

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

Case No. CGRF(NZ)/57/2017

Applicant : Shri Vijay.R.Kawale
Dwivedi Colony, Gittikhadan,
Borgaon Rd., Nagpur-13.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(D/F.) NUC, MSEDCL,
NAGPUR.

Applicant :- In person.

Respondent by 1) Shri Vairagade, EE, Nodal Office
2) Shri Dahasahastra, SNDL Nagpur.

Quorum Present : 1) Mrs. V.N.Parihar,
Member, Secretary
& I/C.Chairman.

2) Shri N.V.Bansod,
Member

ORDER PASSED ON 07.06.2017.

1. The applicant filed present grievance application before this Forum on 24.04.2017 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 09.05.2017.
3. Forum heard arguments of both the sides and perused record.

4. According to the applicant, at present the applicant is residing at plot no.31 Mouza Borgaon, Kh,No. 135 ,Diwedi Colony,Gittikhadan,Borgaon Road, Nagpur-440013, But he is not the owner of the said premises. The applicant filed application vide No.520395350418 for separate new electricity connection for his residence in the same premises. But his application is rejected by SNDL.

5. Aggrieved by this rejection, the Applicant filed grievance before IGRC.and IGRC by its order on dated 09-05-2016 rejected the grievance application stating that, applicant is not the owner of the said premises. The owner of premises Shri.B.Kumar has informed the SNDL for not giving connection to the Applicant well in advance and refused to give NOC for new connection .Therefore in absence of NOC from owner of the premises where applicant sought the new connection and due to objection raised by owner ,the applicant's application cannot be considered for New connection.

6. During the hearing, according to the applicant, owner of the premises has locked the meter and supply to their residence is disconnected. As electricity is basic need ,as per their application for new connection, he may be given the new connection at plot no.31 Mouza Borgaon,Khasara no.135

7. On verification of documents submitted by Non-applicant, it is seen that, civil suit no 1448/2015 has been filed before Hon;ble court in this matter regarding lawful the ownership of premises. The applicant is residing in the same premises along with his family members till today and was availing electricity supply through existing electricity connection. But due to legal dispute regarding ownership, the owner of plot Shri. B.Kumar has locked the meter .Thus prevented the applicant

from availing supply from the existing meter. Now the applicant wants new connection in the same premises.

8. At the hearing on 30 May, 2017, the Parties were informed of the Chairperson of the Forum having resigned the office on 16 May 2017, consequent to which the matter would now be heard by the two remaining Members. At the time of hearing Quorum present was

- 1) Member Secretary & I/C. Chairman.
- 2) Member (CPO).

As per in clause 4.1(c) of MERC (CGRF & EO) Regulation 2006 which reads as under,

4.1(c) "Provided also that where the Chairperson is absent from a sitting of the Forum, the technical member, who fulfills the eligibility criteria of sub-clause (b) above, shall be the Chairperson for such sitting".

Needless to say that, in absence of Hon'ble Chairman, Member Secretary is In-Charge Chairman. There is difference of opinion amongst the two. Since I/Charge. Chairman has one additional casting vote, therefore as per provision given in clause 8.4 of MERC (CGRF & EO) Regulation 2006 which reads as under,

8.4 "Provided that where the members differ on any point or points the opinion of the majority shall be the order of the Forum. The opinion of the minority shall however be recorded and shall form part of the order".

9. Hence, the Judgment is based on majority view of I/C chairman and Member Secretary. However the separate dissenting note of Hon'ble Member (CPO) is noted in the judgment and it is part and parcel of the judgment. But the

judgment is based on majority view and reasoning thereof is as under:

As per provisions in clause 4.1 of the MERC's (Electricity Supply code and other conditions of supply) Regulation, 2005 which reads as under:

“provided further that for consumer falling under the domestic tariff category, a copy of any one of the following documents, namely (i) ration card (ii) photo-pass (iii) voter's card (iv) passport (v) documents pertaining to occupation of premises may be required at the time of processing of the application.

10. The applicant has submitted ration card, Adhar card. But in view of dispute regarding ownership of the premises matter is sub-judice before the Hon'ble Court, and in absence of injunction passed by Hon'ble Court, to give relief to provide him facility such as electric supply etc., Forum declines to consider grievance application of the applicant for new service connection in the premises of plot no.31 Mouza Borgaon, Khasara no.135. Therefore the order passed by IGRC is legal and proper and needs no interference. Grievance application is deserved to be dismissed.

11. **Separate dissenting note of Hon'ble Member (CPO) is given as under.**

1) The complaint of Applicant is for new service connection as tenant or occupant on the addressed premises, as order of IGRC is not acceptable to him because landlord of the premises has locked the old meter with consumer No. 410020536059. Applicant filed copies of Ration Card, Bank Passbook, Adhar Card, Gas Connection as per 4.1 (vii) of Regulation and prayed for demand note

& new connection as his supply is disconnected by landlord and he is leaving without light.

