

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE

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Consumer Grievance Redressal Forum
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No. / CGRF /Nashik/NZ/NUC/NU-I D/539/15-2016-17/

Date: 27/07/2016

(BY R.P.A.D.)

In The Matter Of New Electricity Connection

Date of Submission : 14/06/2016

Date of Decision : 27/07/2016

To.

1 Smt. Savita Dharamdas Sachdeo
Sagar Near Datta Mandir
Kathe Galli, Nashik
(New Connection)

Complainant

2 Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Circle office, Shingada Talav, Nashik

Distribution Company

3 Executive Engineer (Urban-I)
Maharashtra State Electricity Distribution Com. Ltd.
Kharbanda Park, 1st Floor,
Nashik

DECISION

Smt. Savita Dharamdas Sachdeo (hereafter referred as the Complainant) Nashik has applied for new connection to the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company). The Complainant has submitted grievance against MSEDCL for demand of outstanding arrears from the previous owner of the premises for getting the new connection. The complainant has applied to the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. But not satisfied with the decision of the Respondent , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is received at inward no. 107 on 14 /06/2016.

The Forum in its meeting on 14/06/2016, decided to admit this case for hearing on 01/07/2016 at 11.30 am in the office of the forum . A notice dated 14/06/2016 to that effect was sent to the appellant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Additional Executive Engineer Shri. U.V. Dhongde , Dy. Manager Mrs. R.D. Satpute, Assistant Accountant Shri P.R. Brahmane represented the Distribution Company during the hearing. Shri Rajesh D. Sachdeo appeared on behalf of the complainant.

Representation in brief :

1. The complainant has applied for new meter connection on 25/04/2016 C.C..F.C. 2262 No. 8535291.
2. The above application was rejected as an amount of Rs. 65,623.10/- in the name of Mr Rajan N. Raheja is outstanding on the whole premises comprising of 2 shops on ground floor and one open premises on 1st floor.
3. The complainant purchased the premises from one Mrs Rajni Bhatija on 03/05/2000. The purchase agreement clearly states that no M.S.E.B meter was installed in the premises purchased by her.
4. Mr. Rajan N. Rajeja in whose name the bill is outstanding expired in 2004.
5. The outstanding bill of Rs. 65,623=10/- is for the year 2011.
6. Mr. Rajan N. Raheja owner of 2 shops on ground floor, both shops had light meters. One of the shop owner has got new light meter in 2010 at the same time as outstanding amount shown in the bill.
7. No enquiry has been done to check old bills of the above shop, neither has their agreements have been checked.
8. Why no action on recovery was done in last years ?

Demand of the Consumer:

New electricity connection should be given immediately.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 24/06/2016 from the Nodal Officer ,Nashik Urban Circle and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

- 1- I kS I fork /kjenkl I pno] nRrenhj 'kst kjh] dkBs xYyh ukf'kd ; kps rdkjh ckr vfr dk; Bdkjh vfHk; ark] 'kgj mi foHkx ukf'kd ; kauh R; kps i = da 0865 fn- 23@06@2016 ud kj xkgdkus da 256 ukf'kd ; Fks uohu ?kj xqih fo|q duD'ku ckr vtZ dsyyk vkgs I nj vtZ I h-I h-, Q-I h- ukf'kd ; kpdMs dsyk vl u I nj vtZ I h-I h-, Q-I h- dz 2262 fn- 25@04@2016 vtZ ud kj mi foHkxh; dk; kzy; kl iklr >kyk- I nj vtZ ph dk; bkghl kBh riki .kh dsyh vl rk vtZ hkj kus vtZ dsy; k feGdrhoj xt-da 049012032284 PC 3 Jh- jktu , u jgst k ; k ukokus oht tkM.kh vl u I nj fot tkM.khoj ekgs 2011 e/; s Fkdckdh vl ys dkj .kkus dk; eLo#i h cn dsys vkgs
- 2- I nj ueq dsy; k feGdrhe/; s Fkdckdh vl yd kj .kkus uohu oht duD'ku nrk ; s ukgh vl s I gk; d vfHk; ark Onkj dk d{k 1 ; kps i = dz 262 fn- 08@05@2016 ud kj dGfoys vkgs R; keGs I kS I fork /kjenkl I pno ; kauh vrxr xtgd rdkj fuokj .k d{k ; Fks vtZ nk[ky dsyk- I nj vtZ ph I uko.kh fn- 20@05@2016 jksth 'kgj eMy dk; kzy; ukf'kd ; Fks >kyh- vtZ hkj kus I knj dsy; k [kjnh[krke/; s i fjPNn da 2 e/; s Li'V mYys[kr vkgs dh I arh nskkj 1 Eg.ktp Jh- jktu , u jgst k ; kpdMq Jherh jkt pkbZ dUgs kyky Hkrhtk ; kauh I nj nLr fygu fnsyk vkgs R; keGs Jh- jgst k vkf.k I kS I pno ; kpnjE; ku I nj feGdrhe/; s dkgh , d I ar k ukgh vl s Eg.k.ks pphps Bjrs dkj.k I nj nLr vtZ hkj kus I knj dsyyk vkgs I nj feGdrhoj Fkdckdh vl yus vtZ hkj kus Fkdckdh Hkj .k dai klr Bjrs
- 3- xkgdkus vrxr xtgd rdkj fuokj .k I ferh] ukf'kd 'kgj eMG ; Fks dsy; k rdkjhoj egkj k'V^a fo|q fu; ked vk; ks fot i j oBk I fgrk vkf.k i j oB; kP; k brj vVh fofu; e 2005 P; k fofue; 10-5 ud kj ; kX; rh dk; bkgh djkoh vl k fu.kz fnsyk vkgs I nj fu.kz kud kj mi foHkxh; dk; kzy; kus 10-5 P; k fofue; kps i kyu d#u fofue; krhy ekxh'kuki ek.ks vtZ hkj kl xt-da 049012032284 Jh- jktu , u jgst k ; k ukokps tkLr hr tkLr 6 efgU; kps I nHkZ da 3 ud kj #- 28050@v{v{kjh #- vBBkohl gt kj i Uukl 1/2 ps ns d vnk dj .kl kBh fn- 22@06@2016 jksth i kBfoys vkgs
- 4- ojhyi ek.ks xkgdkyk vkdkj .; kr vkys Fkdckdhps fot ns d ; kX; vl Y; kus xkgdkP; k rdkjhr rF; ukgh-

Action by IGRC:

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing for the complaint submitted on 28/04/2016 .
2. After hearing both the parties IGRC gave decision as per letter dated 08/06/16 as under:
^vfrfjDr dk; Bkjh vfhk; rk] 'kgj mifohkx ; kuk vl sl fpr dj.; kr ; rs dhj vthkj ; kps uohu ?kjxrh duD'ku feG.kckcrP; k rdkjhoj ojhy iæk.ks egjkV" fo|r fu; ked vk; kx fotijobk l fgrk vkf.k ijob; kP; k brj vVh ½ fofu; e 2005 P; k fofu; e 10-5 P; k v/khu jkgu ; kX; rh dk; bkgi djkoh-*

Observations by the Forum:

1. The Distribution Company was not represented by an officer of the rank of Executive Engineer . The Forum was informed that the Nodal Officer is on leave and the Executive Engineer, Nashik Urban -1 is involved in the plantation programmes arranged at subdivision offices. The Forum instructed to the representatives of the Distribution Company that the concerned officers should give prior intimation of their absence to the Member-Secretary in unavoidable circumstances. It may be noted that as per CGRF & EO regulations an officer of the rank of the Executive Engineer or above has to act as the Nodal Officer as co-ordinator for filing of reply, making submissions, providing issue-wise comments on the Grievance, submitting compliance status/reports etc.
2. During the hearing ,the Forum directed the Distribution Company to submit following additional information before 07/07/2016 :
 - ✓ The documents related to the usage of electricity on meter no. 01773459 said to be at the said premises.
 - ✓ The comment of the Distribution Company regarding the mention of " no electricity connection is existing" in the purchase deed of 2000 submitted by the complainant
 - ✓ Documents related to the action taken under section 126. Whether the investigating officer in his report/letter made any mention of the period since when the unauthorized use was being done ?
 - ✓ The action taken by the Distribution Company for recovery of the outstanding bill after the PD. In 2011The complainant was also asked to submit the certified copy of the purchase deed.
3. Accordingly the Additional Executive Engineer (AEE) ,City Sub Division has submitted a letter dated 05/07/2016 with following information :
 - ✓ In nj feGdrhl ehVj dz 01773459 pk okij xk-da 049012032284 ih-l h- 3 Jh- jktu , u jgstk ; kps ukokus oht okij pkyq gkrk- ; k ckrps l h-i h-, y- l kcr tkMys vkgs
 - ✓ In nj rdkjnkjkus ; k feGdrhph [kjnh 2000 l kyh dsh vkgs R; koGh ; k feGdrhoj xk-da 049012032284 ih-l h- 3 Jh- jktk , u- jgstk] okl no xjst toG uohu vkxk jkM ukf'kd ; k ukokus oht tkM.kh gkrh-
 - ✓ In nj fBdk.kh ; k xk-da 049012531311 ih-l h- 3 Jh-tsds bl jk.kh gkÅl ua 257 , tpujsgk; Ldy toG 'kkW ua 5@6 ; kps ehVj o#u dye 126 ckrph dxni=s l gk; d vfhk; rk xqkorrk o fu; æ.k d{k ; kpk fn- 16@04@2016 dk; eLo#ih fotijobk [kMhr dsh; k xtgdkpk fn- 16@04@2016 iMrkG.kh vgoKy] vl d eW ukV] l h-i h-, y- ch80 o 126 ps fotns d Hkjy; kph ikorh >jkDI l kcr tkMr vkgs
 - ✓ 2011 l kyh ih-Mh- dsh; koj forj.k diahus In nj xtgdkP; k tkxps fn- 16@04@2016 jksth rikl .kh dsh vl rk In nj fBdk.kh oht pljh >K; kps vk<GysThe complainant has also submitted the certified copy of the purchase deed for the premises registered under no. 5389/2000 on 03/05/2000 with Sub-Registrar ,Nashik -1

- 4 After the scrutiny of the documents it is revealed that:
- ✓ The premises for which the new connection is sought is a residential flat on first floor in the building built on plot no. 256 on S.N. 422B/3/3 within Nashik Municipal limits.
 - ✓ The building has got shop no. 1 and shop no.2 on the ground floor. The said flat was purchased by the complainant from one Smt. Rajubai Kanhyayalal Bhatija in the year 2000 with consent from Mrs. Sona Rajan Raheja and Mr. Rajan Narayndas Raheja.
 - ✓ The Addl. EE has submitted a report dated 16/04/2016 prepared by AE (QC) for PD verification for consumer Shri Rajan N. Raheja (no. 049012032284). In this report the officer has made a remark that "Fkdckdh ehVj dks kR; k fBdk.kh fdok tkxr gkrs rs l akf; r vkgs." and also indicated by guess pointing out a place in the building plan stating as "PD ehVj ; Fks vl kos" . This report therefore does not establish beyond doubt that the PD meter was installed at the said residential flat and hence the outstanding is related to the same premises.
 - ✓ In the purchase deed dated 03/05/2000 submitted by the complainant it is clearly mentioned at paragraph no. 13 as "oj dye 1 e/; s o.ku dya; k flyW feGdrhe/; s ykbM ehVj ?kryys ukgh- rjh r fgh r eps inj [kpkus l njgw flyWe/; s ykbM ehVj ?; kos R; kl ek>h o l erh ns kkj ; kph l erh vkgs dks krhgh r Økj gj dr ukgh- " .It means there was no electric connection/meter at the said premises in May 2000. The said electric connection in the name of Shri Rajan N. Raheja since 11/12/1978 bearing consumer no. 049012032284 with meter no. 01773459 [which was made PD in 2011] has no relationship with the flat/premises purchased by the complainant . The Distribution Company was asked to provide their findings on the fact that there was no electric connection/meter at the said premises since May 2000. But the Distribution Company has not provided any comment in this regard.
 - ✓ The verifying officer further noticed that there was unauthorized electric supply taken from consumer no. 049012531311 belonging to Shri J. K. Israni to the PD consumer site. The assessment dated 18/04/2016 u/s 126 of the EA ,2003 was done for 6 months and Bill Revision Report dated 20/04/2016 was prepared by the Distribution Company demanding Rs. 12627.81 towards assessment for October 2015 to March 2016 .
 - ✓ There is an error in the Bill Revision Report . In the reason code the word "theft" is used. Whereas the assessment is for "unauthorized use" u/s 126. The theft is covered under the section 135 and the course of action and implications are different. The Addl. EE has also mentioned the word "theft" for findings in inspection dated 16/04/2016. The officers of the Distribution Company should be careful in using the words.
 - ✓ The concerned AE , has done assessment of the "unauthorized use" for a period of six months . However the section 126 of EA, 2003 (as amended on 28th May 2007) mandates as "*If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, it shall be presumed that such unauthorized use of electricity was continuing for a period of three months immediately preceding the date of inspection in case of domestic and agricultural services and for a period of twelve months immediately preceding the date of inspection for all other categories of services, unless the onus is rebutted by the person, occupier or possessor of such premises or place.*
 - ✓ The AE has presumed that the unauthorized use is since October 2015 as he has not recorded any observation regarding the exact period since when the unauthorized use was being done . The fact that the complainant was using supply from other neighboring consumer , also indirectly proves that there was no supply at the complainant's premises.
- 5 The Distribution Company was also asked to submit the report about the action taken by it for recovery of the outstanding bill after the PD. In 2011. But there is no reply given on this point. After scrutiny of the CPL since 2007 for the said connection in the name of Shri Rajan Raheja (049012032284), it is noticed that the consumer has been abnormally irregular in paying bills after 2008 . The particulars are as under:
- a. Net Bill for March 2008 : Rs. 3469 -paid Rs. 2240 on 07/04/2008
 - b. Net Bill for October 2008: Rs.18987 -paid Rs. 8000 on 04/11/2008
 - c. Net Bill for January 2009: Rs.26136 -paid Rs. 13770 on 04/02/2009
 - d. Net Bill for February 2009: Rs.15268 -paid Rs.7500 on 24/03/2009

- e. Net Bill for December 2009: Rs.38819 -paid Rs.16000 on 31/12/2009
 - f. Net Bill for February 2010: Rs.32664 -paid Rs.17000 on 25/03/2010
- There was no payment at all after 25/03/2010 for almost 9 months . The bill therefore inflated to Rs. 66,505/- by December 2010. The connection was then made PD in January 2011.

From above it is clear that the Distribution Company has not acted properly to recover its bills prior to 2011 and also after 2011. It has allowed the defaults in the payment leniently without taking any coercive action in time for about 3 years. Even after PD in January 2011 , there is nothing on the record to show what legal action was taken by the Distribution Company to recover the outstanding. It is only when a new consumer (the complainant) approached for new connection, the Distribution Company resorted to the soft option of transferring the liability to him by obstructing his new connection.

- 6 It is seen in this case is that , the premises in question are purchased by the complainant from Mrs. Rajubai Bhatija and not directly from Mr. Rajan Raheja who is defaulter. The regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 provides 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:*
Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.”

The erstwhile owner / occupier in this case is Mrs. Rajubai Bhatija and not Mr. Rajan Raheja. If at all the unpaid charge for electricity are transferred to these premises , the liability shall go to Mr. Smt Rajubai Bhatija . Hence it will not be legally correct to transfer this liability of Mr. Rajan Raheja to Mrs. Savita Sachdeo.

- 7 The Forum is pleased to note following court judgements in similar cases:
- a. In a judgment dated 20th August 2010 (CIVIL APPEAL NO. 6817 OF 2010) in ***Haryana State Electricity Board vs. Hanuman Rice Mills, Dhanauri and Others,*** the Hon'ble Supreme Court, has quoted as under on the issue of liability of the dues of the previous owner:
".....
9. The position therefore can may be summarized thus :
(i) Electricity arrears do not constitute a charge over the property. Therefore in general law, a transferee of a premises cannot be made liable for the dues of the previous owner/occupier.
(ii) Where the statutory rules or terms and conditions of supply which are statutory in character, authorize the supplier of electricity, to demand from the purchaser of a property claiming re-connection or fresh connection of electricity, the statutory rules or terms and conditions of supply which are statutory in character, authorize the supplier of electricity, to demand from the purchaser of a property claiming re-connection or fresh connection of electricity, the supplier can recover the arrears from a purchaser.....”
 - b. M/s. Raghunath Paper Mills Pvt.Ltd purchased a unit in auction from M/s. Konark Papers and Industries Limited and applied for power supply to North Eastern Electricity Company of Orissa (NESCO). NESCO has asked M/s. Raghunath Paper Mills Pvt.Ltd . to pay the arrears of electricity dues amounting to Rs.79,02,262/- outstanding against the premises by the erstwhile Company. There was a petition in this case filed with the High Court of Orissa . The Hon'ble High Court of Orissa at Cuttack in Writ Appeal No. 237 of 2010 in the final judgment and order dated 04.11.2010 in Special Officer(Commerce) NESCO & another vs M/S. Raghunath Paper Mills Pvt. Ltd. has held that :
“.....the appellants are not justified in demanding respondent No.1 to pay the arrears of dues of Rs.79,02,262/- outstanding against the erstwhile Company which was put under liquidation to give power supply to the unit of respondent No.1.....”

- c. This order was challenged by NESCO in the Supreme Court (Civil Appeal No. 7899 OF 2012) . The Hon'ble Supreme Court dismissed the appeal and upheld the decision of Hon'ble High Court of Orissa in its judgement dated 9th November 2012.
- 8 In this case, the Distribution Company relying on the regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 has taken a view that unless the complainant pays the outstanding electricity dues against Mr. Rajan Raheja , who is the erstwhile/previous owner of the said premises , electricity supply cannot be given. In fact the regulation 10 is regarding "change of name". According to sub-cause 10.1 "*A connection may be transferred in the name of another person upon death of the consumer or, in case of transfer of ownership or occupancy of the premises, upon application for change of name by the new owner or occupier*"
- ✓ A plain reading of the above regulation 10 read with sub-clause 10.1 makes it adequately clear that the said regulation is not applicable to the present case. Here the complainant has not applied for change of name or transfer of connection from Mr. Rajan Raheja. On the other hand, she has applied for new/fresh connection for the premises after purchasing the same from Smt Rajubai Bhatija
- ✓ The arrears of electricity dues were not levied against the premises in question in the name of the erstwhile owner Smt. Bhatija. Thus, the Distribution Company is not justified in demanding the complainant to pay the arrears of dues outstanding against Mr. Rajan Raheja .
- 9 As regards application for new electricity connection/supply is concerned , it is governed by the regulation 4 of the MERC Supply Code ,2005 framed in view of the 43 of the Electricity Act, 2003 The applicant has to provide the information / particulars / documents to the Distribution Company while making an application for supply as mentioned in sub-clause 4.1 . The fee for processing the application, based on the schedule of charges approved by the Commission under Regulation 18 is the only payment to be made. This regulation does not mandate recovery of any arrears of electricity dues or other dues for the same premises "payable by the earlier consumer" .
- 10 Section 43 of the Electricity Act, 2003 casts a duty on Distribution Company to supply electricity from the existing distribution network on the application made by the owner or occupier of any premises within 1 month after receipt of the application or a period prescribed by the Commission when extension of the distribution mains/new substation is required. However , it should be only after fulfilling the conditions such as compliance of prescribed documents , deposit of security and payment of charges as permitted by the Commission (MERC in this case) .
- 11 As such presently no statutory rules or terms and conditions of supply which are statutory in character, authorize the Distribution Company , to demand arrears of previous owner from the purchaser of a property claiming fresh connection of electricity .

After considering the representation submitted by the consumer, comments and arguments by the Distribution Company , Court Decisions as above all other records available, the Forum quashes the demand of the arrears of Shri Rajan Raheja made to the complainant and directs the Distribution Company to sanction new connection after completing all the necessary formalities presided under MERC regulations .

However the Distribution Company can resort to the alternative legal remedies for recovery of outstanding in the name of Mr. Rajan Raheja. As informed by the complainant, there are other connections for shops in the name of Mr. Rajan Raheja/others which are transferred from him , in the same building.

ORDER

1. the Distribution Company should sanction new connection to the complainant after completing all the necessary formalities prescribed under MERC regulations and release supply as per norms in MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 without insisting to pay the outstanding in the name of. Shri Rajan Raheja .

2. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
3. As per regulation 22 of the above mentioned regulations, non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings *suo motu* or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
4. If aggrieved by the non-redressal of his Grievance by the Forum, the Complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Rajan S. Kulkarni)
Member

(Hari V. Dhavare)
Member-Secretary

(Suresh P.Wagh)
Chairman

Consumer Grievance Redressal Forum Nashik Zone

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101 (For Ex.Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. ,
Vidyut Bhavan, Nashik Road 422101 (For P.R.O)
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. ,
Urban Circle office, Nashik