

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

Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,
NAGPUR – 440 013

Shri T.M.Mantri
Chairman
(Mb)9673215771

(O) 0712- 2022198

Shri M.G.Deodhar,
Member
(M)9422805325

NO. CGRF/NZ/R/

Date :

**Certified copy of order dtd 29th August,2011 in Case No. 328/2011 is
enclosed herewith.**

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

To.

Shri S.S.Bharne, Shivaji Peth, Ward No.30, Deoli Road, Wardha, Dist. Wardha

Copy S.W.Rs.to :-

1. The Chief Engineer,Nagpur Zone (Rural)MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.

Copy F.W.Cs.to:

1. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Wardha, --
2. The Executive Engineer,C.C.O&M Dn., MSEDCL, Wardha
for information and necessary action.

Address of **the Electricity Ombudsman** is given as below.

Office of - **The Electricity Ombudsman,**
12, Srikrupa, Vijay Nagar,
Chhaoni, Nagpur-440 013
Ph.No.0712-2022198.

CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR (RURAL)**COMPLAINT NO. 328/2011**

Suresh Sudamrao Bharne,
at Shiwaji Peth, Ward No. 30,
Deoli Road,
Wardha.

.. Complainant

„VS..

1. Executive Engineer,
MSEDCL,
O & M Division,
Wardha.
2. Executive Engineer/Nodal Officer,
I. G. R. C., Circle Office,
MSEDCL, Wardha.

.. Respondents.

Applicant Shri Suresh Sudamrao Bharne.

Respondents represented by 1) Shri A. P. Fadanvis, Executive Engineer, Wardha.
2) Shri Saste, Dy.Executive Engineer, Wardha.

CORAM:

Shri T. M. Mantri, Chairman.

Shri M. G. Deodhar, Member.

Ms. S. B. Chiwande, Member-Secretary.

ORDER**Per Chairman**

DATED: 29th August, 2011

The complainant has filed the present Complaint under the provisions of MERC(CGRF&EO) Regulations,2006 (hereinafter called the ‘Regulations’) on ;2.7.2011 in form A seeking Redressal of his grievances in respect of electric connection. In substance, his case is that though he has applied for electric connection to the Distribution Licensee, it was not provided and,

therefore, approached the Internal Grievance Cell on 26.10.2010 but there also his grievances were not considered and his application came to be rejected on 13.12.2010 requiring him to approach this Forum for his grievances.

2. According to the complainant, he is residing with his family in the premises since last one year, though he is in possession of the said premises since last 1 ½ years. He has not only repaired the house but also residing there. The request of electric connection has been refused on the ground that the mother of the complainant has raised objection. The complainant has then referred to the Agreement of Sale in respect of the said house with the mother to which she has refused to execute the Sale Deed. There is dispute between the brothers and mother residing with the brother in view of she cannot give no objection. According to him, even under Essential Commodities Act, the complainant is entitled for electric connection. Even the encroachers in the surrounding area have been provided with electric connection but by ignoring the provisions of the Govt. Resolution dated 20.7.2005 , the Distribution Licensee is avoiding to provide electric connection and thereby harassing the complainant. The Internal Grievance Cell has also over looked those provisions. Ultimately, he has to approach this Forum. Alongwith the complaint, he has also filed number of documents.

3. Notice was issued to the respondent Distribution Licensee fore filing parawise reply which it has filed on 16.7.2011 stating as the complainant's mother Smt. Gayabai Bharne is alive, he was instructed to submit an application with her signature of thumb mark. Further reference has been made to the written objection submitted on behalf of said Smt. Gayabai Bharne with regard to supply of the electric connection stating that the complainant has illegally occupied the premises. It is further stated that on verifying the application filed by the complainant, it was noticed that no constructive document has been produced by the complainant to establish his ownership on the premises but he has only attached the Agreement of Sale and on that basis, no electric supply can be provided. Reference has been made to the order passed by the Internal Grievance Cell. As there is dispute in respect of the premises, no electric connection can be supplied there, as per Rules.

4. Copy of the parawise reply filed by the Distribution Licensee was given to the complainant. The matter was fixed for hearing. Heard both sides, the complainant in person and the respondent (E. E.) Distribution Licensee. They have also then have filed notes of submissions which have been duly considered.

5. Considering rival contentions as well as submissions made on behalf of the parties, it is clear that the mother of the complainant is the owner of premises. It is not in dispute that the complainant is occupying the premises and residing there with family. No doubt, there seems to be dispute, as contended on behalf of the Distribution Licensee, between the complainant and his mother. The complainant has filed documents including the letter of the Municipal Council in respect of making construction without obtaining permission to the complainant, tax receipts which have been not in the name of the complainant but he has remitted the payment thereof. The bill issued by the Municipal Council, Wardha as well as tax receipt mention the name of the complainant. During course of submissions, it has not been disputed from the side of the Distribution Licensee that the complainant is residing there with his family. Only ground for non-providing of electric supply to the complainant is that there seems to be dispute between the complainant and his mother. According to the complainant, the relations between himself and his brother are strained and mother is residing with his brother. He has also produced on record the Agreement of Sale in respect of the premises in question with his mother. It has been vehemently submitted by the complainant that though he was willing and ready to perform his part of contract but at the instigation of the brother, his mother is avoiding to execute the Sale Deed. In any case, that is the dispute between the parties to which this Forum or even the Distribution Licensee has no concern. The parties to the said dispute are at liberty to approach the appropriate Forum in respect thereof. Now, it is to be seen whether in such circumstances, the grievances of the complainant can be redressed by this Forum, as per the provisions applicable to it. On going through the Regulation Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply) Regulations, 2005, it is clear that under Rule 2 pertains to definition and under sub-section (2.1) S "Occupier" which reads as under:

“ Occupier means the person in occupation of the premises where energy is used or is proposed to be used.”

As per Rule 4, there is procedure for application for supply. On going through Rule 4.1, it is clear that the Applicant who is seeking electric supply has to provide the information/particulars/documents to the Distribution Licensee. No doubt if the Applicant is not owner of the premises, then the name of the owner of the premises is required to be

mentioned and nothing more. No where in the Rules, it is mentioned that consent or no objection of the owner of the premises is a must for making application. As against this, if we see Rule 10 of the said provisions, which is in respect of change of name, it clearly mentions under 10 (3) the documents necessarily required to be accompanied by the application viz. (i) thereof refers to “consent letter of the transfer of for transfer of connection in the name of transfere”, and (ii) provides other documents in absence of such consent letter. So from the Rules framed under the Regulations, it is clear that for seeking change in the name of the customer/Applicant, consent letter or any alternative document provided therein are necessarily required whereas under Rule 4, there is no such pre-requisite condition for making application for connection. As per said Rule, name of the owner is required to be given. The definition of the occupier as referred to above, further clarifies the position that the application for connection is not necessarily required with the consent of the “owner of the premises”. Even the occupier who is not the owner of the premises can use the energy or is proposed to avail energy for the use of the premises.

6. Here in the present case, as already observed above, there is no dispute with regard to the occupation of the premises by the complainant with his family. Apart from that, there are documents of Municipal Council, Wardha referring to the name of the complainant with respect to the premises in question. The complainant has also filed on record, the Certificate of the Municipal Councilor of the concerned ward stating that the complainant is residing in the premises. The Internal Grievances Cell seems to have not considered the provisions and the available documents before it while passing the order. There seems to be substance in the grievance of the complainant. Here it is required to be mentioned that the complainant has categorically averred that even number of encroachers in the said locality have been provided with electric connection and this has not been disputed from the respondents' side. That, according to the Learned Secretary Member, the complainant is not entitled for electric connection as he has not made out legal occupancy and as the dispute is pending in respect of the premises. During discussion, the relevant rules referred to above, were considered and the Secretary could not point out any such provision. In any case, considering the provisions of the Regulations referred to above, the complainant is entitled for electric supply. At the most, the Distribution Licensee can take sufficient amount of security and can impose reasonable terms including of disconnection of electric supply if the complainant fails to remit the charges within time as prescribed by the Distribution Licensee.

Needless to mention here, that the complainant has to approach the appropriate authority for settling his dispute with his mother and brother and he cannot take advantage of this order in those proceedings. With such observations, the following order needs to be passed by majority:

ORDER

Complaint is partly allowed. The Distribution Licensee is directed to provide electricity supply to the complainant upon accepting sufficient amount of security deposit in terms of the above. In the circumstances, parties to bear their own costs.

Sd/-
MEMBER

Sd/-
MEMBER SECRETARY

Sd/-
CHAIRMAN