

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

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**Case No. CGRF(NUZ)/149 /2006**

Applicant : M/s. Moonlight Colour Lab through partners  
1) Shri Rajiv Varma  
2) Shri Satish Varma,  
Opp. Sitabuildi Police Station,  
Nagpur.

**Case No. CGRF(NUZ)/150 /2006**

Applicant : M/s. Moonlight through partners  
1) Shri Rajesh Varma  
2) Shri Satish Varma  
3) Smt. Ashadevi Varma  
4) Smt. Shakuntladevi Varma  
Opp. Sitabuildi Police Station,  
Nagpur.

**Case No. CGRF(NUZ)/151 /2006**

Applicant : M/s. Moonlight Studio through partners  
1) Shri Umesh Varma  
2) Smt. Parvati Varma  
Opp. Sitabuildi Police Station,  
Nagpur.

All the above three applicants represented by their nominated representative Shri S.P. Banait

V/s.

Non-applicant : MSEDCL  
represented by  
Nodal Officer-

Executive Engineer,  
Congressnagar Division, 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.J. Bhargawa  
Executive Engineer &  
Member Secretary,  
Consumer Grievance Redressal  
Forum, Nagpur Urban Zone,  
Nagpur.

ORDER (Passed on 19.10.2006)

The present grievance applications have been filed before this Forum 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 common grievance of the three applicant is in respect of illegal clubbing of their three commercial meters into one meter and two nos. of industrial meters into one I.P. meter.

All the afore-mentioned three cases were heard together.

This common order applicable to these three cases is passed because their grievance has arisen out of Flying Squad's recommendation of clubbing of their meters into one meter each for commercial and industrial usage. The facts of the case, in brief, are as under.:-

The electricity service connection, being, service connection number (in short S.C. No.) 410015570834 (in short 834) involved in grievance case no. 149 is standing since long past in the name of consumer one Shri Hemraj H. Varma, Moonlight Photo Studio, Sitabuldi Nagpur. This service connection is an I.P. connection. There are other two service connections being, S.C. No. 410015570842 (in short,842) and 410010685498 (in short 498) that are involved in grievance case no. 150 which are standing in the name of consumer one Shri Vasudeo H. Varma / W.H. Varma. The S.C. no. 410010685498 is a commercial connection while the S.C. no. 41001070842 is an I.P. connection.

There is yet another three phase commercial service connection, being S.C. no. 410010685129 (in short 129), involved in grievance case no. 151 and this service connection is also standing in the name of consumer Shri Wasudeo H. Varma.

There is one more service connection, being S.C. no.410010685552 (in short 552) standing is again a commercial service connection which stands in the name of consumer Shri Hemraj H. Varma in the premises in question.

It is a common submission of the three applicants that the three phase commercial service connection no. 410010685129 is being used de-facto by M/s. Moonlight Studio-- a partnership firm formed in

the year 1991. Similarly it is also their claim that one phase commercial service connection no. 410010685498 and I.P. service connection no. 410015570822 are being used de-facto by M/s. Moonlight-- another partnership firm formed in the year 1984 and also that another three phase service connection no. 410010685552 and I.P. service connection no. 410015570834 are being used de-facto by M/s. Moonlight Colour Lab which is also partnership firm formed in the year 1996. All the three applicants admit the fact that the aforementioned three commercial service connections and two I.P. service connections were not transferred in the respective names of the three partnership firms and that names of erstwhile consumers namely Shri Wasudeo H. Varma and Hemraj Varma are still appearing against these service connections in the energy bills issued from time to time and also in the non-applicant's record. It is also the claim of the three applicants that the respective three partnership firms, namely,

- 1) M/s. Moonlight
- 2) M/s. Moonlight Colour Lab
- 3) M/s. Moonlight Studio

are three independent legal entities carrying on their respective business in separate & distinct premises under plot no. 121 which is belonging to one Smt. Shakuntaladevi Wasudeo Varma.

The Dy. Executive Engineer, Flying Squad, Nagpur Urban happened to inspect the commercial S.C. no. 410010685129 on 11.08.2006. He also inspected the I.P.S.C. no. 410015570834 on 14.08.2006. He observed that there are three commercial meters and two I.P. meters ( in all 5 meters ) existing in the same premises. It was found by him during the course of inspection that an additional cable

with a changeover switch was laid illegally between I.P. S.C. Nos. 410015570834 and commercial S.C. No. 41010685129 so as to use power supply from I.P. connection no. 410015570834 to commercial purpose. It was inferred by the Dy.EE, Flying Squad that this amounts to un-authorized use of electricity as per Section 126 of the Electricity Act, 2003. He recommended that the three commercial connections viz. S.C. nos. 410010685129, 410010685498 and 410010685552 being operated in the same premises should be clubbed into a single connection by providing a suitable capacity CT meter. He also recommended that both the industrial meters vide S.C. no. 410015570834 and 41001070842 being operated in the same premises shall be clubbed into one single I.P. connection. Action of recovery of assessment as per Section 126 of the Electricity Act, 2003 for un-authorized use of electricity was also recommended by him.

Shri Hemraj H. Varma and partners, C/o Moonlight Photo Studio there-upon approached the Superintending Engineer, NUC, MSEDCL, Nagpur by filing their complaint dated 18.08.2006 and challenged the observations recorded by the Dy. E.E., Flying Squad, Nagpur Urban, MSEDCL in respect of clubbing of their meters. The Superintending Engineer replied to them by his letter, being letter no. 6346 dated 29.08.2006, that the recommendation of the Dy. EE Flying Squad in respect of recovery of assessment under Section 126 of the Electricity Act, 2003 was correct. He further informed that since all the three commercial meters and two industrial meters are found to have been installed in one and the same premises, the recommendation of Flying Squad of clubbing all the three commercial meters into one

single CT meter and clubbing of two industrial meters into one I.P. meter was also correct.

It is against this decision of the Superintending Engineer that the three applicants have filed the present grievance applications in terms of the said Regulations.

The matter was heard by us on 26.09.2006, 28.09.2006, 06.10.2006 and 09.10.2006.

The cases of the three applicants were presented before us by their nominated representative one Shri S.P. Banait while the Executive Engineer Congressnagar, NUZ, Nagpur and his Dy. E.E. presented the case of the non-applicant Company.

The applicant's representative submitted that M/s. Moonlight Colour Lab, M/s. Moonlight and M/s. Moonlight Studio are three independent partnership firms and hence they are independent legal entities. These three firms are carrying on their respective business separately in distinct premises located in plot no. 121. The partnership firm M/s. Moonlight Colour Lab was formed on 01.04.1996 through a deed of partnership executed between S/Shri Hemraj Hiralal Varma, Rajesh Wasudeo Varma and Satish Bhagwandas Varma. Subsequently, the partner Shri Hemraj H. Varma retired from this partnership firm by executing a retirement-cum-partnership deed on 01.04.1999. The I.P. service connection, being S.C. no. 410015570834, is being used de-facto by this partnership firm though the same is standing in the name of Shri Hemraj H. Varma. There is also a three phase commercial service connection, being S.C. no. 41001068552, that is being used by this partnership firm though

the same is standing in the name of consumer Shri H.H. Varma in the non-applicant's record.

He added that M/s. Moonlight is a partnership firm that was formed on 18.04.1984 by the partners namely, S/Shri Gopichand Hiralal, Harish Wasudeo, Kishor Bhagwandas Varma and Smt. Jamuna Hemraj Varma, Smt. Shakuntala Wasudeo Varma by executing a partnership deed on 18.04.1984. Subsequently, on 01.04.1996, Shri Gopichand Hiralal and Smt. Jamuna Varma retired from this partnership firm. Presently this firm consists of four partners namely Smt. Shakuntaladevi, Smt. Ashabai, Shri Harish and Shri Kishor Varma. There are two service connections being used by this partnership firm namely, one phase commercial service connection, being S.C. no. 410010685498, and one I.P. service connection, being S.C. No. 410015570842. These two service connections are admittedly standing in the name of consumer Shri W.H. Varma.

M/s. Moonlight Studio is a third partnership firm formed on 01.04.1991 with partners Shri Hemraj Varma, Smt. Devi Gopichand Varma, Smt. Parvati Harish Varma and Shri Umesh Vasudeo Varma. Subsequently, through a retirement-cum-partnership deed executed on 01.04.1999, the two partners namely, Shri Hemraj Varma and Smt. Devi Gopichand Varma retired from the partnership firm. At present, this partnership firm consists of two partners namely, Shri Umesh Varma and Smt. Parvati Varma. A three phase commercial service connection, being S.C. no. 410010685129, is being used by this partnership firm although the same is admittedly standing in the name of Shri W.H. Varma in the non-applicant's record.

