

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
M. S. ELECTRICITY DISTRIBUTION CO.LTD.  
(NAGPUR ZONE – RURAL) NAGPUR.**

Application/Case No. CGRF/NZ/Rural/ **36** of 2006

Applicant : 1)Smt. Nanda Kawduji Dongare, (2)Shri Kawdu Tanbaji Dongare,  
Sant Tukdoji Ward, Nandori Road, Sheelnagar, Post-Hinganghat,  
District-Wardha.

-- VS --

Non-applicant : 1.Executive Engineer/Nodal Officer, I.G.R.C.,  
Circle Office, M.S.E.D.C.L., **Wardha.**  
2.Executive Engineer,C.C.O&M Dn., M.S.E.D.C.L.,Hinganghat.

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Presence: 1.Shri N. J. Ramteke, Chairman  
2.Shri M.G.Deodhar, Member.  
3. S. J. Bhargava, Member/Secy.

Appearance. : 1.Shri Kawadu Tanbaji Dongare  
2.Shri Abhay Vitthal Lokhande - Representative of Applicants.  
1. Shri S.D.Rathod, E.E.  
2. Shri P.B.Narkhede, E.E./N.O.  
For Non-Applicants.

## **ORDER**

( Passed this 9<sup>th</sup> day of January,2007 )  
( Per Shri N.J.Ramteke, CHAIRMAN )

This is an application in form Schedule 'A' of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter called the Regulations). The Applicants claimed to be a tenant in the house of Shri Namdeo Ramaji Khedkar, House No. 369, Ward No.31, Sant Tukdoji Ward , Nandori Road , Hinganghat, District-Wardha since 1994. Applicants sought relief from this Forum for supply of new service connection. On receipt of application, Forum gave acknowledgement, called parawise comments of the non-applicants, on receipt of the parawise comments from the non-applicants, copy of the same was sent to Applicants. The Forum issued and served notices on both the parties for hearing. The Forum heard both the parties on 8/1/2007. Shri Abhay Lokhande made the submissions on behalf of the Applicants at the time of hearing.

The facts in brief are that Shri Namdeo Khedkar gave two rooms on rent to Applicants in 1994. The house belongs to Shri Namdeo Khedkar. The M.S.E.D.C.L. gave electricity supply to Shri Namdeo Khedkar with Consumer No. 376010102072. The electricity supply was permanently disconnected in 1995 by the non-applicants as Shri Khedkar was found

in arrears of Rs. 4,659.92. One of the applicants - Smt. Nanda Kawduji Dongare approached to S.D.O. and Rent Controller, Hinganghat to establish her tenancy and installation of electricity supply. The Rent Controller under his order dated 11/1/1999 rejected application as per the provision of clause 16(3) of the Rent Control order. The Additional Collector, Wardha also upheld the order of the Rent Controller and dismissed the appeal of the Applicants. One of the Applicants Shri Kawduji Dongare preferred a writ petition before the Hon'ble High Court, Bench at Nagpur. The Hon'ble High Court under its order dated 16/11/2005 in writ petition No.323 of 2004 dismissed the petition. Shri Namdeo Khedkar approached the Civil Court for recovery of rent and vacation of the suite premises. The Civil suit No. is 210/2002. The Applicants admitted that this case is still pending before the Civil Court.

The main contention of Shri Abhay Lokhande, representative of Applicants, is that the Applicants are tenant of Shri Namdeo Khedkar and , therefore, they have a right to make an application for supply of electricity as occupier. There is no stay order from the Civil Court though the civil suit No.210/2002 is pending. The Applicants vide their application dated 19/8/2005 (Record Page 5) requested the non-applicants for supply of new service connection. There is no response from the non-applicants. Shri Lokhande also brought to the notice of the Forum that Smt. Nanda Dongare- Applicant made an application to the non-applicants for supply of new service connection on 5/1/1998. Shri Khedkar is in arrears for which the Applicants can not suffer and they have right to demand for new service connection. It is seen from the record that the Applicants made an application to the I.G.R.C., Wardha in form schedule 'X' on 12/9/2006. This was duly acknowledged by the Cell on 25/9/2006 (Record page 16). Shri Lokhande also requested for grant of suitable compensation for a mental harassment caused to Applicants since 1995.

In their parawise comments and hearing, the main contention of the non-applicants is that Applicants failed to produce any rent receipt in support of their tenancy of the suite premises. They have also not given N.O.C. from the house owner about new service connection. The electricity supply was permanently disconnected in 1995 but Applicants made no protest. At present the matter is subjudice under Civil suit No.210/2002. Applicants also failed to produce required documents for supply of new service connection. Their application is only on plain paper. In fact the application should be in form A-1. Since application is not made in form A-1 with required documents, M.S.E.D.C.L. was not in position to give new service connection. The non-applicants submitted in their parawise comments (Record Page 12) that Applicants have not obtained acknowledgement from the Cell.

On perusal of the record and hearing both the parties, the Forum come to the conclusion unanimously and decides as under.

