

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Baramati Zone, Bhigwan Road, Urja Bhavan, Baramati.

Date:- 11.6.2014

In the matter of

Case No. 07/2014-15

Date:- 21/02/2014

Shri.Gulabrao Sukhdeo Kanherkar,
At- Bhadalwadi, Post- Kalas,
Tal.Indapur, Dist.-Pune.

Complainant
(Here in after referred As Consumer)

M.No.9422356511.

V/S

M.S. Electricity Distribution Co. Ltd. -
Executive Engineer, Baramati Circle(Admn.)

Opponent
(Here in after referred As Licensee)

Quorum

Chair person

Mr. S.D. Madake

Member Secretary

Mr. S.M. Akode

Member

Mr. Suryankant Pathak

1. Shri. Gulabrao Sukhdeo Kanherkar filed the complaint in 'A' form on allegation that M.S.D.C.L. erected D.P. structure in land Gat No.243 owned by him. He submitted that due to erection of D.P. structure by utility he cannot cultivate the land and also sustain economic loss. He requested the utility to remove the said poles.
2. Shri.Sunil Jagnath Kanherkar filed complaint initially before Internal Grievance Redressal Forum. The said complaint was rejected on the ground that the utility construct H.T.Line in gat No.243 Prior to about 20 years on oral consent of the occupant of land. The prayer for compensation was also not considered by Internal Forum.

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S.M. Akode

3. Being dissatisfied by the order of I.G.R.C. the complainant filed the present complaint before this forum, claiming the same relief.
4. M.S.E.D.C.L. opposed the allegation made in the complaint on the basis of limitation and other grounds. It is averred that, the complainant has not made any complaint during last 20 years either orally or in writing regarding D.P. structure poles in gat No.243 situated at Bhadlwadi , Tal.Indapur, Dist.-Pune.
5. Opponent further contended that complainant was bound to filed complaint within Two year from the date of cause of action, but he failed to do so.
6. Opponent contended that utility is a state as per law and the work of construction of poles was for public purpose.
7. Opponent alleged that complaint is not as per provision of Telegraph 'Act of 1885' as well as work of Licence 2006. The forum is not entitle to grant compensation as prayed.
8. The following points arise for our determination:
 - i) Whether the representation in the present form is maintainable before this forum?
 - ii) What Order ?
9. Our findings are as under :
 - i) In the negative
 - ii) As per final order.

REASONS

10. We have heard both sides. Complainant and representatives of M.S.E.D.C.L. were present for hearing, Shri.Pratap Hogade argued at length on behalf of complainant and officials of utility argued for opponent.
11. Admittedly there is no dispute regarding the construction D.P. structure in the land gat No.243 owned by complainant. The facts and circumstances admittedly indicate that the work as alleged was done prior to 20 years.
12. Complainant prayed that poles be removed and compensation be awarded for loss of Income during all these days.
13. Shri. Pratap Hogade relied on Maharashtra Govt. Circular dated 20.1.2005. He referred Reg.5.5 which is noted below :







5.5 Where in the opinion of the Distribution Licensee the provision of supply requires installation of a distribution transformer within the applicants premises. The applicant shall make available to the distribution licensee by way of lease for the period for which supply is given to the premises a suitable piece of land or a suitable room within such of land or a suitable room within such premises for the distribution transformer,

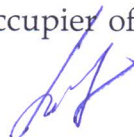
Provided that the terms and condition for such lease of land or room shall be mutually agreed between the distribution licensee and the applicant having regard to prevailing market rates.

Provided further that any existing agreement as at the date of notification of these regulations, for use of such land or room may upon expiry be renewed on such terms and conditions as may be mutually agreed between the parties, to be consistent with this Regulation 5.5.

Provided also that where at the date of notification of these Regulation, the Distribution licensee is using any such land or room without an agreement for such use or under an agreement having no fixed expiry date, then such agreement or agreement as the case may be use of such land or room is deemed to have expired at the end of two years from the date of notification of these Regulation, subsequent to which a fresh agreement may be entered into on such terms and conditions as may be mutually agreed between the parties, to be consistent with this Reg.5.5.

14. We have carefully seen the regulations; the complainant alleged that D.P. structure were erected without his consent. The Section 5.5 pertains to ownership apartment & not for rural cultivation land. There is no documentary evidence to show that poles were constructed with or without permission. There is word against word.
15. As per law, land can be acquired by Competent Authorities for public purpose as per the provision of "The works of Licensee Rules 2006 the licensee is entitle for carry out works, with the prior consent or occupier of land. In case owner objects for the work, licensee shall obtain permission in writing from the District Magistrate or other officer by the State Government. The rules further provide that if at any time the owner or occupier of any land on which any works have







been carried out shows sufficient cause, the District Magistrate or Commissioner of Police or the officer authorized may by order in writing direct for any such work to be removed or altered.

16. The work of licensee Rules-2006 further provide that District Magistrate or Officer Authorized shall fix after hearing both sides, the amount of compensation or of annual rent be paid by licensee to the owner or occupier.
17. On careful consideration of the provision of The work of Licensee Rules-2006, the owner or occupier is entitle to make representation before District Magistrate. The consumer representative Shri. Pratap Hogade based his submission relying on the above referred rules.
18. We are of considered view that as law provided remedy as per the works of licensee Rules 2006, the jurisdiction of this Forum is implied barred.
19. We persuaded both sides for amicable settlement by passing order on 25.3.2014. However though sufficient time was given, the settlement was not arrived at between the parties.
20. Consumer has claimed compensation as well as for removal of the construction to other place. In order to ascertain the quantum of compensation as well as necessity to remove the poles and availability of other suitable place require examination of witness and detailed and complicated investigation of facts. We feel that such detailed investigation is not capable of being undertaken in a summary and speedy manner.

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21. In the result, we hold that the present complaint is not maintainable in the present form, hence order :

ORDER

1. Complaint is dismissed.
2. The consumer is at liberty to move any proper authority as per law.
3. No order as to cost.

It may please be noted that an appeal against this decision of Forum lies to "The Electricity Ombudsman" appointed by Hon. Maharashtra Electricity Regulatory Commission under Section 42(6) of Electricity Act-2003 whose contact details are given below :-

Keshava, 606 , Bandra Kurla Complex,
Bandra(East) , Mumbai-400051.



Mr. S.D. Madake
(Chairperson)



Mr. S.M. Akode
(Member Secretary)



Mr. Suryankant Pathak
(Member)