

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

Date of Grievance : 30/09/2013
Date of Order : 06/12/2013
Period Taken : 67 days

IN THE MATTER OF GRIEVANCE NO. K/N/0109/869 OF 2013-14 OF SHRI SUNIL MATALAL UPADHYAY OF NALASOPARA [EAST], DIST-THANE REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT FAILURE TO GIVE CONNECTION

Shri Sunil Matalal Upadhyay
Shop No.03 / Khushi Apartment,
At Survey No.44, Village More,
Near Thakur Vidyamandir,
Nalasopara East, Dist-Thane

(Here-in-after
referred
as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Dy. Exe.Engineer, Nalasopara [E], Dist-Thane

(Here-in-after
referred
as Licensee)

Appearance :- For Consumer - Shri Ramchandra Pandey, Consumer's Representative
For Licensee - Shri A.C. Pathak, Dy. Executive Engineer
Shri Suhas Lakhan, Jr. Engineer

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

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 is seeking fresh connection of electric supply from the Licensee. Consumer registered grievance with the Forum on 30/9/2013 as supply was not given to him in spite of his demand.
3. The papers containing above grievance were sent by Forum vide letter No. EE/CGRF/Kalyan/0427 dated 30/9/2013 to Nodal Officer of Licensee. The Licensee filed its reply on 21/10/2013 and 12/11/2013
4. We heard both sides time and again till 3/12/2013. Consumer's Representative made submissions and even placed on record the additional evidence on 16/11/2013. On behalf of Licensee, Dy. Exe.Engineer, Shri A.C. Pathak along with Asst. Engineer-Shri Suhas Lakhan made submissions. On the basis of this material, following factual aspects are disclosed:-

a) Consumer has approached the Licensee seeking 51 connections for residential premises in newly built up building by filing application on 24/8/2012 in the Consumer Facilitation Centre (CFC). On the very day, letter was addressed by the said Centre to the Consumer acknowledging letter and asking him to produce documents marked in it with the concerned Officer. The papers of Consumer were sent to the concerned Officer requesting for processing the application and dealing it as per SOP and guidelines of MERC.

b) Thereafter, there was no any active progress, hence the C.R. addressed letter to the Jr. Engineer on 6/3/2013 and endorsed copies to the Superintending Engineer, Vasai Circle, Executive Engineer, Virar Division and Dy. Exe.Engineer, Sub-Division-Nallasopara(E). Jr. Engineer, as contended by the C.R. refused to accept his letter. These letters are received in other offices on the very day. It is contended that out of those letters addressed, responded by the Executive Engineer, Virar Division, on 16/3/2013 writing to the Dy. Exe.Engineer, Sub-Division-Nallasopara (E), directing the disposal of the Consumer's application as

Grievance No. K/N/0109/869 of 2013-14 per rules. Further, the Chief Engineer, Vasai acted, as per his letter dated 14/3/2013 addressed to the Dy. Exe.Engineer, O&M S/Dn., Nallasopara asking the concerned to provide the details. Thereafter the Exe.Engineer, Virar Division addressed letter to the Dy. Exe.Engineer, O&M S/Dn., Nallasopara for dealing matter as per the powers delegated. At that time estimates were returned. Consumer had addressed letter to Dy. Exe.Engineer on 19/9/2013 seeking explanation why his request not being considered. Then he filed this grievance before the Forum on 30/9/2013. Further it is seen that on 18/10/2013, the Jr. Engineer addressed the letter to the Consumer seeking details of Property Tax Receipt, No Objection Certificate (NOC) from Municipal Corporation, i.e. Vasai-Virar Municipal Corporation (VVMC), NOC from the said VVMC and CIDCO. Dy. Exe.Engineer had addressed letter on 4/10/2013 to Jr. Engineer for securing from the Consumer, Tax Receipt, NOC from VVMC and CIDCO and as per the said letter above referred letter dated 18/10/2013 was addressed. Accordingly, it is seen that the developments are there even after approaching this Forum on 30/9/2013. On the very day of receiving the grievance, the Officers of Licensee were made aware of this grievance by writing letter to the Nodal Officer. Matter was scheduled on 14/10/2013 for reply and hearing. On that day, there was no any reply placed on record on behalf of Licensee but time was sought. Accordingly on the adjourned date, i.e. on 22/10/2013, reply is given.

