

A Govt. of Maharashtra Undertaking)

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Consumer Grievance Redressal Forum

"Vidyut Bhavan", Gr. Floor,

L.B.S.Marg,Bhandup (W),

Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 59

Hearing Dt. 07.07.2016

In the matter of supply of new service connection

Mr. Mohd. Mirza Rahman Shiakh

- **Applicant**

Vs.

M.S.E.D.C.L., Pannalal Sub Division.

- **Respondent**

Present during the hearing

A - On behalf of CGRF, Bhandup

1) Shri. Anil Bavthankar, Chairman, CGRF, Bhandup

2) Shri.Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.

3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Applicant

1) Shri. Sanjay S. Shukla

- Consumer Representative

C - On behalf of Respondent No. 1

1) Shri.C.B.Mankar, The Superintending Engineer, Vashi Circle.

2) Shri. P.P.Borkar, Addl. Executive Engineer, Pannalal Sub Division.

Consumer No. 1000001327

1. Above named consumer filed this complaint against the respondent utility alleging that he obtain and purchase the same premises from Mr. Prakash Majethia and Mr. Habirbur Rahman in the year 2009 initially on the said premises industrial connection was demanded by consumer connecting 18HP load on 28.05.2015. On the ground that premises is purchase by consumer Shri. Mohd Miraza Shaikh. According to consumer he received load sanction on

30.06.2015 and also received quotation on 25.08.2015. The consumer is paid the charges on 28.04.2015. In spite of complaint all the formalities of consumer of respondent utility not releasing supply of new connection and claim that old arrears on the said premises was recoverable from old consumer M/s. Ketan Plastic. It is contention of consumer the premises occupied by Ketan Plastic is situated at another site and not on the same premises in which this consumer demanded new supply connection as the matter referred by respondent utility to the legal department. But respondent utility failed to take any proper action but the supply was not given. Therefore this consumer initially raised the dispute before IGRC on dated 07.06.2016. IGRC decided the said complaint and gave finding that the matter is sub-judice Misc.Case No.532/2004 . The issue for referred to legal department inspection and re-inspection was carried out of the premises where the consumer and respondent utility directed to verified the premises and submit report. IGRC shown inability to decide the dispute and against this decision consumer approach to this Forum and filed the complaint. It is prayer of the consumer giving direction to the respondent utility for releasing new connection and supply to his premises and allowed this complaint with cost.

2. After filing his complaint on 08.06.2016 notice was issued to the respondent utility. Respondent utility appeared and filed reply that new service connection application filed by this consumer for 18HP connection inspection of the premises was made by Assistant Engineer, Sonapur on 23.06.2015. However the officer sanctions 18HP 3 phase connection and issued the firm quotation. In the pendency of the proposal Assistant Engineer, Sonapur received knowledge that there are outstanding arrears amount stands of the premises occupied by old consumer M/s. Ketan Plastic having consumer No. 100000416139 and subject matter of premises and the NC sanction against the theft of energy the premises is same assistant engineer notice to the old consumer that outstanding arrears Rs.11,25,505/- towards theft due recovery charges as pending in the name of M/s. Ketan Plastic and theft was detected on 01.12.2005. The demand and proceeding is against M/s. Ketan Plastic already initiated. The due and check recovery case already filed against the old consumer the discretion of the

old premises on inspection found the same. The due arrears was also demanded of the present consumer and legal action against the old consumer theft case against the M/s. Ketan Plastic complaint lodged in Mulund Police station bearing No. 532/2004 on 11.01.2013. The spot inspection by Mr. C.B.Mankar, Superintending Engineer, Thane and then execute Pannalal Division already spot inspection was made and premise was found same. Therefore new connection on the same premises where the arrears are due against the old consumer as per Regulation No. 10.5 the recovery of amount new consumer attempt also made. But the consumer not ready to deposit any amount. Therefore in view of Regulation new service connection on the same premises in existence of due arrears unless and until paid no new connection can be release as per direction and therefore consumer is not entitled for new connection. Respondent utility filed relevant document consumer also filed all necessary document, sanction quotation, letter issued by Sub Division, Pannalal dated 11.02.2016 by Shri D.D.Ghodvinde objection raised by consumer challenging spot inspection verification report. I have carefully verified the document by consumer following issues arose for consideration are as below

1. Whether the consumer is entitled to new service connection on the premises.
2. Whether respondent utility can recovered theft arrears recovery amount of old consumer of M/s Ketan Plastic from this consumer.
3. What order?

Reasoning

3. There is no dispute consumer Mohmad Mira Shikh applied for new service connection sanction load 18HP of industrial purpose for the premises necessary document filed by the consumer along with details of agreement and other relevant document are perused on 30.06.2015 authorize officer of respondent utility granted sanction for fresh power supply on above said address estimate proposed pass of **22,250/-** was estimated the said cost claim to be deposited the quotation was issued the amount is received on 28.08.2015. Therefore all necessary requirement and formalities which are required are new connection compliance is already made. It is come to the knowledge of officer of the utility that new connection applied of the premises situated there is theft recovery case against old consumer M/s. Ketan plastic was initiated and action for filing

complaint and the case is already filed in court of law. Therefore no service connection could not be release. In this instant case consumer adopted vide tasting firstly obtaining this premises from the person namely Habibur Rahman and Prakash Majithia and enter into agreement of sell and thereafter on dated 2009 agreement Executive between Prakash Majithia and Mohd. Mirza Shaikh taken place between the consumer and his owner and document claim to be in existence the serious question of the identity of the premises raised before IGRC and also before respondent utility officer the premises which is purchase under the sale of transaction between Prakash Majithia and Present consumer Mr. Mohd. Mirza Rahman Shaikh is in respect of shop premises D-8 majoring six hundred square feet area on ground flower the CTS survey No.193 new CT 213 at village Bhandup. I have called all the relevant document in respect of theft case against M/s. Ketan plastic the premises which is occupied M/s ketan description address are verified the premieres which is purchase by this present consumer mention the same address D-8 Shop premises where respondent utility field leave and licenses agreement executed on 11.10.2010 between Mr. Ketan Patel and Sham Pandurang Tavde the leave and licenses for 12 month till October 2011 the transaction value is Rs. 1,00,000/-. The premises on which address which is reflect form the document filed by respondent utility on reliance on leave and licenses agreement mention the previous occupation M/s. Ketan B. Patel and Sham Pandurang Tavde. Admittedly, the same transaction is with refer to Gala No-8 coming to the dispute of identity of premise new service connection applied by the consumer in which load was sanction by sanction Gala No-8 order quotation was issued and actual work was to be carried out refer to Gala No-8. Consumer tried to convince to the Forum by rising several objection firstly of the identify of premises by description of property and identity of Number and by filing various agreement. It appears that the premises in which the connections applied by this consumer his any respect of Gala D-8. The consumer try to submit the identify of Gala No.D-8 and Gala No D-4 are totally different on dated 24.09.2015. Respondent utility already informed that spot inspection of Assistant Engineer carried out to resolve the dispute of identity of premises and the premises for new service connection applied are found Stan and therefore Regulation no 10.5. The consumer liable to pay six month equalant bill due areas of the said premises and also entered old recovery arrears can be recovered by this consumer. But the consumer shown is inability and raised the dispute of challenging the identify of premises Bombay Shop and Establishment Licenses issue in the name of Habibur Rahman who is party to the document executed by this consumer who was conducting supply of paper wet in Gala No.8. On the same address this is one of the party in the document executed with this consumer the address referred in Gala No.D-8 appears to be same as of the same premises applied by new consumer

admittedly the said new consumer. Admittedly the new consumer are blood relative of M/s. Ketan Plastic. Therefore question of recovery of arrears against old consumer referred to and legal issue as per Regulation No.10.5 MERC Regulation 2005 which reads as under *"10.5 Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner / occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of the premises, as the cases may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner / occupier of the premises, as the case may be:* in this circumstances as six month arrears as per Regulation 10.5 the demand was made against this consumer which is denied by the consumer and therefore to my view new service connection cannot be release on the same address where old arrears are due. It is conditional order for releasing of new connection. I found the action taken by respondent utility in communicate to the consumer by letter 24.09.2015 is proper legal and valid. I come to conclusion at the consumer is not entitled to receive new connection unless old due arrears calculated for six month under Regulation No. 10.5 is deposited with respondent utility. Therefore on this condition presidency I am in client to new service connection and proceed to pass following order.

