



Consumer Grievance Redressal Forum, Kalyan Zone  
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301  
Ph– 2210707, Fax – 2210707, E-mail : [cgrfkalyan@mahadiscom.in](mailto:cgrfkalyan@mahadiscom.in)

No. K/E/755/910 of 2013-14

Date of Grievance: 23/01/2014

Date of Order : 25/03/2014

Period Taken : 60 days

**IN THE MATTER OF GRIEVANCE NO. K/E/755/910 OF 2013-14 IN RESPECT OF M/S. ROYAL ENERGY LTD., VILLAGE VANIVALI, TAL. KHALAPUR, DISTRICT-RAIGAD, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING CHANGE OF NAME FROM M/S. ROYAL ENERGY LTD. TO ROYAL CARBON BLACK PVT. LTD.**

M/s. Royal Energy Ltd.,  
Village Vanivali, Tal.Khalapur,  
District-Raigad  
(Consumer No..031189023260)

.... (Hereafter referred as Consumer

Versus

Maharashtra State Electricity Distribution  
Company Limited though its  
Nodal Officer, Pen Circle, Pen

.... (Hereinafter referred as Licensee)

Appearance : For Consumer – Shri Vishesh Agrawal  
For Licensee - Shri B.B.Khandare – Nodal Officer / Executive Engineer,  
Shri R.A.M. Sayyed- Asst.Engineer –  
Shri S.R.Chavan-

(Per Shri Sadashiv S.Deshmukh, Chairperson)

1] 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] This grievance is presented on 23/1/2014 by consumer, aggrieved by the fact that in spite of it's communication to the Licencee, on 17/9/2012 meter is not changed in the name of transferee i.e. M/s. Royal Carbon Black Pvt. Ltd. Secondly, it is contended that provisional assessment order passed, dated 10/4/2013 is, also illegal.

Papers along with grievance application were sent to the Licencee vide this Forum Letter No. EE/CRGF/Kalyan/024 dated 23/1/2014.

On behalf of Licencee , appearance is given , reply is filed from time to time and during this period, we perceived that consumer is having claim that premises is transferred to Royal Carbon Black Pvt. Ltd., wherein electricity supply is there and that even said company has applied for supply or change in the name, hence said company was also asked to attend before us vide letter of this Forum No. KG/CGRF/Kalyan/076 dated 18/2/2014. Accordingly, said company appeared through consumer's representative of present consumer and contended that it has already applied for change in the name and awaiting the same. Further it is claimed that as meter is not transferred, it could not start operation. It is added that present consumer is still maintaining necessary lightening and other fire equipments of plant area.

3] In this light, we heard both sides and from time to time and even we heard representative of Royal Carbon Black Pvt. Ltd. On the basis of material placed on record, arguments advanced, following factual aspects are disclosed:-

a] Consumer Royal Energy, is having supply to industrial unit from 14/12/2010, bearing consumer No. 031189023260.

b] Consumer executed leave and Licencee agreement of land with M/s. Royal Carbon Black Pvt. Ltd. on 1/6/2012. Already machinery therein was sold out to the said Royal Carbon Black Pvt. Ltd.

c] Consumer applied to the Licencee for changing name of the said consumer by entering the name of M/s. Royal Carbon Black Pvt. Ltd, vide application dated 17/9/2012. Said letter is replied by Licencee on 16/4/2013. However, prior to it,

consumer has approached this Forum about this aspect of change in name on 6/4/2013 and Secretary of this Forum replied to the consumer on 10/4/2013 and said application was referred to the Nodal Officer of Pen Circle.

d] There is another development in the matter that Licencee passed provisional assessment order u/s. 126 of Electricity Act on 10/4/2013 and it is further claimed that final assessment order is passed on 26/4/2013, seeking recovery, covering the period from 24/1/2012 to February 2013, quantifying amount to the tune of Rs.10,57,922.38. Towards said provisional assessment order, reply given by the consumer on 24/9/2013. Thereafter matter is brought to this Forum by consumer vide Grievance application dated 22/1/2014, which is registered in this Forum on 23/1/2014.

e] During hearing, it is made clear by the Officers of Licencee that provisional assessment order is followed by final assessment order dated 26/4/2013. It is the contention of the consumer that said final assessment order is not received. On behalf of Licencee, it is contended that said final assessment order was not accepted and accordingly it is returned back.

f] Consumer in this matter sought relief, contending that though it applied, for change in the name but it is not effected, provisional assessment order is disputed, Licencee replied and denied all allegations. Consumer sought relief for reversing all out standing charges from the date of application for change in name as supply to that extent not used and as there is no change in the name effected and pending.

4] Licencee's reply dated 6/2/2014, presented before this Forum on 10/2/2014. It is contended by the Licencee that as per letter of consumer dated 25/8/2012, Royal Carbon Black Pvt. Ltd. is using the supply from its power connection from the date of acquisition i.e. from 1/6/2012. It is contended that though M/s.Royal Carbon Black Pvt. Ltd. applied for **new HT supply**, it has not complied the requirements and application of consumer dated 17/9/2012 was just a letter seeking change in name. Accordingly, it is contended that Executive Engineer of Panvel R. Divn. Inspected installation of consumer on 25/9/2012 and noted unauthorized extension of power supply to M/s. Royal Carbon Black Pvt. Ltd. by the consumer and accordingly, provisional assessment order issued on 10/4/2013. It is the contention of Licencee that

during the pendency of this matter on 10/3/2013 for change in name, the application is received on 11/3/2013 in prescribed 'A' form. M/s. Royal Carbon Black Pvt. Ltd. filed application in 'A' form for change in name of consumer and entering it's name enclosing 'U' form and processing fee. It is further contended that M/s. Royal Carbon Black Pvt. Ltd., submitted sale deed amongst New Era Fabrics dated 30/12/2029, covering various survey numbers. It is contended that in the said sale deed, there is no mention of survey no. 94 or it's sub parts. Accordingly said application is also incomplete. It is contended that provisional assessment order is issued followed by final assessment order and demand raised thereby is not yet deposited. On all these grounds, it is contended that unless payment is done, there cannot be any change in the name and there is no question of withdrawing action of provisional assessment order.

As stated above, now, it is pointed out that even final assessment order is issued dated 26/4/2013 and an attempt was done to serve it by RPAD which is also returned as unserved.

5] It is pointed out on behalf of consumer that application in 'A' form submitted by Royal Carbon Black Pvt. Ltd, referred above is not pertaining to it's present supply i.e. present consumer No.031189023260, but, it is altogether different one and it is for new connection and for different piece of land. It is pointed out on behalf of Licencee that RCBPL i.e. Royal Carbon Black Pvt. Ltd. in it's 'A' form added survey no.94/1 and hence it is not clear whether it is for change in name of present consumer's connection or for new connection. It is also pointed out that this application is not proceeded by consumer Royal Carbon Black Pvt. Ltd., which is clarified in point No.10 in it's reply dated 6/2/2014.

On behalf of consumer, it is submitted that though in 'A-1' form survey No.94/1 is stated, it is not necessarily of present consumer, as said area may be a big area owned by different owners, but it has nothing to do with present consumer number. On behalf of consumer an attempt is done to submit that provisional order, itself speaks that premises being of consumer wherein consumer's meter is there

bearing its name. But, as there is change in the ownership, it is in possession of Royal Carbon Black Pvt. Ltd. and as it succeeded to the present consumer, there is no question of any unauthorized use of electricity and it will not fall u/s. 126 of Electricity Act and hence provisional assessment order cannot be upheld. It is also contended that there is no any change of purpose of use as specified in Section 126 of Electricity Act, said provision will not be applicable. On this ground, it is further contended that MERC Regulation 6.8 about bar of jurisdiction will not apply. It is submitted on behalf of consumer that piece of land on which consumer's supply is standing, divided into two parts, one part is now with M/s. Royal Carbon Black Pvt. Ltd. However, supply is one for both these parts and while calculating consumption the supply of both pieces is considered.

It is contended that order of provisional assessment order though issued, no any opportunity of hearing was given thereafter.

It is the contention of the consumer's representative that final assessment order is shown during hearing, is, not served on consumer and is passed without any opportunity of hearing. it is against the principal of natural justice.

6] It is contended that reply of Licencee is not correct about new connection applied by Royal Carbon Black Pvt. Ltd. and includes area of present consumer.