As per Section 43(1) of Electricity Act, 2003 every Distribution Licensee was on the application by the owner or occupier of any premises give supply of electricity to such premises, within one month after receipt of application required in such supply. It means the Applicants can make an application for new service connection as occupier. But at the same time the question arises whether this occupation is legal or otherwise? The Rent Controller, the Appellate Authority and Hon'ble High Court have passed the order in favour of Shri Namdeo Khedkar, rejecting the claim of tenancy of the Applicants.

The non-applicants have rightly pointed out that the Applicants have not submitted application for new service connection in form A-1 with required documents. The detailed procedure has been laid down under the M.E.R.C.(Electricity Supply Code and other conditions of supply) Regulations, 2005 under Regulation 4. It has been clearly laid down under Regulation 4, "Application for supply", that required documents are necessary for consideration of the M.S.E.D.C.L. to give new service connection. It is a matter of fact that Applicants made an application on plain paper on 19/8/2005 whereas the Supply Code came into force on 20/1/2005. It was the duty of the Applicants to submit the application in form A-1 with required documents. They failed to do so. No doubt, the name of Smt. Nanda Dongare appears in Col. No.6 of the Property register of Municipal Council, Hinganghat (Record page 7) but this document does not come to the rescue of the Applicants in light of the orders passed by the Rent Controller, Appellate Authority and Hon'ble High Court. The occupation must be bonafide. The occupiers should follow the procedure for making an application for new service connection as provided under Electricity Supply Code.

The non-applicants produced the C.P.L. (Record Pages 23 to 26). The C.P.L. shows the position of bill from June, 1999 to October, 2006. No electricity charges are shown in the C.P.L. for this period as the electricity connection was permanently disconnected. But they have shown the arrears of Rs. 3064.62 + 1595.30. It means, Shri Khedkar was in arrears and, therefore, the M.S.E.D.C.L. rightly disconnected the electricity supply. Since it is a permanent disconnection, question of bill does not arise? The non-applicants insisted upon the N.O.C. of the house owner for new service connection. However, the same is not mentioned in Regulation 4 of the Regulations. It has been laid down under this Regulation that where Applicant is not the owner of the premises, name of the owner of premises should be mentioned. The Regulation 2.1(b) provides for definition of Applicant. Here Applicant means the person who makes an application for supply of electricity ----- as the case may be in accordance with the

provisions of the Act and the rules and Regulations made thereunder. It is clear in the instant case that Applicants have not followed the mandate of the law and the Regulations framed thereunder as observed above. The non-applicants are fully justified in not providing new service connection to the Applicants as they have not made application in the prescribed form with required documents.

It appears that the Cell has not passed any order though in receipt of the application in form Schedule 'X'. If no remedy is provided by the Cell to the Applicants, they are entitled to approach the Forum for remedy. The Applicants submitted an application to the non-applicants on 19/8/2005 on plain paper for new service connection and, therefore, the cause of action arisen from that date in terms of Regulation 6.6 of the Regulations. In view of this position the Forum entertained this application and dealt with the same.

As per Regulation 6.7 of the Regulations, where a representation by the consumer in respect of the same grievance is pending in any proceedings before any Court, Tribunal or Arbitrator or any other authority, or a decree or award or a final order has already been passed by any such Court, Tribunal, Arbitrator or authority, the Forum shall not entertain the grievance. In this case the plea for restoration of electricity supply was made in the miscellaneous application No. 3/2003 before the Civil Judge, Hinganghat for restoration of essential supply of electricity. It means, the issue of restoration of electricity was a matter for consideration before Civil Judge, Hinganghat. It is also an admitted fact that the matter is subjudice before the Civil Judge in suit No. 210/2002. Applicants failed to establish their claim as an occupier as a tenant and they also failed to follow the mandate of the law and Regulations for making an application for new service connection. The Forum can not give any relief to Applicants in view of above position.

With above observations, the Forum unanimously passes the following order.

### **ORDER**

- 1) Application is rejected.
- 2) No order about any compensation.
- 3) Parties to bear their own costs. .

CHAIRMAN                                      MEMBER                                      MEMBER-SECY  
CONSUMER GRIEVANCE REDRESSAL FORUM  
M.S.E.D.C.L., NAGPUR ZONE (RURAL) NAGPUR.

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No. CGRF/NZ/R/ **209**

Date: **11<sup>th</sup> Jan,2007**

This is to certify that this is the true and correct copy of the above order.

Member-Secy./ Exe.Engineer,  
C.G.R.F.(NZ-R) MSEDCL  
N A G P U R

Copy to :

1. Smt. Nanda Kawduji Dongare, c/o Kawdu Tanbaji Dongare, Sant Tukdoji Ward, Nandori Road, Sheelnagar, Post-Hinganghat, District-Wardha.
2. The Chief Engineer, Nagpur Zone (Rural) MSEDCL, Vidyut Bhavan, Katol Road, Nagpur.
3. The Nodal Officer/E.E.(Admn),Circle Office, MSEDCL, Wardha.
4. The E.E., C.C.O&M Dn., MSEDCL, Hinganghat for information and necessary action.

Address of - Electricity Ombudsman is given as below.

Office of - The Electricity Ombudsman,  
Maharashtra Electricity Regulatory Commission,  
606-608, Keshava Building,  
Bandra-Kurla complex,  
MUMBAI- 400 051

TEL.- 022 - 26592965 (Direct)  
022 - 26590339 (Office)