- c) On behalf of Consumer on 22/10/2013, rejoinder is submitted. he also enclosed therewith papers in addition which he has already filed such as:
- I. letter of Commissioner of Municipal Corporation, Vasai-Virar
 - II. Letter of Ch. Engineer, Vasai dated 12/4/2013
 - III. Order of MERC in Case No.19/2009

5. The grievance brought before us from the Consumer side, is limited to the extent that in spite of application filed on 24/8/2012 there was no any compliance as required within time. As against it, on behalf of Licensee it is submitted that Consumer was required to provide some documents which were not provided and ultimately in the light of the letter dated 10/4/2013 issued by the Commissioner of VVMC communicating that no electric connections be given to unauthorized constructions and letter issued by Chief Engineer, Vasai dated 12/4/2013, requirements were to be fulfilled while seeking new connections, such as obtaining Occupation Certificate, seeking Commencement Certificate of Construction from local authority and other conformation such as Permission from Electric Inspector for the Electric Installations, plumbing, etc. from the concerned authorities. It is highlighted by the Officers of Licensee that these directions of the Chief Engineer, Vasai were required to be followed in words and spirit. Accordingly, the Consumer was asked to comply it but he failed to comply. Accordingly it is contended that even after filing of this grievance before this Forum by writing letters, as stated above, details are sought from the Consumer but he has not filed. At the cost of repetition, it is to be said that even in the rejoinder dated 12/11/2013 by the Licensee, documents are demanded such as House Tax receipt, NOC from local authority, Occupation Certificate (O.C.) from local authority. Accordingly compliances, of which three of these are from Municipal Corporation and in one of the aspects, from CIDCO, are sought.
6. Consumer in his rejoinder challenged all these aspects and claimed that no such documents, can be pressed as connections are given by Licensee in respect of illegal buildings to others though claim of Consumer is pending and hence claim of this Consumer cannot be declined. .

Ld. C.R. had pointed out that in spite of direction to higher officers, connection is not given.

7. Ld. C.R. contended that there is no any necessity of any documents sought, as per the letter dated 18/10/2013 and there was no any communication as such prior to that letter; though application for connection was submitted on 28/8/2012. It is contended that in spite of the directions from higher authority from time to time compliance is not done by subordinates and even the delay in giving connection for want of documents not stated. C.R. now claimed that as per the Order of MERC i.e. Case No.19/2009 dated 5/3/2010 there is no necessity of complying the documents as claimed. Secondly he contended that though his application is of 28/8/2012, subsequently, transformer is installed near the Consumer's premises. It is submitted by the Consumer that from the existing transformer proposal is submitted with estimates. In other words, availability for such connection from Transformer is admitted. But Consumer's claim not pursued by the Officers of Licensee and connection not given. He submitted when there is no any necessity of producing the documents claimed as per the order of MERC, the objection now raised is not correct.

C.R. submitted, though the Officers of Licensee are relying on the letter of Municipal Commissioner dated 10/4/2013, but after the said date, number of connections are given. Precisely he stated that totally 41,874 connections are issued during the period after 16/4/2013 up to 31/7/2013. On the basis of this material, he tried to pose a question whether these connections given, are, as per the letter of the said Commissioner? Same is the argument advanced towards letter of Chief Engineer dated 10/4/2013. The Officers of Licensee submitted that 41,000 and odd connections referred above are the connections given as per 'old paid pending list'. Quantum stated by the Consumer is also disputed. C.R. clarified that the figure quoted by him is from reply to his R.T.I. application and it is of recent quotations given by Licensee and not from old pending list. Officer of the Licensee submitted that position is otherwise. He submitted that as per the letter of commissioner to Chief Engineer, the connections are being

dealt in the light of those directions and compliances as per those letters are sought from Consumers. The Officers of Licensee submitted that order of MERC relied by C.R. is not pertaining to 'builders' but it is for individual residence.

8. The C.R. relied on the order passed by *Hon'ble MERC in Case No.91 of 2009 on 5/3/2010 - Shri Major General S. C. N. Jatar Retd.*, and relying on it the Consumer contended that no any insistence can be there for the documents now sought by the Licensee, i.e. O.C. or NOC or House Tax Receipt. With the help of the Ld. C.R. we have gone through the last portion from page no. 5 of the said Order wherein Commissioner expressed some view which reads as under:-

'.....While this should address the concerns of the Petitioner, on the other hand, the Commission is of the view that demanding that occupants of premises seeking electricity connection should submit occupation / completion certificates for proof of legal residence, would be impractical and unreasonable for the simple reason that tenants would not have these documents. The term "Occupier" in the Supply Code Regulations has been defined to mean the person in occupation of the premises where energy is used or is proposed to be used. Also, persons move into the premises much before occupation / completion certificates are received. It takes time for occupation / completion certificates to be received but at the same time electricity connection cannot be denied. However, documents of ownership, e.g. valid PoA, succession certificate, 7/12 extract, property register entry, to evidence ownership of the premises should be asked for from the owner without making it a condition precedent for giving supply to the occupant.'

We find all these above observations are revolving around the 'occupier' who is not the owner and in that case he cannot be expected to bring on record immediately the proof of ownership from others. However, herein we are

Grievance No. K/N/0109/869 of 2013-14 dealing with the case of Builder-Developer who is seeking in bulk 51 connections to the flats built-up and for this purpose the Officers of Licensee are seeking the documents such as construction/ commencement certificate, (C.C.) or Occupation Certificate (O.C.) and No Objection Certificate (NOC) from the Municipal Corporation and CIDCO wherever applicable. It will not be out of place to mention that Corporation is having its own Status under the Statute, i.e. Maharashtra Municipal Corporation Act and the Commissioner of the Corporation is empowered to deal with the aspects of planning of the city, construction permissions, issuing Occupation Certificates, removal of encroachments, demolition of illegal structures, etc. In other words, development of city, construction work in a planner manner is to be ensured and if such statutory authority seeks co-operation from the Officers of Licensee who is also a responsible service provider under the Electricity Act, question comes up whether the Officers of Licensee can ignore it and give connections without referring to the factual aspect whether connection is to be given to the building which is constructed or to be constructed without any valid permission or which is not yet allowed to be occupied by issuing Occupation Certificate on verification of status. Accordingly this is a mute question which requires to be considered. No doubt this particular aspect is highlighted by the Municipal Commissioner in the letter referred above wherein he has quoted the unfortunate incident of building collapse at Mumbra in Thane District, taking away the lives of many persons and responsibility of the concerned. Accordingly concern is expressed for such illegal buildings, illegal occupants and illegal structure. This is the aspect which is just required to be considered considering the spirit of the Electricity Act, MERC Regulations, Supply Code, etc. Admittedly, no any Commencement Certificate (C.C.) or Occupation Certificate (O.C.) is provided or produced by the Consumer with the Officers of Licensee.

9. During hearing, C.R. was pointedly asked whether Consumer is having any sanctioned plan. He clearly stated that building is built up for which there is no any plan, no plan was submitted for sanction, accordingly there is no any Construction Commencement Certificate issued or there is no any Occupation Certificate issued by the Corporation. He was even asked whether Consumer has submitted any proposal to the Corporation for regularization of construction to which he replied that no such proposal is given.
10. C.R., relying on one of the sanction orders of other Consumer, bearing no.492 dated 6/2/2013 of Exe.Engineer, Virar Division contended that as per the condition no.22 in it the present Consumer is also ready to provide House Tax Receipt at a later stage and only on such production the connection should be released. On behalf of Licensee it is submitted that said sanction order is prior to 10.4.2013 and after 10.4.2013, no any such permission is being given by Corporation for any illegal construction and even the Licensee is not giving its supply.
11. Ld. C.R. tried to quote examples of previous period wherein such supply is released and connections are given disregarding the legal compliances such as NOC, OC, CC, etc. At the end, C.R. submits that the Applicant is a prospective Consumer and he is seeking supply, ready to pay the legitimate charges or fees and he should not be kept without any supply.
12. C.R. submitted that the Consumer builder himself is an occupier of the premises. Question comes up in which capacity he is occupying. C.R. submits that the Consumer is a Developer and there is a Development Agreement. C.R. submitted that already the Consumer has approached VVMC for taxing building that is in process and such application is presented long back on 5/12/2012. Accordingly one thing is clear, till this date, said building is not made taxable. Consumer, if he is residing there and said to be seeking supply for himself, then it is not possible to accept it as he is seeking 51 connections.

13. Consumer's Representative, though at a subsequent stage, produced some documents including Development Agreement, Application to VVMC for taxing building and extracts of Electricity Act and Supply Code. Question comes up whether Consumer has complied the requirements. It is a fact that along with the Grievance Application the Consumer has enclosed the acknowledgement received from CFC, which speaks about the list of 11 documents therein and C.R. admitted that marked nine documents therein were not attached. CFC directed Consumer to submit those documents, i.e. Serial Nos. 2 to 10, about which the Consumer tried to pose a question, why these are necessary. We find the requirement of Building Plan, NOC from local authority, required to ensure that by allowing Consumer to have such supply in bulk, is, not creating any situation which affects planning, burden on infrastructure, civic amenities and the others' fundamental rights. Section 43 of Electricity Act clearly speaks that connection can be sought only on satisfying the requirement which Licensee is seeking. Explanation therein for the said section, i.e. 43(1) clearly speaks about 'other compliance'. In 'other compliance', we are required to consider the intention of the Licensee to seek document of sanctioned plan, NOC or Occupation Certificate, etc. Admittedly, none of these documents are available with the Consumer, he is coming with bold contention, construction is illegal but as connections given to others, having such illegal connections and it is an act of discrimination. We find so far the matter brought before us, is, of a illegal construction.

In this regard, we have the benefit of the judgment of Hon'ble Supreme Court, *Isha Ekta Society v/s Municipal Corporation (2013) (5) Mah.L.J. page no. 30 (known as Campa Cola case)* which is made known to the Consumers' Representative and he is heard on it. Their Lordships referred to previous judgments of Hon'ble Supreme Court and expressed views. First

paragraph contains the total aspect but vital portion of it is reproduced as under for ready reference:-

1. *In last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the cities, big or small, and those entrusted with the task of ensuring implementation of the master plan, etc., have miserably failed to perform their duties. It is highly regrettable that this is so despite the fact that this Court has, keeping in view the imperatives of preserving the ecology and environment of the area and protecting the rights of the citizens, repeatedly cautioned the concerned authorities against arbitrary regularization of illegal constructions by way of compounding and otherwise. In Friends Colony Development Committee v. State of Orissa (2004) 8 SCC 733, this Court examined the correctness of an order passed by the Orissa High Court negating the appellant's right to be heard in a petition filed by the builder who had raised the building in violation of the sanctioned plan. While upholding the appellant's plea, the two-Judge Bench observed:*

".....Builders violate with impunity the sanctioned building plans and indulge in deviations much to the prejudice of the planned development of the city and at the peril of the occupants of the premises constructed or of the inhabitants of the city at large. Serious threat is posed to ecology and environment and, at the same time, the infrastructure consisting of water supply, sewerage and traffic movement facilities suffers unbearable burden and is often thrown out of gear. Unwary purchasers in search of roof over their heads and purchasing flats/apartments from builders, find themselves having fallen prey and become victims to the designs of unscrupulous builders. The builder conveniently walks away having pocketed the money leaving behind the unfortunate occupants to face the

music in the event of unauthorized constructions being detected or exposed and threatened with demolition. Though the local authorities have the staff consisting of engineers and inspectors whose duty is to keep a watch on building activities and to promptly stop the illegal constructions or deviations coming up, they often fail in discharging their duty. Either they don't act or do not act promptly or do connive at such activities apparently for illegitimate considerations. If such activities are to stop some stringent actions are required to be taken by ruthlessly demolishing the illegal constructions and non-compoundable deviations. The unwary purchasers who shall be the sufferers must be adequately compensated by the builder. The arms of the law must stretch to catch hold of such unscrupulous builders.....

.....
.....
.....
.....

In all developed and developing countries there is emphasis on planned development of cities which is sought to be achieved by zoning, planning and regulating building construction activity. Such planning, though highly complex, is a matter based on scientific research, study and experience leading to rationalisation of laws by way of legislative enactments and rules and regulations framed thereunder. Zoning and planning do result in hardship to individual property owners as their freedom to use their property in the way they like, is subjected to regulation and control. The private owners are to some extent prevented from making the most profitable use of their property. But for this reason alone the controlling regulations cannot be termed as arbitrary or unreasonable. The private interest stands subordinated to the public good. It can be stated in a way that power to plan development of city and to regulate the building activity therein flows from the police power of the

State. The exercise of such governmental power is justified on account of it being reasonably necessary for the public health, safety, morals or general welfare and ecological considerations; though an unnecessary or unreasonable intermeddling with the private ownership of the property may not be justified.

The municipal laws regulating the building construction activity may provide for regulations as to floor area, the number of floors, the extent of height rise and the nature of use to which a built-up property may be subjected in any particular area. The individuals as property owners have to pay some price for securing peace, good order, dignity, protection and comfort and safety of the community. Not only filth, stench and unhealthy places have to be eliminated, but the layout helps in achieving family values, youth values, seclusion and clean air to make the locality a better place to live. Building regulations also help in reduction or elimination of fire hazards, the avoidance of traffic dangers and the lessening of prevention of traffic congestion in the streets and roads. Zoning and building regulations are also legitimised from the point of view of the control of community development, the prevention of overcrowding of land, the furnishing of recreational facilities like parks and playgrounds and the availability of adequate water, sewerage and other governmental or utility services.

Structural and lot area regulations authorise the municipal authorities to regulate and restrict the height, number of storeys and other structures; the percentage of a plot that may be occupied; the size of yards, courts and open spaces; the density of population; and the location and use of buildings and structures. All these have in our view and do achieve the larger purpose of the public health, safety or general welfare. So are front setback provisions, average alignments and structural alterations. Any violation of zoning and regulation laws takes the toll in terms of

public welfare and convenience being sacrificed apart from the risk, inconvenience and hardship which is posed to the occupants of the building.

.....
.....

(emphasis supplied)

In Royal Paradise Hotel (P) Ltd. v. State of Haryana and Ors. (2006) 7 SCC 597, this Court noted that the construction had been made in the teeth of notices issued for stopping the unauthorized construction and held that no authority administering municipal laws can regularize the constructions made in violation of the Act. Some of the observations made in that judgment are extracted below:

.....
.....

We also find no merit in the argument that regularization of the acts of violation of the provisions of the Act ought to have been permitted. No authority administering municipal laws and other laws like the Act involved here, can encourage such violations. Even otherwise, compounding is not to be done when the violations are deliberate, designed, reckless or motivated. Marginal or insignificant accidental violations unconsciously made after trying to comply with all the requirements of the law can alone qualify for regularization which is not the rule, but a rare exception. The authorities and the High Court were hence right in refusing the request of the appellant.”

The aforesaid observations found their echo in Shanti Sports Club v. Union of India (2009) 15 SCC 705 in the following words:

“In the last four decades, almost all cities, big or small, have seen unplanned growth. In the 21st century, the menace of illegal and unauthorized constructions and encroachments has acquired monstrous proportions and everyone has been paying heavy price for the same.

Economically affluent people and those having support of the political and executive apparatus of the State have constructed buildings, commercial complexes, multiplexes, malls, etc. in blatant violation of the municipal and town planning laws, master plans, zonal development plans and even the sanctioned building plans. In most of the cases of illegal or unauthorized constructions, the officers of the municipal and other regulatory bodies turn blind eye either due to the influence of higher functionaries of the State or other extraneous reasons. Those who construct buildings in violation of the relevant statutory provisions, master plan, etc. and those who directly or indirectly abet such violations are totally unmindful of the grave consequences of their actions and/or omissions on the present as well as future generations of the country which will be forced to live in unplanned cities and urban areas. The people belonging to this class do not realise that the constructions made in violation of the relevant laws, master plan or zonal development plan or sanctioned building plan or the building is used for a purpose other than the one specified in the relevant statute or the master plan, etc., such constructions put unbearable burden on the public facilities/amenities like water, electricity, sewerage, etc. apart from creating chaos on the roads. The pollution caused due to traffic congestion affects the health of the road users. The pedestrians and people belonging to weaker sections of the society, who cannot afford the luxury of air-conditioned cars, are the worst victims of pollution. They suffer from skin diseases of different types, asthma, allergies and even more dreaded diseases like cancer. It can only be a matter of imagination how much the Government has to spend on the treatment of such persons and also for controlling pollution and adverse impact on the environment due to traffic congestion on the roads and chaotic conditions created due to illegal and unauthorized constructions. This Court has, from time to time, taken cognizance of

Grievance No. K/N/0109/869 of 2013-14

buildings constructed in violation of municipal and other laws and emphasised that no compromise should be made with the town planning scheme and no relief should be given to the violator of the town planning scheme, etc. on the ground that he has spent substantial amount on construction of the buildings, etc.

Unfortunately, despite repeated judgments by this Court and the High Courts, the builders and other affluent people engaged in the construction activities, who have, over the years shown scant respect for regulatory mechanism envisaged in the municipal and other similar laws, as also the master plans, zonal development plans, sanctioned plans, etc., have received encouragement and support from the State apparatus. As and when the Courts have passed orders or the officers of local and other bodies have taken action for ensuring rigorous compliance with laws relating to planned development of the cities and urban areas and issued directions for demolition of the illegal/unauthorized constructions, those in power have come forward to protect the wrongdoers either by issuing administrative orders or enacting laws for regularisation of illegal and unauthorized constructions in the name of compassion and hardship. Such actions have done irreparable harm to the concept of planned development of the cities and urban areas. It is high time that the executive and political apparatus of the State take serious view of the menace of illegal and unauthorized constructions and stop their support to the lobbies of affluent class of builders and others, else even the rural areas of the country will soon witness similar chaotic conditions.”

In Priyanka Estates International Pvt. Ltd. v. State of Assam (2010) 2 SCC 27, this Court declined the appellant’s prayer for directing the respondents to regularize the illegal construction and observed:

“It is a matter of common knowledge that illegal and unauthorized constructions beyond the sanctioned plans are on rise, may be due to

paucity of land in big cities. Such activities are required to be dealt with by firm hands otherwise builders/colonisers would continue to build or construct beyond the sanctioned and approved plans and would still go scot-free. Ultimately, it is the flat owners who fall prey to such activities as the ultimate desire of a common man is to have a shelter of his own. Such unlawful constructions are definitely against the public interest and hazardous to the safety of occupiers and residents of multistoreyed buildings. To some extent both parties can be said to be equally responsible for this. Still the greater loss would be of those flat owners whose flats are to be demolished as compared to the builder.”

and para no.45 of the said judgment is also reproduced hereinbelow:-

45. *In view of the above discussion, we hold that the petitioners in the transferred case have failed to make out a case for directing the respondents to regularize the construction made in violation of the sanctioned plan. Rather, the ratio of the above-noted judgments and, in particular, Royal Paradise Hotel (P) Ltd. v. State of Haryana and Ors. (supra) is clearly attracted in the present case. We would like to reiterate that no authority administering municipal laws and other similar laws can encourage violation of the sanctioned plan. The Courts are also expected to refrain from exercising equitable jurisdiction for regularization of illegal and unauthorized constructions else it would encourage violators of the planning laws and destroy the very idea and concept of planned development of urban as well as rural areas.*

In the light of above observation of Hon'ble Supreme Court, we cannot add to the seriousness of the problem by allowing the Consumer's contention that though it is his illegal construction, he is entitled to connection. If any such Order is passed as sought by Consumer, it will be totally against the spirit of direction given by Hon'ble Supreme Court in the above referred judgment of

Campa Cola. In respect of such illegal constructions, the planning authority, i.e. Municipal Corporation and other Regulatory bodies are to act appropriately and **it should not be an act of directly or indirectly abetting such violations**. We find when there is no plan submitted, building is built up and the utilities such as Electricity is sought to the building, by the developer and if it is allowed, definitely it will be an act of encouraging or allowing such builder developer to continue the activity carrying the impression that even building is illegal without plan, without permission, still almost all facilities including Electricity will be available without any restraint. **We are required to avoid such label of aiding and abetting the act of the builder developer**. We are clear from the judgment of Hon'ble Supreme Court that by such illegal act, total planning of the civic authority affected, fundamental rights of others are affected, and ignoring it, misreading the provisions of the Electricity Act, Supply Code and MERC Regulations, no any connection can be given for such illegal constructions, that too, taking help of this Forum. We cannot be a party to such acts. Order of MERC referred above now required to be read in the light of the above Hon'ble Supreme Court judgment. Said order of MERC cannot be made applicable to the Builders-Developers who are seeking connections in bulk. What has happened in respect of others is an independent question to be dealt by the appropriate authority of the Licensee or the concerned. Though C.R. has sought supply conditionally, we find there is no question of imposing any condition as construction is totally illegal, there is no attempt to have it regularized, under such circumstances, there is no scope to accept his contentions.

14. No doubt, there is a flaw on the part of the Officers of Licensee, who not responded to the Consumer in a required spirit in time. But their failure in no way will justify the demand of the Consumer as his act itself is totally in contravention of law for developing and building the flats hence, the flaw of the

Grievance No. K/N/0109/869 of 2013-14

Officers of Licensee will not make the Consumer any way a bonafide person or person entitled to have the supply legally. Hence the grievance of the Consumer is to be rejected. However, the allegation of illegal connection given made by the Consumer Representative be dealt by Chief Engineer of the Zone administratively.

15. This matter could not be decided in time as we were required to have the details and clarifications from the Consumers' Representative which he provided till 3/12/2013.

Hence the Order

O-R-D-E-R

The Grievance of the Consumer is hereby rejected

Date : 07/12/2013

I Agree

I Agree

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

(Chandrashekhar U. Patil)
Member Secretary
CGRF Kalyan

(Sadashiv 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.

Filename: 869-Sunil Matalal Upadhyay
Directory: C:\Documents and Settings\Admin\My Documents
Template: C:\Documents and Settings\Admin\Application
Data\Microsoft\Templates\Normal.dotm
Title: MAHARASTRA STATE ELECTRICITY DISTRIBUTION
CO
Subject:
Author: M.S.E.D.Co.Ltd.
Keywords:
Comments:
Creation Date: 30/11/2013 2:18:00 PM
Change Number: 36
Last Saved On: 28/01/2014 11:49:00 AM
Last Saved By: Dream
Total Editing Time: 190 Minutes
Last Printed On: 29/01/2014 11:05:00 AM
As of Last Complete Printing
Number of Pages: 18
Number of Words: 5,197 (approx.)
Number of Characters: 29,624 (approx.)