He added that the firms M/s. Moonlight and M/s. Moonlight Colour Lab have duly obtained SSI Registration Certificates respectively on 23.08.2004 and 23.10.1986.

The applicant's representative has also produced on record copies of registration certificates of all these three partnership firms issued under the Bombay Shops and Establishments Act, 1948. He has also produced the Sale Tax Registration Certificates of these three firms issued under the Bombay Sales Tax Act, 1959.

Relying on these documents, it is the contention of the applicant's representative that the afore-mentioned three partnership firms namely M/s. Moonlight, Moonlight Studio and M/s. Moonlight Colour Lab are three legal and independent entities carrying on their respective business in distinct premises and using independently the aforementioned respective commercial / I.P. service connections.

He specially pointed out that the places where these three firms are carrying on their business have been taken on rent from Smt. Shakuntaladevi W. Varma and the yearly rent payable by M/s. Moonlight, M/s. Moonlight Studio and M/s. Moonlight Colour Lab is respectively Rs. 24,000/-, Rs. 12,000/- and Rs. 12,000/-.

He strongly contended that the annual rent is being paid to the owner Smt. Shakuntaladevi W. Varma through cheques drawn on the United Western Bank Ltd., Nagpur. He has produced copies of rent receipts for the past three years to support his contention. He has also produced copies of the Income Tax Returns filed by Smt. Shakuntaladevi Varma for the past three years to substantiate his say that she has duly received the annual rent from these three firms. A copy of Bank Pass-Book of United Western Bank Ltd also been

produced for the period from 31.01.2003 to 31.03.2006 to show that the amount of rent received by her was duly deposited in her Bank Account.

Copies of the Municipal Tax receipts have also been produced by the applicant's representative pertaining to plot / house no. 121, 121 A, 121 B & 121 C for the year 2006 / 2007.

Relying on all these documents, the say of the applicant's representative is that the recommendation made by the Flying Squad for clubbing of meters was unjust, improper and illegal.

He has produced on record a chart showing the details of the five service connections being respectively used by the three applicants and other relevant details.

It is his further submission that the non-applicant has not produced any authority, Rules or Regulations under which action of clubbing of meters was permissible. On the point of un-authorized use of electricity from I.P. service connection no. 834 to commercial service connection no. 129 as observed by the Flying Squad in its inspection report, the applicant's representative admitted that a change over switch was installed without permission with a view to use power supply from I.P. connection to commercial purpose for compelling reasons. He, however, contended that no financial loss was caused to the non-applicant on this count since power supply was used only one way on I.P. connection for commercial usage. He admitted that this amounts to un-authorized use of electricity under Section 126 of the Electricity Act, 2003. He added that the applicants were rightly held liable for the consequences arising out of such an un-authorized

use of Electricity. In fact, there is no grievance raised by him in this regard.

He lastly submitted that the commercial and I.P. meters of the three applicants may not be clubbed into one single commercial meter and one single I.P. meter.

The non-applicant has submitted that the electricity I.P. connection bearing no. 410015570842 and commercial connection bearing no. 410010685498 are both standing in the name of Shri W.H. Varma who is admittedly not a partner of the firm of M/s. Moonlight. Similarly the commercial connection No. 410010685129 is also standing in the name of Shri W.H. Varma who is not a partner of the firm M/s. Moonlight Studio. These two firms are not his consumers. M/s. Moonlight Colour Lab-the applicant in case no. 149 is also not his consumer in as much as the S.C. Nos. 4100106552 & 410015570834 are standing in the name of Shri Hemraj H. Varma. As such, these three applicants do not have locus-standi to approach this Forum since they are not his recognized and registered consumers. The three grievance cases have been filed before this Forum by persons other than his recognized and registered consumers. He further stated that the three applicants have not been able to pin-point as to which commercial or I.P. service connection was being used by which applicant.

He vehemently argued that the premises where the three applicants are carrying on their business is one and the same i.e. plot / house no. 121 and as such, the recommendation of the clubbing of meters made by the Flying Squad was legal and correct.

He laid stress on the point that a change over switch was illegally installed by the applicants so as to make use of power from I.P. connection to commercial connection and vice-versa, thereby deliberately causing financial loss to the non-applicant company. Such an installation of a changeover switch for the purpose of use of power in between two different service connections for the purposes for which they were not meant for also demonstrates that the premises is one and the same.

He further stated that the three applicant firms are belonging to the same family of Vasudeo Varma and as such, by forming the three partnership firms as alleged, the applicant cannot legally claim that the premises where they are carrying on their business is not one and the same.

According to him, no weightage can be given to the documents produced on record by the applicants.

It is his strong argument that the three applicant firms are not carrying on their business in the premises separate from each other and that all the three commercial and two I.P. service connections are being used in the one and the same premises.

He strongly upheld the recommendation made by the Flying Squad on the ground that a financial loss is being caused to the non-applicant company because of installation and use of three independent commercial connections and two independent I.P. connections in the same premises. If the three commercial connections are clubbed into one C.T. meter and two I.P. connections into one single I.P. meter, the financial loss being caused to the non-applicant company would be reduced considerably. In that event, it will be a

matter to be mutually decided by the three applicants as to in what proportion the energy charges between the three applicants should be apportioned between them. He further submitted that it is an admitted fact that no steps were taken by the applicants to effect change of names in these service connections which are standing in the name of persons different from the applicants since long past.

He lastly submitted that all the recommendations made by the Flying Squad and the decision of the Superintending Engineer, NUC, MSEDCL, Nagpur are perfectly correct and legal and that there is no substance in the present grievance applications. He, therefore, requested that the grievance applications may be dismissed.

The only point that needs to be decided in this case, accordingly to us, is whether the premises where the three applicants are carrying on their respective business are one and the same or whether they are different.

The applicant's representative has produced on record certain documents to show that the three applicants are carrying on their business in areas from out of plot no. 121 which are rented out to them by Smt. Shakuntaladevi Varma. The three applicants are thus the tenants of Smt. Shakuntaladevi Varma. The applicant's representative has also produced on record a chart indicating therein as to which respective service connections are being used by which applicants. It is also a matter of record that the three commercial connections and two I.P. connections were sanctioned in the past in the names of Shri Wasudeo H. Varma and H.H. Varma. It is true that the two names are still appearing in the non-applicant's record as consumers.

The power supply dates of the five service connections are as under:

<u>S. C. No.</u>	<u>Date of Supply</u>
834	01-10-2004
129	21-01-1972
842	01-02-2004
498	21-01-1972
552	21-01-1972

It is also a matter of record that there was existing a commercial service connection, being S.C. No.410010685480, in the name of consumer Shri Hemraj H. Varma which came to be permanently disconnected in January, 2004 and in its place, an I.P. service connection, being S.C. No. 410015570834, came to be sanctioned to him on 01.04.2004 by the non-applicant.

It is also true that the three applicants have not taken any steps to effect change of names in place of these two consumes. However, the fact remains that the three applicants are the lawful recipients of electricity through these commercial and I.P. connections. In that, the applicant M/s. Moonlight Studio is receiving electricity through three phase commercial service connection no. 410010685129. The applicant M/s. Moonlight is receiving electricity through single phase commercial service connection no. 410010685498 and I.P. service connection no. 410015570842 M/s. Moonlight Colour Lab is receiving electricity supply through three phase commercial service connection no. 410010685552 and I.P. service connection no. 410015570842. Since these three applicants are the de-facto lawful recipients of electricity

since long past, they are covered by definition of word “Consumer” made in Section 2 (15) of the Electricity Act, 2003.

With a view to further probe into the merits or demerits of the claims of the applicants, it was decided to inspect the premises in question. Accordingly, prior intimation was given to the three applicants and also the non-applicant and the premises was inspected on 11.10.2006 at 17=00 hrs. by the Member-Secretary of this Forum in the presence of the non-applicant’s representative Shri Saraf, Dy.E.E. and the applicant’s nominated representative Shri S.P. Banait. The site inspection report prepared by the Member-Secretary is kept on record. The site inspection report is accompanied by a detailed sketch showing the positions of the five service connections as also the places where the power supply is taken. This sketch is also duly signed by the Member-Secretary of this Forum as also by the representatives of the applicants and the non-applicant.

It is seen from the inspection report and the sketch that the three shops of the three applicants have been constructed on plot / house no. 121. No identification of the plot area shopwise was possible. All the shops have a separate entrance each and also a separate back door entry each in the common courtyard. The three shops have individual cabins with walls of plywood. The I.P. connection, being S.C. no. 834 is taken from one D.L.T. Line and the other four service connections including three commercial connections and one I.P. connection are taken from another D.L.T. Line. The report also indicates that, through the operation of the change-over switch, the supply can only be fed from S.C. No. 834 to S.C. No. 129 only one way as observed on 11.10.2006. The report further states that the three

applicants namely M/s. Moonlight Studio, M/s. Moonlight Colour Lab, M/s. Moonlight are enjoying respectively one three phase commercial connection, being S.C. No.129, single phase commercial service connection, being S.C. 498 and one I.P. connection, being S.C. no. 842 and one three phase commercial service connection, being S.C. no. 552 and one I.P. service connection, being S.C. 834 respectively. This confirms that the details given in the chart produced on record by the applicant's representative are correct and proper.

It now follows that the three applicants are the consumers of the non-applicant company. It is also clear that the three applicants are three independent and legal entities as evidenced by record produced by the applicant's representative. It is also un-doubtedly clear that the shops of the three applicants have independent and individual cabins where they are carrying on their respective business. The three applicants are the tenants of one Smt. Shakuntaladevi Varma. All this together demonstrates that the premises of the three applicants are different and distinct from each other though in the same plot no. 121. It is also a matter of record that the three applicants are receiving power supply through the respective service connections since long past. Moreover, all these service connections-commercial and I.P, were duly sanctioned in the past by the non-applicant company. In view of this position, it will not be proper and legal to club the commercial and I.P. meters as suggested by the Flying Squad.

The Nodal Officer representing the non-applicant Company did not produce any authority or rules under which any provision in respect of clubbing of meters has been made despite repeatedly having been told to him to produce such an authority or rule.

The recommendation of the Flying Squad was perhaps based on the instructions contained in the MSEB's Code of Commercial Instructions, 1996.

It has been laid down in chapter I meant for new service connections at page no. 33 of the Code that two connections in one premises for the same purpose are not permissible. It is further instructed that in one premises only one connection should be given for one purpose to avoid loss in billing and other complications in the existing connections and that whenever such two connections in one name and in one premises for the same purpose are noticed, one of the connections should be permanently disconnected etc. In this respect, in the first place, our view is that the respective places where the applicants are carrying on their respective business cannot be termed as one & the same premises. The justification for this is already given in one of the preceding paragraphs of this order. Hence, the instructions contained in the Commercial Code are not applicable to them.

Secondly, the MERC has promulgated what is known as MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 which have come into force w.e.f. 20.01.2005. Regulation 19 of these Regulations lays down that any circular, order or documents or order relating to the supply of electricity to consumer not modified or up-dated as laid down in Regulations 19.2 shall be invalid after four months from the date on which these Regulations have come into force. As it is, the Supply Code Regulations do not contain any provision covering contingency in respect of clubbing of meters. Hence, instructions contained in the Commercial Code of 1996

cannot be ipso-facto applied in the present context. The non-applicant, on his part, has also not been able to prove that the instructions of Commercial Code of 1996 are still consistent with the Supply Code Regulations of 2005 so far as such a contingency involved in the present cases is concerned.

In the result, we are fully convinced that the recommendation made by the Flying Squad of clubbing of meters has resulted into miscarriage of justice to the present applicants. Consequently, the decision of the Superintending Engineer based on the recommendation on the Flying Squad in the subject-matter of clubbing of meters becomes incorrect and illegal.

We, therefore, quash the Superintending Engineer's decision in respect of clubbing of meters and order that the three commercial meters and two I.P. meters of the applicants should not be clubbed into one single commercial and one single I.P. meters and that they should be kept intact.

On the point of un-authorized use of electricity under Section 126 of the Electricity Act, 2003, the non-applicant is free to take action as laid down in that Section. This Forum does not also have any jurisdiction to comment upon the un-authorized use of electricity made by the applicants.

We also direct that the changeover switch installed by the applicants should be dismantled forth-with by the applicant under the supervision of the non-applicant and also that the three applicants shall take diligent and immediate steps to effect the change of names in the non-applicant's record in place of the erstwhile consumers Shri Hemraj Varma and W.H. Varma as per rules / procedure in force.

The three grievance applications thus stand disposed of accordingly.

The applicants and non-applicant both shall report compliance of this order to this Forum on or before 31.10.2006.

Sd/-  
**(S.J. Bhargawa)**  
Member-Secretary

Sd/-  
**(Smt. Gauri Chandrayan)**  
MEMBER

Sd/-  
**(S.D. Jahagirdar)**  
CHAIRMAN

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

**Member-Secretary  
Consumer Grievance Redressal Forum,  
Maharashtra State Electricity Distribution Co.Ltd.,  
Nagpur Urban Zone, NAGPUR**