



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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IN THE MATTER OF GRIEVANCE NO. K/DOS/001/482 OF 2011-2012
OF MRS. BETTY MOSES FERNANDES, VASAI REGISTERED WITH
CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN
ABOUT DISCONNECTION OF SUPPLY OF SHRI ABDUL SALAM ANSARI.

Mrs. Betty Moses Fernandes
A/5, New Indraprastha Co.Op.Hsg.Soc.Ltd.
D. G. Nagar, Bldg. No. 01
Diwanman, Vasai Road West
Dist. : Thane – 401 202

(Here-in-after
referred
as complainant)

Versus

1) Maharashtra State Electricity Distribution
Company Limited through its
Dy. Executive Engineer
Vasai Road (West) Sub-Dn.
Vasai, Dist. Thane.

(Here-in-after
referred
as licensee)

- 2) Shri Abdul Salam Ansari
New Indraprasth Co. Op. Hsg. Soc. Ltd.
Shop No. 01, Dindayal Nagar,
Vasai Road (West),
Tal : Vasai, Dist : Thane
- } Consumer
Added vide order of
Hon. Ombudsman
dt. 30/03/2011 in
Representation No. 39 of 2011

- 1) 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. This 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 complainant is a L.T. consumer of the licensee. The complainant is billed as per residential tariff. Complainant registered grievance with the Forum on 08/10/2010 for disconnection of power supply of Shri Abdul Salam Ansari. Consumer No. 001690282590. The details are as follows: -
Name of the complainant :- Mrs. Betty Moses Fernandes
Address: - As given in the title
Consumer No : - 001690282671
Reason of dispute: Disconnection of power supply of
Shri Abdul Salam Ansari.
- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/620 dated 08/10/2010 to Nodal Officer of

licensee. The licensee filed reply vide letter No. DYEE/VSI.Rd(W)/2860, dated 19/11/2010.

- 4) The forum heard both the parties on 07/12/2010 @ 14.15 Hrs. in the cabin of Nodal Officer Vasai Circle, Vasai. Shri Fernandes representative of the consumer & Shri Purohit, Nodal Officer, Shri S. M. Bangar, Shri U. M. Naik, and Mrs. Kiran Nagaonkar, Dy. Ex. Engr. representatives of the licensee, attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record.
- 5) Shri Abdul Salam Ansari possesses Shop No. 01, building No. 01, New Indraprastha Co.Op.Hsg.Soc.Ltd., below the flat of the complainant consumer bearing meter No. C – 6771 consumer No. 001690282590 / 3. According to the complainant earlier there was cycle shop in the said shop No. 01 however lateron Abdul Salam Ansari started illegally fabrication work in the said shop without the permission of the society and against the rules of Pollution Board and Nagarparishad. It is contended that metal fabrication work create air and noise pollution in residential buildings therefore society apprised the licensee to disconnect electric supply of said Ansari. However, instead disconnecting supply officials of the licensee shifted his meter from the A wing of the Society to the Shop and provided a separate overhead supply from Municipal street light pole without the N.O.C. from builder and the society. Due to fabrication work not only the complainant but the members of the society and the adjoining flat holders are put to trouble because of air and noise pollution, consequently society complained to the Municipality and Pollution Department. Chief Officer Navghar Manipur Nagarparishad vide letters dt. 05/01/06, 15/01/06, 29/04/06 informed the licensee to disconnect electricity but the licensee

did not respond. Complainant therefore moved the I.G.R. Cell, however by order dt. 12/03/07 I.G.R. Cell pointed out since the consumer pays the electricity bill regularly, his supply cannot be disconnected and so far air and noise pollution, report from the concerned department will be called. Dissatisfied with this, complainant lodged the grievance on 08/10/2010 with prayer to direct the licensee to disconnect the electricity supply of said Ansari since fabrication work in shop create air and noise pollution and that running of such shop in the society's premises is dangerous to the safety of life and property in general.

- 6) Licensee filed reply dt. 19/11/10 contending that Abdul Salam Ansari having Shop and Establishment License, doing business of repairing and fabrication. This shop is below the flat of complainant in the society building. Due to fabrication work electric load to the other electric connection holders in the building since adversely affected, on the application on depositing necessary charges his meter was shifted to his shop from the society wing and the electric supply was given to his shop from nearby street pole. It is contended since consumer pays the bill regularly, his supply cannot be disconnected.
- 7) On hearing the complainant and the Distribution Licensee at length and perusing the records this Forum by order dated 08/02/2011 had allowed the grievance application directing the licensee to disconnect electric supply of Abdul Salam Ansari in Shop No. 01. Feeling aggrieved against this said Abdul Salam Ansari preferred Representation bearing No. 39 of 2011 before the Hon. Electricity Ombudsman. By order dated 30/03/2011 Hon. Ombudsman remanded the matter to the Forum for consideration and disposal in accordance with the provisions of the Electricity Act 2003 and

the Regulations made there under directing to give opportunity to Shri Abdul Salam Ansari to present his case.

- 8) On remand on receipt of the record and proceedings as per above said order of Hon. Ombudsman this Forum by order dated 18/04/2011 issued notice to Shri Abdul Salam Ansari to present his case and re-heard at length the complainant and the Dist. Licensee including Ansari, in order to dispose of the grievance in accordance with the provisions of the Electricity Act and the Regulation made there under.
- 9) After remand of the case complainant again filed detail say on 13/06/2011, Dist. Licensee on 17/06/2011 and Abdul Salam Ansari on 16/06/2011 alongwith voluminous documents.
- 10) On hearing the learned representative for complainant, Dist. Licensee and Shri Abdul Ansari and perusing the documents a crucial point arises for consideration whether the grievance lodged by the complainant is maintainable and our finding is in the negative for the following reasons :
- 11) According to the learned representative for the complainant Shop No. 01 where fabrication is done create air and noise pollution in residential buildings. Consequently Society complained to Municipality and Pollution Department for which Suit No. 107 of 2010 has been filed in the Court so also the Criminal case No. 2377 of 2006 is pending. Complainant approached the authority of the MSEDCL but none paid heed consequently electricity given to Shri Abdul Ansari has not been disconnected thereby nuisance is continued. On the other hand learned representative for Abdul Ansari submitted that he purchased Shop No. 01 in the Society in the year 1998 and since then he has electricity connection. He is paying bills regularly, he has no grievance about the electricity connection given to him.

He has not authorised any person to file any grievance or complaint on his behalf. He urged that on this background complaint filed by Mrs. Betty Fernandes is not maintainable. Learned representative for the licensee contended that Shri Abdul Salam Ansari owner in possession Shop No. 01 is having electricity connection No. 0016990282671. Since consumer pays the electricity bill regularly, question of disconnection of electricity does not arise. It is further contended that since complainant was neither a consumer nor consumer's representative in respect of electricity connection given to Abdul Ansari at Shop No. 01 therefore complainant is not the consumer and hence complaint filed is not maintainable.

- 12) On hearing the submissions as above crucial point crops on whether complainant is the consumer in terms of Regulation No. 6.2 and 6.4 of Maharashtra Electricity Regulatory Grievance Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006.

6.2 states "A consumer with a Grievance may intimate the IGR Cell of such Grievance in the form and manner and within the time frame as stipulated by the Distribution Licensee in its rules and procedures for Redressal of Grievances.

Provided that where such Grievance cannot be made in writing, the IGR Cell shall render all reasonable assistance to the person making the Grievance orally to reduce the same in writing.....

6.4 states " Unless a shorter period is provided in the Act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his Grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the consumer

may submit the Grievance to the Forum. The Distribution Licensee shall, within the said period of two (2) months, send a written reply to the consumer stating the action it has taken or proposes to take for redressing the Grievance.”

- 13) In Clause 15 of Section 2 of Electricity Act 2003 consumer is defined as under : **“Consumer” means any person who is supplied with electricity for his own use** by a licensee or the Government or by any other persons engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.
- 14) On perusing the documents placed on record and the provisions referred to supra, it is apparent that the complainant who intends to disconnect electric supply of Shri Abdul Ansari and for which lodged the grievance before the Forum was neither a consumer nor consumer’s representative in respect of electricity connection given to Shri Ansari at Shop No. 01 and as such complainant has no locus to file the grievance in terms of Regulation 6.2 and 6.4 of the Regulation 2006. Hon. Ombudsman clearly pointed out in the order of representation No. 39 of 2011 dated 30/03/2011 that admitting such a grievance is an error. In para 06 of the said order Hon. Ombudsman clearly pointed out as above. In this view of the matter grievance is not maintainable and hence it will have to be disposed of and hence the order :

O-R-D-E-R

- 1) The grievance application is disposed of as not maintainable.
- 2) The Consumer 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”.

Date : 05/07/2011

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

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan