

**Before Maharashtra State Electricity Distribution Co. Limited  
Consumer Grievances Redressal Forum, Pune Zone,  
925, Kasabapeth Building, I Ind flr. Pune-11**

Case No. 36/2012

Date: 29/01/2013

In the matter of  
Shri.Shankar Tulshiram Thorat,  
72/82 Narveer Tanajiwadi,  
Shivajinagar,  
Pune-411005

**- Complainant**

**V/S**

M.S.E.D.C.L. Shivajinagar Dn.

- Opponent

**Quorum**

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.B.M.Ivare
Member	Shri.Suryakant Pathak

- 1) The Complainant filed present grievance application before forum on dt.21/12/2012 under regulation 6.4 of Maharashtra electricity regulatory commission (consumer grievance Redressal forum & Electricity ombudsman ) Regulations 2006, here in after referred as regulations. Grievance is filed against the order passed by Internal Grievance Redressal Cell, Ganeshkhind Urban Circle, Pune on dt 16/11/2012.
- 2) The complainant stated that property at 82/72 Narveer Tanajiwadi Pune was purchased by him from Smt. Rangubai Maruti Kamble in the year 2007 and now he is owner of said property. The MSEDCL has given two electricity connections to the tenant in his property without NOC from him and without taking proper documents. Hence prayer of complainant is to disconnect the electricity connection and take appropriate legal

action against employees of MSEDCL and claimed compensation for mental harassment.

- 3) The complainant contended that electricity supply has been given on 16/04/2012 by MSEDCL to his tenants namely Abdul Babu Shaikh & Rajak Hussain Jamadar without obtaining no objection for the same, being owner of the premises.
- 4) The complainant filed complaint before IGRC on 27/09/2012 in respect of which hearing was taken on 17/10/2012. The IGRC vide order dt.16/11/2012 has dismissed complaint on the ground that same is not maintainable by law.
- 5) The MSEDCL vide letter dt.04/01/2013 stated that the both connections to tenants namely 1) Rajjak Husain Jamdar & 2) Abdul Babu Shaikh were given as per legal opinion from legal adviser, MSEDCL, pune zone pune vide letter dt.07/04/2012 and as per rules and regulation of MSEDCL and as per documents required as per MERC regulations.
- 6) The hearing was conducted on 16/01/2013 before this forum. During hearing complainant argued that both tenants Shri. Abdul babu Shaikh and Rajjak Husain Jamadar applied for new electricity supply to MSEDCL during year 2007. However connections were not released due to objection taken by him. Both of them have submitted old rent receipt for year 1961 to 65 and they have not submitted latest rent receipt. The MSEDCL has charged quotation amount towards new connection of Rs.576/- only, whereas from other consumers charged an amount of Rs.1050/- Hence enquiry be made and both connections be disconnected immediately by taking proper action against MSEDCL Officer, responsible for the alleged acts.
- 7) The Dy.E.E. Ganeshkhind sub division stated that both connections were released as per rules and regulations of MSEDCL and by taking legal opinion of its legal advisor. He further contended that both tenants have given ration card and voters card of said premises as required vide MERC Regulations 2005. The service connection charges are taken correctly as approved by MERC and both have submitted test report.

- 8) MSEDCL has submitted following documents.
- i) Legal opinion of legal adviser, MSEDCL PZ Pune vide letter Outward No.270 dt.14/08/2012
  - ii) A-1 form and other related documents including Identity card issued by election commission of India, Ration card, affidavit and test report submitted by Shri. Abdul Babu Shaikh & Shri. Rajjak Husain Jamadar at the time of demand of electricity supply.
- 9) The complainant submitted additional documents on 17/01/2013.
- i) Objection letter of complainant to MSEDCL dt.25/01/2007.
  - ii) Property tax receipt.
  - iii) Dy.E.E. MSEDCL Ganeshkhind letter O.No.401 dt.05/03/2007
  - iv) The complainant application dt.20/04/2012 under RTI Act-2005 and information given by PIO of MSEDCL vide letter No. 895 dt.14/05/2012
  - v) Zerox copy of clause No. 29 (1) and (2) Maharashtra Rent Control Act -1999
  - vi) The zerox copies of case filed by Shri. Abdul Babu Shaikh in the court of small causes Judge Pune of Shri. A.D. Tankhiwale dt.30/01/2012.
  - vii) Affidavit dt.14/11/2011 submitted by both tenants Shri.Abdul Babu Shaikh and Shri.Rajjak Jamadar to MSEDCL
- 10) On pleading of the parties, the point that arises for our consideration is

“Whether the complainant is entitled for mandatory injunction directing to the MSEDCL to disconnect the electricity supply given to both tenants at the premises 72/82, Narveer, Tanajiwadi, Shivajinagar Pune”.

Our findings are in the negative.

#### REASONS

- 11) Reg.4.1 (VII) of MERC (electricity supply code and other condition of supply ) Regulation 2005 stipulates that for consumer falling under the domestic tariff category copy of any one of the following documents namely i) Ration card 2) Photo-pass 3) Voters card 4) Pass port 5) Documents pertaining to occupation of the premises are required at the time of processing of application

In this case it is seen that both the tenants submitted the ration card and Identity Card issued by Election commission of India (Voters card). Hence both have fulfilled the documents as per MERC regulations 2005 for taking the electricity supply.

- 12) The Hon'ble Allahabad High Court in writ petition No.38285/11 dt.14/07/2011 in a case Devendra Sharma V/s Uttar Pradesh State Electricity Board (U.S.E.B.), observed.

"Action of electricity department for disconnecting the electricity on the ground of dispute with landlord was wholly illegal arbitrary and malafide."

In view of the law laid down by Hon'ble Alahabad High court, it will be illegal to issue mandatory injunction for disconnection of electricity supply of both the tenants.

- 13) In a case of Abhimanyu Muzumdar versus Superintending Engineer and Anr, (W.P. no.423 of 2010 decided on 11<sup>th</sup> February, 2011), Full bench of Hon'ble High Court of Calcutta held that a person in settled possession of a property, be it unauthorized occupier, encroacher of any premises and squatters of any premises is free to apply for supply of electricity, without consent of owner and is entitled to get electricity and enjoy the same until he is evicted by due process of law.

In the present case both Mr. Abdul Babu Shaikh and Mr. Rajjak Hussain Jamadar are tenants in the said premises, hence it would be proper not to issue mandatory injunction as prayed by the complainant.

- 14) As per Sec. 29 (7) (b) of the Maharashtra Rent Control Act-1999 , a tenant who desires to have at his own cost other essential supply or services for the premises in his occupation, the tenant may apply to the Municipal or any other authority, authorized in this behalf , for the permission or for supply of essential service and it shall be lawful for that authority to grant permission for supply of such essential supply, or service applied for without insisting on production of "No objection" certificate from the landlord by such tenant.
- 15) Complainant has not proved that MSEDCL has committed breach of any rule or regulation of MERC or other statutory authority, while issuing electricity supply as well as charging of amount for the said purpose.
- 16) On the basis of the facts and circumstances refered above we find that MSEDCL has taken steps as per the rules, hence the case of complainant fails.
- 17) In the result, we pass the following order.

#### ORDER

- 1) Complaint is dismissed
- 2) No order as to cost.

B.M.Ivare,  
Member/Secretary

Suryakant Pathak  
Member

S.D.Madake  
Chair Person

Date: 29/01/2013