

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

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

Date :

Case No. 280

Hearing Dt. 06/08/2009

In the matter of old arrears and disconnection notice thereof

M/s. Dharmanand Co.Op. Hsg. Soc. - Applicant

Vs.

MSEDCL, Thane Division - Opponent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri S.L. KulKarni, Chairman, CGRF, Bhandup.
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Shri K.D. Utekar, Secretary, Dharmanand Co.Op. Hsg. Soc..

C - On behalf of Respondent

- 1) Shri E.P. Sontakke, Ex. Engr., Thane U Divn., Thane
- 2) Shri M.R. Rathod, Dy. Ex. Engr., Power House S/Divn., Thane.

Preamble

The residents of M/s. Dharmanand Co.Op. Hsg. Soc. are the consumer of MSEDCL utility having 3phase connection for Lift under consumer no. 000012044381. They received bill in the month of May 2009 with exorbitant outstanding arrears of old temporary connection no. 000012044216 amounting Rs. 3,77,470/-. They also received the notice of disconnection from utility vide no. 385 dtd. 16/07/2009, hence consumers approached this Forum directly for interim relief from disconnection, Accordingly hearing was fixed on 30/07/2009 on request of consumer, but as this date was inconvenient for officials of utility on request letter from Dy. Ex. Engr., Power House sub-division, Thane dtd. 29/07/2009 date of hearing was postponed to 06/08/2009.

Consumer say :

On behalf of consumer Shri K.D. Utekar, Secretary of Dharmanand Co.Op. Hsg. Soc. submitted their written say and pleaded their side as under :

In the year 2000 the developer has handed over the ownership of flats to the tenants and we tenant registered the society officially. He stated that there are 72 flats in the building and each having their own separate lighting meter. There is one three phase electric connection under consumer no. 000012044381 in the name of M/s. Sai Construction, this connection was taken on 14/07/1998 by the Developer Shri Ravindra Sadanand Phatak. We were paying regularly the bills of this connection used for lift and water pump. In the month of May 2009 society got the exorbitant bill amounting Rs. 377470/- for the connection no. 000012044381.

On enquiry with the utility office, it was learnt that one old connection used for temporary supply under connection no. 000012044216 in the name of M/s. Sai Construction which was remained unpaid and hence permanently disconnected was having up to date outstanding amount Rs. 361443.51 which is now loaded on existing live

connections in the same name M/s. Sai Construction sanctioned for lift under consumer no. 000012044381.

The Applicant reiterated that when asked to the officials of utility whether there is any provision in Act to recover long back arrears of connection made P.D. in the year 1998 he could not get satisfactory reply. Thereafter consumer received notice of disconnection in the month of July 2009 with the seven days time for payment of this huge amount.

On the threat of disconnection consumer approached this Forum further Applicant stated that why utility have not registered suit against developer in the year 1998-2000 in the Court of Law. For recovery of these arrears he further added that how utility could recover this huge amount from tenants of society that too along with interest and D.P.C. after lapse of 9 to 10 years.

Applicant reiterated that the arrears transferred by utility is wrong & baseless and also requested to recover the same from developer who had used the energy for his own purpose. There are many other connections on going in Thane City.

Applicant also requested Forum to restrain the utility from disconnection of lift and water supply connection as 400 families are residing in the society.

He also requested Forum that the, connection no. 000012044381, in for use lift and water pump which is in the name of M/s. Sai Construction should be transferred in the name of Dharmanand Co.Op. Hsg. Soc.

Utility Say :-

On behalf of utility Shri E.P.Sontakke, Executive Engineer, Thane (U) division and Shri M.R. Rathod, Dy. Executive Engineer, Power House S/Divn., pleaded the case (herein after referred to Opponent).

During the course of hearing the Opponent stated that in the year 1998 developer Shri Ravindra Phatak has taken temporary connection in the name of M/s. Sai Construction under consumer no. 000012044216 used for water pump in the same premises on 14/04/1998, this connection was made P.D. for non payment of arrears amounting Rs.134147.34/- As on today with the interest and D.P.C. the total amount comes out to be Rs. 367499.34.

The Opponent further stated that there is being one connection live in the same premises and in the same name used for lift. These old arrears are now transferred on this connection no. 000012044381. The Opponent reiterated that the occupants of the premises are being successor of the said developer. These arrears are recoverable from these occupiers using connection in the same name M/s. Sai Construction.

The Opponent claimed that being old arrears and not paid in time by developer M/s. Dharmanand Co.Op. Hsg. Soc. the amount alongwith interest and DPC are payable by the occupant of the premises.

Observations :

The matter was heard on 06/08/09 when both the parties were present. Shri E.P. Sontakke, Ex. Engr., Thane U Divn. & Shri M.R. Rathod, Dy. Ex. Engr., Power House S/divn. were representing on the behalf of utility referred as to Opponent. Shri K.D. Utekar, Secretary, Dharmanand Co.Op. Hsg. Soc. was present on behalf of consumer herein after referred as to Applicant. From the document on record and deliberation during the course of hearing it was revealed that the utility failed to recover from the Developer the energy consumption bills towards the energy consumed for the construction of the building at any time since 1998 and now although, he is very much present in Thane city, well-off having busy in other constructions, the utility is not pursuing him for recovery of the bills. On the contrary the utility is insisting on the occupants of the flats who had taken from this developer, unaware of the old energy bills.

It was also revealed that the Applicant who were around 400 occupants of the premises and have purchased the tenements from the developers are mostly from lower middle class but are regular payers of monthly utilized energy bills. Now, utility, Opponent is loading on them developers energy bills of construction period, that too with interest & DPC in lacs which Forum feels is a greater injustice on the occupants. Moreover, the Electric Supply Code & Other Conditions of Supply in MERC Regulation 2005 do not permit the recovery of arrears along with interest & DPC in totality of past over 10 years.

As per the MERC (Electric Supply Code & Other Conditions of Supply) Regulation 2005 containing under 10.5 reads as under :

Regulation 10.5 :- “Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee/Occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representative/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 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.

As mentioned in 10.5 above the powers of utility for recovery of old P.D. arrears of the premises transfer in the name of successor is restricted to the six months period preceding the date of P.D. of old connection of unpaid charges for electricity supplied. Forum further feels that as per request of the Applicant the utility should take expeditious steps strictly in accordance with Rules & Regulations to change the name from the erstwhile developers to present occupants. This is of course to be done only after recovery of arrears as directed above.

The Forum also observed that the Respondent utility staff & officials failed to recover the huge amount of arrears in time and on the contrary the new connections are released to the occupant, hence utility Opponent should fix the responsibility against defaulting staff and officials and take suitable action.

ORDER

- 1) As per MERC (Electric Supply Code & Other Conditions of Supply) Regulation 2005. Regulation 10.5 should be effected without charging DPC and interest.
- 2) After recovery of arrears as said above the request of appellant for change of name should be done as per Rules and Regulations.

Compliance should be reported to the Forum within a month from date of receipt of this order

Both the parties to 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 18th August,2009.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal 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 go in appeal before the Hon. High Court within 60 days from receipt of the order.

**S.L. KULKARNI
CHAIRMAN
CGRF, BHANDUP**

**R.M. CHAVAN
MEMBER SECRETARY
AND I/C CHAIRMAN
CGRF, BHANDUP**