

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

Case No.25/2015

Date of Grievance : 29.09.2015

Date of Order : 03.12.2015

In the matter of releasing of supply.

M/s Oxygen Realty,
1070 Shukarwar Peth, Lane No 5,
Opp Hotel Peacock, Hirabaug Society,
Tilak Road, Pune- 411002

Complainant

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Rastapeth Division,
Pune.

Respondent

Quorum

**Chair person
Member Secretary
Member**

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

Appearance

For Complainant

Mr.Milind Deshpande

For Respondent

**Mr.P.S.Jamdhade, Ex.Engineer
Rastapeth Circle,
Mr.G.T.Ekade
Rastapeth Division
Mr.B.G.Panghate, Addl.Ex.Engr.
Wadia Sub/dn.**

- 1) The Complainant 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 15.09.2015 passed by IGRC Rastapeth Urban Circle, Pune, thereby rejecting the grievance

the complainant 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 Executive Engineer, M.S.E.D.C.L., Rastapeth Dn., Pune vide letter no. EE/CGRF/PZ/Notice/25 of 2015/278 dtd.03.10.2015. Accordingly the Respondent i.e. MSEDCL(Licensee) filed its reply on 21.10.2015 & 23.10.2015.
- 4) We heard both the sides at length and gone through the contentions of the complainant and reply of the respondent and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
 - i) Complainant is executing a project named, "raindrop" at S.No.39/6/3/1 at village Pisoli Tal.Haveli Dist.Pune wherein the complainant is need of 57 nos. 3 phase electrical connections (individual flat holders) and 2 nos. 3 phase electrical connections (common).
 - ii) The complainant made an application dated 7.2.2015 with an undertaking on Rs.100/- stamp paper to avail the electric supply under 1.3% normative charges.
 - iii) The Licensee sanctioned the estimate through the Superintending Engineer, RPUC, Pune vide L.No.SE/RPUC/T/RPD /Oxygen/DDF-09/5091 dtd.23.4.2015.
 - iv) Subsequently the complainant realized that his project, "raindrop" at Pisoli falls in a category, Area "A" as per CE Distribution Circular No. CE(Dist.)/D-III/Circular /22197 dated 20.5.2008.
 - v) As per Clause No.1.1 (a)of the above mentioned circular the entire cost of Infrastructure will be created by MSEDCL and only schedule of charges as approved by MERC order dated 8th Sept.2006 (Case No.70/2005) will be recovered.

- vi) The complainant submitted a letter dtd.15.7.2015 to the Licensee requesting the Superintending Engineer, RPUC, Pune to issue revised estimate as per Schedule of charges vide MERC Order No.70 of 2005 dated 08.09.2006 and MSEDCL's subsequent circular bearing no. CE/Dist.-III/SOC/24500 dated30.8.2015.
 - vii) The Superintending Engineer, RPUC, Pune vide his letter bearing no. SE/RPUC/Oxygen/14-15/8184 dtd.23.7.2015 informed the complainant that no any scheme or any financial linkage to create the necessary new infrastructure for giving electrical supply on payment of schedule of charges is available to his office and that MSEDCL will have to prepare a scheme with prior approval from Head Office.
 - viii) In the above mentioned letter it is further stated that on availability of financial linkage, tenders will be floated and after completing all formalities, work will be executed as per seniority and that under such circumstances, the estimate time period required for completion of the work cannot be said at the moment.
 - ix) The complainant submitted grievance before IGRC Rastapeth, Pune on 28/7/2015 that the contention of the Superintending Engineer, RPUC that the period of supply cannot be committed for the want of financial linkage, is itself in violation of the Regulation No. 3 & 4 of the SOP Regulations,2014.
 - x) The IGRC, RPUC rejected the grievance of the complainant vide the impugned order dtd.15.9.2015.
- 5) Complainant's representative Mr. Milind Deshpande, submitted that the complainant made an application dated 7.2.2015 with an undertaking on Rs.100/- Stamp paper to avail supply to his housing scheme named "Raindrop" at S.No.39/6/3/1 at village Pisoli under 1.3% normative charges and accordingly the Licensee sanctioned the estimate vide No.SE/RPUC/T/RPD/Oxygen/DDF-09/5091dtd.23.4.2015. Subsequently the complainant realized that his project,"Raindrop" at

