



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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Date of Grievance : 18/06/2012
Date of Order : 30/07/2012
Period taken : 43 days

IN THE MATTER OF GRIEVANCE NO. K/N/100/735 OF 2012-2013 OF
SHRI BARNAD KISH RAMSE, MHARAL REGISTERED WITH CONSUMER
GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT
NEW CONNECTION .

Shri Barnad Kish Ramse
Room No. 102,
Mahajan Apartment, First Floor,
Near MIDC Road, Mharal Gaon,
Tal : Kalyan, Dist : Thane – 421 103

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Assistant Engineer
Construction Sub-Division Kalyan

(Here-in-after
referred
as licensee)

- 1) This Consumer Grievance Redressal Forum has been established under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers. The regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).
- 2) The consumer registered grievance with the Forum on 18/06/2012 for New Connection.
The details are as follows :
Name of the consumer :- Shri Barnad Kish Ramse
Address: - As given in the title
Consumer No : -
Reason of dispute : New Connection
- 3) The set of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0487 dated 18/06/2012 to Nodal Officer of licensee. The licensee filed reply vide letter No. AE/Constn.Sub.Dn/Tech/992, dated 07/07/2012 through Assistant Engineer, Construction Sub-Division, Kalyan.
- 4) (A) Consumer (Herein after applicant is referred as consumer for the sake of convenience) is represented by Shri Nitin S. Ghole & on behalf of Licensee Nodal Officer Shri Giradkar, Shri Kasal Asstt. Engr., Shri Tekale, Asstt. Engr. are present. We heard both sides at times.

(B) Consumer sought new electric connection in his Room No. 102 and had approached Licensee on 13/04/2012. His demand was not complied within time of two months nor the department directed him to IGRC, hence he approached this Forum vide application dt. 18/06/2012. Accordingly hearing of the matter was taken up.

(C) On behalf of Licensee reply is submitted and pointed out that in respect of this premises in which consumer is seeking connection was of the ownership of Mira B. Mahajan and said premise sold by Shri Mahajan and present consumer is the subsequent purchasers of Room No. 102.

(D) Pertaining to this room it is pointed out on behalf of Licensee that against said original owner Mahajan proceedings under Sec. 135 of Electricity Act is taken out in the light of visit of officers of Licensee dt. 14/02/2010 and it was noticed that in nine flats electric connection was unauthorizedly given. As said Mahajan has developed property, built up 12 flats and supply was illegally given to nine flats towards it liability is worked out to the extent of Rs. 45,810/- for 24 months, FIR is registered and pending in Session Court. It is noticed that while working out said liability total load in nine rooms utilized was of 5.830 KW whereas for Room No. 102 load utilized is shown as 0.380 KW. Accordingly it is contended that said dues are outstanding are required to be paid. Even proceeding under Sec. 126 in pursuance of visit by officers of Licensee dt. 18/10/2010 assessment is done and liability is worked out to the extent of Rs. 69,360/- wherein the total load which is disclosed was of 0.965 KW for Room No. 102 it was of 315 Watts. Accordingly for the said total load liability is worked out to the extent of Rs. 69,360/- for 6 months.

(E) Accordingly it is contended that there is a charge on the said property of these outstanding dues and even proceedings under Sec. 135 is pending, Licensee objected for new connection as proceedings is pending in Session Court under Section 135. Matter is also under Sec. 126 and hence no new connection can be given.

In support of their contention on behalf of Licensee relevant bills under Sec. 126 report of the Flying Squad under Sec. 135 and calculation sheet of the dues are placed on record. In this light it is reiterated that there is a bar of jurisdiction to this Forum.

In this matter it is seen original consumer Mrs. Mahajan is not seeking any relief. Present consumer is the purchaser of the flat in the building developed by Mrs. Mahajan. Consumer is not seeking transfer of meter in his name but seeking new connection. Accordingly there was no meter existing in the said room. However, after the said flat was built up, original developer is dealt by action under Sec. 126 and under Sec. 135. Now it is clear that neither action under Sec. 126 nor action under Sec. 135 can be dealt by this Forum. Further question is whether present consumer can seek new connection and whether there is any bar as the dues of previous owner worked out under Sec. 126 and under Sec. 135 are outstanding ?

In this regard at length on behalf of consumer it is submitted present purchaser is not related to any such acts of previous owner not liable to pay anything. It is further added that other occupants of flats are there, new meters are already given to them, they are not restrained in the fashion in which present consumer is restrained and hence refusing to give new

connection will be illegal. In this regard the concerned Assistant Engineer submitted during his tenure he has taken care to the aspect and if there are any dues in the said property by the previous owner payable to the Licensee, then no new connection can be given unless dues are clear.

