

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/122/2014

Applicant : Shri Mohit Rajesh Bothra,
M-15, First Floor, Shrikrishna
Market, Modi No. 3,
Sitabuldi,
Nagpur : 2.

Non-applicant : Nodal Officer,
The Executive Engineer,
Congressnagar Division,,
MSEDCL, NUC,
NAGPUR.

Quorum Present : 1) Shri Shivajirao S. Patil,
Chairman.

2) Adv. Subhash Jichkar
Member.

3) Shri Anil Shrivastava,
Member / Secretary.

ORDER PASSED ON 20.5.2014.

1. The applicant filed present grievance application before this Forum on 16.5.2014 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. The applicant's case in brief is that previously one Mrs. Vijayabai Paturkar was the owner of the land. On the said land new building was constructed prior to 15 years ago. Her son Shri Mahesh / Anil Paturkar sold land to Shrikrishna Properties, who built a

building for commercial purposes. Various persons occupied the shops, applied for electricity connections and about 25 persons could get electric meter in the year 2011. Now applicant applied for electricity connection in his shop in June 2013. But before some months M.S.E.D.C.L. intimated to the applicant that there are old arrears in the name of previous owner Smt. Paturkar and therefore applicant has to pay those arrears, then only it will be possible to give connection. About 25 persons who obtained electric connections were not directed to pay the arrears and connections were given to them. Therefore it is injustice that the applicant should deposit entire arrears.

3. Non applicant denied applicant's case by filing reply Dt. 26.5.2014. It is submitted that applicant applied single phase commercial meter for the shop in the premises on Dt. 14.6.2013. On verification, it is found that there are P.D. arrears on this premises as under:-

1) Smt. Vijayabai V. Paturkar – 410010794467-3 Principal amount Rs. 5600 + Interest Rs. 17556 = Rs. 23156/- (17 years 5 months) LDP 18.12.1996.

2) Mrs. Nirmala D. Sathe – 410010794459-3 Principal amount Rs. 5590 + Interest Rs. 19872.45 = 25462.45 (19 years 9 months) LDP 9.8.1994.

4. So Jr. Engineer intimated the applicant to pay P.D. arrears so that new connection can be released immediately. After non payment of P.D. arrears the application of the applicant was returned on 23.9.2013. As per M.S.E.D.C.L's rules, new connection

can not be released on P.D. arrears premises. Therefore application may be dismissed.

5. Forum heard arguments of both the sides and perused the record.

6. During the course of hearing both the parties intimated that there are about 25 shops in the premises on which there are P.D. arrears. Regulation 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 of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-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”.

7. Record shows that applicant is not legal heir of previous owner. According to proviso of cited provisions it is specifically mentioned that “Provided that except in the case of transfer of

connection to legal heir, the liability transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for the electricity supplied to such premises". As we have already pointed out the applicant is not legal heir of the previous owner Smt. Vijayabai Paturkar or Mrs. Nilima Sathe and therefore as per said proviso, the applicant and other shop owners are liable to pay the amount restricted to a maximum period of six months of the unpaid charges for the electricity supplied to such premises. Record shows that arrears pointed out in reply of the non applicant are pending since 17.5 years and 19.9 years. As per proviso, M.S.E.D.C.L. can recover only six months unpaid charges. Therefore M.S.E.D.C.L. can not compel applicant and others to pay the entire arrears since last 17.5 years or 19.9 years but can recover previous arrears for a limited period of six months.

8. Again another important point goes to the route of the case. It is noteworthy that on this entire land, new building is constructed by the builder. 25 shops are constructed. Therefore whatever amount of arrears is calculated for a period of six months has to be divided equally into 25 subsequent shop owners. M.S.E.D.C.L. has no right to direct the applicant alone to pay entire arrears of the entire premises. It is again rather surprising to note that admittedly up till now M.S.E.D.C.L. has given electricity connections to 25 shop owners and even did not care to issue a single letter to them directing to pay the previous arrears. It is noteworthy that like the applicant objection was not raised by M.S.E.D.C.L. while allotting electricity connections to 25 persons that you pay first previous charges without which we can not give electricity connection. It shows clear malafides on the part of officers of M.S.E.D.C.L. It is

discrimination on the part of officers of M.S.E.D.C.L. that without recovering previous arrears from 25 persons, electricity connections were issued to them and they are enjoying the electricity. For the first time M.S.E.D.C.L. obstructed the applicant on the ground of non payment of previous arrears. In our clear and considered opinion it is a partiality and discrimination which can not be permitted. There must be equal treatment to all subsequent shop owners with the direction to pay arrears amount equally, that too, for a restricted period of six months.

9. Therefore now it is bounden duty of M.S.E.D.C.L. to calculate first the arrears of six months, to divide those arrears in all subsequent shop owners equally and calculate share of arrears on the part of the applicant and then to issue directions to all shop owners including the applicant to deposit part of arrears of their respective share. On payment of that amount by the applicant, he is entitle to get new connection. Hence Forum proceeds to pass following order :-

ORDER

- 1) Grievance application is partly allowed.
- 2) M.S.E.D.C.L. is directed to recover the amount of arrears restricted to maximum period of six months of the unpaid charges of electricity supplied to such premises equally from all shop owners as per proviso of Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations 2005.
- 3) M.S.E.D.C.L. shall calculate charges to be paid on the part of the applicant and on such specific demand the applicant

shall deposit that much arrears portion only. On depositing that much portion by the applicant M.S.E.D.C.L. shall issue electricity connection to the applicant immediately on compliance of requisite formalities.

- 4) M.S.E.D.C.L. is also directed to recover remaining arrears amount restricted to maximum period of six months of the unpaid charges of electricity supplied to such premises also from all other shop owners.
- 5) Non applicant to report compliance within 30 days from the date of this order.

Sd/-
(Anil Shrivastava)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Shivajirao S. Patil),
CHAIRMAN