



Consumer Grievance Redressal Forum, Kalyan Zone
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No. K/N/0132/ 992 of 2014-15

Date of Grievance : 30/8/2014

Date of order : 29/9/2014

Total days : 29 days

IN THE MATTER OF THE GRIEVANCE NO. K/N/0132/992 OF 2014-15 IN RESPECT OF SHRI D.K. DONWALKAR , SARSWATIDEVI CO-OP. HSG., SOCIETY LTD. GUT NO. 10 (PART) MORIVLI, RAHUL ESTATE, B CABIN ROAD AMBERNATH (E), DIST.THANE PIN CODE 421 501, HELD REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING NEW CONNECTION.

Shri D.K. Donwalkar-Chairman.
Sarswatidevi Co-op.Hsg. Soc. Ltd.
Gut No.10, (Part), Morivli,
Rahul Estate, B Cabin Road,
Ambernath (E), Dist-Thane-
Pin-Code No. 421 501

.... (Hereinafter referred as Consumer)

Versus

Maharashtra State Electricity Distribution
Company Limited through its
Addl. Executive Engineer, Sub-Divn.
Ambernath (E).

.... (Hereinafter referred as Licensee)

Appearance : For Consumer- Shri Donwalkar- Chairman of Consumer Society.
For Licensee - Shri Agrawal- Addl. Executive Engineer,

(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, (36/3003). Hereinafter it is

referred as 'Regulation'. Further the regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply) Regulations.

2] This grievance is brought before us by applicant society on 30/8/2014 as the application dated 25/7/2013 for new connection as prayed by the applicant was not released. Applicant being the prospective consumer, hereinafter referred as consumer for the sake of convenience.

Consumer society is formed for four buildings i.e. Building Nos. 3,4,5,and 6 built up by Bagaria Builders and Developers. Said Bagaria had taken supply for staircases in these buildings and those were separate connections with separate consumer numbers. Even one separate supply was taken for water pump, it was used for building Nos. 3 to 9 built up by it. All these connections are in the name of Bagaria builders, resulted in PD. Hence, consumer sought new connection for water pump and staircases in building Nos. 3 to 6. Even consumer has approached IGRC by filing application on 17/6/2014, IGRC vide it's order dated 28/8/2014, directed the Licencee to recover arrears as per MERC Regulation 10.5 of Supply Code and to release the connection. Till then consumer had approached this Forum on 30/8/2014.

3] In this matter on receiving the grievance, it's copy along with accompaniments, sent to the Nodal Officer vide this Office Letter No.EE/CGRF/0326 dated 30/8/2014.

In response to it, Officer of Licencee appeared and filed reply on 15/9/2014. It is nothing but a letter addressed to Nodal Officer by Dy, Exe. Engineer on 10/7/2014 along with copy of CPL for supply given to water pump. During hearing on 15/9/2014, it was disclosed that in the order of IGRC or in the reply submitted before IGRC there was no any reference as such for supply to staircases. But, aspect, of stair case supply was agitated before the Forum pointing out that in those buildings meters of the staircases were there, arrears pertaining to staircase of building no.3 paid of in the year 2011 but Officer of Licencee submitted that for other three buildings PD arrears are not paid and those are to be paid. On this count, we directed

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the Officer of Licencee to place before us, the calculations of arrears pertaining to those staircases arrears. He was asked to show separately the liability as per Regulation 10.5. Accordingly, on 22/9/2014, Officer of Licencee attended and placed before us the PD bills for water pump and staircases bills for building no.4 to 6.

4] On the basis of the respective contentions both sides made submissions. We noted following factual aspects :-

Before dealing with each and every factual aspect, we find it necessary to specify the category of supply building-wise and PD arrears worked out applying Regulation 10.5. those are as under:-

Sr. No.	Category	Consumer No.	For Bldg.Nos.	Year of PD	Arrears as On the date of PD	Arrears as per 10.5 of Regulation.
1	2	3	4	5	6	7
1	Water pump	021520485381	3 to 9	2009	Rs.71,808.62 Ps.	Rs.35,904.31 Ps.
2	Staircase	021520485837	03	2007	Rs.13,370/-	*
3	Staircase	021520485993	04	2007	Rs. 5,363.80 Ps.	Rs.2,560/-
4	Staircase	021520485641	05	2007	Rs.6,011.98 Ps.	Rs.1,840/-
5	Staircase	021520486337	06	2004	Rs.4,100/-	Rs. 4,100/-

The above chart is prepared on the basis of the CPL filed by Officer of Licencee during hearing. As noted above, there is no dispute that , though supply was taken in the name of Builder and Developer, it continued and resulted in PD. However, the present consumer being a society formed for building Nos. 3 to 6, sought new supply for water pump and staircases. This new supply is for the common facilities in the buildings available for the members of the society who have purchased the flats. When the society sought new connections, it was asked to pay the arrears outstanding for the above connections. But, arrears were covering more than six months period, hence consumer raised dispute with Licencee and with IGRC. As noted above, IGRC principally decided the aspect, pertaining to water pump but not commented about the staircases.

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In case of water pump connection, it is clear that builder had taken it for building Nos. 2 to 9 i.e. totally for 8 buildings and present consumer is seeking supply only for four buildings i.e. building nos. 3 to 6. Hence, liability if any to be imposed, as consumer is seeking new supply, then total dues of said PD connection cannot be thrust on consumer but equitably it will be for building nos. 3 to 6 i.e. four buildings out of eight building in column no. 6 . Hence liability will be ½ of total dues. Hence, in the above chart, total dues are shown for all the eight buildings in column no.6 and in the 7th column liability is shown limited to four buildings, it is of six months prior to the PD.

5] As noted above when matter was taken up for discussion / argument before this Forum aspect pertaining to stair case was also canvassed. It was disclosed that in respect of stair case in building no.3 already arrears are paid on 7/10/2011 to the tune of Rs.13,370/-. Though, in the application for supply, for building no.3 staircase new connection is claimed, but it is not released and consumer is not made aware why it is not being released. When consumer is seeking separate supply, Officers of Licencee relied on the Departmental circular bearing No. 110 dated 16/2/2010, issued by Chief Engineer (Commercial) of Licencee, sum and substance of said circular speaks that for common facilities for a particular consumer, there should be only one connection i.e. combined supply for water pump, staircase and lift if any. Though, Chairman of the consumer tried to put a question pointing out how separate connections given to others, and as to why clubbing is being insisted for this society. Officer of Licencee claimed, aforesaid circular is being implemented and hence, there is no question of treating this consumer separately. We tried to verify the claim of consumer about supply given to others separately but it is perceived that the instances pointed out by consumer are not of a single consumer for more buildings but separate consumer's or every building. Further we find if any illegal thing is done there cannot be any instance for continuation of illegality even for this consumer. Accordingly, we find the objection of consumer's chairman needs no reply.

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6] Suffice it to say, as per the aforesaid circular, as consumer is seeking new supply for four buildings and for common facility, only one connection is to be given. Accordingly, we are clear that the stand taken by the Officers of Licencee, needs to be upheld. It is unfortunate that this supply to staircase is not agitated by the Ld. Officer before the IGRC and even IGRC has not considered that consumer is seeking even fresh supply for staircases. Accordingly, if any new supply is to be given then as per Regulation 10.5 the new consumer to whom property is transferred is required to bear the previous electricity charges unpaid only for six months prior to the date of PD. Accordingly, this aspect is noted by the Officers of Licencee, even IGRC in respect of water pump given such direction and accordingly, figures are worked out by the Officer of Licencee and we have noted in the aforesaid chart. We have verified the CPL produced, copy of bills prepared towards it. We made it clear to the consumer's chairman to consider it and react on it, if intended by taking time. In detail he was allowed to acquaint himself with the aforesaid calculations. He is heard on this point again on 24/9/2014, he has not raised any dispute about it. In other words, no any flaw is pointed out, in the liability worked out under Regulation 10.5 reflected in the aforesaid chart more particularly in the last column. Officer of Licencee submitted that if arrears are paid then supply will be given preferably within two weeks. We find the liability worked out as per Regulation 10.5 is to be paid by the consumer if he is seeking new supply and said supply will be a common supply for water pump, stair cases and lift if any. Accordingly on payment of these arrears consumer is entitled to get supply. In result, this grievance needs to be allowed.

This grievance is to be allowed on consumer discharging the liability as shown in the above chart i.e. last column as per Regulation 10.5 but we perceived that towards staircase in building no.3 already payment is done to the tune of Rs. 13,370/- in the year 2011. This was towards PD arrears. However, it's CPL is not placed on record, even we could not have asked for it if Licencee would have released the supply separately for said staircase in building no.3. But in 2011 though liability is

discharged, application dated 25/7/2013 for supply to said staircase, is not considered, rather it is now being clubbed with other staircases and water pump. When such stand is taken, then question comes up whether payment of Rs.13,370/- is to be treated as legal and proper or it is to be made limited as per Regulation 10.5. When we perceived this aspect, we directed the Officer of Licencee to place before us the CPL of consumer Number for staircase no.3. Officer of Licencee provided us the copy of CPL and bill prepared as per Regulation 10.5 for staircase in building. It is clear that as separate supply for staircase No.3 is not being given in spite of total payment done, and if it is being linked with other staircases then the recovery already done to the tune of Rs.13,370/- towards building no.3, it is to be made limited, applying Regulation 10.5. We heard both sides on this point again. Officer of Licencee maintained the stand that payment for staircase no.3 is, already done and it needs no consideration in this matter. But we find when it is linked, with these remaining three staircases and water pump it cannot be ignored and said payment towards staircase no.3 is also to be considered as per Clause 10.5 of SOP. Accordingly, applying Regulation 10.5 said liability comes to Rs. 2,280/-. Though amount of Rs.13,370/- is paid by consumer its liability is limited to Rs.2,280/- amount and hence, extra Rs.11,090 (13,370-2280 =11,090/-) is found recovered by the Licencee which is now required to be adjusted, in the liability now worked out in the last column of the chart.

7] During hearing at the fag-end today it is noticed that for all these PD connections security deposit was paid by Bagaria Builders. Except for staircase of building no.6, liability is limited which is to be shared by the present consumer. However, in respect of building no.6, it is only for three months and security deposit is not at all adjusted. Hence, we sought clarification from Officers of Licencee how this SD is to be dealt. It is also made clear that as per the provisions of Supply Code at the time of PD, SD amount is also to be adjusted and for balance liability recovery is to be sought. Accordingly, in respect of this staircase no.6 SD amount of Rs.1000/- was required to be deducted by Licencee which is not done and hence we find in the claim of Rs.4,100/- which is quantified by the Licencee towards the said staircase

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now an amount of Rs.1000/- of SD is to be deducted and liability comes to Rs.3,100/-. In respect of SD of others we are clear that liability now being discharged by present consumer is limited one and still amount is yet to be recovered from the builder, under such circumstances, Licencee is at liberty to deal the SD of those respective connections independently.

In view of the aforesaid discussion, grievance of consumer is be allowed.
Hence the order.

ORDER

- 1] Grievance of consumer is hereby allowed.
- 2] Consumer is entitled to supply for water pump and for staircase for building Nos. 3 to 6, on it's paying arrears shown as under, as per Regulation 10.5.

Sr. No.	Category	Consumer No.	For Bldg.Nos.	Arrears as per 10.5 of Regulation.
1	Water pump	021520485381	3 to 6	Rs.35,904.31 Ps.
2	Staircase	021520485837	03	Rs. 2,280.00*
3	Staircase	021520485993	04	Rs. 2,560.00
4	Staircase	021520485641	05	Rs. 1,840.00
5	Staircase	021520486337	06	Rs. 3,100.00
			Total amount	Rs.45,684.00
			Deduct extra amount paid for staircase connection in building no.3.	Rs. 11,090.00*
			Grand total	Rs. 34,594.30

****These figures Rs.2,280/-+Rs. 11,090/- = Rs.13,370/-are speaking about the amount of Rs.13,370/- paid but in fact liability was limited to Rs.2,280/-. Hence, while working out grand total amount of Rs.11,090/- is deducted***

Copies of bills are already provided to the consumer during hearing of the matter.

As discussed above, while adjusting the above amount of Rs.11,090/- Licencee may for convenience of record, show it as adjustment by way of deduction in the bill towards arrears of water pump. Licencee to issue such corrected liability bill

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and consumer to pay it off. On paying total such liability Licencee to release supply as early as possible within two weeks and submit compliance within two weeks thereafter

3] Licencee to issue firm quotation forthwith on consumer paying the aforesaid liability. Licencee to release the supply within one week on consumer complying all minimum requirement towards new supply/connection.

4] Licencee to submit compliance report within 45 days of this order.

Dated: 29/9/2014.

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

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.

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