

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

Case No. CGRF (NZ)/63/2017

Applicant Shri Kedar V. Kavimandan,
Plot No. 6, Mangaldham Society,
Takliseem, Nagpur.

Non-applicant : Nodal Officer,
The Executive Engineer,
Congress Nagar, MSEDCL,
Nagpur.

Applicant: - Shri. Ashok G. Chandak Applicant's representative
Non- applicant: - 1) Shri. K. P. Bhise, EE, Congress Nagar, MSEDCL, Nagpur
2) Shri. Y. P. Mankar, Add EE, Trimurti Nagar, MSEDCL,
Nagpur

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

ORDER PASSED ON 31.08.2017.

1. The applicant filed present grievance application before this Forum on 06.06.2017 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressed Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply dated 19.07.2017
3. Forum heard arguments of both the sides and perused record.

4. Brief History of the case is as follows:-

A) Applicants Shri Kedar V. Kavimandan, had applied for new service connection for the residential purpose with necessary document such as Sale Deed, with A1 Form .He was given registration no. as 554 on dt 27.07.16. But same application was returned and rejected by Asst. Engineer Jaitala MSEDCL Nagpur under intimation to Additional. Executive. Engineer. Trimurti Nagar stating the reason that, multiple meters cannot be given without prior load sanction from Executive Engineer. Office, Congress Nagar Nagpur Division. Applicant strongly objected this reason of refusal of new service connection. For that they rely on MERC SOP Regulation 2014. According to clause 4.1 the said regulation *“The Distribution Licensees shall on an application made by post or by hand by the owner or occupier of any premises, give supply of electricity to such premises after receipt of the application by chronological order of receipt of its complete application requiring such supply”*. As such Assistant Engineer cannot deny them new service connection due to the aforesaid reason mentioned above.

B] They further submitted that, both the father and son are the bonafide owner, occupier of the same property since Govt. of Maharashtra registrar office has registered the sale deed of said property separately for son as well as father. Due to this reason they both are entitled to get new service connection separately in their respective names.

C] But while registering A1 form at CFC, the CFC staff has asked specific undertaking on stamp paper of one of the sale deed executer in order to register the documents. According to them, this is ridiculous procedure followed by Non-applicant and hence they have strong objection over the same as, according to

them, non-applicant's head office issued the circular no. 255 dated 07-12-2015 where in it clearly stated that there is no need of giving such undertaking on stamp paper but a self declaration on plain paper is enough. To substantiate this fact ,they rely on Govt. of Maharashtra GR. No. 1614/3457118A dated 09-03-2015. Hence in their opinion, by not following this G.R. CFC office is denying the right of applicant provided by Government of Maharashtra, by compelling applicant to follow orthodox routine stamp paper undertaking process which is totally banned by Govt. of India. Due to this ,applicant is subjected to undue harassment.

D) By denying the new service connection, the applicant has been burdened unnecessarily to pay rent for another few months till he gets connection in his name and at the same time licensee is losing the revenue and their commitment of providing new connection within 24 hours to the applicant.

E) Their demand is for 3KW load sanction, which is completely within Sanctioning Power of Assistant Engineer of MSEDCL. The reason mentioning circular, GR is not provided to support their denial while refusing the NSC. Aggrieved by this, they are requesting following relief from the forum:-

- i) Quashing the order of IGRC.
- ii) NSC shall be provided immediately.
- iii) Being bonafide occupier, NSC shall be given separately to both the applicant although their relation is of son and father.
- iv) As per the provision of Act, for denying them connection without any valid reason,they may be given compensation.
- v) The necessary action shall be initiated, as the prescribed procedure has not

been followed by licensee's officers,

- vi) To Grant the liberty to change / add modify this petition and made further submission as may be required in future date.
- vii). Any other equitable relief as deem fit, may be granted in the interest of justice for effective adjudication of the matter involved in this petition.

5. **Argument furnished by the Non-applicant**

The Non-applicant denied the contention of applicant and submitted in their reply that,,Sweet Home Construction Company has constructed a flat scheme "Sakshi Apartment" on plot No.6, Mangaldham Society, Hingna T-Point, Nagpur. There are total 3 flats in this scheme, out of which presently 2 are vacant and one is occupied by applicant using for his office "Canon Sunglory Multitrade Co. One electricity connection (Con.No.4100018745964) is found in the scheme for common purpose having residential tariff as per CPL from date of connection ie 21.10.2013. The tariff applicable was commercial, but after completion of construction, tariff was again changed as residential tariff in the month of Oct .2015 till date. Shri Kedar V. Kavimandan joint applicant who is one of flat owner in this scheme has applied for new connection (CFC registration no.554 dt.27.07.2016) was asked to follow the prescribed procedure by AE Jaitala. But for releasing the new connections to the applicants, they rely on the provisions laid down in CE(Commercial)'s Circular No.280 dt. 04.02.2017 which states that

"All the apartments / flat schemes / gated colonies will be treated as one group. Technical and Administrative (Financial) sanction in those cases shall be given as one group calculation land as per Circular No. CE/Dist/D-III/Req. of Land/28792, dt. 17.07.2015" as a Flat Scheme load sanction for a whole

scheme/building has to be taken from Division Office."After taking load sanction as above from Division Office, individual connections shall be release as per requirement of builder/flat owner.They further submitted that,connection can be given on the name of both applicants as both are nonafide occupiers.For which,self declaration of applicant on plain paper is sufficient instead of specific undertaking on stamp paper. Thus considering a whole scheme/building, the load sanction for complete Flat Scheme has to be taken from Executive Engineer, Congress Nagar Division Office and then applicant has to carry out work to create necessary infrastructure for meeting their demand for the power supply. Their after individual residential connection can only be released. They added that, this procedure was conveyed to the applicant.

6. Applicant filed his grievance with IGRC on dt.06.03.2017.IGRC passed the order on dt.06.04.2017and rejected the grievance application of the applicant. It states that, the individual connection to a flat owner is not technically feasible. The load sanction of complete flat scheme has to be taken from Executive Engineer, Congress Nagar and applicant has to carry out the work of infrastructure and has to bear the material cost up to the point of supply.

7. Hence aggrieved applicant filed this application for necessary relief.

8. To enable the Applicant and Non-applicant to put forth their arguments in person, a hearing was conducted before the forum on dt.10.07.17.Non-applicant sought adjournment for collection of documents. As mutually decided by both applicant and non-applicant, case was adjourned till 24.07.2017.Again on dt. 24.07.2017, the non-applicant vide their email dt.24.07.2017 filed for adjournment,

The case was adjourned till 11.08.2017. On dt.11.08.2017, Forum heard the argument of the both sides and perused documents furnished by them.

9. During the hearing, Applicant vehemently argued that it is the duty of Non-applicant to give supply on request as per provision made in clause 43 of Electricity Act 2003 and as per provision specified in clause no 4.1 of MERC SOP regulation 2014., within a month, when he has submitted application which is registered at non-applicant's section office vide no.554 on dt. 27.07.16. But Non-applicant is refusing the same under the pretext of following guidelines issued by their department vide circular no.280 dt.4.02.17 which is contradictory to MERC's directives for releasing New connection. Under such circumstances they rely on clause no 19.1 of MERC (Electricity supply code and other conditions of supply) Regulation, 2005 reads as follows:-

“Any terms or condition of the Distribution Licensee, whether contained in the terms and conditions of supply and /or in any circular, order, notification or any other document or communication, which is inconsistent with these Regulations shall be deemed to be invalid from the date on which these Regulations come into force.”

(iv) When the above mentioned rule contemplates to make invalid the circulars of MSEDCL which are inconsistent with the directives of MERC, it is mandatory to Non-applicant to release to give supply for the two Individual connections without asking them to give consent on stamp paper when they have explicitly demanded connection for residential category only.

10. The Non-applicant reiterated the facts furnished in their written submission

during argument. They further argued that the SDO has not refused the connection but as load was more than 8 KW for complete flat scheme, section officer requested applicant to apply to Executive Engineer Congress Nagar, Division office as per guidelines prescribed vide departmental circular no. 280 and 291 dt.29.06.2017, 04.02.2017 resp. Applicant instead of approaching them, directly filed the grievance with IGRC.As they are bound to follow departmental circulars, new connections was not released. Hence, prayed to the forum to dismiss the application.

11. During the argument and discussion, it was observed by the forum that, out of three flat owner, of "Sakshi Apartment" on plot No.6, Mangaldham Society, Hingna T-Point, Nagpur, applicant Shri Kedar V. Kavimandan and Shri.Vijay.J.Kavimandan who are flat owner in this scheme have applied for new connection with CFC registration no.554 dt.27.07.2016 with load below 3 KW for residential purpose. One connection given for construction of flat scheme already existing is being utilized by applicant for his office "Canon Sunglory Multitrade Co. (Con.No.4100018745964) and for common purpose of remaining flat owner. During the course of argument, it was observed that ,section officer has not refused the connection but requested applicant to submit his request to higher office i.e. E.E.CNDN.stating the reason that technical powers to sanction the load and technical estimate sanction are vested with them only as per Dept.circular nos.280 & 291 dt.04.02.2017 &29.6.2017 resp.

12. On careful perusal of MSEDCL's perusal of circular nos.280 & 291 dt.04.02.2017 &29.6.2017 resp., a very important fact is noticed by forum that dt of Registration of application is 27.07.16 and dates of MSEDCL circular nos. 280 & 291 are dt.04.02.2017 & 29.6.2017 resp. Then question arises how come circular which

came into force in the year 2017, was followed by section officer in the year 2016 for not giving connection. Also as per these circulars, SDO is empowered to sanction load up to 20 HP (15 KW) and Technical estimate up to 5 lakhs. In the instant case, total load requirement is only 3 KW (4 HP) for joint flat owners whereas total requirement of flat scheme is 8 KW i.e. 11 HP, .so Non-applicant's section officer's contention that due to the reason that being a flat scheme, in absence of power to him and said powers are vested with Executive Engineer, the section officer refused to sanction load is baseless.

13. However, on perusal of MSEDCL's Commercial circular nos280 & 291 dt.04.02.2017 &29.6.2017 resp., it is seen that as per this circular, all the apartments /flat schemes /gated colonies will be treated as one group. Technical and administrative (financial) sanction in those cases shall be given as one group calculating load as per circular no.28792 dt.17.07.2015.This circular supersedes commercial circular no.22197dated 20.05.2008 regarding load and administrative (financial limit) sanctions. But It is in continuation to the circular no.22197 dated 20.05.2008.The said circular is specifically for determination of load of residential/ commercial/ industrial premises in complex and establishment, determination of the capacity of the DTC for the complex, determination of requirement of Sub Station for such complex, for determination of load for establishment of Sub Station and Switching station. The clause-4 of the said circular wherein option of DDF is given to the developer/ builder/ owner/ applicant is in respect of erection and commission of substation and necessary allied infrastructure for the same where as clause No. 5 states that if the land is provided by the developer/ owner/builder and MSEDCL

erects and commission a sub Station, the same shall be treated as non DDF. So it is confirmed to the forum that although it was necessary to give technical and administrative sanction for applicant's flat scheme treating as one group, but administrative and technical power to give sanction for load to the extent of 8 KW is well within the powers of SDO only. *Therefore remark that "Multiple connections, hence meter can not be given without load sanction from EE.Congress Nagar Dn"* is incorrect. The Non-applicant's section officer has in fact mis-interpreted these circulars which are to be both read co-jointly. Therefore, they have not followed their own dept. circulars .Hence forum is of the opinion that, section officer should have sent proposal to their higher office, in case any technical and administrative sanction was necessary, instead of requesting consumer to approach EE congress Nagar.

14. Further on perusal of MSEDCL's circular no. 22197 dt.20.05.2008, it would be seen that it is in respect of guidelines for releasing new connection and augmentation. For releasing of the new connections to the group of consumers in a complex for all material purpose, the clause at serial No. 3 in MSEDCL circular no 22197dated 20.05.2008 states that the group of consumers in nondomestic, residential complex where the load is equal to or more than 500 KVA, shall be given connection as DDF only,

However at sr. no. (1)(1.1) of said Circular it is specifically mentioned that:-

"1.1) LT Non-domestic, LT residential consumers, consumers or group of LT consumers of Non-domestic & Residential complex where the load less than 500 KVA and, located within the limits of Areas "A" and "B". and as far as recovery of charges are concern, it is specifically mentioned that all the infrastructure will be created by MSEDCL & only Schedule of charges as approved by MERC order dated

8th September 2006 (case no. 70/2005) will be recovered. Considering the overall availability of the infrastructure vis-à-vis the new infrastructure required to be created and to maximize the release of new connections, the areas are classified as follows

:Area "A": The areas falling within the limits of 5 Kms of Municipal Corporation, 2 Kms of Municipal Councils, and 1 Km of existing village gaothans including MIDC areas.

"B": The areas falling outside the Area "A" and which are within 600 meters of non-dedicated 11 KV/22KV HT line.

It is therefore clear to the forum that, these circulars are issued to have one uniform Practice throughout the state & to avoid hardship to prospective consumers and to remove difficulties in release of new connection. During the course of argument, although, non-applicant did not comment on the category of supply wherein the applicants falls .They remain silent about the fact that whether the supply can be made available from existing network, or any extension or augmentation in existing network or transformer capacity is required. Hence Forum holds that if applicant falls under "A category of consumer to whom supply can be released from existing infrastructure, he should have been given connection within 30 days. Secondly if supply could not be released from existing infrastructure then, applicant falls under "B category of consumer to whom extension or augmentation in existing network or transformer capacity is required, but in that case all the infrastructure will be created by MSEDCL & only Schedule of charges as approved by MERC order dated 8th

September 2006 (case no. 70/2005) will be recovered. After perusal of departmental circular No. 240 dated 2.5.2015, it is seen that, the revised time lines for completing the different activities related to the power supply to the consumer is as below :-

(i) SOP "A" category - 30 days- existing network.

(ii) SOP "B" category - 90 days – extension or augmentation of distribution network.

In the instant case applicant applied on dt 27.07.2016, and in absence of availability

As per category of applicant, forum holds that supply should have been released at least within 30 days i.e. on or before 27.08.2016.

15. Regulation 12 of the SOP Regulation 2014 discuss about, the determination of compensation. Proviso to Regulation 12 reads as follows,

*Provided that any person who is affected by the failure of the Distribution Licensee to meet the standards of performance specified under these Regulation and who seeks to claim compensation shall file his claim with such a Distribution Licensee within a maximum period of sixty (60) days **from the time such a person is affected by such failure** of the Distribution Licensee to meet the standards of performance.*

In the case in hand the Distribution Licensee was expected to issue the demand note on or before 12.8.2016. However the demand note was not given on 12.08.2016. Naturally the Distribution Licensee failed to meet the standards of performance. As such the applicant should have filed his claim with the Distribution Licensee within a period of sixty days from 12.08.2016, i.e. on or before 11.10.2016. The applicant approached IGRC and claimed compensation on 06.03.2017. Naturally the claim is barred by limitation.

The applicant further claim that the Distribution Licensee failed is release connection within the stipulated time limit.

On perusal of the record and admission by Mr. Mankar AEE., that it reveals that Augmentation to the existing network is not necessary. So as per the provisions of Regulation 4.9 he was entitle for connection on or before 27-08-2016. Furthermore as discussed in the forgoing Para as per the provisions contained in proviso of Regulation 12.2 he should have claimed compensation within a period of 60 days from 27-08-2016. In other words he should have claimed compensation for late release of the connection on or before 27-08-2016. The applicant has prayed for the compensation but he has not complied the provisions of Regulation 12.2. He directly approached the IGRC on 06-03-2017. Forum is of the considered opinion that the applicant failed to comply the provision of Regulation 12.2. For this Forum rely on the order passed by Hon'ble Electricity ombudsman who has stated at Para no. (7)in case no 26/2017 of Indus Towers Ltd. VS The Superintending Engineer that:-*"The appellant should have approached the IGRC within sixty days from 15.7.2015 i.e. before 15.9.2015 for SOP Compensation under Clause 12.2 of SOP Compensation Regulation 2014 of MERC. Therefore, the appellant is not entitled for SOP compensation"*

Hence applicant is not liable to get compensation in terms of MERC's SOP regulation 2014.as per provision made in clause (1)(iii) of Appendix A.

16. When crystal clear quid lines are available and issued by licensee through its various circulars in conformity with MERC's regulations, concern employee

has not followed these circulars and has not dealt with the NSC application in a timely and appropriate manner. It was dereliction of duty on part of concern section office .When it is clearly stated in the circular 22107 dt.20.05.2008 that:-

“The list of pending applications and order of chronology, (category wise) shall be maintained. In case any consumer or group of consumer wants early connections out of its own volition or choice, he may get the work executed at his expense under MSEDCL supervision and get the refund of the expense so incurred through his energy bills. However he will have to get the estimates and specifications sanctioned from the appropriate authorities and he will not be required to pay supervision charges to MSEDCL”.

Therefore, in spite of having own residence the applicant's have to remain without supply for one complete year and has to bear additional expenses towards house rent.

17. In view of the above, interpretations and contentions, on perusal of the IGRC order shows that IGRC has not dealt with the case in an appropriate manner and therefore not arrived at proper conclusion. Hence we set aside order of IGRC.

18. On merits, hence we proceed to pass the following order.

ORDER

1. Grievance of the applicant is partly allowed.
2. Non-applicant shall release residential connection to the applicant Shri Kedar V. Kavimandan and Shri Vijay.J.kavimandon as per MERC's SOP regulation 2014 as per registration no.554 at CFC..

3. Non applicant shall issue demand note within 7 days for the date of this order and release the connection within 15 day after payment of demand note.
4. As the section officers have failed to discharge their part of work as required under commercial circular 280 and 291dt.04.02.2017 & 29.06.17resp.The authorities concerned should initiate enquiry and take action against them for dereliction of their duties and causing substantial delay in releasing NSC to the applicant and causing revenue loss to the license.
5. Compliance to be given within 30 days from the date of this order.

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

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

