



(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.557

Hearing Dt. 30/01/2015

Shri. Shahnawaz Khan - Applicant

Vs.

M.S.E.D.C.Ltd., Shil sub division - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri.S.B. Bhalshankar, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- Shri. Shanawaz Khan – Consumer Representative

C - On behalf of Respondent

- Shri.J.B. Gaikwad, Addl. Executive Engineer, Shilphata sub division

ORDER (passed on dtd.24/02/2015)

Above name applicant shahnawaza Khan filed this compliant against the opponent Executive Engineer, ShilPhata Thane. Alleging that is residing and occupying the premises at Shil Phata Road survey No. 99 Gala No. 1, Post Thane and running business. He applied on 28/02/2014 for new industrial connection with the respondent. According to complainant respondent refused new connection on the ground that in the said premises earlier industrial connection was already installed in the name of Nadeem Shamin Ahmad. (having Survey No. 99 plus 1 Gala No. 2 Shamin compound shil phata Raod 400612). According to respondent earlier bill

issued to old consumer in April 2013 for the period 27 March 2013 payable on 23/05/2013 was current bill excess 2,600 & 7 in which arrears bill was complete 2,55,40.44/- with interest 70584 total amount 2,75,590/- was shown outstanding.

The earlier connection was situated in the same premises and connecting load was shown 27 HP and date of supply was 5 Oct. 2007. it appears that Security Amount 40740 was deposited by old. Consumer and meter status was shown normal what the said arrears of the bill was not paid the consumer. Therefore the earlier old connection was made permanent disconnection and outstanding bill was not recovered.

So far as application for new connection filed by Shahnawaz Khan is concerned, it appear to be another son and brother was old consumer Nadeem and Shamin Ahmad.

Being old consumer applied for 21 HP industrial connection for Gala No.1 of Survey No. 99 Sr. No.1 situated on same address on dtd. 28/02/2014. Accordingly to new consumer there was no previous connection and no arrears for MSEDCL in the same premises. He demine PD arrears of 2,75,590/- against his brother Nadeem and Shamin Ahmad (con No000171024871) according to applicant port connection give to Gala No. 2 in the same said premises and his ready to produce document to that effect.

According to complainant on 17/09/2014 IGRC refused the application of new connection of this consumer and gave the decision on the ground. The new connection is applied by this consumer on the same premises. the old premises stands in the name on Shahnawaz Khan. Junior Engineer visited the premises and found old meter was removed after PD connection of old consumer from same said premises and he gave report on 30/04/2014. Respondent also obtained legal opinion from legal advisor, Kalyan vide letter dated 15/05/2014. As per the said opinion issued by legal advisor dated 07/06/2014 there is on legal document filed by new consumer for satisfaction of authority that the premises is not same. Therefore Addl. Executive engineer of sub division Shil, Thane issued letter to new consumer for filing propose document of title and PD recovery against the old meter situated in the same premises which stands in the name of Nadeem and Shamin not deposited no fresh connection and service can be issued therefore IGRC rejected the said application of consumer vide order dated 17/09/2014 being this satisfied with the said order of IGRC the present complaint is filed before this Forum 24/09/2014.

After filing this compliant notice was issued to respondent for filing Para wise reply this compliant filed documents old connection application question and demand copy, of old consumer Nadeem and Shamin Ahmad dated 13/04/2006 duplicate bill letter of owner dated. 07/06/2014 address to SE, and other correspondence with agreement

copy of leave and Licensee copy of 7/12 of Gut No. 99, Gate No. 1 dated 15/03/2014. No objection given by owner Ravindra Dakhliya. Respondent appeared and filed reply on 17/02/2014 and raised objection for grant of new supply on the ground of depositing PD arrears of old consumer Nadeem and Shamin Ahmad on old meter. Amount Rs. 2,75,590/- which was not paid till September 2014 and further period interest if added the amount is more than 4 Lac was not paid. Secondly respondent objected that as per the inspection made by Executive Engineer of that circle the inspection was made and document was demanded from consumer. He did not produce those documents of possession of the said premises and description of measurement of the area was not mentioned in the document. Respondent's objection that no legal document is filed by the owner of the premises Ravindra Dhakliya consent was not filed no tax receipt or revenue receipt is filed by owner earlier disconnected meter was situated in the said premises where as area of supply of old connection on the premises was found same the contention of consumer the old supply on PD connection was on Gala no 1 and Gala No.2 from where old meter was removed was not in existent prior to April 2013 Gala No. 1 was constructed in come in existent for which no authorized legal document is filed on record there are two consume namely Nadeem and Shamin and Najumudin Shamin Ahmad having consumer no. 1710244887/1710612787 both the meter are permanent disconnected for want of recovery of amount 2,75,561 and 630 on second meter till October 2014 and both the said amounts were not deposited. The recovery suit process is in action. Even there is criminal complaint against father Shamin Ahmad filed. Over all on 26/09/2014 application no 4282952 was filed by Shamin Shiddiki for obtaining 25HP industrial connection, which was rejected therefore no fresh connection applicant can be considered Respondent filed list of cases from different occupiers of the premises amounting Rs. 37,439/-. Details of earlier PD arrears shown on the said premise against consumer copy of special case no 342/2006. Both earlier new connection application and PD arrears bill off earlier consumer copy of legal advisors opinion, report dated 16/06/2014, inspection report of Executive engineer along with map, old application and Xerox copy of document filed by complainant. As such I have perused all the documents filed by complainant and respondent on earlier dates hearing was done to continues date of hearing gone give opportunity to consumer Shamin Khan and respondent Executive Engineer, Assistant Engineer we have perused record on proceeding. Earlier PD disconnection stands in the name of M/s. Smita Naji Sahmi and yet not deposited.

