

## BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM

M. S. ELECTRICITY DISTRIBUTION CO.LTD.

(NAGPUR ZONE – RURAL) NAGPUR.

Application/Case No. CGRF/NZ/Rural/ **1** of 2005

Applicant : Dr. Anil Bhagwantrao Lonare,  
Vitthal Mandir Road, Wardha-442001(M.S.)

-- VS --

Non-applicant. : 1.Executive Engineer,C.C.O&M Dn.,MSEB,  
Wardha.  
2.Executive Engineer/Nodal Officer  
Internal Grievance Redressed Unit, Circle Office,  
M.S.E.B. Wardha.

Presence : 1.Shri N.J.Ramteke,Chairman  
2.Shri M.G.Deodhar,Member  
3.Shri M.S.Shrisat, Member/Secy.

Appearance. : 1. Dr.Anil B. Lonare .  
2. Shri D.K.Choudhary,E.E.  
Nodal Officer, Circle Office,Wardha.  
3. Shri D.G.Gaonar,E.E.,CCO&M Dn.,  
MSEB, Wardha.

**ORDER**

( Passed this 28th day of March, 2005)  
( Per Shri N.J.Ramteke, CHAIRMAN)

(1) The Applicant presented an application in Form "A" before this Forum for redressal of the grievance as mentioned in his application. This application was received in this Forum on 15.2.2005. The acknowledgment was given to the Applicant as required under M.E.R.C.(CGRF & Ombudsman Regulations, 2003) (hereinafter called the Regulations). Applicant approached the Internal Grievance Redressal Unit, Wardha (hereinafter called the Unit) for redressal of the grievance on 8.12.2004. He had presented application in form 'X' as prescribed for the same. The unit failed to pass any order within the stipulated time as prescribed under the Regulations and the procedure laid down by the Distribution Licensee. The Regulation 6.3 provides for the application before the Forum under two circumstances (1) If the Unit failed to send any reply to the Applicant within two months or where no remedy has been provided within such period. In the instant case, the Unit failed to provide any remedy within two months and no communication has been made to the Applicant in this regard. Thus the Applicant is entitled to approach this Forum for the redressal of his grievance as laid down under the Regulations) .

(2) It may not be out of place to speak about the scheme as laid down under Electricity Act,2003 and the relevant Regulations passed by the M.E.R.C. Section 42(5) of the Electricity Act,2003 (hereinafter called the Act) provides for establishment of the Forum. The M.E.R.C. framed the Regulations as mentioned above in light of the provisions under the Section 42 of the Act. The M.S.E.B.(hereinafter called the D.L.) also issued instructions for formation of the Internal Grievance Redressal Unit at Circle Headquarter. This Unit consist of the Executive Engineer in Circle Office, Accounts Officer/D.A. and Sr. Clerk (GAD) . This Unit is to be appointed by the S.E.(O&M). This Unit functions at Headquarter of the Circle Office. It is also apparent from the letter dt.10/5/2004 of D.L. that the rules and the procedure for Internal Grievance Redressal scheme have been approved by the Board . It means the D.L. already framed rules and procedure for disposal of the grievance by the Unit. At second stage the Applicant approaches the Forum in the circumstances already mentioned above. The D.LD. constituted the present Forum and appointed Members as per Regulation 4.1 of the Regulations. The Regulations also provide for the constitution of Ombudsman as per Regulation 9 of the Regulations. Thus it is a three tier system provided for redressal of the grievance in light of provisions under the Act. In the instant case the Forum noted with anquish that the Nodal Officer was not aware of the procedure, rules and the Regulations . Even he could not show the copy of the application under Form 'X' which was produced by the Applicant in the office of the unit. The Nodal Officer was not also aware of the procedure to deal with the grievance presented under Form 'X' .

(3) The proceedings and the procedure before the Forum are guided by the principle of natural justice. The principle of natural justice envisages fair and reasonable opportunity of hearing to both the parties. The Applicant presented his grievance in Form :”A” , acknowledgement was given by the Forum, the non-applicants were directed to submit their reply and response as required under Regulations 6.7 and 6.8. The copy of the application was forwarded to the non-applicants to submit their reply. Notices were issued to both the parties for hearing by giving sufficient advance time as required under Regulation 6.9 of the Regulations . The record from the non-Applicant submitted their reply/comments under letter dt. 1.3.05 and the same was received in this Forum on 7.3.05. A copy of comments of the non-applicants was given to Applicant alongwith the notice. At the time of hearing the Applicant and the non-Applicant were present. They were heard by the Forum. The non-applicants also produced some documents and the Applicant produced the documents as per list of the time of hearing on 24.3.05. Thus fair and reasonable opportunity of hearing was given to both the parties.

(4) The facts in brief in this case are that the Applicant is the resident of Vitthal Mandir Road, Wardha. He purchased plot Nos. 16, 17, 18 and 19 of survey No. 60/1-A of Mouza Nalwadi, Wardha. These plots were purchased by the Applicant from Smt. Shalini Dilip Pradhan and Smt. Smita Dattatraya Patil vide registered sale deed dt. 24.6.02 . There was also Issar Chitthi dt. 1.4.02 before the sale deed. There is an endorsement in the Issar Chitthi dt. 1.4.02, “ojhy lykVoj ,e-,l-bzch-] o/kkz ;kph ykbu vkryyh vl w rh vKegh Lo[kpkZus dk<w nswR; kckcr dkskrkgh mtj vki ycdMw jkg.kkj ukghr“ . This endorsement on the Issar Chitti is signed by Smt. Smita Patil. A 11 KV overhead line is hanging over the Plot No.17 and 18 . This line is also hanging on Plot No.11 but this plot is not owned by the Applicant. The S.D.O., Wardha ordered to convert the land in question into non-agriculture use with the terms and conditions as laid down in this order dt. 29.4.02 . Smt. Shalini Prachan and Smt. Smita Patil land owner of the

said land applied for conversion of this land into non agriculture use. The E.E., O&M Dn., Wardha prepared the estimate on 24.4.02 . Under this estimate the cost of the shift the overhead line is Rs. 1,59,900/- and 15% supervision charges are shown Rs. 20,667/- . There is also a Kararnama dt. 24.4.02 between the E.E. O&M Dn.,MSEB, Wardha and Smt. Prachan. The amount of Rs. 20,667/- was paid by Smt. Pradhan to the non-applicants as supervision charges. There was a continuous correspondence between the Applicant, non-applicants and layout owner Smt. Pradhan and Smt. Patil for shifting of the hanging line to a safer place. Applicant approached the District Consumer disputes Redressal Forum, Wardha for getting relief . His complaint case was 198/2003. The Hon'ble President of D.C.D.R.F.,Wardha under his order date 11.9.04 advised the complainant – Dr. Anil B. Lonare, to refer his grievance to the authority constituted under Electricity Act, 2003. Thus the present application. The Electrical Inspector, Wardha also dealt with this matter and gave suitable instructions to the non-applicants under his letter date 9.7.05.

(5) The main contention of the Applicant is that he made constant and continuous correspondence with the concerned E.E. but without any result. This shows the default and negligence in the duty on the part of the non-applicants. They are directly concerned with the present work. The Electrical Inspector also gave suitable instructions to the non-applicants since the 11KV line belongs to the D.L. and the electric supply is being provided. The D.L. is directly concerned and connected with his grievance.

(6) The D.L. first gave temporary connection. It was renewed from time to time and then the permanent connection with meter. The Kararnama is not signed by the concerned E.E. The .D.L. should have accepted the full amount of the estimate but it had accepted only supervision charges. On acceptance of the supervision charges, the non-applicants remained silent for a considerable period . Then what is the use of preparation of estimate and supervision charges ? The term (supervision charges) means the supervision over the work which is started and in progress . When the work is not started, no progress in the work then what is the utility of supervision charges? Acceptance of supervision charges invariably means the work of shifting should be done. He had taken a loan from P.N.B. and, therefore, he had no option but to start the work. He got the N.O.C. from Grampanchayat for construction and electric connection. On one hand the D.L. gave the meter for construction and on the other hand the D.L. is saying that it is an offence. At the time of purchase of the plots the layout owner promised to shift the line within three months but it has not been done though he made continuous and constant correspondence with the land owner and the non-applicants. In view of this position, the Applicant contended that the non-Applicants are at fault and therefore they should shift the said 11kV line at a safer place at their cost and later on recover from the layout owner through civil process.

(7) In response to the notices by this Forum, the non-applicants submitted their reply on 1.3.05. The main contention of the non-applicants is that the present application for redressal of the grievance does not fall within the purview of this Forum in view of the Gazette Notification dt. 10.1.203 . The land owner Smt. Pradhan executed a Kararnama that she would bear the shifting charges of the said line and she paid 15% amount as per estimate as supervision charges. There is a specific and clear condition laid down in S.D.O's order dt. 29.4.02 that the land owner should not sell the plots and non construction thereon unless the said line is shifted. In defiance of this order of the S.D.DO., the Applicant purchased the plots on 24.6.02 and in particular Plot

No.17 on the condition that the said line would be shifted within three months. The non-applicants gave suitable instructions to the Applicant from time to time. The Applicant made correspondence with the non-applicants and non-applicants gave a specific understanding to the Applicant that the said line would be shifted under their supervision till then no connection should be done under this line. In spite of this clear understanding and instructions to the Applicant, he made the construction. In view of this position, the D.L. is not responsible and the land owner and plot holder as per sale deed should shift the line on his own expenses.

(8) At the time of hearing before this Forum, the non-applicants submitted that the Kararnama dt. 24.4.02 should not be treated as Kararnama. It is only a consent document. The land owner is responsible for shifting of the line. If 85% charges are paid by the land owner, the D.L. is ready to shift the line. It so, it requires revision of estimate.

(9) The non-applicants revised the preliminary objection that the present application does not fall within the purview and jurisdiction of the present Forum. Shri M.S. Shrisat, Member Secretary also agreed with this submission of the non-Applicants. Shri Shrisat also stated that the present consumer is not directly connected with the present matter. He purchased the plot in defiance of the order of the S.D.O. The electrical connection and execution of other works are different matters. He agreed that the non-applicants neglected the procedure. Even if there is an overhead line there is no damage to the Applicant in person or property. Applicant and the land owner Smt. Patil and Smt. Prachan made the conspiracy to dupe the D.L. for the execution of the work and shifting of the said line by the D.L.

(10) The preliminary objection about the jurisdiction of this Forum as raised by the non-Applicants and Shri Shrisat is not acceptable to the majority of the Forum. The reasons are that under Notification dt. 10/12/03 matter is not limited to the new connections, energy bills, complaints, interruption of electric supply etc. but this Notification itself deals with the grievance regarding employee's behaviour. In the instant case Applicant was in constant and continuous correspondence with the non-applicants but in vain. It certainly shows the default and negligence on the part of the concerned E.E. and therefore the Applicant has the right to approach the Unit and the Forum for redressal of the grievance. Certain matters have been excluded from the jurisdiction of the Forum as per Regulation 6.4 of the Regulations. These matters are, unauthorized use of electricity as per Section 126 of the Act, offences and penalties under the section 135 to 139 of the Act, accidents and recovery of arrears. The complaint and the request for shifting of the overhead line is a genuine complaint and is certainly aggrieved by the same. Moreover, Regulation 2(3) gives definition of the term "Grievance". It is broad and exhaustive definition. Under this Clause, "Grievance" means any fault, imperfection, shortcomings or inadequacy in the quality, nature and manner of performance. In view of this definition, the Forum has a jurisdiction to deal with the present application as there is a fault and shortcomings on the part of the non-applicants. In view of these reasons the objection raised by the non-applicants is not acceptable to the majority of the Forum and, therefore, rejected.

(11) It is also surprising to note that so called Kararnama dt. 24.4.02 signed by Smt. Shalini Pradhan there is specific mention "fygw /kskkj & dk; Bkjh vflk; rkl e-jkfo-ek o/kkz fygw nskkj & lks 'kkyhuh fnyhijko izkku oxjs". The agreement is the existence of two or more parties or persons. These persons must come to some determination with a view to create right in one party and corresponding duty on the other party. When the proposal is accepted by other party and given consent to it, it is an agreement. In

view of this position, this cannot be treated as an agreement as it is not signed by the concerned E.E. It has not created any right for the E.E. It is only a commitment given by Smt. Pradhan on stamp paper. The E.E. concerned should have taken care to bind Smt. Pradhan in legal terms. It has not been done so. The Forum also noted with surprise that the supervision charges were accepted on 24.4.02 but the first letter was given on 3.7.03 by the non-applicants to Smt. Pradhan for execution of the shifting of the line immediately. There is no time limit laid down under so-called agreement or consent letter. It means, full and complete freedom was given to the land owner for shifting of the line at her expenses. This shows that the non-applicants rose to the occasion after a lapse of one year and three months. Applicant has produced the copies of the correspondence between the land owner, Applicant and E.E. This shows that the Applicant had taken due care and precaution to pursue the matter. In spite of the instructions given by the Electrical Inspector, the non-applicants have not taken care to execute the work through the land owner as per her commitment.

(12) It is a matter of fact that the S.D.O. laid down a specific condition under his order dt. 29.4.02 at point No.10 it reads, “वर्षाकालीन क्रिये हककाम त्कलर फदोक देह नककप; क फो|र यकबु री प वस्योक्तु [कककुस क?कुर गसकज उकघ ग; कपि वकुककुस ककगुथ /; कोह- री प | नु य/कमवप; क ल्यकव द्द 17] 18] 19 प्स ओ#उ फो|र ककगुह त्कुर वीय; केकस | न्ज फो|र ककगुह जलर; कप; क कडम्यक लफकुकुर जहुर द्य; कफ'कुक; हककाम फुदुवु; सफदोक र; कोज कसकुर; कघ इडकजप्स कडकडके द# उ; स “. But it is also surprising to note that the E.E., O&M Dn., Wardha gave a specific and clear N.O.C. dt. 2.5.02 for conversion of the said land into non-agriculture use. He has also admitted that he had accepted Rs. 20,667/- as supervision charges and the work is to be executed by the party. The party is responsible for shifting the line from the layout at his cost. In the endorsement of this N.O.C., the E.E. further stated that the work is to be executed by the Electrical Contractor, Girish Brothers who has given consent to complete the work within six months, failure to which the amount of estimate is to be recovered from his bills. It shows that the E.E. was moving the stick in the air without any effect or any threat to Smt. Pradhan. The majority of the Forum does not agree with the Member Secretary that Applicant and land owner conspired to dupe the D.L. We find no reason or the evidence on record that there was some conspiracy between the Applicant and land owner. On the other hand the Applicant made continuous correspondence with the D.L. and land owner for shifting of the line. There is no consolation that no damage has been done by this overhead line to the Applicant. The 11KV overhead line contain high voltage and the contingency and the accident will not come by any prior intimation. It may come at any time. The supervision charges show that the non-applicants should have taken due care for shifting of the line. Thus the Applicant and the land owner conspired to dupe the D.L., this argument is not accepted to the majority.

(13) The E.E., Shri Gawnar, submitted the Xerox copy of the Circular dt 23.11.01 (Record page 52). This circular pertains to outright contribution (ORC) works, Shifting of service line is included in the O.R.C. This Circular also speaks about the supervision charges to be taken on estimated cost at 15% on 110%. This Circular also laid down the clearcut directions that after completion of the work the separate W.C.R. should be submitted to the Division/Circle immediately. It means, the work should be completed diligently and without delay. If no supervision is done or right of supervision has been exercised, the layout owner or land owner will not pay any attention to the D.L. There is a scope to understand that instead of conspiracy between the Applicant and land owner, the land owner tried to take the

concerned E.E. on ride. In other words, the layout owner though given consent/commitment kept complete silence at the inconvenience of the plot holders.

(14) The non-applicants gave much emphasis on the condition as laid down under the N.A. Order dt. 29.4.02 . But the E.E. accepted the amount of supervision on the so called agreement before passing of this Order. This Order was passed on 29.4.02 whereas the E.E. accepted the amount of supervision on 24.4.02 with the consent letter dt. 24.4.02. It has been mentioned by the S.D.O. in his order. He inferred, the D.L. has no objection for the non agriculture use.

(15) In view of above position, the majority of the Forum does not agree with the contentions raised by the Member-Secretary and the non-applicants. It is apparent from the record that the non-applicants failed in their duty to execute and implement the so called Kararnama. They also failed in their duty and performance though the supervision charges were accepted. It is advised to the Head of the Unit to go through the procedure , Regulations and the relevant rules in dealing with the grievance in form 'X' . The rules required the registration of the grievance when presented to the Unit. The E.E., Shri Choudhary, is the Head of the Unit at Circle Level. He could not show the registration of the grievance as presented by the Applicant in the form 'X'.

(16) In view of above position, the majority is of the opinion that the present application needs to be allowed and suitable relief to be given to the Applicant . Thus the following order of the Forum .

### **ORDER**

1. Application is allowed .
2. The non-applicants are directed to shift the said 11KV line within 45 days from intimation of this order, as per the consent/commitment dated 24.4.2002 of Smt. Pradhan, Layout owner .
3. A cost of Rs. 1000/- is saddled on the non-applicants for payment to the Applicant within 45 days from intimation..
4. The non-applicants are directed to implement the above order under intimation to the Forum.

**CHAIRMAN**

**MEMBER**

**MEMBER/SECY.**

CONSUMER GRIEVANCE REDRESSAL FORUM  
M.S.E.D.C.L.(NAGPUR ZONE – RURAL)NAGPUR

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**CGRF/NZ/R/ 1 / 46**

Date:: **31 MAR 2005**

Certified that this is the true and correct copy of the above order.

Member/Secy/ Exe.Engineer,  
C.G.R.F.(NZ-R)MSEDCL  
N A G P U R

Copy to:

1. Dr. Anil B. Lonare, Vitthal Mandir Road, Wardha, for information .
2. The Exe.Engineer/N.O., O&M Circle Office, MSEB.Wardha, for information and necessary action. .
- 3.The E.E.,C.C.O&M Dn.,MSEB, Wardha for information and necessary action.