

Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. of K/N/0116/915 2013-14

Date of Grievance : 31/01/2014

Date of order : 25/02/2014

Period taken : 27 days.

IN THE MATTER OF GRIEVANCE NO. K/N/0116/915 OF 2013-14 IN RESPECT OF SHAKILANWAR HUSAIN THIM, S.NO.14/1 30/IE, NR. POLICE CHOWKI, WAVEGHAR ROAD, KHADAVALI (E), VILLAGE ,TAL. KALYAN, DIST. THANE, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING NEW CONNECTION.

Shakil Anwar Husain Thim,
S.No.14/1,30/1E,Nr. Police Chowki,
Waveghar Road, Khadavali (E) village,
Tal. Kalyan.

.... (Hereafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited though its
Dy.Exe.Engineer,Kalyan Circle-II,

.... (Hereinafter referred as Licencee)

Appearance : For Consumer – In person.

For Licensee - Shri Rajpurohit-Deputy Executive Engineer,
Shri Shelar -Sub-Engineer

(Per Shri Sadashiv S.Deshmukh, Chairperson)

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003.(36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003).

2] Consumer approached this Forum with grievance on 31/1/2014 towards new connection. All the papers along with grievance application were sent to Nodal

Officer vide letter of this Forum bearing No. EE/CGRF/Kalyan/046/ dated 3/2/2014. On appearance reply filed by Licencee, copy of it is provided to the consumer and matter is taken up for hearing.

3] This grievance is filed by consumer on 31/1/2014, contending that though he has sought supply for his non agricultural plot, it is not being given and it is kept lingering from 12/9/2013. It is also contended that consumer has approached IGRC on 2/12/2013 and till this date, there is no any order of IGRC.

4] Considering the submissions made by both the sides and documents placed on record, the following factual aspects are disclosed:

a] Consumer is the resident of Khadavali under Group Gram Panchyat, Behere. He is having non-agricultural land bearing survey No.14/1, 30/1-E in revenue village limits of Khadavali. Consumer has approached Licencee, seeking supply by filing application on 12/9/2013 in Form 'A'-1 **Agricultural**. The said application is considered by the Officers of Licencee and replied on 21/9/2013 and intimated that consumer has to submit residential 'A' form, because said land is non agricultural. Secondly, it was communicated that NOC of other persons named in 7/12 extract be provided.

b] It is seen from the record of Licencee that on 12/9/2013, itself consumer in writing given a letter, contending that his plots are not in dispute. There is no any construction on it and it is non agricultural land, permitted by the Collector and in the said area he intends to develop it, by putting garden and enhancing greenery. Further, he has provided no objection from other persons named in the 7/12 extract . Even consumer has enclosed no objection certificate from the sarpanch for said Gram Panchyat for such connection. Consumer has filed even affidavit, agreeing to resolve any dispute if arises at his own cost and will abide by the rules and regulations applicable to Licencee.

5] Accordingly, consumer has sought supply, but Officers of Licencee stuck up due to the communications received from Group Gram Panchayat, Higher Authorities of the Licencee, letter of Tahasildar, in the light of decision given in Writ Petition No.22/2010 by the Hon'ble High Court dated 24/2/2011 amongst Sanjay Parekar and others v/s. Group Gram Panchayat Behere.

6] During the course of argument, the Officers of Licencee submitted that in the said area of Khadavali, illegal constructions are going on and thereby Hon'ble

High Court, directed to remove the illegal construction and to ensure that area being in a green zone, no any construction be permitted unless permissible under the Law. In this light, Officers of Licencee perceived, that in case, if any such connection is given to the consumer, there is possibility which cannot be ruled out that on it's basis consumer is likely to put up which will be illegal and hence, this is one of the aspect required to be considered. In this light Officers submitted, compliance is required to be given, to the higher Authorities in case such connection is given.

7] We find, public interest litigation is peculiar in itself, action is directed by the Hon'ble High Court and it is towards removal of illegal construction and no construction is done in green zone unless allowed as per legal provisions. However, in the present matter, as on this date there is no construction, it is open space. There is no whisper that consumer intends to do any construction therein . Thirdly, it is the claim of consumer that he wish to develop said plot as garden enhancing the greenery. Admittedly, it being a non agricultural plot, it cannot be said to be an agricultural land, but taking agricultural connection, no any activity can be done there. But being non agricultural land, consumer can seek supply which he may use to for the specific purpose of putting garden. Apprehension of Ld. Officer of Licencee, though, cannot be said to be without any foundation, but it cannot be presumed that present consumer is intending to bring up any illegal construction. In this regard, Licencee can obtain an undertaking to that effect inserting Clause in the agreement which will enable Licencee to take suitable /appropriate action of cancelling the supply/disconnecting supply, in case of breach i.e. using the said connection for construction purpose/or in the constructed area. This will take care of the apprehension of Ld. Officer of Licencee. On the other hand, if his apprehension is to be considered then it will be a negative approach denying him that particular relief though consumer is having ownership to NA plot, intends to use his premises legally for gardening and seeking supply. It will be totally against the rules. Ld. Officer of Licencee is fair enough to

say that in non agricultural plot, if supply is sought, it cannot be refused however, it is subject to no objection of other owners shown in 7/12 extract.

We find, this can be taken care of by adding aforesaid details in the undertaking.

8] No doubt, on behalf of Licencee, consumer is asked vide letter dated 21/2/2014 to make an appropriate application, seeking supply in residential category for garden in NA plot. We find accordingly, he is required to comply it, as per Supply Code, in the prescribed formate. After receiving such application, Officers of Licencee to deal appropriately as per Regulation and connection be given In this light, grievance application is to be allowed.

Hence the order.

ORDER

- 1] Grievance application is hereby allowed.
- 2] Consumer is entitled to have supply in his non agricultural plot for the purpose of garden for enhancing greenery therein, which cannot be used for any construction, in the said plot.
- 3] Consumer to apply appropriately to the Licencee for residential supply towards gardening in NA plot in prescribed proforma and thereafter Licencee to process it and to give connection within the time frame allowed, as per Regulations.
- 4] Licencee is at liberty to take an undertaking from the consumer as discussed above, stating that consumer will not use the said supply for any other purpose, which consumer is to give.

Dated:25/02/2014

I agree

I agree

(Mrs.S.A.Jamdar)
Member
CGRF,Kalyan

(Chandrashekhar U.Patil)
Member Secretary
CGRF,Kalyan

(Sadaashive S.Deshmukh)
Chairperson
CGRF, Kalyan

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- c) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.