ORDER

1. The consumer complaint No. 59/2016 is allowed.
2. The consumer is directed to deposit six month arrases of bill due of old consumer as per Regulation No. 10.5. only after depositing to said due respondent utility shall release new connection on execution of legal valid and proper document.
3. No order as to the cost.

Proceedings closed.

Note:

1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree

I Agree/Disagree

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

Member secretary opinion

Reasons

I as member secretary disagree with opinion of member the details as given as below

1. The application for new service connection of 18.00 H.P submitted by Mr. Mohammad Mirza Rehman Shaikh
2. During hearing Utility representative pointed out that applicant submit the application for new power supply on the premises where M/s. Ketan plastic having consumer no 100000416139 given power supply .The power supply disconnected (P.D) due to outstanding arrears 11,25,205 due to theft of energy charges and power supply on the name of M/s Katan plastic .The theft of case has been detected on 1.12.2005.
3. The applicant Mr. Mohammad Mirza point out that the premises where he required power supply different premises then M/s Ketan plastic and not having any relation with that . The applicant also takes objection to the spot verification report submitted by utility which prepared by Mr. Mankar Superintending Engineer Vashi

Reasons

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3. The applicant Mr. Mohammad Mirza point out that the premises where he required power supply different premises then M/s Ketan plastic and not having any relation with that . The applicant also takes objection to the spot verification report submitted by utility which prepared by Mr. Mankar Superintending Engineer Vashi

4 So to clear the facts Forum call Mr. Mankar Superintending Engineer Vashi to submit his arguments about applicant objection regarding spot verification report done by him . He state that the premises where applicant submitted application for new power supply is same where M/s Ketan plastic existed . The theft of electricity detected on 1.12. 2015.

As per Maharashtra state regulatory commission (Consumer Grivance Redressal Forum and electricity Ombudsman regulation 2006), in this case it is sufficiently proved that this Forum has no jurisdiction to try and entertain this compliant in view of Regulation 6.8 which describes as under:-

“If the Forum is prima facie of the view that any Grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum:

(a) unauthorized use of electricity as provided under section 126 of the Act;

(b) offences and penalties as provided under sections 135 to 139 of the Act;

(c) Accident in the distribution, supply or use of electricity as provided under section 161 of the Act; and (d) recovery of arrears where the bill amount is not disputed.”

So , I come to conclusion that amount (Rs 11,25,205/-) of theft of energy pending against M/s Ketan plastic which have same premises where new power supply required and 10.5 referred as above judgment applicable to plan arrears against electricity bill hence case should be dismiss not to entertained by forum

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

Chairperson Opinion

I have perused objection raised by Member Secretary assisting for utility according to him new consumer claiming new connection at the premises is different heft recovery initiated by respondent utility against adjacent owner M/s. Ketan Plastic is independent proceeding though Gala No. referred by this consumer in this complaint appears to be different the premises occupied by this consumer previously own by Habibur Rahman and on that premises earlier connection was made PD having different consumer no therefore objection raised by Member Secretary is not accuracy to be correct as right of new consumer to receive new connection and the status is in favor of consumer therefore previous arrears in name of Habibur Rahman could be recovery as per Regulation no 10.5 which is already answered by me in this judgment. Hence I Found new consumer is entitled for new connection only after depositing PD arrears stands in the name of Habibur Rahman and after depositing the said arrears new connection shall be issued after execution of legal and valid document and following due processor. Hence order.

ORDER

1. The consumer complaint No. 59/2016 is allowed.
2. The consumer is directed to deposit six month arrears of bill due of old consumer as per Regulation No. 10.5. only after depositing to said due respondent utility shall release new connection on execution of legal valid and proper document.
3. No order as to the cost.

Proceedings closed.

ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP