



Consumer Grievance Redressal Forum, Kalyan Zone
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Grievance No. **K/DOS/50/1265 of 2016-17**

Date of Grievance : 08/08/2016
Date of order : 07/12/2016
Total days : 122

IN THE MATTER OF GRIEVANCE NO. K/DOS/50/1265 OF 2016-2017 OF SHRI RAKESH SHOBHNATH DUBEY, T/OG HOUSE NO.528, VILLAGE SHELWALI, NAVAPADA, PALGHAR (EAST), TAL. & DISTRICT-PALGHAR, REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT CORRECTION OF BILL, RESTORATION OF POWER SUPPLY, SOP COMPENSATION AND COMPENSATION TOWRDS ILLEGAL DISCONNECTION AND HARASSMENT.

Shri Rakesh Shobhnath Dubey,
R/at. House No.528, Village Shelwali,
Navapada, Palghar (East),
Tal.& District- Palghar.
(Consumer No.003870008316)

..... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited
through its Nodal Officer,
MSEDCL, Palghar Circle

..... (Hereinafter referred as Licensee)

Appearance : - For Licensee : – Shri Shard R. Rinke – Nodal Officer and
Shri Rohit S.Sankhe-DyEE.
For Consumer- Shri Pandey- Consumer's Representative &
Shri Shobnath Dubey- In person.

[Coram- Shri A.M.Garde-Chirperson, Shri L.N.Bade-Member Secretary and
Mrs.S.A.Jamdar- Member (CPO)].

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). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity

Regulatory Commission. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014'.

2] The grievance in brief as stated in the grievance sheet of the application is that, the applicant applied on 4/7/16 for reconnection for his consumer No. 003870008316. There was no positive response, then he approached IGRC which in turn replied that reconnection cannot be done without prior permission of the Tahasildar / Executive Magistrate, Palghar. The applicant, therefore, prayed for restoration of electricity, SOP compensation and additional compensation @ Rs.2000/- per month for loss of livelihood.

3] Licensee filed reply and confirmed that they did not allow the reconnection. It is contended that the Hon'ble Tahasildar / Executive Magistrate has ordered that there was encroachment on Adivasis' land by non- adivasis. The competent authority declared the encroachment as illegal and unauthorized and ordered for eviction and demolition. Accordingly, disconnection was ordered and implemented. The merits of the order of Tahasildar / Executive Magistrate and action of eviction and demolition does not fall within the purview of this Forum.

4] Then there were rejoinders and replies further.

5] Now the grievance in short is that there is illegal disconnection of electricity of consumer No.003870008316 and inspite of the application made to the SDO on 4/7/16 it was illegally turned down. It is alleged that his fundamental right viz right to live and essential supply were affected. There was SOP Regulations violations also. He has not mentioned in the grievance sheet though, it is clear from the record that to the knowledge of the applicant that the Licensee's Officers had disconnected the electricity to applicant's structure on 26/5/16 as per the orders of the Ld. Executive Magistrate /

Tahasildar communicated to them vide letters No. जमीन बाबत २ का.वि.२२५८ दिनांक २३.५.२०१६. We have gone through the next of the notice.

6] Admittedly the structure under consideration fell in the land mentioned in the above letter. It is further evident that the disconnection was accordingly done on 26/5/16 by the Licensee's Officer. Applicant also confirms the said fact in his letter dated 4/7/16 sent to the Executive Engineer MSEDCL, S/Dn Palghar. The Dy. Executive Engineer gave a reply dated 19/7/16 that the power supply was disconnected as per letter above referred and action taken on 26/5/16. It is further promptly mentioned in the letter that reconnection cannot be done without proper permission from Tahasildar / Executive Magistrate Palghar.

7] Above being the state of affairs Mr. Pandey CR made several submission to which we have given careful consideration.

8] He submitted that applicant's name or consumer No. 00387008316 or house No. 528 is not mentioned in the order / letter above referred. The CR however appears to have lost sight of the fact that the above referred order /letter is issued not by the MSEDCL, but by the Tahasildar / Executive Magistrate. The said order /letter is not challenged in this proceeding much less is this Forum the Competent to entertain a challenge to such an order / letter of Tahasildar / Executive Magistrate. It may be mentioned here at the cost of repetition that admittedly the structure No. 528 fell within the very land No. 58/9 of village Shelwali, Tal. Palghar from where the structures were ordered to be demolished and for which action MSEDCL were directed to disconnect the electricity.

9] Mr. Pandey further submitted that in the letter the disconnection was ordered to be made on 26/5/16 but disconnection was made on 28/5/16. We have carefully gone through the record and find that the applicant very well knew that disconnection was made on 26/5/16. He had clearly mentioned about it in the earliest possible occasions when he gave a letter dtd 4/7/16 to the Addl. Executive Engineer for reconnection. The submission made that the

disconnection was made on 28/5/16 is clearly an after thought to invent some ground to buttress the claim.

10] It is further the submission that the disconnection was made “without serving notice and report as status of meter reading panchnama and photo of premises regards alleged demolition of premises of consumer against mandates of Act 2003 . Further Section 171 (2) and 163(2) are quoted. Giving maximum latitude to the grammar, as we find from the contention that the applicant want to say that the disconnection was made without giving notice or following procedure laid down in Section 163 (2) and 171 (2). But here again the applicant has selectively quoted the provision of the Act.

11] I have gone through the entire provisions of Section 163 (1)(a)(b) of and Sect. 163 (2) (a) (b) . Section 163(1)(c) clearly empowers the Licensee to enter upon any premises inter-alia to remove the connection. Sec. 163(2)(a) are some additional provisions. Sub-Sec (1) and (2) appears to be totally different. CR has neither quoted nor referred section 163 (1)(a)(b) & (c) not clarified as to how under Section 163(1)(c) the Licensee cannot perform the duty of disconnection without 24 hours notice.

12] Perhaps the CR is swayed away by the words “Executive Magistrate” in Sub-Section (2) . But Cr lost sight of the fact that in the expression “Licensee or any person...” “or” in disjunctive as such the expression Executive Magistrate pertains to “any person”. Further the CR has not quoted Section 163(1) (a)(c) which empowers disconnection much less has clarified as to why it should not apply. Sub Sec (2) also speaks about the same purpose as sub-section (1) so there appears some anomaly Sec. 163(1) gives power to remove connection without requiring any notice whereas for the same action 163(2) requires 24 hours notice . It is doubtful whether the provision of Sec 163 is relevant and applicable to the present situation at all. Such being the situation can disconnection by the Licensee under the direction of the Tahasildar / Executive Magistrate be said to be illegal or against SOP Regulations.

13] So-far-as Section 171 (2) is concerned. It is simply a procedural provision regarding service of notice which becomes redundant in view of our above observations.

14] It is to be further noted that the CR took a stand before the I GRC that his structure was not demolished during the demotion. Thereupon the Licensee sent a letter dated 24/8/16 to the Tahasildar / Executive Magistrate, Palghar who in turn by letter dated 29/8/16 clearly informed that there were illegal encroachment made by non-adivasis on the said adivasai land and that the same have been demolished without making any exception much less that of applicant about whom in clear terms clarification was sought. It is also seen from the record that the applicant had moved the Collector with the grievance but nothing is produced to show that his structure was spared. The CR tried to interpret the text of the letter saying that only illegal structures from the said land were demolished and his was not illegal. At the outset the letter of the Tahasildar nowhere indicates that only some of the structures from the land were illegal and hence demolished and any of them were spared . Further, CR lost right of the fact that the land is admittedly adivasi land as such no transaction of any kind in respect thereto is allowed without the prior permission of the Competent Authority. All transactions if at all made in respect of such lands are abinitio void. Some documents that too unregistered or payment of some house tax is of absolutely no significance. Admittedly, the applicant has no permission from the Competent Authority under the Adivasi's Lands Act. It is difficult to understand how the CR says that his structure / house was not illegal and was not intended for demolition, in the letter of Tahasildar / Executive Magistrate.

15] In the above view of the entire matter, the Judgments cited by the CR are not of much avail to the applicant in this case, though there is no quarrel about the legal proposition sought to be put forth based thereon.

16] The CR quoted from the Judgment of the Madras High Court in WP No. 17608/2013 , Para No. 87 & 88. We have gone through the text of the said paragraphs which speak about the right of weakers sections to get the

electricity connection to their huts by way of Justice Social Economic and Political . As we have already observed there is no quarrel about these propositions , but they are to be viewed and considered vis-à-vis the rights of the adivasis being protected under the very constitution of India by passing necessary enactment and being promptly implemented by the Tahaildar/ Executive Magistrate. Our observation just made also applies so-far-as other judgments cited are concerned namely of the Calcutta High Court in WP No.423/2012, same High Court in W.P. No.22674/2010. In fact all the contentions of the applicants with respect to the fundamental rights and human rights etc. find answer in our above stated observation.

17] The CR further contended that his structure / house was infact not demolished. He seeks to claim so inspite of the reply of the Tahasildar/ Executive Magistrate dtd 29/8/16 to the effect that all the structures standing on the said piece of land mentioned in the letter have been demolished. It is noted here that the said letter dtd 29/8/16 does not make any exception much less of the structure / house of the applicant. It is to be noted here further that the letter dated 29/8/16 was in response to the letter calling information about the structure / house of the applicant. In the light of these facts and documents, it is very difficult to consider the Panchyat Tax Receipt produced by the applicant. Neither this Forum nor the Licensee can subscribe to such a stand as taken by the applicant, which is apparently contemptuous of the orders and action of Tahasildar / Executive Magistrate undertaken under the provisions of the Adivasi's Lands Act and clearly recorded vide letter dtd 29/8/16. It is further glaring to note that the letter dtd 29/8/16 was given by the Tahasildar / Executive Magistrate in spite of the applicant making a complaint to the Collector in that regard about which a copy can be seen in the record produced by the applicant himself. At the most the applicant can take such a contention in a proceeding in which the action of the Tahasildar / Executive Magistrate is itself challenged before the Appropriate Court / Competent Authority.

18] Above being the state of affairs what has been done by the Officers of the Licensee is to follow the orders of the Tahasildar / Executive Magistrate

and when questioned as to how the grievance fell within the jurisdiction of this Forum the applicant was unable to satisfactorily explain.

19] This matter could not be decided within time as the Hon'ble Chairperson took charge on 20/09/2016 of this Forum and the matter was reheard.

20] In conclusion, therefore, there is no illegal disconnection proved much less SOP violations on the part to the MSEDCL's Officers, We therefore, pass the following order.

ORDER

The grievance application of the applicants stands dismissed.

Dated: 07/12/2016.

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

(L.N.Bade)
Member Secretary
CGRF, Kalyan

(A.M.Garde)
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
- c) 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"
- d) 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.

