by the consumer remains responsible to supply or provide all material required for installation of paraphernalia for electric supply and as per the clause No. 5 in the rules and conditions mentioned in the sanctioned estimate, the consumer or the electrical contractor appointed by it remains responsible to maintain and repair such establishment i.e. Transformer and all other equipments, cables etc. for a period of five years. It has annexed copy of such sanctioned estimate with its reply. It further claims that its Divisional office receives a copy of sanctioned estimate from the Circle Office. Thereafter a quotation as per the said sanctioned estimate is given to the electrical contractor for depositing the supervision charges. The said contractor deposits the supervision charges because the rules and conditions of the sanctioned

estimates are acceptable to them and thus deposit of such charges by him amounts to acceptance of the rules and conditions mentioned in the sanctioned estimate. It is after the payment of supervision charges that it grants permission for doing such work of fixing the instruments and all other accessories required for electric supply and grants electric supply after completion of such work. Yogidham complex phase-II is granted such permission for electric supply vide it's letter No. 3263, dt. 18/08/04. Electric supply is accordingly given to the said complex. As the builder/consumer have appointed an electrical contractor for the said work during the process of sanction of estimate, the electrical contractor was responsible to change the said faulty cable as per clause 5 in the sanctioned estimate. The electrical contractor cannot avoid his such responsibility. Though the responsibility to repair remain on the contractor, the licensee supervise such connections and during such supervision, it has brought the said defects to the notice of builder/contractor. The consumers have informed about the said faulty cable vide their application dt. 22/05/08. However, since the said cables became faulty and were required to be changed, within five years from the electric supply, the responsibility to change the said cable or bear expenses required for the same on the consumer or the electrical contractor appointed by them. As per the rules, it was not responsible to change the said faulty cable and therefore, it cannot do the same. Therefore, in case the consumers were required to bear any expenses to change the said cable, the consumers/contractors are liable to bear such expenses and they are liable to reimburse the same to the consumers/applicants.

- 7) Considering the say of both the parties as above, the following points arise for determination and considering the submissions made by the parties at the

time of hearing and documents filed by them, the findings thereon are given against each of it, for the following reasons :

Points	Findings
(i)Who is responsible to reimburse the expenses incurred by the consumers /applicants to change the cable?	Licensee and licensee may recover such amount from the builder/contractor.
(ii)What Order ?	As per Final Order

Reasons

- 8) As to Point No. (i) : It is submitted by the representative of the consumers (CR) that they were required to bear expenses of Rs. 01,26,000 to change the cable in between their buildings and the transformer as the said cable has burnt, because the licensee, builder/contractor did not change the said cable inspite of requests made by them and therefore, either of them who is responsible to reimburse such expenses to them, be directed to reimburse the said amount to them. As against this, the representative of licensee (LR) submits that as per the clause/condition No. 5 in the conditions given below the order regarding sanction of estimate, the party i.e. the builder who had applied for electric supply is responsible to maintain/replace all the material used for the execution of work for giving electric supply, if it fails within the agreement period of five years. The concerned cable became faulty and got burnt within such period of five years from the date of commissioning and therefore, the builder/contractor is responsible to reimburse such expenses to the consumers and therefore, the licensee be discharge from any such liability.

- 9) Clause/condition No. 5 given in the conditions for execution of work below the order dated 15/05/04 regarding sanction of the said estimate, reads as under :
- “5. An undertaking on the stamp paper of Rs. 100 is to be executed before taking of the work in hand to the effect that the assets duly commissioned will be handed over to the Board for maintenance purpose and right of ownership on that assets and shall be the property of the Board. However, party will have to maintain/replace the same if it fails within the agreement period of 5 (five) years since the date of commissioning”.
- 10) It is clear from the copy of undertaking filed by the licensee in this case and of which copy it has also supplied to the consumers/applicants as per the directions given by the IGRC, and which the licensee claims to have obtained from the builder as per above condition No. 5, that the said undertaking is on the stamp paper of Rs. 20 as against the requirement of obtaining undertaking on the stamp paper of Rs. 100 as per the above condition No. 5. Moreover it is clear from the contents of the said undertaking that it has been obtained after completion of the work of installing transformer and other equipments etc. for giving electric supply. Thus it appears that the licensee has obtained the said undertaking from the builder after completion of the said work of installation of transformer and other equipments etc. for giving electric supply. The said undertaking contains a clause that the said builder i.e. Yogi Developers Corporation undertakes to repair the transformer in case of failure from the manufacturer within the guarantee period. It is not mentioned in it that the said guarantee period is of five years. The said undertaking does not refer to cable at all. The licensee does not claim that it has obtained any other undertaking from the builder and so far it has not supplied copy of any such other undertaking to the consumers/applicants as directed by IGRC and not

filed the same in this case inspite of several reminders. Therefore, it appears that the licensee has not obtained any such other undertaking from the builder.

- 11) It is clear from the letter sent by Superintending Engineer to the Executive Engineer, MSEB Kalyan (U) Division regarding sanction of estimate that the said sanction to the estimate regarding the work of supplying electricity to the buildings of the consumers/applicants was sanctioned on 15/05/2004. It is clear from the above referred undertaking given by the builder i.e. Yogi Developers Corporation that as per the above referred sanction, the said builder deposited supervision charges of Rs. 02,07,000 on 09/06/2004. No date of execution is mentioned in the said undertaking. The stamps of Sub-Treasury Officer and stamp vendor on the stamp paper used for the said undertaking, shows that the said stamp paper was purchased by stamp vendor from S.T.O. on 21/11/2003 and then the stamp vendor sold the same to one Shivshankar Ramanuj Singh on 09/12/2003. Thus it appears that the said undertaking was executed by the person authorized by the builder "Yogi Developers Corporation" sometime after 09/06/2004 i.e. after completion of the said work, after depositing supervision charges on 09/06/2004. The licensee claims that after completion of the said work, permission to give electric supply was given vide letter dt. 18/08/2004. Thus the work of installing transformer, laying lines and cables etc. was done during the period from 09/06/04 to 18/08/04. Therefore, the failure or burning of cable on 22/05/08, was definitely within the period of five years from the date of charging of transformers and lines.

- 12) As per Section 42 (i) of the Electricity Act 2003, it is the duty of licensee to develop and maintain an efficient co-ordinated and economical distribution system in it's area and it includes maintenance of electric lines, cables etc. In this case, the licensee is claiming not responsible to pay the cost of changing of cables by the consumers/applicants on the basis of clause 5 in the sanction estimate and the alleged undertaking on the stamp paper of Rs. 20 from the builder/contractor. It is already discussed above that the licensee has not produced the undertaking of builder/contractor on the stamp paper of Rs. 100 which was to be got executed as per condition No. 5 in the sanction estimate and it has also not given it's copy to the consumers/applicants and therefore, they cannot take any action against the builder/contractor for the recovery of the said amount. Moreover, the said undertaking has been given by the builder/contractor to the licensee and therefore, the licensee can very well recover the said amount from the builder/contractor on the basis of the said undertaking and any other undertaking which it may have obtained from the builder/contractor and condition No. 5 in the sanction estimate. Considering all these facts, we come to the conclusion that the licensee is liable to reimburse the expenses of Rs. 1,26,000 which consumers/applicants have incurred for changing the concerned cable and the licensee may recover the said amount from the builder. Hence this point stands answered accordingly.
- 13) The consumers have registered the present grievance application with the Forum on 29/04/2009. The licensee did not file para wise reply on the date of hearing i.e. on 20/05/09 and therefore, the Forum directed the licensee to submit para wise reply and to file the undertaking which it got executed from the builder as per condition No. 5 in the order regarding sanction of

estimate for the said work within seven days. However, the licensee did not do so. It was necessary to get para wise reply of the licensee to decide the dispute between the parties properly. Therefore, the licensee was directed to file para wise reply and produce copy of sanction of estimate order. The licensee filed such reply dt. 03/07/09 and produced the copy of sanction of estimate letter on 06/07/09, and produced the copy of undertaking with letter on 25/06/09. Therefore, there has been some delay in final decision in this case.

- 14) In view of the finding on point No. (i) and above discussion, the Forum unanimously passes the following order.

ORDER

1)Consumer's grievance application is allowed.

2)Licensee to pay an amount of Rs. 1,26,000 to the consumers/applicants i.e. Yogidham Melborne Co-Operative Housing Society (B-12), Yogidham Auckland Co-Operative Housing Society (B-11), Yogidham Lords Co-Operative Housing Society (B-4), through their Secretaries towards the reimbursement of the expenses incurred by them for changing the cable within 90 days from the date of decision in this case. Licensee may recover such amount from the concerned builder/contractor as per clause 5 of sanction estimate letter and the undertaking given by the builder/contractor.

- 3) The Compliance should be reported to the forum within 90 days from the date of decision.
- 4) The Consumer can file representation against this decision with the Ombudsman at the following address.

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

Representation can be filed within 60 days from the date of this order.

- 5) Consumer, as per section 142 of the Electricity Act, 2003, can approach Maharashtra Electricity Regulatory Commission at the following address:-

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

for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003”

Date : 17/07/2009

(Sau V. V. Kelkar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(M.N.Patale)
Chairman
CGRF Kalyan