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Consumer Grievance Redressal Forum  
"Vidyut Bhavan", Gr. Floor,  
L.B.S.Marg,Bhandup (W),  
Mumbai – 400078.

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

Date

Case No.594

Hearing Dt.22/7/2015

In the matter of recovery of PD arrears and New connection

**Shri. Shakeel Ahd.Noor Mohd.Chawan - Applicant**

**Vs.**

**M.S.E.D.C.Ltd., Bhiwandi, TPL - Respondent**

Present during the hearing

A - On behalf of CGRF, Bhandup

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

B - On behalf of Appellant

- 1) Shri Shakeel S. Ansari, - Consumer Representative.

C - On behalf of Respondent No. 1

- 1) Shri. R.R.Beloskar, Executive Engineer, Nodal Office Bhiwandi.
- 2) Shri. S.K.Dhope, Assistant Engineer, Nodal Office Bhiwandi.
- 3) Mrs. Hemangi Mayekar, Assistant Manager, TPL

**ORDER (Passed on 27/7/2015)**

1. Above named consumer purchased above mentioned premises from legal heir of the said premise. Sale deed for the same was executed by Mr. Patil. Thereafter the above named consumer applied for release of new connection to the respondent M/s. TPL for running the business of power loom Textile Mill on 10/6/2014. He applied for 5HP connection for Textile and warping business.

After filing the said application M/s. TPL authority made scrutiny of the said application and document filed by consumer. The Authorized Officer visited the premises of consumer where the fresh new connection was applied for. It was found by the officer during inspection that on the same premises, there were earlier connections in the name of Shri. Harckchand Shah, having consumer nos. 13010206922 and 13010206914. As per record, on 23/6/2009 both these the said connections were disconnected for nonpayment of arrears of TPL after issuing notices about outstanding dues of Rs. 1, 61,398/- on consumer No. 13010206922 and Rs. 25,796/- and 14698/- on no. 13010206914.

2. Accordingly the consumer was informed for compliance of Terms and condition for new connection. He was required to clear the outstanding arrears of MSEDCL and TPL before issuing the new connection. On 27/6/2014 letter of intimation for compliance was issued to consumer. As the consumer did not reply nor did he comply. He made complaint to IGRC Cell on 10/4/2015. On his complaint case was registered under No. 154/2015. It is grievance of consumer that M/s. TPL is not releasing new connection for service of the both the meter no. 6922 & 6914. After filling the complaint in IGRC respondent utility's Nodal Officer issued notice to the consumer. He made allegations against the respondent utility through Representative Shri. Shakeel Ansari stating that there is no name of landlord on the bills issued. Both the meters (No 6922 & 6914) are missing since 2009 from the premises and under section 57 E.A. 2003 and Regulation SOP of MERC respondent utility MSEDCL and TPL did not give response to his application, did they issue new connection. Consumer also demanded compensation for loss of his salary and also physical and mental torture of the Rs. 25000/-.
3. The Nodal Officer issued notice of hearing to the consumer and gave an opportunity to respondent. Utility M/s. TPL filed reply to the complaint in IGRC and denied the claim of consumer. According to respondent utility the consumer made application through Representative for new service of connection 6922 &

6914 on the said premises. There are old arrears of consumer and as per Rules unless the old arrears of old consumer are not paid, new connection cannot be released.

4. On 21/05/2015 IGRC decided the case No. 154/2015. After giving opportunity and hearing to both the parties on 10/4/2015; and passed order on 21/5/2015. As per material available on record there are old arrears on connection of old consumer since 2009. Therefore the said connection for activity of power loom cannot be released unless the old arrears are paid.
5. Being aggrieved by the said order the above said consumer filed this complaint before the Forum on 29/5/2015. After filing said complaint Secretary issued notice to respondent utility TPL. After service of notice respondent TPL's authorized officer appeared and filed reply on 8/7/2015. The TPL authority submitted that there are old arrears on premises where the connection is applied for and the meter is missing. After taking joint visit on 26/6/2014 of the premise compliance letter was issued to the consumer about earlier connection (of 18HP and 1 KW) on the same premises and the arrears of Rs. 2,59,930/- up to the date of application for fresh connection. (Rs. 2,59,930/- total outstanding of MSEDCL on service connection No. 6922, Rs. 1,66,831/- on other Connection no. 6914). There are outstanding arrears 14,866/- & 25,968/- are due. It was also informed by respondent utility on 25/6/2009 that both the supplies were disconnected on 25/6/2009, and unless the applicant pays the outstanding dues of MSEDCL and TPL, new connection cannot be released.
6. Along with the said complaint consumer filed documents- letter and intimation given by respondent TPL, copy of judgment, order of IGRC dated 21/5/2015 and reply of TPL.
7. Similarly the respondent TPL filed documents viz. notice issued to earlier consumer CPL form March 2007 till 30/12/2014.

8. We have perused all the documents filed by consumer and respondent utility thoroughly.
9. On 23/7/2015 opportunity was given to the consumer along with his Representative Shri. Shakeel Ansari, respondent utility through Executive Engineer MSEDCL and Assistant Manager, TPL. Accordingly hearing was conducted before this Forum.
10. Issues before us for determination are:
  - 1) Whether respondent utility legally justified for refusing new application of consumer.
  - 2) Whether respondent utility can recover old arrears due since 2009.

### **Reasoning**

11. Above named consumer made application for new connection on the premises Patil Compound, New Gauri Pada, Norpoli, and Bhiwandi on 10/6/2014. The said premise was purchased by this consumer and he applied for the new connection. There was joint inspection of premises as per report and record available with MSEDCL and M/s. TPL of the said premises. It was seen that the service connection was already issued to the consumer bearing no. 6922 & 6914 and the same was in arrears. Those arrears stands on the name of Mr. H.R. Shetia and Mr. Harckachand Shah since 2009. As per record old arrears amounting Rs. 2,66,000/- are due, out of which Rs. 2,59,930/- are arrears of MSEDCL and Rs. 1,66,831/- are the arrears of M/s. TPL. On other connection there are arrears of Rs. 14,868/- of MSEDCL and Rs. 25,968/- of M/s. TPL.
12. Opportunity was given to file copy of CPL. It is admitted in reply as well as from the CPL and other records that the supply is disconnected on 25/6/2009 and there are old arrears shown in the CPL since 2009. Quarry was made whether any action for recovery of old arrears against the old consumer was initiated by the respondent utility.

13. It is informed that notices and reminders were issued to previous consumer Shri. Harckchand Shah and Shri. H.R. Shetia from time to time for recovery of dues, but no civil or criminal complaint was filed against the old consumer. Therefore the recovery of old arrears of old consumer which is not within period of limitation of recovery procedure was not filed.

Thus, to our view respondent utility cannot demand recovery against the new connection who is applying for fresh connection.

During the course of argument utility pointed out that as per procedure mention in condition of supply MERC Rules and Regulation 2005 clause No. 17.8 liability of payment of old arrears can be recorded against this consumer.

14. I have perused conditions of supply MERC electricity supply code Regulation 2005 Rule No. 17.8 which read as under

*17.8 A consumer, Distribution Licensee or any other person who is a party to any proceedings before the Electricity Ombudsman may either appear in person or authorise any person other than an Advocate (within the meaning of the Advocates Act, 1961) to present his case before the Electricity Ombudsman and to do all or any of the acts for the purpose.*

15. It is also submitted by utility that as per Rules and Regulation No. 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 case may be, and the same shall be recoverable by the*

*Distribution Licensee as due from such Page 6 of 11 Case No. 172/14 legal representatives 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 of six months of the unpaid charges for electricity supplied to such premises”.*

16. It is submitted by consumer that as per Rule 10.5 the supply of old connection was already disconnected on 25/6/2009 and it is deemed to be permanent disconnection. As per Supply Regulation Code SOP 10.5, the PD arrears for more than 6 month from the date of PD connection cannot be recovered from this consumer. The respondent utility wrongly interpreted the provision of SOP code of service conduct 17.8 and insisting upon this consumer has to pay huge arrears of old consumer; which is illegal and not within the provisions of law. The respondent utility ought to have filed civil and criminal action against the previous owner. and old consumer which is not taken in this connection consumer filed Commercial Circular dated 07/5/2007 Circular No. 53 old circular No. 97 28/7/1989 whereas respondent utility filed consumer No. 160 and resend judgment of Supreme Court in case of civil Appeal No. 6565/2008 in a case of the Paschimanchal Vidyut Vitran Nigam Ltd. Vs M/s. Dvs steels and Alloys Pvt. Ltd. reported in Supreme Court case is 7 November 2008. I have perused the judgment carefully and demand of new consumer form Terms and Condition, and which are held not unreasonable or arbitrary. The said judgment permits respondent utility to recover those dues. Now the question is against whom the legal action should lay in this case.

17. I am bound by the procedure of connection in condition of supply mentioned in Rule No. 10.5 as referred in case of recovery of old PD arrears. The period of recovery is limited to 6 months which can be recovered from new consumer who applied for fresh connection.
18. I am of the view that the provisions of service rules and condition 7.8 for recovery of old arrears is restricted for limited purpose. However with due respect as per judgment and to protect loss of revenue the new consumer shall be bound to pay the old arrears to the extent of the period from which he purchased the premises. The consumer is bound by the maxime "buyers be aware". It was his duty to make enquiry before purchase of property. Therefore in this case I extend liability of this new connection for limited purpose. He has to pay 6 month arrears calculated on both the connections. It should be paid in cash or Demand Draft to respondent utility at the time of applying new connection.
19. In additional the consumer shall execute Indemnity Bond in favour of respondent about his liability to pay the arrears due depending upon the order which the Hon'ble Supreme Court will be pleased to pass in the case pending before it in the same issue.
20. We hereby direct the respondent utility to issue fresh new connection on compliance of all other conditions by consumer immediately.  
Hence, we pass the following order

**ORDER**

- 1) Consumer complaint 594 is allowed.

- 2) The Consumer has to pay 6 month arrears calculated on both the connections in cash or by Demand Draft/ Pay Order to respondent utility at the time of applying for new connection.
- 3) In addition, the consumer shall execute Indemnity Bond in favour of respondent about it his liability which may arise in future as mentioned above.
- 4) Respondent utility to issue fresh new connection on compliance of all other conditions by consumer immediately.
- 5) The respondent to comply with the said order and file compliance report within 30 days from receipt of this order.

No order as to cost.

Both the parties should be informed accordingly.

Proceedings closed.

The compliance should be reported within 45 days.

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

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  
CGRF, BHANDUP**

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

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