2) IGRC has mentioned that applicant is tenant on the owner of premises and on Application of owner, Non Applicant disconnected the supply and since last 4-6 month Applicant's supply is disconnected and owner refused to give "Noc" for New Electrical connection as tenant. IGRC also reject the application due to no "Noc" from owner & same is the plea of Non Applicant before us.

Arguments of both the parties heard on 30/5/2017 & perused all the papers on record.

3) It is an admitted fact that applicant was residing on the noted address since birth and supply was having consumer No. 410020536059 (old 80555) Consumer's Name Shri. B.Kumar, Billing Unit 4678/ Seminari Hill IPh No. 666000, date of Supply 21/1/1972. During hearing it is revealed that Court case between tenant & owner is pending before Hon'ble Civil Judge, Junior Division, Nagpur.

4) Regulation 4.1 with (vii) of MERC (Electricity Supply Code & other Conditions of supply) Regulation 2005 is as under,

4.1- The applicant shall provide the following information/ particulars/ document to the Distribution Licensee while making an application for supply or for additional load, shifting of service, extension of service or restoration of supply.

(vi) Provided further that for consumers falling under the domestic tariff category, a copy of any one of the following documents, namely 1] Ration card 2] Photo 3] Voter Card 4] Passport 5] documents pertaining to occupation of

premises, may be required at the time of processing of the application.

5) It is clear that applicant has filed copy of Ration Card, Bank Passbook, Adhar Card, Gas Connection and fulfilled the condition i.e. any one of the following documents and no bill is outstanding against the Consumer. On perusal of Application "Form A1" for residential category of Distribution licensee at the bottom of back side in column 'G' in column 'A' it is mentioned as under,

"If none of the above documents is available then affidavit on Rs 200/- Stamp paper should be submitted (Format attached)."

6) Firstly conditions of document is satisfied by Applicant. Secondly shown willingness to give affidavit on Rs 200/- Stamp paper in "format 1". Which is further compliance of the conditions of Non Applicant for new connection and hence insistence of Non-Applicant & IGRC for NOC of owner is baseless as well as pending civil case between owner & Tenant does not bar the electricity supply to be provided to Applicant which is basic necessity of modern day life and nobody can deprive the applicant from its use.

7) I wish to mention relevant section No. 29 (7) of the Maharashtra Rent Control Act 1999; Page 33 is as under,

29(7) Without prejudice to the provisions of sub-sections (1) to (6) or any other law for the time being in force, where the tenant,-

(a) Who has been in enjoyment of any essential supply or service and the landlord has withheld the same, or

(b) Who desires to have, at his own cost, any other essential supply or service for the premises in his occupation,

the tenant may apply to the Municipal or any other authority authorized in this behalf, for the premises or for supply of the essential service and it shall be lawful for that authority to grant permission for, supply of such essential supply or service applied for without insisting on production of a 'No Objection Certificate' from the landlord by such tenant.

8) Hence in view of the above observations, the act of Non Applicant to produce NOC of owner is baseless & violating of above provisions of The Maharashtra Rent Control Act 1999 which is self contend code for the protection of tenants as well as requirement of document of Non Applicant which is fulfilled by Applicant. The contention of non-applicant & order of IGRC is against the Regulation 2005, Rent contract Act & terms of non-applicant for new connection deserves to be discarded & set aside.

9) It is necessary to mention that the technical member (so called Secretary as no mention in Regulation) claims to be Chairman as the then Chairman has resigned and left the job on 16/5/2017 & post is vacant. The provision of chapter II 4.1 of MERC (CGRF & EO) Reg. 2006 is as under "Provided also that where the Chairperson is absent from a sitting of the forum, the technical member who fulfills the eligibility criteria of sub clause (b) above shall be the chairperson for such sitting".

This means that when chairperson is on appointment on Job and he is absent from sitting of the forum, than technical member, shall be the chairperson

for such sitting (during leave, sick leave etc) but presently the chairperson is no more existence in the forum, so the technical member and member (CPO) can continue to run sitting and decides the cases but technical member does not get position of Chairperson and second & casting vote, Which is done in earlier cases after 16/5/2017 Which is illegal as per me because in absence of appointment of Chairperson of MERC, Hon's shri Ajj Khan & Mr. Deepak Lad Sahebs sign as member and Mr.Ajj Khan does not claims to be Chairman.

10) Hence contention of technical member & so called majority order as incharge Chairman & Member Secretary is totally ill-logical and against provision of Regulations.

11) Therefore Non Applicant is directed to issue demand note for supply of New Connection at his premises within 7 days & on payment & the new connection electric supply shall be given within 30 days from the date of order.

(Shri.N.V.Bansod)
Member(CPO)

12. In view of the majority we hold that the matter is subjudice before hon;ble court regarding ownership of the premises where applicant sought connection. and therefore application deserved to be dismissed. Therefore we proceed to pass the following order.

ORDER

- 1) Grievance application is dismissed.
- 2) No order as to cost.

Sd/-
(Shri.N.V.Bansod)
MEMBER

sd/-
(Mrs.V.N.Parihar),
MEMBER/SECRETARY
& I/C. CHAIRMAN