Following point appears for consideration in this complaint

- whether fresh new connection in the name of Shahnawaz Khan for industrial purpose can be issued on the premises .
- Whether respondents order of rejection of new connection on the grand of PD arrears not deposited on old PD connection is legal and proper.

Hearing was done and full opportunity was given to the compliant. During the process complainant Shri. Shahnawaz Khan filed certain document includes leave and Licenses agreement consent and authentication of owner. There is no dispute that relation between arrears PD connection old consumer Nadeem and Smita Ahmad with Shamin Ahmad is of father & son .

It is pertinent to note that application in person was never attended. The date it is attend his father record filed by respondent indicates that earlier permanent disconnection was made against the old consumer Nadeem and Shamin where address was shown same. Shamin compound. The dispute appeared for the record of identification of property. For this inspection report of Assistant Executive Engineer is placed in record. He produced the report along with documents statement of owners, photograph, 7/12, extract and the map. On perusal of those documents it appears that the premises which is owned by Ravindra is in habit of interning leave and Licensee agreement with different person which is not register accord to me those document. On required to be registered under Maharashtra Control Act 2005, other wise unregistered documents cannot be admissible and can not be consider also in spite of that document filed by complainant reveled that owner gave no objection to transfer the meter in the name of present consumer. It means owner of the premises was aware of dispute and arrears till earlier agreement, dated 10/03/2014. Owner inserted the condition in agreement SD towards Light Bill Rs. One Lac for the agreement period and rent amount was agreed Rs, 10,000/-. But liability of payment of light bill is upon Licensee. There is no record whether the amount of Rs. One Lac is deposited and why electricity SD is taken by owner.

It further appear that there are PD arrears recoverable on old meter no 995947 consumer No. 32791 accordingly to owner the said consumer wanted to transfer the said meter when the meter is already removed. As per the report of Addl. Executive Engineer for nonpayment of arrears. Therefore no agreement of deposit clause remain in existent. The intention of owner of the property and the p[resent applicant clearly reveled that previous arrears on the meter used by Nadeem Ahmad and the present consumer wanted to avoid the said payment. This Forum cannot accept above title and liability of the document.

I found in the present compliant the consumer Shahnawaz Khan wanted 21HP load new connection for running workshop has premises. Gala No. 1 might have been directed and constructed after 2013. Question of recovery of PD arrears whether it can be recovered on present consumer. As admittedly, the present consumer is not owner nor he was previously occupying the premises.

As per Rules and Regulation MERC, claiming of arrears of charge condition no 10.5 mentioned as Para-II case no 5710. After perusing the entire dispute the respondent unviable to point out what measures are taken against previous consumer or the

owner for recovery of PD arrears. To my view if the argument of leave and Licensee is valid the consumer could be entitled to apply for new connection for the area mentioned the agreement of Leave and Licensee .

The dispute raised by respondent for nonpayment of PD arrears, legal process of recovery of those arrears against old consumer or the owner is legally entitled by respondent. They are at liberty to take appropriate action against the property or as the case person may be.

In this complaint I found present consumer was ready to deposit amount of Rs. 1,00,000/- as mentioned in leave and licensee agreement. But owner cannot take benefit or obtain SD the light bill.

The Liability of the payment of Light bill already taken by applicant consumer. Therefore as per quotation consumer is required to pay and deposit charges as per the quotation and demand made by MSEDECL authority. We have cross the judgment of MERC appellate authority in mention.

The present consumer can also be directed to deposit equivalent three times required deposit with respondent toward Security. Additional Indemnity Bond separately can be obtained. Therefore the decision of IGRC of rejection is found in proper in the light of policy of MSECL in which guideline they have not given reason of rejection. But the process of continuations of recovery as per no.10.5 was amended. In circular no 97&53 could be followed. Therefore the liability charge either against previous consumer or against property the issue is pending before Hon'ble Supreme Court is finally decided. I found for want of recovery of arrears in case of transfer of connection maximum period of six month unpaid charges could be recovered from the applicant or even from the owner or occupier. Therefore I am giving direction to the respondent to take appropriate action against previous user and the owner for recovery of earlier arrears due. In the mean time present consumer's application for new connection required to be considered subject to payment to deposit. Additional three times Security deposit could be recovered from the consumer as indemnity Bond, which is an addition to the security deposit. Therefore I proceed to pass following order

ORDER

1) Case No. 557 of 2013 is allowed.

- The consumer shall be required to deposit three times of SD of normal charge and also execute Indemnity Bond of himself and owner the respondent shall pay and deposit other charges as per quotation for installation of new connection. This connection shall be released restricted only the area error

mentioned in leave and Licensee agreement. If the use of this connection is found for any other area it shall be disconnected immediately.

- The respondent is permitted to take appropriate legal action against previous occupant or owner for recovery of PD arrears in accordance with law after sanction. The respondent shall comply with the order and report immediately within one month after compliance and mention Tern and condition by applicant consumer.

No order as to cost.

Both the parties should be informed accordingly.

The compliance should be reported within 45 days.

The order is issued under the seal of Consumer Grievance Redressed Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on

Note:

- 1) If Consumer is not satisfied with the decision, he may file representation within 60 days from the 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
BHANDUP**

**SHRI. ANIL P. BHATHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**SHRI. S.B.BHALSHANKAR
MEMBER SECRETARY CGRF,
CGRF, BHANDUP**