

(A Govt. of Maharashtra Undertaking)

CIN : U40109MH2005SGC153645

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

Date

Case No. 619

Hearing Dt.27.11.2015

In the matter of New connection
M/s. R.J.M. Company - Applicant

Vs.

M.S.E.D.C.Ltd., Pachrasta Sub Division - 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. Harshad sethe - Consumer Representative
- 2) Mukesh Shah

C - On behalf of Respondent

- 1) Shri. P.B.Shinde, Addl. Executive Engineer, Pachrasta *sub division*

ORDER (Passed on 04.1.2016)

1. Above named consumer was provided supply vide consumer No. 000090270427 in the name of M/s. R.J. M. Company and the connection was permanently disconnected on October 2010 by respondent utility.

2. Thereafter consumer applied under Abhay Yojana Scheme. Thus the dues amounting Rs. 33,670/- and 50% interest (on 21.08.2015) was waived off and the matter was settled. Thereafter on 22.08.2015 Assistant Engineer, Vaishali Nagar section issued letter to consumer about payment of arrears on consumer no 600000119765 and refused to give fresh supply.
3. It is contention of consumer that respondent MSEDCL informed that connection does not stand in the name of R.J.M. Company but application made for new connection premises was in the name of Smt.. Prabharani H. Benat and arrears shown were Rs. 3,87,920/-. It is stated that the above said arrears shown on premises are fictitious.
4. It is contention of consumer that as per law of limitation respondent utility cannot demand arrears for more than two years and as per section 56(2), total arrears shown in the assessment bill due PD arrears is more than the period of two years.
5. It is prayed by consumer that the respondent be directed to give fresh supply. Accordingly the application was made earlier to IGRC bearing case No. 48 dated 30.09.2015. Opportunity of hearing was given to both parties by IGRC Nodal Officer on 20.10.2015. IGRC decided claim of consumer against him and directed to pay the PD arrears of Rs. 3,87,916/-, due on consumer no. 600000119765 and only after payment was are new connection shall be release.
6. Being dissatisfied with this order, consumer filed this complaint against respondent utility stating that the respondent utility cannot claim PD arrears more than 2 years of limitation. The PD arrears claimed are time barred and cannot be recovered from this consumer. Application for new

connection filed by this consumer was wrongly refused. Consumer prayed for giving direction to respondent utility.

7. After filing the said complaint notice was issued to respondent utility on 29.10.2015. Respondent utility appeared and filed reply. It is contention of the utility that the consumer was asking for new connection at Desai Tabela, B.R.Road, Mulund (W) and the connection vide consumer no. 600000119765 was PD on 31.05.2004 with arrears of Rs. 3,87,916/- and another connection was PD on 09.10.2010 with arrears of Rs. 23240/-. The premises was having connection in the name of Smt. Prabharani H. Benat and M/s. R.J.M. Company. Both the connections are since 01.01.1987. As per Regulation new connection demanded on the premises cannot be given unless PD arrears are deposited by consumer on connection which stands in the name of R.J.M. Company bearing no. 000090270427. The arrears were shown as Rs. 33617/- Thereafter in this dispute consumer M/s R.J.M. Company is asking for 8 new connections.
8. According to respondent, utility can demand PD arrears due before 5 years. Unless the arrears are paid, no new connection can be issued. Respondent utility filed copies of documents along with reply which include demand bill of PD arrears found due and recoverable against the connection installed in same premises on verification of record. Respondent utility prayed for dismissal of complaint with cost.
9. After perusing the rival contentions of consumer and respondent utility following points arose for our consideration:
 - 1) Whether new connection as prayed by consumer can be issued.

2) Whether respondent utility can recover old arrears due against old consumer on same premises.

3) Whether complaint is tenable.

Reasons

10. We having perused documents filed by consumer in this dispute. It appears that M/s. R.J.M. company purchased additional premises from old consumer Smt. Prabharani H. Benat under legal documents. On the said premises old connection was in existence bearing consumer No. 600000119765 which stands in the name of Smt. Prabharani H. Benat. As per record Rs. 3,87,916/- was due on said connection since 3/05/2004. After that said premises purchase by the consumer M/s. R.J.M. Company under the legal document.

11. In spite of direction to file copy of original agreement was letter on furnish. The leave and licensee agreement executed between the old consumer and new consumer, the assets liability and encumbrances of revenue liabilities Under clause 3 of agreement the responsibility is accepted by leasee (original consumer Prabharani H. Benat). There is also clause of existent fitting of cable. Under the Electricity Act; alterations/ removal/ repair are permissible only if there is NOC from leaser. The liability of payment of old arrears is clearly established under the agreement. Thereafter party having agreed and accepted the responsibility by executive legal document are bound to pay and before old dues.

12. In this case dispute about payment of arrears on the same premises was pending since long. However present consumer M/s. R.J.M. company settled their old PD arrears due to the help of Abhay Yogana Scheme and settled the dispute. However payment of old PD arrears in the name of Prabharani H. Benat amounting to Rs. 3,87,916/- was not cleared. As M/s.

R.J.M. Company purchased said property under legal documents, he is liable to pay all the dues and taxes on the premises.

13.M/s. R.J.M. Company wanted to take benefit of provision of claiming old PD arrears by new consumer and his liability.

14. For fixing the said liability We have carefully gone through provision of Regulation 10.5 which is 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:

15.According to the said Regulation the guidelines and the procedure are laid down by issuing Commercial Circular of respondent utility for unpaid electricity dues of previous consumer. In view of the said provision unpaid electricity dues can be recovered from the new consumer but the arrears can be claimed for the period of six month earlier from the date of PD disconnection.

16.We found that the respondent utility can recover six month old arrears from the date of PD as per Regulation 10.5 MERC, ECS, OCS Regulation 2005. Therefore the application for new connection can be entertained and allowed by respondent utility as per Regulation 10.5.

17.However old dues can be recovered from old and new consumers by filing Civil suit for recovery of dues before the appropriate authority subject to

law of limitation. Therefore we are allowing this consumer complaint partly and proceed to pass following order.

ORDER

1. Consumer complaint no. 619/2015 is partly allowed.
2. The respondent utility hereby directed to recover six month old arrears form the date of PD of consumer bearing connection number 600000119706
New connection be issued after depositing old arrears which stands in the name of Prabharani H. Benat.
3. The consumer hereby directed to pay six month's arrears calculated form date of order and shall execute Indemnity Bond to pay the old arrears due, subject to decision of Apex Court.

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**

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

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