Pisoli falls under Area "A" category as per CE, Distribution Circular No.22197 dtd.20.5.2008. As per Clause No.1.1 (a) of the said Circular the entire cost of infrastructure shall be borne by MSEDCL and the complainant shall pay only as per the schedule of charges.

- 6) Mr. Deshpande further submitted that the letter dated 15.7.2015 submitted to the Licensee requesting the Superintending Engineer, RPUC, Pune to issue revised estimate as per the schedule of charges sanctioned vide MERC Order No.70 of 2005 dated 08.09.2006 and MSEDCL subsequent circular dated 20.5.2008. He further submitted that as per clause No.3 & 4 of the MERC (Standards of Performance of Distribution Licensee, period for giving supply and determination of compensation) Regulations, 2014 the MSEDCL is under obligation to provide the electric supply within 30 days if the supply is to be given from the existing network or within 90 days, when the supply work entails extensions or augmentation of the existing network. Mr.Deshpande brought to our notice that above mentioned period has been reduced by the Licensee to mere 15 days and 30 days respectively by the Licensees own Commercial Circular No.240 dated 02.05.2015.
- 7) Mr. Deshpande further submitted that inspite of above mentioned facts the Superintending Engineer, RPUC, Pune vide his letter bearing no.SE/RPUC/Oxygen/14-15/8184 dtd.23.7.2015 informed the complainant that no scheme or any financial linkage to create the necessary infrastructure for giving electrical supply on payment of schedule of charges, is available to his office and that MSEDCL will have to prepare a scheme with prior approval from Head Office. The said letter further states that on availability of financial linkage tenders will be floated and after completing all formalities, work will be executed as per seniority and that under such circumstances, the estimated time period required for completion of the work cannot be stated at the moment Mr.Deshpande further submitted that the said letter is in gross violation of the clause No.3 & 4 of MERC SOP Regulations,2014.

- 8) Mr.Deshpande further submitted that complainant lodged the grievance against the above mentioned letter before IGRC Rastapeth Pune on 28.7.2015 and after much deliberation, the IGRC rejected the grievance stating that since the complainant has already submitted an undertaking under 1.3 % normative charges & got an estimate sanctioned under the DDF scheme hence complainant's demand to get the electrical supply within 30 days as per the SOP Regulations on payment as per the schedule of charges, cannot be accepted.
- 9) Mr. Deshpande submitted that Section 43 of Electricity Act states that it is the duty of the Licensee to supply the energy as per request. Therefore the Electricity Act, 2003 itself entitles any complainant to receive electrical supply from the Licensee on payment of charges. The right/entitlement as enjoyed by the complainant is perpetual in nature and cannot be snatched/alterd merely on the pretext that the complainant has submitted an undertaking to execute the necessary work on payment of 1.3% normative charges and received an estimate accordingly. Even though the complainant has submitted the said undertaking and received an estimate, the basic right/entitlement of the complainant persists all along and even under such situation it is perfectly lawful on the part of the complainant to execute his right to demand the electrical supply on payment of **schedule of charges** within the period as stipulated under SOP Regulations and Commercial Circular No.240 dtd. 2.5.2015 .
- 10) Mr. Deshpande lastly submitted that the impugned order passed by IGRC dated 15.9.2015 be set aside and the Superintending Engineer, RPUC, Pune be directed to issue a fresh estimate as per the **schedule of charges** as demanded by the complainant as per application dated 15.7.2015.
- 11) On the other hand the Licensee (MSEDCL) was represented by Mr.G.T.Ekade, Ex.Engineer, MSEDCL, O&M Rastapeth Dn. & Mr.P.R.Jamdade, Ex.Engineer, MSEDCL, Rastapeth Urban Circle, Pune. They submitted that the complainant as developer/ builder is working on

a residential project named, "Raindrop" at S.No.39/6/3/1, at village Pisoli and is in need of 57 nos. of 3 phase electric connections for the proposed individual flat owners and 2 nos. of 3 phase electric connections for common use to the said project. The complainant made application dated 7.2.2015 with an undertaking on Rs.100/- stamp paper for executing the work under 1.3 % DDF Scheme. Accordingly, the estimate was sanctioned by the Superintending Engineer, RPUC, Pune vide L.No.SE/RPUC/T/RPD/Oxygen/DDF-09/5091 dtd.23.4.2015 but it is unacceptable that the complainant was unaware of the Circular No.22197 dtd.20.5.2008 issued by CE, Distribution regarding erection of infrastructure on payment of schedule of charges prior to submission of consent for 1.3% Supervision charges DDF option to MSEDCL authorities. They further submitted that the complainant has submitted letter dated 15.7.2015 after laps of period for 3 months of his initial application and after one month of sanctioned of estimate by Superintending Engineer, which is itself contradictory to earlier proposal and also time consuming.

- 12) They further submitted that as regards the letter no.SE/RPUC/Oxygen/14-15/8184 dtd.23.7.2015, it is needless to comment on it as it seems to be the correspondence with the higher authority. The complainant has intended to collect a huge amount of Rs.71,25,000/- from the proposed 57 flat holders as MSEB charges. The earlier estimate was sanctioned only for Rs.29,16,900/-. The Licensee is bound to give electric connections on acceptance of the normative charges only from those individuals or group complainants who are the owners/occupiers of the premises under electrification and want to avail supply for themselves only, but in the present case, the complainant as a proprietor of Oxygen Realty, Pune i.e. as builder/developer and want the electric supply for the proposed 57 nos. of the flats which he is to sell to those persons who are presently unknown to him as well as to the Licensee. In such case, the 57 nos. of prospective unknown flat owner cannot be treated as the owners/occupiers of the proposed residential project and the problem

will be to issue demand notes to any individual. Moreover, being the land possessor the said complainant cannot demand 57 nos. of connections of same category in his name. The complainant being a third party wants to enter between the flat holders and the supply utility relations and tries to reap benefits from the prospective flat holders by way of collecting a huge amount and from MSEDCL by way of getting done the work at its own cost.

- 13) The respondent further submitted that an undertaking dated 07.2.2015 submitted by the complainant for execution of work under non DDF 1.3% Supervision Charges & has paid 1.3% Supervision Charges of total estimated costs and since the Licensee has technically sanctioned the said proposal, now the complainant cannot withdraw himself from the undertaking given by him and hence the principal of promissory estoppels is applicable and thus the complainant must have acted upon the assurance given by him.
- 14) Respondent further submitted that the complainant intends to receive charges of Rs.1.25 Lakhs towards the connection charges of MSEB from every flat holder (customer) which is no where tagging nor the part of any agreement /undertaking executed by him with the respondent. The demand of complainant of getting the work done at the cost of the respondent under schedule of charges is extremely illegitimate since he is trying to be benefited from the respondent as well as the prospective flat holders.
- 15) The respondent further submitted that the complainant is neither the applicant nor the consumer of the respondent in terms of necessary Rules & Regulations since the letter dated 15.7.2015 is on the letter head using their own logo. But as per the MERC Regulations, the applicant needs to fill up the A-1 form. The complainant does not come under the preview of the definition of consumer as incorporated under Section-2 (15) of Electricity Act, 2003. The respondent further submitted that the present complaint shall not be entertained by this Forum as it does not come

under the definition of grievance as mentioned under Regulation No.2 (C) of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 and therefore the complaint be dismissed with costs.

16) The respondent placed reliance to the Case of Smt.Rajani Anant Mane Vs. MSEDCL in W.P.No.11628 /2013 decided by Bombay High Court dated 11.2.2015 they lastly submitted that complaint be dismissed with costs.

17) The following points arise for our determination. We give our findings thereon for the reasons stated below.

Points	Findings
i) What is the status of the present complainant, whether applicant, consumer or undue beneficiary?	Applicant
ii) Whether the subsequent demand of the complainant to revise the estimate as per Schedule of charges (CRA) as per Licensees Circular no.22197 dated 20.5.2008 in pursuance to MERC Case No.70/2005 is legal?	Yes, but the complainant to follow necessary procedure.
iii) Whether this Forum (CGRF) has jurisdiction to entertain the present complaint(grievance application in Schedule A.)	Yes.
iv) Whether the complainant is entitled to get revised estimate from the Licensee as per Schedule of charges (CRA) vide MERC Order No.70/2005 and subsequent Circular of the Licensee vide No.22197 dated 20.5.2008?	Yes.
v) What Order?	As per final order.

18)

Reasons

As to point Nos. i) to iv)

Respondent objected the grievance of the complainant stating that the complainant is neither the applicant nor the consumer but taking undue advantage of getting the scheme done under schedule of charges from the Licensee and also intended to get benefit from prospective 57 flat holders of his housing scheme "Raindrop" at Pisoli in the capacity of developer/builder. Therefore in this context we have to look into the definitions of applicant and consumer in the Act and Rules. The Electricity Act,2003 defines the word consumer under Section -2 (15) as under :-

Section -2 (15) "Consumer" means any person who is supplied with electricity for his own use by a licensee or the Governments or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person. As the case may be:

19)

Regulation No.2.1 (b) of MERC (Electricity Supply Code and other conditions of supply) Regulations, 2005 defines applicant as under.

(b) "Applicant " means a person who makes an application for supply of electricity, increase or reduction in contract demand/sanctioned load, change of name, disconnection or restoration of supply or termination of agreement, as the case may be, in accordance with the provisions of the Act and the rules and regulations made there under :

20) Regulation No.4.1 (i) to (ix) of MERC (Electricity Supply Code and other conditions of supply) Regulations, 2005, enumerates the necessary information/particulars/documents to be provided to the distribution licensee by the applicant while making an application for getting the electric supply
It reads as

4. *Application for Supply :-* 4.1. *The applicant shall provide the following information/particulars/documents to the distribution licensee while making & application for supply for additional load, shifting of service, extension of service or restoration of supply;*
- i) applicant's name and whether or not the applicant is the owner of the premises for which supply of electricity is being applied for and billing;*
 - ii) address of premises for which supply of electricity is being applied for and billing address, if different from such premises for supply ;*
 - iii) Where applicant is not the owner of the premises, name of owner of premises;*
 - iv) Purpose of usage of electricity and load applied for each such usage;*
 - v) Whether the application is for a new connection, shifting of service, additional load, extension of service, change of name for restoration (where disconnection was for a period of less than 6 months) ;*
 - vi) Name, address, License number, contact , telephone, no. and e-mail ID (if available) of Licensed Electrical contractor who will certify the wiring works pertaining to the premises;*
 - vii) Additional documents as may be required from the applicant under erring statute for the time being in force ;*

Provided that, the application form shall provide a list of (a) all major purposes of usage and (b) all such documents alongwith a reference 2 specific provision of the statute (s) under which they are required by the distribution Licensee from the applicant at the time of giving supply of electricity to the premises :

Provided further that, for consumers following under the domestic tariff category, a copy of any one of the following documents, namely (i) ration card (ii)photo pass,(iii) Voters Card ; iv) Passport; v) documents pertaining to occupation of premises, may be required at the time of processing of the application;

viii) Additional details that may be provided by the applicant, at his option, to facilitated the supply of electricity for consumer service by the Distribution Licensee:

ix) *fee for processing the application or receipt thereof, based on the schedule of charged approved by the Commission under Regulation 18 : Provided that the distribution Licensee may, at its discretion, give supply by scrutinizing alternative documents provided by the applicant.*

4.2 : *An application form under this regulation 4 shall be in Marathi and English and shall be made available at each office of the distribution Licensee where such applications are accepted :*

21) Thus the Regulation No.4.1 (i) to (ix) though enumerates the necessary information, particulars, documents to be provided by the applicant while making an application for getting the electrical supply, it does not mention specifically the A-1 form or the said application has to be in the specified format. Therefore these rules do not make it compulsory to the applicant to give the application for supply in any specified format. On the contrary, for example under CGRF Regulations No.6.10 the MERC specifically provides that “every grievance must be submitted in writing to the Forum in the format set out in Schedule -A to these regulations”. Therefore in the absence of any such provision in the supply code about giving the application in specific format, it will not bind the applicant to give such application in particular format. As per Regulation No.4.2 of supply code, the application form, in Marathi & English be made available for the applicants in all the offices of the Distribution Licensee. Therefore the task of providing of application forms is on the distribution Licensee in order to provide a fair degree of convenience to the applicant. However the supply code regulations mentioned above do not make it obligatory on the part of applicant to make the application in the “format A-1” Therefore the application dated 15.7.2015 submitted by the complainant on his letter head using their own logo is not out of the scope of these Regulation as it is not imperative to give application in specified format. CGRF Regulations No.1.4 state that these regulations shall be construed harmoniously with the SOP Regulations and the Electricity Supply code.

22) Regulations No.4 of MERC)Standards of Performance of Distribution Licensee period for giving supply & determination of Compensation) Regulations, 2005 stipulates period for giving supply. It reads as under.

4. *Period for giving supply :- 4.1 The Distribution Licensee shall on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply.*

4.2 The application referred to in Regulation 4.1 shall be added to be received on the date of receipt of the duly complete application in accordance with the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of supply) Regulations, 2005.

4.3 The distribution Licensee shall complete the inspection of the premises related to an application for supply of electricity not later than seven days from the date of submission of such application for supply in towns and cities and within ten days from the date of submission of such application for supply in rural area, regardless of whether such applications is deemed to be complete under Regulation 4.2.

4.4 Where the supply to an applicant is to be given from an existing network of the distribution licensee, the distribution licensee shall intimate the charges to be borne by the applicant not later than fifteen days from the date of submission of such application for supply in towns and cities and within twenty days from the date of submission of such application for supply in rural area, regardless of whether such application is deemed to be complete under Regulation 4.2.

4.5 Where the supply of electricity to a premises requires extension or augmentation of distributing mains, the distribution licensee shall give supply to such premises within three months from the date of receipt of complete application in accordance with the Maharashtra Electricity Regulatory Commission (Electricity supply code and other conditions of Supply) Regulations, 2005.

4.6 Where the supply of electricity to a premises requires commissioning of a new sub-station forming part of the distribution system, the distribution licensee shall give supply to such premises within one (1) year from the date of receipt of complete application in accordance with the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply) Regulations, 2005.

4.7 Where the supply to an applicant requires extension for augmentation of distributing main for commissioning of a new sub-station, the distribution Licensee shall complete the inspection of premises within seven days and intimate the charges to be borne by such applicant within thirty days from the date of submission of such application for supply regardless of whether the application is being to be complete under regulation 4.2.

23) The SOP Regulations No.4.3 to 4.6 state that the inspection of the applicant's premises and intimation of the charges to the applicant shall be completed by the respondents in the stipulated time frame, as the case may be, regardless of whether such an application is deemed to be complete under Regulations 4.2. As such the respondent is under obligation to perform their duties such as to inspect the premises within stipulated time and to intimate the charges to be paid by the applicant. Though the application is not deemed to be complete under regulation 4.2 it does not prevent the distribution Licensee to follow the necessary procedure as inspection of premises, intimation of charges for giving supply. Under SOP Regulation No.4.3 to 4.6 the Commission has given weightage to the compliance as to inspection of the premises and intimation of the charges to the applicant whereas the actual application, its draft or format and the documents attached thereto carry a secondary importance. Therefore the application dated 15.7.2015 on the letterhead of the complainant is not out of the scope of Electricity Laws referred to above. At the same time as regards the definition of the consumer referred to above, the present complainant does not come within the definition of the consumer as mentioned above. As regards the complainant has intended to recover the charges of Rs.1.25 Lakhs from each flat holder towards the charges of MSEDCL and has intended to get undue benefit making a demand of Schedule charges (CRA). At this stage, for want of details the electric services proposed to be given by the complainant (Developer) to his customers, it is very difficult to hold that the complainant is taking undue advantage by demanding 57 connections for different flat holders. Moreover the Licensee is not party to the agreement between the flat holders and the developers (complainant) as such there is no

privity of contract between them. Therefore hold that the complainant is the applicant but not the consumer hence we answer point no.1 accordingly.

24) Admittedly the complainant had made an application dtd. 7.2.2015 with an undertaking on Rs.100/- stamp paper to avail the supply under 1.3 % normative charges and accordingly received an estimate from the Licensee vide No.SE/RPUC/RPD/Oxygen/DDF-09/5091 dtd.23.4.2015. But according to the complainant he realized that his project, "Raindrop" at Pisoli falls under category "A" Area as per Distribution Circular No.22197 dtd 20.5.2008 under which the entire cost of the infrastructure shall be borne by MSEDCL and the consumer shall pay only as per the schedule of charges. Therefore the complainant submitted a letter dated 15.7.2015 requesting the Superintending Engineer, RPUC, Pune to issue a revised estimate as per schedule of charges under the said circular. However according to the Licensee as per the application of the complainant dated 7.2.2015 and the undertaking submitted by him, they issued estimate under 1.3% normative charges on 23.4.2015. Therefore the principal of promissory estoppels is applicable and thus the demand of complainant for getting the work done at the cost of licensee under schedule of charges is illegal.

25) The Distribution Licensee issued Circular No.CE(Dist.)/D-III/Circular /22197 dtd.20.5.2008 in respect of guidelines for releasing new connections and augmentation. Relevant Clause of said Circular is as under:

S. No.	Particulars	Recovery of charges
1.	1.1 LT Non-domestic, LT residential consumers, consumers of group of LT consumers of Non domestic & Residential complex where the load is less than 500 KVA and located within the limits of Areas "A" and "B".	a) All the infrastructure will be created by MSEDCL & only Schedule of charges as approved by MERC Order dated 8 th Sept.'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 the maximize the release of new connections, the areas are classified as follows:

Area "A": The area failing within the limits of 5 Kms. Of Municipal Corporations, 2 Kms. of Municipal Councils, and 1 Km. of existing village gaathan including MIDC areas.

26) As per the above mentioned circular the entire cost of infrastructure is to be borne by MSEDCL and the consumer shall pay only as per the schedule of charges (CRA), therefore the applicant submitted application dated 15.7.2015 requesting the Superintending Engineer, RPUC to issue a revised estimate. However the respondent vide his letter vide no. SE/RPUC/Oxygen/14-15/81-84/23.7.2015 informed the complainant that no scheme or any financial linkage to create the necessary infrastructure for giving electrical supply on payment of schedule of charges, is available to their office and that MSEDCL will have to prepare a scheme with prior approval of Head Office and that on availability of financial linkage, tenders will floated and after completing all the formalities, work will be executed as per seniority and that under such circumstances, the estimated time period required for completion of the work cannot be forecasted. However, it is pertinent to note that the Respondent did not deny to undertake the work under schedule of charges but according to them necessary permission from Head Office required to be obtained and that they are not sure to complete the said work within the stipulated time. There is nothing on record whether the concerned Superintending Engineer made any correspondence to the Head Office as per his letter dated 15.7.2015. Initially while giving above mentioned reply the respondent did not raise the defence of promissory estoppels Moreover as per the jurisprudence defence of estoppels is a shield and not sword. When the applicant submitted an application to do the work under 1.3% non DDF scheme with an undertaking and the respondent sanctioned the estimate, the respondent has merely accorded administrative sanction and no any work of the said scheme was started, in other words, neither the complainant nor the respondent have acted upon as per the above mentioned undertaking. On the contrary under Section 43 of Electricity Act, the complainant rights to avail electrical supply of payment schedule of charges remains fundamental and the perpetual. Section 43 of the Electricity Act, 2003 provides that every

distribution Licensee, shall, on an application by the owner or occupier of the premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply. Therefore principal of promissory estoppels as contended by Licensee is not applicable in the present case.

27) The respondent has referred to writ petition No 11628/2013 in the case of Smt. Rajani Aanant Mane Vs.MSEDCL decided by the Bombay High Court on 11th Feb.2015 wherein a DTC was erected within the premises of the society and the supply was already started. The petitioner has no complaint about the quality of the supply but the son of the petitioner made an application to MSEDCL to convert the outward DTC to inward DTC for safety of society members. Hon'ble High Court ruled that no legal right vested in the petitioner or any other consumers in the same property which enjoins the respondents to do the said work free of cost and that the existing outward DTC was perfectly as per the provisions of the Electricity Act and the rules & regulations made thereunder. Therefore the facts & circumstances in the above mentioned writ portion are completely different and do not applicable to the present case. On the contrary, in the present case the complainant has made pursuant to MERC Order No.70/2005 and subsequent circular of the Licensee thereto vide no.22197 dtd.20.5.2008. We find that the said demand of the complainant is absolutely as per the Electricity Laws and therefore it is obligatory on the part of the Licensee to release the supply in accordance with the Regulations. Therefore complaint is entitled to get revise estimate as per schedule of charges. Hence we answer point no. 2 & 4 in the affirmative.

28. According to the Respondent the present complaint shall not be entertained by the Forum since the present complainant is not the consumer. Regulations no. 2.1 (c) of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation of 2006. Defines the grievance as under.

Grievance means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a distribution Licensee in pursuance of a licence , contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property and (b) grievances in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the4 Forum or Ombudsman, as the case may be.

29. In the above mentioned definition of the grievance the word consumer is nowhere mentioned. The grievance includes any fault, imperfection, shortcoming, or inadequacy in quality, nature and manner of performance on the part of the respondent as specified by the SOP Regulations. As per Regulation No.4.1 to 4-6 of SOP Regulations, the respondent is under obligation to treat complainant's application dated 15.7.2015 as a valid application and to inspect the complainants premises within stipulated time and to intimate the charges. However, the respondent has informed the complainant vide letter dated 23.7.2015 that they have no financial linkage available and as such the period of giving supply cannot be committed at the moment. This act on the part of respondent is clearly a fault in the manner of performance as specified under the SOP Regulations read with CGRF Regulations 2.1 (C) therefore this Forum has jurisdiction to entertain the said grievance. Hence we answer point no. 3 in the affirmative.

30. Lastly we proceed to pass following order.

ORDER

1. Grievance is allowed with cost.
2. The order passed by IGRC, Rastapeth is set aside.
3. The Superintending Engineer, RPUC is directed to issue fresh estimate as per the schedule of charges vide MERC Order No.70/2005 and subsequent circular thereto of the Licensee vide no.22197 dtd.20.5.2008.
4. The Licensee to report the compliance within two months of this order.

Delivered on: - 03.12.2015

Sd/-	Sd/-	Sd/-
D.H.Agrawal	S.S.Pathak	S.N.Shelke
Member/Secretary	Member	Chairperson
CGRF:PZ:PUNE	CGRF:PZ:PUNE	CGRF:PZ:PUNE

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

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex,
Bandra (E), Mumbai-51.