

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No.537

Hearing Dt. 02/05/2014
31/05/2014

In the matter of New connection

Shri. Ashok Kodag, - Applicant

Vs.

M.S.E.D.C.Ltd., Nerul Division - Respondent

Present on behalf category

A - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup.
- 2) Shri. R.M.Chavan, Member Secretary
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri. Ashok Kodag - Consumer

C - On behalf of Respondent

- 1) Shri. Subhash Rathod Dy. Executive Engineer, Nerul Sub Division

ORDER

Shri. Ashok Kodag, the complainant is running a shop at Gala No – 5, Mahalaxmi Nagari Seva Sanstha Sector-2 Nerul, Navi Mumbai. This premises is in the possession of complainant from year 2004, He claimed that he has paid all the society charges and purchased the gala.

The complainant has requested to the Distribution Licensee, MSEDCL for single phase commercial electric connection vide his A-1 form along with relevant documents dt. 01.10.2013.

The Distribution Licensee's Nerul sub division has denied to release the connection under the reason of not having registered sale deed of the shop.

The complainant has obtained License for shop under shop and Establishment Act- 1948. He also produce the copy of FDA certificate issued by Government of Maharashtra.

The complainant also produce the copy of Chief legal adviser of Licensee sought by Executive Engineer O&M Division MSEDCL, Nerul and Assistant Law officer, Vashi Circle, MSEDCL, Vashi in the subject matter, where it was made clear that he is an occupant and entitle for electricity supply and therefore Distribution Licensee should release the electric supply connection.

On the part of Respondent Shri. Subhash Rathod, the Dy. Executive Engineer of Nerul Subdivision of Distribution Licensee was present; According to him, the complainant failed to provide the document as required for sanctioning the connection for commercial activity. Moreover there is nothing on record to prove his Lawful ownership of the premises. He also referred, the guidelines issued by the Chief Engineer Commercial of his company wherein the field officers are directed to proceed the application for new connections of Electricity observing Regulation 4 of ["MERC Electricity supply code and other conditions of supply] Regulations 2005".

The Respondent emphatically argued that the complainant is not having Lowful ownership of this premises, or any document from the Local body to prove his occupancy.

The Respondent added that in the same society of complainant; there are 17 more applicant which need the single phase new connection. The existing transformer carrying load to its full capacity and could not share the load of new incoming consumers and therefore it need to provide additional transformer.

The Respondent contended that for new transformer the consumer should provide the space so that connection to all seventeen consumers can be release from new proposed transformer. He referred his company's Circular No – CE(Dist)/D-III/Circular/22197 dt. 20.05.2008 and Circular No-CE(Dist) D-III/15754 dt. 06.06.2012 where in guidelines are given to the field officer, how to calculate the load for commercial and residential categories consumers and accordingly land requirement for installation of Distribution transformer.

The Forum do not find any force in Respondent's arguments. Forum feels that the case is pertains to only a complainant who registered his grievance. Hence Respondent should have made it clear whether the existing Transformer can carry the load of one Kilo watt of single phase commercial connection or even for one Kilowatt load need installation of new Transformer.

Section 43 of Indian Electricity Act 2003 Cast a duty to supply power on request. As per this section every Distribution Licensee shall on an application by the owner of occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring of such supply.

It is true there are provisos in section 43 and according to there provisos certain conditions to be comply by the applicant for getting supply of power.

In this case M/s. Mahalaxmi Nagari Seva Sanstha Pvt is the Society and complainant is an occupier of shop No. 5. There is some dispute between complainant and the said society. We feel that we are not concerned with the dispute between society and complainant. if the complainant is an occupier of Shop No. 5 and if it is confirm by the Respondent that complainant is in possession of Shop No. 5 on the date of submission of application, then it is irrelevant for respondent not to supply power for the reason that there is dispute. The minimum required documents which are in possession of complainant are given to Respondent. To our mind, it is obligatory on the part of the Respondent to

give new connection to the complainant. For this view we are supported by 2012(4) ALL MR (JOURNAL) 24 (CALCUTTA HIGH COURT) JAINARAYAN PATEL, C.J., BHASKAR BHATTACHARYA & PINAKI CHANDRA GHOSE, JJ. Abhimanyu Mazumdar Vs. The Superintending Engineer & other Writ Petition No. 423 of 2010 11th February, 2011. Hon'ble Calcutta High Court held and point I : whether unauthorized occupiers, encroachers of any premises and squatters of any premises are legally entitled to file an application under Section 43 of the Electricity Act, 2003 claiming status as 'occupier' and thereby may seek supply of electricity in the premises as constructed on encroaching the land; and whether under the Works of Licensees Rules, 2006, the Distribution Licensees lawfully can provide electricity supply line in due discharge of their duties and what is meaning of word 'occupier' in said Act on reflection of Rule 2006?

While answering point No. 1 Hon'ble Calcutta High Court further observed "There is no provision therein for deciding the question as to whether a person is a lawful occupier in the land or building. If any such dispute arises in a given achievement. The rules do not provide for deciding any dispute between the owner and lawful 'occupier' and on question whether the occupation of such 'occupier' is lawful or not"

Our Hon'ble Bombay High Court in W.P. No. 2602/2010 Narendra Vs MSEDCL held dt. 02/09/2010 " It shall be lawful for the authority to grant permission for such essential supply applied for without insisting on production of no objection certificate from land lord of such tenant."

The complainant also in support of his case referred the decision of Hon'ble Supreme Court in W.P. (CRL) No 103 of 2013 Dr. Meena Choudhari Vs B.S.E.S. Rajdhani Power Ltd. dt. 25/06/2013 wherein it is held in paragraph No. 6&7 of the judgment that

"The occupier of the premises is entitled as of her own right under section 43 to supply of Electricity. It is further held" "In case the owner of the premises for any reason is not willing for supply shall be made in the

name of petitioner who is occupant of the premises and the meter shall also be installed in the name of the petitioner “

Now, what remains in the defense of the respondent is objection raised by the society. We feel to discard all grounds raise by the respondent with a conclusion that complainant occupied possession of Shop No. 5 which is verified also by respondent. we are also of the opinion to discard the objection by the society as it has no any locus standi. Hence order.

ORDER

The utility to release the electricity connection to Shri. Ashok Kodag with immediate effect, after complying all required formalities such as payment of service connection charges, Security Deposit etc.

Utility is also directed to submit compliance report to the Forum within a period of one month from the date of this order.

No order as to cost.

Both the parties should be informed accordingly.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 2nd June 2014.

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.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP

R.M.CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP

