

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE, AURANGABAD.

Date of Admission. 07.01.2014.

Date of decision. 11.03.2014

Case No. CGRF /AZ/AUR/R/482/2014/03

The Secretary Ajanta International,  
Vipasana Samittee,  
Gut No.45, Rampuri, Aurangabad

**COMPLAINANT.**

VERSUS.

Executive Engineer,( Adm.)  
Nodal Officer,  
O&M Rural Circle,  
MSEDCL, AURANGABAD.

**RESPONDENT.**

**CORAM:**

Shri S.K.Narwade Member/Secretary

Shri V.S.Kabra Member.

**REDRESSAL-DECISION.**

The complainant is secretary and authorized person of trust namely Ajanta International Vipasana Samitee situated at Gut No. 45, Village Rampuri, Tal. & Dist. Aurangabad The complainant purchased agriculture property situated Gut No. 45, village Rampuri from Shri Masood Ahmed Saidoddin Ahmed. The necessary sale deed was also executed on 10/01/2012

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The complainant submit that, after execution of sale deed and taking possession of agriculture land situated at Gut No. 45, submitted application for transfer of existing agriculture connection of 7.5 HP con. No 491380001130 in his name to the Asst. Engineer Rural Sub Division No. 1. on 03/09/2012.

The complainant further states that since no action was taken by Asst. Engineer Rural Sub Division, the complainant submitted his representation to the Executive Engineer Rural Division on 21/08/2012

It is submitted that as per MERC ( Electricity supply code and other conditions of supply ) Regulations 2005, (Regulation No. 10.5) respondent was required to collect arrears of last six months from the complainant.

However, the Asst. Engineer of Respondent , Vide his letter dt.16/10/2012 insisted for payment of total amount of Rs. 123680/-. The Asst. Engineer further told the complainant that the connection will not be transferred unless all dues are paid by the complainant. The complainant has therefore no other alternative left but to pay the arrears amount of Rs. 1,23,860/- The complainant paid the said amount under protest on 17/10/2012

Since the complainant was not aware of Consumer Grievance Redressal Forum & Electricity Ombudsman remedy provided under E.A.2003, he filed his appeal before Hon'ble M.E.R.C. at Mumbai which was registered as case No. 139/2012. Hon'ble Commission, vide its order dt. 18/02/2013, while

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disposing appeal directed the complainant to file his grievance before CGRF Aurangabad. Accordingly the complainant filed his grievance before CGRF

Aurangabad which further directed the complainant to seek relief from IGRC of Respondent.

Since IGRC of Respondent did not passed any decision within stipulated period of two months the complainant is compelled to file this present grievance before your Hon'ble Forum.

The complainant submit that Regulation No. 10.5 MERC Regulations 2005 which relates to of name and recovery of arrears reads as under.

“ Any charge for electricity or any sum other than a charge of electricity due to the D.L. which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be charge on the premises transmitted to the legal representative/ successor – 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 D.L. as due from such legal representative 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 six month of the unpaid charges for electricity supplied to such premises.

The complainant submit submit that since he is not legal heir of previous owner/ occupier, his liability of payment is restricted to last six months electricity consumption only.

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The complainant submit that Respondent are having monopoly business in the electricity sector in this region and the complainant was left with no

other alternative but pay the illegal demand charges to get the connection transferred in his name. Respondent has collected total arrears amount from the complainant by ignoring the provision of Regulation No. 10.5 of MERC . The complainant further submit that after making payment of arrears amount of Rs. 123860/-, he submitted application for release of 50 KV load for vapassana Kendra. The said connection was released on 02/01/2013 by the Respondent.

The complainant wish to bring to kind notice of Hon'ble Forum that even after making unjustified payment of arrears and release of fresh connection of 50 KW. Respondent disconnected the LT supply of Agricultural connection but did not remove the service wire and continued to issue bills as per HP tariff.

The complainant further submit that after scrutinizing the LT bills, he observed that the bills are being issue as per Lt Industrial tariff which is also required to corrected.

The complainant further argued in the hearing that, the trust as per legal procedure, published a "JAHIR PRAGATAN" in leading news paper "Dainik Lokmat" on 20/11/2011 through its Advocate Shri A.M. Mamidwar and invited any objection/ claims etc regarding said purchase deed of the land situated at Gut No. 45

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That, it is pertinent to note that MSEDCL nor any other person or party took any objection or claims on the said Jahir pragtan regarding purchase of said part of the land.

That, as per submission of MSEDCL before Hon'ble Forum one more connection (Con No. has been released in the name of Shri Massod Ahmed Saidoddin Ahmed in the same Gut No. 45, Village Rampuri.

As regards to the order passed by Hon'ble High Court, Nagpur in writ petition No. 422/2013, the complainant wish to submit that Hon'ble High court, after observing provision of Regulation 10.5 (MERC Regulation No. 10.5

In the said matter, the land was purchase through auction sale and therefore the respondent status was of legal heir. The regulation also clearly states that if the new owner is legal heirs than he has to pay total arrears.

In the present case the connection has been transferred from previous owner to our Trust and therefore the Trust cannot fall under the term "legal heir"

The complainant has submitted the 7/12 copy of Gut No. 45 Village Rampuri which discloses that there are other occupants in the said premises. If MSEDCL desire to create charge on the premises and to recover its arrears, then in such circumstances the arrears amount of Rs. 123730/-is required to be bifurcated into all other consumers situated in the said premises.

The respondent MSEDCL most respectfully submits that; the complainant purchased the land on 10.01.2012 and become owner of the land itself since 10.01.2012 But he applied for transfer of existing Ag connection on

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03.09.2012 i.e. after nearby about 8 months later from date of purchase of land. This necessarily implies that the complainant is using the said Ag

connection for his own purpose from the date of purchase. Therefore in continuation he is liable for payment of arrears of the Ag connection.

In AIR 2009 S.C. – 647 the Supreme Court has held that the license can stipulate search reasonable terms and conditions as it deems fit and proper to regulate the transaction and dealing while giving Electricity connection. As his own purpose after the date of purchase, as the connection is live and he later applied for change of name he is liable for paying arrears amount. Had been the complainant had applied immediately after the purchase of land for change of name, giving intimation in that respect to MSEDCL the situation would be different one.

That the complainant has never applied for permanent disconnection of the said Ag connection to the concerned office. Therefore the connection has remained live.

The complainant paid the arrears amount on 17.10.2012 for transfer of the Ag connection. Simultaneously the complainant applied for new connection on 05.10.2012

The MSEDCL in pursuance to his application for new connection dtd. 05.10.2012

That for effecting transfer of connection the complainant has not submitted relevant documents to the concerned MSEDCL office even though he has paid the arrears amount. The complainant has not complied the procedural aspects in this regard.

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Further the complainant alleged in his complaint that the bill is issued as per LT industrial tariff which is also required to be corrected. This contention of

the complainant is correct. Basically the quotation given to the complainant was for commercial connection. In respect of new connection of complainant consumer No. 491380003892, spot inspection has been carried out by concerned Junior Engineer on 11.02.2014 during the inspection it is revealed that the construction activity is going on in the concerned premises. And in remark the concerned Jr. Engineer has mentioned that the use of electricity is only for construction purpose and lighting during night and it is from date of supply. Therefore the applicable tariff is commercial one in the present matter. The copy of spot inspection report and relevant extract from the tariff order specifying the tariff applicable for construction activity as commercial is enclosed herewith. Case No. 19 of 2012 Circular No. 175.

Therefore the respondent prayed that, complaint is devoid of any merit and deserves to be dismissed.

The Forum heard both complainant and respondent and also gone through the documents placed on record. The complainant after purchase of the land from Gut No.45 at village Rampuri applied for the change of name of the existing connection having consumer No. 491380001130 which stands in the name of previous owner i.e. Masood Ahmed Saidoddin Ahmed, since the complainant was to avail electric supply. The Assistant Engineer, Rural Sub Division-I, Aurangabad on behalf of Respondent MSEDCL informed the complainant to pay the arrears outstanding against the consumer No. 491380001130 as per MERC Regulation 2005 Rule 10.5. The Assistant Engineer also attached the list of required documents along with his letter.

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The letter No. 1797 dated 16.10.2012 from Assistant Engineer sent to complainant is placed on record before Forum which is marked by complainant as Exh.'D'. The complainant has not complied for the change of name, however, applied for new connection and the new connection is given

by Respondent after payment of outstanding arrears of old connection in the said Gut No. and also paid quotation charges for new connection.

Complainant himself has agreed to pay arrears of six months as per MERC Regulation 10.5 In the reply and arguments during the hearing. The Forum has seen the present 7/12 abstract of the land Gut No.45 which is also submitted by Complainant, the name of Shri. Masood Ahmed Saidoddin Ahmed does not appear. Hence, the old consumer is not bound to pay the arrears of old connection. The Forum also gone through the judgment WRIT PETITION NO.422 of 2013 The High Court Nagpur bench also dismissed the petition and directed the petitioner to pay arrears of old connection being occupier of the premises. On the similar line in this case also the complainant has to pay the outstanding arrears being as incoming occupier of the land. Therefore, the pray of complainant for refund of paid amount Rs. 1,23,860/- is not accepted. Considering the spot inspection carried by Jr. Engineer on behalf of Respondent MSEDCL, the tariff applicable should be commercial since the supply is being used for construction activities since from date of connection. Therefore, the Forum issues following order.

ORDER

The complaint is dismissed with no cost

Sd/-  
( S.K.Narwade. )  
Member/Secretary

Sd/-  
( V.S. Kabra.)  
Member

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