

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

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**Case No. CGRF(NZ)/79/2017**

Applicant : Shri. Dinesh Saybhan Wasnik,  
H. No. 314/A/130/I, Kukde lay-out  
Kaushalyayan Nagar, Nagpur- 440027

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

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Applicant: - Shri. Dinesh Saybhan Wasnik, Applicant

Non- applicant:- 1) Shri.Vairagade , EE, Nodal Office,MSEDCL  
2) Shri Dahasahastra, SNDL Nagpur.

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

2) Shri N.V.Bansod,  
Member

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**ORDER PASSED ON 12.10.2017.**

1. The applicant filed present grievance application before this Forum on 21.08.2017 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 05.09.2017
3. Forum heard arguments of both the sides and perused record.

4. The applicant's case in brief is that, he applied for new connection but his application is rejected by SNDL on the ground of non-payment of old P.D. dues 63220/- against the PD consumer no. 410010283942 and Rs. 1536/- against the PD consumer no. 410010315054 .But applicant was not ready for the same therefore he filed the grievance application before IGRC vide case no.304/2017.As per order Dated 25.07.2017, IGRC hold that,

(1) As the premises of the second PD connection i.e. 410010315054 is different than the premises of the applicant, the dues of Rs. 1536/- is not recoverable from the applicant.

(2) Recover Rs. 63220/- towards PD dues against PD consumer no 410010283942 and after payment, process the application for release of new electric connection. Applicant challenged 2<sup>nd</sup> part of order of the IGRC before this forum.

5. Non-applicant denied applicant's case by filing reply dated 05.09.2017.It is submitted that applicant Shri. Dinesh Saybhan Wasnik is son of Shri.Saybhan P.WasniK who was given electric supply with consumer no.410010283942 on dt.12.04.1984 for residential purpose, but due to non-payment of dues of Rs.60955/- his supply was permanently disconnected in the month of Dec-2016.

6. IGRC relied on regulation 10.5 of MERC's supply code Regulation 2005 and directed the applicant to pay arrears Rs.63220/- as per order dated 25.07.2017.On payment of the same, connection is to be released to the applicant.

7. Forum heard arguments of the both side and perused record on dt.07.09.2017.

8. IGRC already hold that PD dues of old PD consumer no. 410010315054 of Rs. 1536/- is set aside and is not recoverable.

9. At the hearing, the Parties were informed of the expiry of term of Chairperson of the Forum on dt 30.06.2017, 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) Regulation2006 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) Regulation2006 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".*

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:

10. We have carefully perused Nagpur Municipal Corporation Tax Receipts of Shri. Dinesh Saybhan Wasnik which is 314/A/130/1 at Narendra Nagar Block 2 is for the year 2013-14, where as Nagpur Municipal Corporation Tax Receipts of Shri.Saybhan P. Wasnik is 314/A/130 for the year 2011.Although NMC Tax Receipts of both father and son are different, both father and son are residing in the same premises. The applicant father is alive and residing in the same premises. Hence it is crystal clear to the forum that, NSC is demanded by the applicant at the premises which is the part of the premises having arrears on account of nonpayment of dues.

11. Similarly we have carefully perused CPL of old PD consumer no. 410010283942 .On verification of CPL record of Shri. M/s S.P.wasnik, who is the father of applicant having consumer no. 410010283942, it is seen that, till Dec-2007 bill amount of Rs. 60956/-was remained unpaid, for which supply was subsequently permanently disconnected for non payment. *In this matter the owner of premises is the applicant's father.*

*As per provisions in the Regulation 10.5 which 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..”*

*Relying on the above provision, Forum is of the opinion that, any outstanding arrears are charge on the premises, and not on the person. Being a son; applicant is legal*

representative of previous owner, therefore has to bear liability of arrears toward the P.D. connection of the same premises having no. 410010283942. Therefore recovery sought is justified as per regulation 10.5 of MERC's supply code Regulation 2005. Therefore the order passed by IGRC is legal and proper and hence grievance application is liable to be dismissed.

12. As per perusal of MSEDCL circular no 293 dt 13.09.2017, "**Residential and Agricultural Amnesty Scheme 2018**" is launched for recovery of arrears from permanently Disconnected Residential and Agricultural consumers details are given below:-

- *Residential and Agricultural Consumers which are PD on or before 31<sup>st</sup> March, 2017 are eligible for participation in the scheme.*
- *Consumer can participate in this scheme up to 31<sup>st</sup> March 2018.*
- *Principal amount as on date of TD, after adjustment of SD, be paid in equal 5 monthly installments.*
- *On receipt of 1<sup>st</sup> installment, the consumer will be reconnected after payment of necessary Connection charges.(After 6 months from the date of PD, the connection to be treated as new connection with same number)*
- *The consumer shall pay the balance 4 installments along with the subsequent monthly current bill.*
- *100% Interest and DPC to be waived off after recovery of full principal amount*

In view of the above, the Applicant may participate in Residential and Agricultural Amnesty Scheme 2018 of MSEDCL for availing the NSC and then SNDL shall provide all benefits of this Scheme to the applicant while releasing the NSC.

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**Separate dissenting Note by Member (CPO) Mr. Naresh Bansod dated 26-09-2017 in Case No. 79/2017 is given as under.**

The arguments heard on 07-09-2017 and case file alongwith order dated 25-09-2017 is sent to me at 12.05 P.M. on 26-09-2017 for concurrence to the order without following the spirit of Reg.8.4 of MERC(CGRF & EO) Regulations 2006 and Dissent note here below as not agreeable to the order.

Applicant applied for new connection but his application was rejected by Non Applicant as well as IGRC vide order dated 25-07-2017. It is not in dispute that his father Mr. Saybhan P. Wasnik is resident House No. 314/A/130 Kaushalyannagar, Kukde Layout, Nagpur and his supply was permanent disconnected which is old PD. Non applicant as well as IGRC both relied on Regulation 10.5 MERC (Electricity Supply Code and other conditions of supply) Regulations 2005 and insisted the applicant to pay the Permanent Disconnection dues of his father amounting to Rs.63,220/- for Con. No. 41001023942 without verifying the facts.

During arguments Applicant stated that his father is alive and Non Applicant can recover permanent disconnection dues from his father. The aforesaid Regulation 10.5 is applicable after the death of his father and Applicant claims for the same house & Electric Connection and applicant is neither owner nor occupier of House No.314/A/130 Kaushlyanagar, Kukde Layout, Nagpur.

Secondly his residence & Residence (House) of his father is different but nearby or Adjoining.

House No. of Dinesh Saybhan Wasnik is 314/A/130/1 Where as the House No. of Saybhan Wasnik (Alive) is 314/A/130 – Kaushlyannagar Kukde Layout Nagpur, which can be revealed clearly from the Nagpur Municipal Corporation Tax Receipts. The above House Numbers are allotted by N.M.C. Nagpur which are different from one another. Hence any liability on H.NO.314/A/130 cannot be fastened on H.N.314/A/130/1 of Applicant and Applicant is entitled for the New Electric connection in his House No.314/A/130/1.

In view of the above observations, Non applicant is duty bound to provide the New Electric Connection as per the Electricity Act.2003 as well as MERC (Electric Supply Code & Other conditions of supply) Reg.2005.

Hence the following order Non Applicant is directed to give New Service Connection to the Applicant within 7 days and compliance shall be intimated within 15 days.

Member Secretary claims to be in charge chairperson. As per Reg. 4.1 (c) last provisio means that when chairperson is appointed in the CGRF and he is absent from sitting of the forum, then technical member, shall be the chairperson for such sitting (during leave, sick leave etc) but presently the Chairperson's post is vacant in the forum on date of sitting, so the technical member and member (CPO) can continue to run sitting and decides the cases as per 5.2 of Regulation 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

case of vacant post of Chairman of MERC, Hon'ble Shri Ajij Khan & Mr. Deepak Lad

Saheb sign as member and not any one as chairman as per seniority or Regulations. Hence order of the Technical person or so called member secretary cannot be a "Majority order".

NareshBansod

Member

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13. In view of the majority, considering the fact that, premises being the same, and applicant being the son is entitled to pay arrears. Hence we proceed to pass the following order.

ORDER

1] Grievance application is dismissed.

Sd/-

**(Shri.N.V.Bansod)**  
MEMBER

Sd/-

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



