

BEFORE THE CONSUMER GRIEVANCE REDRESSAL
FORUM AT AURANGABAD.

Case No. CGRF/AZ/AUR/U/394/2012/27.

Shreeram Packing Pvt. Ltd.
Plot No. B-7 MIDC, Chikalthana,
Aurangabad.

Complainant.

VERSUS.

The Nodal Officer,
MSEDCL, Urban Circle,
Aurangabad.

Respondents.

M/s GTL Limited,
Franchise of MSDCL.
CIDCO, Aurangabad.

CORAM:

Shri. V.B.Mantri.	Chairperson.
Shri S.K.Narwade	Member/Secretary.
Shri V.S. Kabra,	Member.

ORDER.

1. The complainant is seeking redress at the hands of this Forum against the disconnection of electric supply by the respondent No. 2 on 27.06.2012.
2. It is the case of the complainant that, the complainant is the packaging company. The company has taken electric connection lawfully about 33 years before. The company is making payments of the bills regularly. There is no complaining of payment of electric bill at any time.

3. According to the complainant, one Mr. Kamalkishore Singhaniya, one Mr. V.S. Singhaniya, and his son Pankaj Singhaniya were the share-holders and directors of the company. Mr. V.S. Singhaniya and his son handed over the business of the company to Kamalkishore Singhaniya and settled at Mumbai. It is stated that due to increase of property prices, Mr. V.S. Singhaniya, now started harassing the present complainant, Kamalkishore Singhaniya. He filed an application to the respondents for disconnection of Electric supply. The respondent acting upon such application, the respondent No.2 on the basis of legal advise given by the legal advisor of the company respondent No. 1 issued notice of disconnection and ultimately disconnected the Electric supply on 27.6.2012.
4. It is the grievance of the complainant, that the respondent has no concern regarding internal disputes of the shareholders. He has already preferred appeal against the order of Company Law Board, on the basis of which the legal Advisor was pleased to advise the respondents to disconnect the supply. The complainant is running the business and in case the Electric Supply is disconnected, the complainant would suffer heavy losses. The complainant has thereby prayed for restoration of Electric Supply.
5. The respondent No.1 MSEDCL has submitted the reply to the complaint and there contended that, in Company Petition No. 117 /2009, it has been held that Mr. Kamalkishore Singhaniya is not share holder of the company. Application for disconnection of Electric Supply was given by V.,S. Singhaniya. On the basis of such application, Notice of disconnection was given to the complainant and by seeking legal advise, the Electric Supply was disconnected.
6. The respondent No. 2 GTL has submitted its reply and thereby contended that, the complainant did not submit any reply as against the notice of disconnection. It is submitted that as per the order of Company Law Board, the complainant is no more share-holder.
7. The complainant has approached IGRC for the relief. The IGRC opined that, the Electric supply can not be restored. The complainant thereby could not get any redress at the hands of IGRC. The complainant has thereby filed the present complaint before this Forum.

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8. This Forum heard submissions of the complainant in person. Mr. Borde Legal Officer represented the GTL. The Nodal Officer argued for the MSEDCL.
9. In view of the submissions made on behalf of the parties, the following points arise for our determination, and our unanimous findings are as follows.

POINTS.

FINDINGS.

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| 1. Whether the respondents are right in disconnecting the supply of electricity to the complainant Company. | No. |
| 2. Whether the complainant is entitled for Redress of restoration of Electric supply. | Yes. |
| 3. What redress and order. | As follows. |

REASONS.

10. There is no dispute that Shreeram Packaging Company is lawful consumer of the respondents. The Company had taken Electric connection about 33 years before. There is no dispute to the fact that the company is making payments of Electric bills regularly. There is no dispute regarding payments of the bills. The bills are not in arrears.
11. It appears that dispute crop up in between the share-holders of the company. The dispute was referred to Company Law Board. The Company Law Board, Mumbai Bench in company petition No. 117 /2009 has observed that the present complainant Mr. Kamalkishore Singhaniya is not the share holder of the company, and thereby the board was pleased to decide that the petition filed by the petitioner Kamalkishore Singhaniya for the relief of restoration of directorship and for restoration of his 150 shares and for other relief was not maintainable.
12. It reveals that another shareholder of the Company, Mr. V.S. Singhaniya has filed an application to the respondents for disconnection of Electric Supply to the company. In view of the said application, the respondent No. 1 sought legal advice for discontinuation of the supply. It reveals that legal advice was given to the respondent to the effect that as per the order of Company Law Board, the complainant is no more share-holder and such he is not entitled for electric supply. The connection was thereby recommended to be discontinued on giving 15 days notice.

13. It reveals that the respondents have issued notice to the complainant, but the complainant did not reply the notice. The respondent thereby proceeded to disconnect the supply
14. It is submitted by the complainant that, he has preferred an appeal against the order of law board. It is submitted that as per memorandum and articles of association of the company he is permanent director. The law board did not record any findings regarding directorship of the applicant. The respondents have no concern with property disputes pending in between the share-holders. The respondents can not disconnect the supply so long as the consumer is paying the electricity bills. More over the finding of Law Board is not final. The counter submissions on behalf of the respondents is that, the respondents have proceeded to disconnect the supply as per the legal advice.
15. On considering the submissions so made on behalf of the parties, it makes very clear, that the basis of disconnection is nothing but the order of Company law board. It is not the case of the respondent that the company in any way was in arrears of the bills. The electricity supply can be cut-off u/s 56 of the Act in case of default of payment, which is not the case in the present matter. According to the applicant, as per clause No. 18 of Articles of Association of the company, the present applicant is first director, who shall hold office for life. It reveals that the applicant has preferred appeal against the order of Company Law Board in the Hon'ble High Court. The order of Company Law Board as such is not final. The electricity connection thereby can not be disconnected on the sole basis of order of Company Law Board. There is no other reason for such disconnection. The action of disconnection thereby does not appear to be just and proper. It further appear that, the dispute of former disconnection of supply was referred to District Consumer Forum on 24.2.2009. It further reveals that statement was made on behalf of the MSEDCL before the District Consumer Forum in complaint No. 148 /2009 to the effect that, the respondent MSEDCL would not disconnect the electricity supply to the present company so long as the company pays and continue to pay the bills. On the basis of such statement made on behalf of the MSEDCL, it appears that, the said complaint came to be disposed off on 8.6.2009. The copy of the order passed by the District Consumer Forum has been filed by the present complainant. This Forum thereby hold that the respondents are not right in disconnecting the supply of the complainant so long as the complainant pays the bill subject to the decision of the Hon'ble High Court on the point of ownership. The complainant as such is entitled for the relief of restoration of supply forth with. The complainant is entitled for redress of his grievance. The above points are answered accordingly. This Forum therefore proceeds to pass following order.

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ORDER.

1. Both the respondents are hereby directed to restore the Electric supply to the complainant Shriram Packaging Company within three from the date of receipt of this order.
2. No order as to costs or compensation.

Dated: 28th September 2012.
Aurangabad.

(V.S. Kabra.)
Member

(S.K. Narwade)
Member/Secretary.

(V.B. Mantri.)
Chairperson.