At this juncture it is important to note that Sec. 43 (i) explanation of Electricity Act, MERC Regulation i.e. Supply Code 10.5 and the Conditions of Supply laid down by the Licensee in accordance with the aforesaid Regulatory Commission's Conditions of Supply i.e. Para No. 22.4, Para No. 20.8 prescribed form of application for seeking new connection i.e. A-1, more particularly instruction No.7 at the end. Those are extracted and reproduced as under :

ELECTRICITY ACT 2003

**(I) Section 43 (1) of Electricity Act –
(This pertains to the Duty to supply on request)**

(Save as otherwise provided in this Act, every distribution) licensee, shall , on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply ;

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-station, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may

extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(Explanation – For the purposes of this sub-section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.)

**(II) MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
(ELECTRICITY SUPPLY CODE AND OTHER CONDITIONS OF
SUPPLY) REGULATIONS, 2005**

Clause 10.5 – (This pertains to Change of Name)

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 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.

**(III) MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
CONDITIONS OF SUPPLY BASED ON MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (ELECTRICITY SUPPLY CODE AND OTHER CONDITIONS OF SUPPLY) REGULATIONS, 2005
Clause 2.2.4 – (This pertains to Verification of Documents)**

Whenever an Applicant / Consumer desires power supply / restoration of power supply for such premises, where previously the MSEDCL has already given the power supply, which has however been disconnected under Section 56 of the Act for the time being due to default of payment on account of the previous occupier of the said premises, the MSEDCL may permit the Applicant / Consumer to obtain power supply / restoration of power supply for such premises provided the Applicant / Consumer completes all such formalities as may be required as per Section 56 (2) of the Act including any other charges payable in accordance with the agreement of power supply, is paid by the Applicant / Consumer. Where the disconnection of supply was made as per the provisions of respective Act (i.e. The Indian Electricity Act 1910, Electricity (Supply) Act 1948) restoration of such disconnection shall be governed by the appropriate Act & the Rules and the Regulations framed there under.

**Clause 20.8 –
(This pertains to Change of Name / Ownership of Installation)**

Any charge of electricity or any sum other than the charge of electricity due to the MSEDCL which remains unpaid by a deceased consumer or the

previous owner / occupier of any premises, as the 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 MSEDCL as due from such legal representatives or successors – in – law or new owner / occupier of the premises, as the case may be; except in the case of transfer of connection to a legal heir, the liabilities transferred shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.

ANNEXURE – F : AGREEMENT FORM

As per the provisions of the Condition No. 17.1

Clause 8.1 – This pertains to Arrears of electricity charges or any sum other than a charge for electricity due to be charges on premises :

The consumer hereby agrees that any charge for electricity or any sum other than a charge for electricity due to licensee, which remains unpaid shall be charge on its / his / her premises and also on the premises transmitted to Legal Representative, Successor in law, new owner or occupier of the premises and shall be recoverable by the Distribution Licensee.

Clause 9.1 – This pertains to Undertaking :

The consumer hereby agrees and undertake as under :

- (a) to abide by the provision of the Act and these Regulations ;
- (b) to pay for the supply of electricity based on the prevailing tariff rates ;

- (c) to pay for all other proper charges as become due in accordance with these Regulation and the approved schedule of charges of the Distribution Licensee ;
- (d) that he shall deposit such security as the Distribution Licensee may be entitled to require from him under the Act and the Regulations ;

(Instruction for filling the form A-1 for Residential connection)

No. 7) Connection will be released only after payment of arrears (if any) on the said premises.

Even in the affidavit submitted of consumer there is a specific clause i.e. "I state that there was no previous electric meter installed or arrears balance of Electricity Board at the same premises where I am applying for new service connection".

Accordingly there is a provision that if there was any supply of electricity in the said premises / property and if any new connection is sought, then previous liability is to be discharged. In the light of above it is clear that unless liability existing in the said premises i.e. plot that developed is discharged, no new connection can be given.

No doubt representative of consumer has his own contention that being a law abiding person seeking relief not being considered favourably though for other nine persons new connection given. However, we find it is a independent aspect to be considered by officers of Licensee, but when consumer has approached this Forum we are to ensure things are as per Act, Regulation and prescribed rules. The aforesaid Rules, Regulation, provisions of Act are clear and hence liability worked out under Sec. 126,

under Sec. 135 of Electricity Act are clear. No doubt in the bill issued referred to Sec. 126 and it is mentioned as calculation for 12 months but in fact total details are placed on record showing calculation is done only for six months. Accordingly that aspect is clear, once figure of liability is there, question comes up whether this consumer who has approached the concerned and this Forum with a bonafide intention can be directed to bear the total load of liability of original owner ? In this regard it is clear that other flat owners succeed in getting new connection without incurring payment of any such previous liability but it will not allow present consumer to have same illegal relief.

At this stage we noted the policy decision taken by the officers of Licensee communicated under the signature of Chief Engineer (Commercial) dt. 26/06/2009, is helpful. As per the said letter decision taken is under :

“The incoming consumer should pay the arrears of old consumer on prorota basis of the land area of old consumer acquired by him.

Also Committee gave a policy decision that all such similar cases where the old consumer is having arrears and the land where the connection was taken, is sold out to number of persons, in such case, before release of connection, arrears on prorota basis (of land area) shall be recovered from the new occupiers.”

This communication is to all Chief Engineers of Licensee is clear in itself. In other words principal of natural justice is reflected in it, recovering liability proportionately to the extent of area purchased. Though this

circular is on record, Assistant Engineer Shri Tekale submitted that this cannot be read for the present matter as aspect involved is under Sec. 126 and Sec. 135 of the Electricity Act 2003. We find contention of Shri Tekale cannot be upheld. As others are benefited but same cannot be enjoyed by present consumer which is a legal liability. Already legal position is noted about none can avoid liability. The concerned officers of Licensee will follow appropriate course, permissible under Law in the light of aforesaid provisions under the Electricity Act Supply Code and Licensee's own Conditions of Supply read with application form and affidavit filed. The contention of Shri Tekale is not satisfactory as he failed to place on record what action he has taken for others who got connection though previous liability of owner was there and they have undertaken to pay the liability if existed.

In this matter proportionate liability is to be considered but we are not having the data pertaining to the total area of said plot wherein development is done. It is clear that 12 flats are built up and consumer is the owner of flat No. 102. We are having a data about use of electricity and load the liability raised under Sec. 135 and under Sec. 126 towards this particular room. For this room during those actions electricity utilized is worked out, out of the total load noted by the officers. Accordingly on this basis we are able to have a proportionate liability and said proportionate liability comes as under :

Grievance No.	Room No.	Liability under Section 126				Liability under Section 135			
		Total Rs.	Total Load	Load for Room	Liability for Room	Total Rs.	Total Load	Load for Room	Liability for Room
735	102	69360/-	0.965 KW	315 W.	22641/-	45810/-	5.830 KW	0.380 W	747/-

In this calculation it is noted that liability under Sec. 135 is calculated for 24 months hence basically liability of present consumer will be for six months as per above legal provision cited and hence said liability under Sec. 135 is calculated for six months, considering the particular load at the relevant time noted and to that proportionate liability is worked out and it comes to Rs. 747=00.

Similarly towards the liability under Sec. 126 it is noted that in the consumer's room load utilized is of 315 watts out of the total load utilized of 0.965 KW and total load itself was of six months, the proportionate liability of consumer's room is worked out, which comes to Rs. 22,641/-

Accordingly we find this is a proportionate liability which if complied alongwith the liability under Sec. 135 to the extent of Rs. 747/- & under Section 126 Rs. 22,641/-, consumer will be entitled to seek new connection. At the cost of repetition it can be stated that in application filed by consumer, affidavit is presented by consumer asserting about bearing the liability which is due of previous owner. Under such circumstances we find this proportionate quantum is required to be deposited and we find no

force in the contention of officers of Licensee that there is bar of jurisdiction to this Forum. We find we are not dealing with the action under Sec. 126, under Sec. 135 but we are considering the right available to the consumer to seek new connection. We are not able to even accept the contention of consumer's representative that aforesaid liability is heavy one and it is uncalled. We find this proportionate liability is to be legally discharged which entitles consumer to have new connection. In this light grievance of consumer is to be redressed allowing the grievance partly. Hence we pass the order :

O-R-D-E-R

- 1) The grievance application of consumer is hereby partly allowed. Consumer is entitle to new connection only on his depositing the amount of Rs. 22,641/- proportionate liability under Section 126 of Electricity Act and Rs. 747/- proportionate liability under Section 135 of Electricity Act. Said amount be accepted by the officers of Licensee and to release the connection within the prescribed time as per the Supply Code. As the officer of Licensee is not clear about the recovery of liabilities under Section 126 and 135 of Electricity Act from previous owner, if in future such recovery is there, proportionately it be refunded to the consumer.
- 2) Compliance be reported within 45 days from the date of receipt of this order.

- 3) The Consumer if not satisfied, can file representation against this decision with the Hon. Electricity 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”.

- 4) Consumer, as per section 142 of the Electricity Act, 003, 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”

Date : 30/07/2012

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan