

MAHARASTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.

KONKAN ZONE RATNAGIRI

Consumer Grievances Redressal Forum Ratnagiri

Consumer case No. – 36 /2012

Date :- 15.12.2012

**Mr. Abhay Vasant Chitale.
At-Chiplun,
Tal- Chiplun
Dist-Ratnagiri .**

}

Complainant

V/S

**Executive Engineer
Maharashtra State Elec.Dist.Co.Ltd.
Chiplun**

}

Opposite Party

Quorum of the Forum

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- 1) Mr. D. S. Jamkhedkar
Chairman**
- 2) Mr. V.B.Jagtap.
Secretary/ Member**
- 3) Mr. N. A. Kulkarni
Member**

On behalf of consumer

}

**Mr. Abhay Vasant Chitale .
Mr. Jayant Purushottam Biwalkar.**

On behalf of opposite party

}

- 1) Mr.M.D.Aavalekar,
Ex.Engineer, Chiplun**

Maharashtra State Electricity Regulatory Commission Consumer Grievance Redressal Forum and Ombudsman Regulation 2003 Vide Clause No.8.2

As per provision of Regulation 8 (2) of Maharashtra State Electricity Commission (Consumer Grievance Redressal Forum and Ombudsman) Regulation 2003. Facts of the case in brief are as follows-

Complainant Shri. Chitale has approached this Forum against the order passed by I.G.R.C. Mahavitaran Ratnagiri.

According to the complainant, he is owner of land hearing 5 No. 87(1)(3) sub division No.1 situate at Chiplun. According to him, a particular portion of this land has been occupied by opponent for erecting transformer. However no rent has been paid to him nor any compensation was given to him. So he has come forward with a request to this Forum either for getting fixed the rent or the amount of compensation.

A notice of this complaint came to be issued to Mahavitaran. Mahavitaran filed the say and opposed the application and request. It is submitted that the complainant who wanted to establish hotel and lodging and requested opponent for getting electricity supply for this the transformer was to be installed. The supply was sanctioned as the portion of land was made available by applicant. Accordingly transformer was erected and supply was made available to complainant in the year 2007.

It is also the case of opponent that land was offered voluntarily and so connection could be given to complainant immediately. Now the complaint is taking disadvantage of the situation and is claiming rent or compensation.

It is also submitted that the grievance is not covered under the definition of grievance of consumer and as such Forum cannot get jurisdiction to entertain it.

With this background, dismissal of the complaint has been urged.

Both the sides advanced their arguments. The power of attorney Shri. Biwalkar vehemently urged that the Forum does not loose jurisdiction because complainant is a consumer and has been given supply from the same transformer as per rules, Mahavitaran must pay rent or compensation to the owner of the premises and through the same were not fixed earlier, now they can be fixed. He stressed the point by submitting that non-payment of rent or compensation falls under 'deficiency of service' and the Forum gets jurisdiction.

It was also urged that complainant never had any objection to give the land and so there was no need to approach collector or supdt. of police for any relief. He submitted that Mahavitaran cannot use the land without paying farthing and so the reasonable rent be fixed and Mahavitaran be directed to execute the lease agreement.

The Executive Engineer Shri. Awalekar made the submissions on the lines of contentions in the written statement.

In view of rival submissions, following points arise for our consideration and findings are given against each of them for the reasons given below.

Sr. No.	Points	Findings
1)	Whether this Forum has jurisdiction to entertain the Complaint/Grievance.	No
2)	What order	As per final order

Reasons

Point No. 1 :-

It is rightly submitted on behalf of Mahavitaran that the complaint falls outside the perview of the consumer Forum.

Facts on record reveals that complainant claims himself to be the owner of the land which fact is not seriously disputed by Mahavitaran. According to complainant, Mahavitaran has occupied certain portion of his land for erecting transformer but without paying any farthing and the same should be paid to him.

It is pertinent to note that complainant has come before the Forum as owner of the land without remuneration. By no stretch of imagination if could be said that complainant's grievance is grievance of the consumer as defined under the rules and regulation. In fact, asking somebody to execute lease agreement or fixing the lease amount is a domain of civil court and complainant should have approached the civil court instead of Forum.

Secondly, the site has been offered by complainant without raising any grievance in 2005 nor any grievance about rent was raised by him at any point of time and he remained silent for 7 years, which supports the case of Mahavitaran that portion of land was given gratuitously by complainant, as he was the first beneficiary of the transformer. Had he taken any objection at that time or would have demanded rent or compensation, then the matter ought to have been referred to collector or supdt. of police as per the rules and regulation and that would have taken months together for erection of transformer. Knowing this well, complainant offered the land voluntarily for his own benefit. It is more than certain that now complainant has turned around to claim rent or compensation. So this also disentitles him from claiming any relief.

Fact remains that the status of complainant is that of owner of the land and he cannot claim himself as consumer, so far as this matter is concerned. Hence we find that this Forum being established to redress the grievances of the consumer cannot entertain the dispute.

Hence the point is answered in the negative.

Point No. 2 :-

In the result, for the foregoing reasons, the complaint deserves rejection. Hence we proceed to pass following order.

Order

- 1) The complaint petition stands rejected.
- 2) If the complainant wants prefer appeal, shall prefer it to the following authority within 60 days from the date of receipt of this order.

Secretary,
OMBUDSMAN, Maharashtra State Electricity Regulatory Commission,
606/608, Keshava Building,
Bandra Kurla Complex,
Mumbai – 400 051.
Phone No.022 – 2659 2965.

D.S.Jamkhedkar
Chairman ,C.G.R.F
Konkan Zone

V.B.Jagtap
Ex.Engineer,C.G.R.F
Konkan Zone

N.A.Kulkarni
Member,C.G.R.F
Konkan Zone

Date : 12.02.2013

Place : Ratnagiri