7] Consumer's representative pointed out that as per letter dated 16/4/2013, Licencee sought various documents which are not required as per MERC Regulation. As against this, Nodal Officer submitted that for want of those details supply not installed or no any such stand is further taken that those are required to be complied and now they are not objecting this aspect.

8] Nodal Officer, submitted that consumer is at liberty to transfer his premises on leave and Licence or by other mode to which Licencee has no objection, but consumer cannot allow others, to use the connection given, unless there is change in name. Even such partial transfer of supply is not permissible. In case, if such piece of land is further given to multiple members and supply is also continued to such

multiple members, without change in name then it is illegal. It cannot be done. Secondly, it is submitted that change in name is not possible in case of partial transfer of P. supply i.e. when partial area is transferred and supply was used for total area. It is contended that though Royal Carbon Black Pvt. Ltd. has taken partial premises of consumer and if utilizing, supply of consumer it is not permissible and it is unauthorized.

9] We find, in this matter, there is no dispute about the fact that present consumer is having supply from 14/12/2010 and still it is standing in it's name. **Other company has not filed any independent application for change in name for this particular supply.** In addition, it is stated by M/s. Royal Carbon Black Pvt. Ltd. that present consumer is maintaining fire equipments , lights etc. and it is the responsibility of the present consumer to transfer the meter. Before this Forum same consumer's representative is representing both parties i.e. for consumer and M/s. Royal Carbon Black Pvt. Ltd.. Said M/s. Royal Carbon Black Pvt. Ltd. has pointed out responsibility of present consumer about supply under the present consumer number. No doubt, Royal Carbon Black Pvt. Ltd. claims that as supply is not given to it, it's operations are yet not commenced. However, from the documents placed on record, it is pointed out from Licencee's side that application of Royal Carbon Black Pvt. Ltd. for supply is not for present premises, wherein supply of consumer is there, but it has shown survey number 94/1 and on that aspect already said Royal Carbon Black Pvt. Ltd. asked to clarify. It will not be out of place to mention here that even Royal Carbon Black Pvt. Ltd. approached this Forum, independently about the grievance of supply not given vide grievance No. 939 registered on 11/3/2014.

In the light of aforesaid analysis, one thing is clear that present consumer has transferred piece of land and other piece is not transferred, but it is dealt otherwise. However, supply is common for the said land. An attempt is done by consumer to state that as premises is transferred and plant machinery therein sold to Royal Carbon Black Pvt. Ltd. Royal Carbon Black Pvt. Ltd. is user and it will not be unauthorized

use of supply, as consumer has already requested the Licencee to change the name. It is a fact that change in the name is not effected. It is a fact that Royal Carbon Black Pvt. Ltd. has not applied for change in name independently in the place of consumer.

In this background, there is further development and there was inspection of premises and Officers of Licencee noted unauthorized use of electricity. It led to issue provisional assessment order dated 10/4/2013. This provisional assessment order is responded by consumer on 29/4/2013, and challenged it. Now, consumer has

approached this Forum on 23/1/2014 challenging the provisional assessment order as it is not redressed by the Licencee. It is also now pointed out that during the hearing, by Engineer of Licencee that already final assessment order is issued on 26/4/2013 which was tried to be served through its employee, but it was not accepted, even it was sent by RPAD, it also returned unserved. On behalf of consumer service of final assessment order is disputed. In respect of provisional assessment order and final assessment order, it is contended that there was no any service, there was no any opportunity of hearing and that, conclusion therein of unauthorized use of electricity is, not correct. It was contended on behalf of Licencee that Royal Carbon Black Pvt. Ltd. is allowed by consumer to use the energy from the supply given to the consumer, which is unauthorized and accordingly matter proceed u/s. 126 of Electricity Act, issuing provisional assessment order and final assessment order.

10] In view of above, one thing is clear that provision of section 126 of Electricity Act are invoked by the Officer i.e. Assessing Officer and he is discharging the duties under the said section and his orders are amenable for challenge before Appellate Authority as per Section 127. Orders of such Authorities, are barred to be taken, before Civil Court u/s. 145. Even **MERC Regulation 6.8** bars jurisdiction of this Forum. However, this Forum is to come to conclusion that prima facie it is an aspect of unauthorized use of electricity u/s. 126 of Electricity Act. In this regard, it is necessary to bear in mind the import of section 145 which bars entertainment of suit or passing of any order, pertaining to order passed u/s.126 **by any authority.**

Accordingly, if this Forum is treated as ‘**AUTHORITY**’ then also there is difficulty in entering into the merit of it. No doubt, even there is saving clause for invoking the powers of District Consumer Forum under the Consumer Protection Act as per Section 173, however as decided by Hon’ble Supreme Court in Civil Appeal No. 5466 of 2012 (Arising out of SLP(c) no.35906 of 2011 UP Power Corporation Ltd. and others v/s. Anis Ahmed dated 1/7/2013, if, matter dealt by the Officer u/s. 126 of Electricity Act, it is not amenable for exercising of jurisdiction by consumer Forum. Accordingly,

this is one more aspect which is required to be considered. We find the import of Regulation under which this Forum is functioning or dealing the grievance, it is necessary to consider whether disputed aspect attracts provisions in section 126. We find for considering this matter two important points are to be noted, first pertains to lack of jurisdiction to pass orders u/s. 126 of Electricity Act the jurisdiction and second question comes up whether there is any proper exercise of jurisdiction while passing orders. First attracts the situation wherein orders are passed without jurisdiction, second aspect covers orders passed having jurisdiction, but orders not in consonance with Law and otherwise. We find the prima facie aspect as per Regulation, which we are required to consider is, the applicability u/s. 126 of Electricity Act, whether orders passed u/s. 126 of Electricity Act without any jurisdiction. In this matter, it is pointed out that orders are passed by concerned competent authority. Those orders are not challenged on the ground of lack of authority or jurisdiction and we find that when some conclusion is arrived at by said authority, exercising the powers u/s. 126 of Electricity Act, we are not able to enter into and to substitute any reason concluding that order is not legal and improper when there is jurisdiction to said authority, order passed may be consistent with Law or it may not be legal or it may be in contravention of some legal provision. But there is independent Appellate Authority u/s. 127 of Electricity Act and we are not able to use the said appellate jurisdiction. Appellate Authority is only competent to consider whether conclusion



arrived at by said assessing authority is legal and proper. Secondly, if there are some aspects, such as non service of notice, no opportunity of hearing etc. which pertains to procedure, Those will be grounds for appeal to be taken before Appellate Authority u/s. 126 of Electricity Act. Even legal flaw, if any, is, also to be taken before the said authority. We find that this Forum is unable to consider present grievance which is brought before us, on the ground that action of Licencee invoking the powers of u/s. 126 of Electricity is incorrect. At this stage, reference is to be made to the order passed by Hon'ble Ombudsman in Mumbai, in Representation No.97/2013 dated 30/12/2013 amongst G.M.Modular v/s. Executive Engineer MSEDCL wherein same view is

expressed. No doubt, consumer approached this Forum, highlighted the provisional assessment order but final assessment order is issued and it is contended that it was tried to be served on given address, but not accepted. RPAD service is also not claimed. As noted above, this can be the valid ground to be taken before Appellate Authority.

11] In the light of above reasons, when the matter is u/s. 126 of Electricity Act, competent authority issued final assessment order, then no any relief can be granted by this Forum. In respect of change in the name, it is clear that Royal Carbon Black Pvt. Ltd. has not applied for change in the name, pertaining to this particular consumer number and mere communication of present consumer for change in name, is not sufficient, it is to be followed by Royal Carbon Black Pvt. Ltd. Hence this grievance is to be rejected.

Hence the order.

### **ORDER**

1] The grievance of consumer in respect of first prayer is beyond the jurisdiction of this Forum and hence no relief can be granted.

2] In respect of prayer of consumer for change in name, consumer is at liberty to have the aspect channelized ensuring that there is application from Royal Carbon Black Pvt. Ltd. recording no objection etc. from consumer.

3] Accordingly, this grievance is to be rejected.

4] Copy of this order be sent to Royal Carbon Black Pvt. Ltd., New Era Mills Compound, Mogal Lane, Matunga, (W), Mumbai-400 016.

Dated:25/03/2014

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. 55

*“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.

