

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No.21/2015

Date of Grievance : 19.08.2015

Date of Order : 15.10.2015

In the matter of releasing of new connection.

Mr. Sanjiv Shriram Wakhale
R/o 12, Parth Classik, Bhandarkar Road,
Pune-411 004

Complainant

(Herein after referred to as Consumer)

Versus

The Superintending Engineer,
M.S.E.D.C.L.,
Pune Rural Circle,
Pune.

Respondent

(Herein after referred to as Licensee)

Quorum

**Chair person
Member Secretary
Member**

**Mr. S.N.Shelke
Mr. D.H.Agrawal
Mr. S.S.Pathak**

Appearance

For Consumer

Mr. Sanjiv Wakhale,

For Respondent

**Mr. S.R. Purohit, Ex.Engineer (Adm)
Mr. A.J.Mahamuni, Asstt.Acctt.
Mr. R.V.Pawar,Ex.Engr. Mulshi Dn.**

- 1) The Consumer has filed present Grievance application under regulation no. 6.4 of the MERC (CGRF & E.O.) Regulations 2006.
- 2) Being aggrieved and dissatisfied by the order dated 06.07.2015 passed by IGRC Pune Rural Circle, Pune, thereby rejecting the grievance, the consumer above named prefers this grievance application on the following amongst other grounds.
- 3) The papers containing the above grievance were sent by the Forum to the Superintending Engineer, M.S.E.D.C.L., Pune Rural Circle, Pune vide letter

no. SE/PRC/PZ/Notice/21 of 2015/252 dtd.24.08.2015. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 05.09.2015.

4) We heard both sides at length, gone through the contentions of the consumer and reply of the respondent and the documents placed on record by the parties. On its basis following factual aspects were disclosed.

i) H.T. connection bearing consumer No. 182969032550 at Gat No.168 (S.No.568) A/P Rihe, Tq. Mulshi, Dist. Pune was previously standing in the name of M/s. Suguna Farm Ltd. (now Suguna Foods Pvt.Ltd.) for poultry business.

ii) Owner of the premises Mr.Sanjiv Shriram Wakhale (present consumer) had leased the said premises to Suguna Foods Pvt. Ltd. on leave & license basis from 15.10.2000.

iii) The said leave and license agreement was terminated on 15.10.2014.

iv) The Licensee (MSEDCL) changed the Tariff category of the said consumer from HT-I (Industrial) to HT-II (Commercial) in the year 2011 with retrospective effect from 2008 and consequently sought recovery of arrears of Rs.1,03,57,380/-

v) The said HT consumer challenged the said recovery with appropriate relief in the Hon'ble High Court vide W.P.No.10420 of 2011.

vi) Thereafter consequent to the order of Hon'ble High Court , Bombay the said consumer approached to CGRF, Pune Zone vide case No.10 of 2012.

vii)The CGRF, Pune Zone while staying the matter directed the MSEDCL not to charge the electricity bills to the said consumer as per rates applicable to commercial tariff till the decision of Hon'ble High Court in W.P.No.2358 of 2011 in the case of M/s. Balkrishna Hatcheries V/s MSEDCL.

viii) The Licensee permanently disconnected (P.D.) the above mentioned connection in Dec.2014 claiming electricity arrears of Rs.2,42,10,790/- .

ix) The owner of the premises Mr. Sanjiv Wakhle applied to the Licensee for releasing of new connection vide application dtd. 05.02.2015 and 13.04.2015, but it was rejected by the Licensee due to arrears of P.D. connection in same premises.

x) Thereafter the said consumer approached to IGRC (PRC) for releasing of new connection. However, the IGRC rejected the grievance directing the consumer to clear all outstanding dues vide its order dtd. 6th July, 2015.

5. Following points arise for our determination. We give our findings thereon for the reasons stated below.

Points	Findings
1) Whether the consumer is entitled to get new connection at the premises in spite of arrears of P.D. connection bearing Consumer No.182969032550. ?	Yes.
2) What Order?	As per final order.

Reasons

6. On 16.09.2015 both the Parties and representative of P.D. consumer Suguna Foods Pvt.Ltd. were present. Admittedly this Forum in case No.10 of 2012 filed by the said P.D.consumer vide Order dtd. 25.05.2012 directed the MSEDCL not to charge the electricity bills to the consumer as per rates applicable to commercial tariff till the decision of the Hon'ble High Court in W.P.No.2358 of 2011 M/s.Balkrishna Hatcheries V/s MSEDCL and has stayed the said matter till the decision of Hon'ble High Court in W.P.No.2358 of 2011. Both the Parties submit the said Writ Petition is still subjudice. Therefore at this stage alleged arrears against the P.D.consumer as sought by the MSEDCL are contingent in other words, the said liability of the said consumer may or may not arise. The representative of the P.D.consumer conceded to execute indemnity bond against the said contingent liability i.e. arrears of energy bills. Therefore the said matter was adjourned to 13.10.2015.

7. On 13.10.2015 both parties including P.D.consumer were present. The P.D.consumer submitted that they have executed indemnity bond in respect of arrears of Energy bills in favour of MSEDCL on 23.09.2015. Officers of the MSEDCL admitted the said fact and by producing the copies of the said indemnity bond and the letter submitted to C.E. (Commercial), Mumbai vide No. SE/PRC/Legal Cell/5222 dtd. 30.09.2015.

8. The said P.D.consumer vide indemnity bond dtd.23rd Sept.2015 executed in favour of MSEDCL has undertaken to indemnify the MSEDCL against the liability which may arise in future based on the decision of Hon'ble High Court in W.P.No. 2358 of 2011, M/s.Balkrishna Hatcheries V/s MSEDCL. It has further undertaken to have the disputed liability that may arise to be transferred to electricity connection bearing consumer No. 073759018590 of its Hatcheries situated at Gat No.51 Village Mavadi (Vani), Tq.Dindori, Dist.Nashik till the decision of Hon'ble High Court in W.P.No. 2358 of 2011. The P.D.consumer also produced the sale deed and 7/12 extract of Gat No.51 and the electricity bill of the said consumer. The P.D.consumer also indemnifies in case of default in paying the alleged arrears with interest, the owner of the premises(Mr.Wakhale) will be under obligation to pay the whole arrears with interest as per regulation 10.5 of the supply code.

9) Regulation No. 10.5 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 reads as under

10.5 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.

10. Therefore P.D.consumer has undertaken all the liability of arrears of energy bills that may arise and to abide by the order of the Hon'ble High Court, Bombay in W.P.No.2358 of 2011 - M/s. Balkrishna Hatchries V/s MSSEDCL. The PD consumer also undertakes to have the disputed liability

transferred to its another electricity connection bearing consumer No. 073759018590 of its own Hatcheries situated at Gat No.51, Village Mavadi (Vani) Tq.Dindori, Dist.Nashik till the decision of Bombay High Court in W.P.No.2358 of 2011. Similarly in case of default, of P.D. consumer, in payment of said arrears, charge of electricity bills will be kept on the owner of the premises as per Regulation No.10.5 of Supply Code referred to above. Under the circumstances the consumer i.e. owner of the premises is entitled to get new connection at the said premises. Hence we answer above mentioned points in the affirmative. Lastly we pass following order.

Order

- 1) Grievance application is allowed with costs as under.
- 2) MSEDCL is directed to release new connection in favour of consumer at his premises subject to provisions of 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply) 2005.
- 3) MSEDCL is directed to transfer the arrears of P.D.consumer vide connection No.182969032550 to its another electricity connection bearing consumer No. 073759018590 of its Hatcheries situated at Gat No.51 Village Mavadi (Vani) Tq.Dindori Dist.Nashik, as per MSEDCL guidelines vide letter no.P-com/Acctts/1904 dtd.06.070.2013 till the decision of Bombay High Court in W.P.No.2358 of 2011 M/s.Balkrishna Hatchries V/s MSEDCL.
- 4) MSEDCL is directed to report the compliance within one month of this order.

Chairperson
CGRF, Pune Zone

Member Secretary
CGRF, Pune Zone

Member
CGRF, Pune Zone

Note:-The Consumer if not satisfied may file representation against this order before the Hon'ble Ombudsman within 60 days from date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Building, Bandra Kurla Complex,
Bandra (East), Mumabi-51.