

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

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**Case No. CGRF(NUZ)/047/2008**

- Applicant : M/s. Kalinga Automobiles &  
Engineering Works Shop no. 3,  
Ground Floor, Ajmera Bhavan, P.M.  
Road, Sitabuldi Nagpur through  
partner Shri. C. K. Ganesh Iyer
- Non-applicant : MSEDCL represented by  
Shri. P.G. Saraf Dy.Ex. Engineer  
Congressnagar, Dn., NUZ, Nagpur.
- Quorum Present : 1) Shri S.D. Jahagirdar,  
Chairman,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone, Nagpur.
- 2) Smt. Gouri Chandrayan,  
Member,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone, Nagpur.
- 3) Shri S.F. Lanjewar  
Executive Engineer &  
Member Secretary,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone, Nagpur.

**ORDER (Passed on 01.11.2008)**

This grievance application is filed on 02.09.2008 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The applicant's grievance is in respect of non-restoration of his electric supply which was permanently disconnected earlier despite payment all of requisite charges as per the non-applicant's demand note.

Before approaching this Forum, the applicant had submitted his representation to the Executive Engineer, MSEDCL, Congressnagar, Nagpur requesting for restoration of his electric supply. However, his grievance was not redressed. Hence, this grievance application.

The matter was heard on 19.09.2008, 26.09.2008 and finally on 01.11.2008.

The applicant's contention is that he is the occupier of Shop no. 3, Ground Floor at Ajmera Bhavan, Pandit Malviya Road, Sitabuldi, Nagpur as a tenant of Shri Mahasukhlal Raghooji Ajmera since 1979. The landlord Shri Mahasukhlal Raghooji Ajmera is since dead and is survived by his legal representatives. Some time around 1995, the landlord of the premises raised a dispute against the applicant. Thereafter, electricity bills issued by the non-applicant could not be received by him and the applicant could not pay the energy charges within the stipulated time limits. Due to this reason, the applicant's power supply came to be permanently disconnected. Thereafter, the applicant approached MSEDCL for restoration of electricity supply. He also obtained No Dues Certificate from the MSEDCL'S Assistant Accountant, Regent Sub-Division on 13.12.2006 and

also deposited reconnection charges on 10.04.2007. Despite this position, the non-applicant failed to reconnect the supply. Hence, on 11.06.2008, the applicant submitted his representation to the Executive Engineer, MSEDCL Congressnagar Division, Nagpur requesting him for restoration of the power supply. However, his power supply is still not reconnected.

Explaining further the details of Civil litigation between the applicant and his landlord, the applicant submitted that the Rent Controller, Nagpur passed an order dated 20.07.2006 in Revenue Case No. 351/A-71(2)/94-95 filed by the landlord. The landlord had filed an application for allowing him to terminate the applicant's tenancy. Accordingly, the landlord was permitted by the Rent Controller to terminate the tenancy under C.P. & Berar Letting of Houses and Rent Control Order 1949. Based on this order, the landlord filed a Civil suit, being Civil suit no. 386/2006, before the Judge, Small Causes Court, Nagpur for ejectment, possession and mesne profit. The applicant filed an appeal before the Additional Collector, Nagpur against the Rent Controller's order on 20.07.2006 and since the same was barred by limitation, an application seeking condonation of delay was also filed. The Additional Collector Nagpur rejected application for condonation of delay on 09.07.2007 and appeal before him was also rejected being not admissible. This order was passed by the Addl. Collector in RC appeal No.

9/A-71(2)/2006-07. Being aggrieved by this order, the applicant filed a writ petition, being writ petition no. 4893/2007, before the Hon. High Court Judicature at Bombay Nagpur Bench, Nagpur. Thereupon, on 13.08.2008 the Hon. High Court quashed and set aside the Additional Collector's Order subject to the petitioner paying cost of Rs. 5000/- to the respondents. The Hon'ble High Court further directed the Addl. Collector Nagpur to dispose off appeal before him on or before 30.06.2009.

Thus, according to the applicant, he is still the lawful tenant of his landlord and litigation started by the landlord has not yet become conclusive and final.

The applicant also relied upon a ruling given by the Hon. High Court at Calcutta in writ petition no. 8631 (W) of 2007 decided on 12.10.2007. The judgment is reported in AIR MAR 2008.( copy produced) The Hon. High Court at Calcutta held that the petitioner occupying premises as licensee cannot be equated as an unlawful occupant or trespasser merely because litigations are pending between parties and that such an occupier is entitled to electricity connection.

The applicant lastly prayed that his power supply may be reconnected or a new connection be sanctioned and released immediately. He, however, did not press his request of awarding compensation.

The non-applicant, on his part, has filed his parawise report. It has been stated in this report as well as in the oral submissions of the non-applicant's representative that the applicant's connection vide consumer no. 410010669344 came to be permanently disconnected on account of non-payment of past arrears and that since a period of more than six months has elapsed from the date of disconnection, the applicant's power supply cannot be restored. The applicant also did not submit any application for restoration of power supply within the period of six months from the date of disconnection. Hence, according to the non-applicant, question of restoration of power supply does not arise.

He further stated that the applicant did submit a fresh application in the prescribed Form A-1 for a new electric connection and accordingly, a demand note came to be issued in this respect and the applicant also deposited the demand note amount on 10.04.2007. The non-applicant's officials upon receiving the test report about internal wiring etc. visited the applicant's premises for the purpose of installing the meter. However, the applicant's premises was found to be locked on several occasions. It was also observed that the main switch and the wooden board was not fixed by the consumer with the result that the new connection could not be released. The applicant was also accordingly informed on 13.04.2007.

He added that Adv. Shri S.M. Ghare on behalf of the landlord informed the non-applicant that the applicant is

not in possession of the premises as a tenant since the landlord of the premises has already taken proceedings against the applicant before the Rent Controller, Nagpur and further that the Rent Controller Nagpur also permitted the landlord to terminate the applicant's tenancy and also that a suit for possession has been filed in the Court of law. This subsequent development about the applicant's status as a lawful occupier has also become an impediment for release of power to him. Thus, the new connection is still not sanctioned in view of above reasons.

The non-applicant has no comments to offer on the orders passed in appeal by the Addl. Collector Nagpur and also on order passed by the Hon. High Court Nagpur on 13.08.2008 in writ petition no. 4893/2007. There are also no comments from the non-applicant's side in respect of the citation produced by the applicant namely the ruling of the Hon. High Court, Calcutta.

The non-applicant's representative stated that an appropriate order may be passed by this Forum in this case.

We have carefully gone through all the submissions, written and oral, made by both the parties before us.

It is crystal clear from the document produced on record that the Hon. High Court Nagpur has quashed and set aside the Addl. Collector's order dated 09.07.2007 with a direction that the Additional Collector Nagpur should dispose

off of the appeal before him on or before 30.06.2009. In view of this position, it cannot be said at this stage that the applicant has ceased to be a lawful tenant of the landlord. Moreover, the Hon. High Court at Calcutta has held in writ petition 8631/2007 (order passed on 12.10.2007) in the case of Molaykumar Acharya Vs Chairman-cum-Managing Director W.B. State Electricity Distribution Co. Ltd. & Others that the petitioner is occupier u/s 43 of the Electricity Act,2003 and also that the petitioner - occupier cannot be equated as an unlawful occupant or trespasser merely because litigations are pending between parties and further that the petitioner occupier is entitled to electricity connection.

In view of above position, we hold that the non-applicant cannot refuse to sanction or release a new connection to the applicant on the ground of Civil litigation pending between the parties. As a matter of fact, the non-applicant has already issued a demand note for a new connection and the applicant has also paid the demand note amount.

What is now required to be done by the applicant is to comply with the requisite formalities in respect of fixing the main switch and the wooden board for installation of the meter if not already done.

Since the applicant has already applied for a new connection and since a period of more than six months has elapsed from the date of permanent disconnection of the

previous connection, question of immediate restoration of power supply against previous connection does not arise.

In the result, we direct the non-applicant to release the new connection as per applicant's request upon completion of requisite formalities if pending any.

The applicant's grievance application is thus partly allowed. The applicant has not pressed his demand for awarding compensation to him and as such, question of awarding compensation to the applicant does not arise at all.

The applicant's grievance application stands disposed off accordingly.

The non-applicant shall carry out this order and report compliance of this order on or before 30.11.2008.

Sd/-	Sd/-	Sd/-
(S.F. Lanjewar)	(Smt. Gauri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	MEMBER	CHAIRMAN

**CONSUMER GRIEVANCE REDRESSAL FORUM  
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's  
NAGPUR URBAN ZONE, NAGPUR**