

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

Application/Case No. CGRF/NZ/Rural/ **41** of 2007

Applicant : M/S. R.S.Paraboiling, Fulchur Peth, Gondia-441601
Through - Shri Hemant S. Agrawal

-- VS --

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

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

Appearance. : 1.Shri Govind Agrawal,
Representative of Applicant.
2.Shri Pramod Agrawal.
1.Shri C.M.Khandalkar, Executive Engineer,
2.Shri S.W.Gawande, N.O.
3.Shri Kanoje, Assistant Engineer.
Non-Applicants.

ORDER

(Passed this 25th day of April,2007)
(Per Shri N.J.Ramteke, CHAIRMAN)

1. This common order governs both the above cases as issues and relief sought by the Applicants is similar. The Forum received applications in form Schedule 'A' Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter called the 'Regulation') from the applicants on 2/3/2007. These applications have been registered, acknowledgement is given, parawise comments called from the non-applicants, on receipt of the parawise comments, copies of the same have been given to the applicants, notices for hearing were issued to both the parties, as required under the provisions under the Regulations. The Forum heard both the parties on 12/4/2007. On perusal of the record, the Forum noticed that the information on certain points was required from the non-applicants and, therefore, the same has been called from them under this office letter date. 17/4/2007(Record page 48). The non-applicants submitted the information as per letter dated 17/4/2007 to the Forum on 23/4/2007.

2. The applicants sought relief from this Forum that - (1) Action under SOP Regulations to be taken against the responsible officer, (2) Compensation of Rs. 5000/- per day for the losses sustained by the unit for the delay of load extension application., (3) Allow the load extension immediately, (4) Any other relief as the Forum thinks fit. Shri Govind Agrawal informed the Forum at the time of hearing that no separate submissions is to be made in respect of case No. 41 (Shri Hemant S. Agrawal) as the submission at the time of hearing as made by them on 12/4/2007 is also applicable to case No. 41.
3. The facts in brief are that the Applicant - Smt Vimladevi Shamsunder Agrawal is a L.T.P.-GMP consumer with sanctioned load of 60 HP at Paraboiling unit at Gondia with consumer No.IP-43356000085. The consumer No. of M/S. R.S.Paraboiling (Shri Hemant S. Agrawal) is 433560000719. Smt. Vimladevi Agrawal submitted an application on 2/2/2005 to the M.S.E.D.C.L. for load extension of additional load 47 HP. Shri Hemant Agrawal also made an application for load extension of additional load of 50 HP. However, there is a difference of date about the receipt of their applications for this purpose. Smt. Vimladevi claimed that here application was received by M.S.E.D.C.L. on 2/2/2005 whereas Shri Hemant S. Agrawal claimed that his application was received by M.S.E.D.C.L. on 18/2/2006. The non-applicants informed the applicants under letter dated 31/1/2007 (Record page 10) that their applications for extension of load can not be considered since one connection No. 433560205892-CL is already existing in their premises and this connection Number is in arrears of Rs 2,38,577.02. The non-applicants requested the applicants to remit the outstanding arrears of this connection so as to extension of load request will be finalized. The premises with above connection number originally belonged to Shri Harichandra Agrawal, Fulchur Peth, Gondia. Shri Harichandra Agrawal expired in 1984. There are two connections in this premise one is IP and the other is CL. As per heirship certificate issued by Tahsildar, Gondia on 11/9/1984 , Sarvashri Lilabai, Vishnuprasad, Pawankumar and Anandkumar are the legal heirs of deceased Shri Harichandra Agrawal. The non-applicants made connection No. 05892-CL, P.D. on 5/11/2006 due to arrears.
4. The non-applicants submitted their parawise comments in both the cases on 22/3/2007(Record pages 19-20). The Forum heard both the parties on 12/4/2007. Sarvashri Govind Agrawal, Representative and Shri Pramod Agrawal made oral submissions on behalf of the applicants. They have also produced the written notes of arguments in both the cases at the time of hearing. Shri Govind Agrawal, Representative, also submitted copies of documents through Shri Naresh Panjwani on 15/4/2007.
5. The main contention of the applicants is that the M.S.E.D.C.L. delayed the matter for a longer period to supply extension of additional load and, therefore, is liable to pay the charges for

non-performance as per Standard of Performance Regulations. They have served the notice on 15/12/2006 (Annexure 'B'). Despite their original application for extension of additional load and the notice dated 15/12/2006, the non-applicants remained silent over the matter and made no communication in this regard. They also approached the I.G.R.C., Gondia under application in form schedule 'X' on 20/12/2006. But no decision has been given by the I.G.R.C. The notice for recovery of Rs. 2,38,577.02 is false to protect the interest of the M.S.E.D.C.L. officers. The connection No. 05892 having arrears of Rs. 2.38 lakhs is different entity having separate and different identity in all respect. The name, title and proprietary of the same firm is different and they can not be held responsible for the liabilities of others. As per information given by non-Applicants they came to know that the said arrears amount is lying unpaid for the longer period of more than 3 years. Applicants further contended that the provision of Section 56(2) of Electricity Act, 2003 is also applicable in this case. Under the provision of this section no sum due from the consumer shall be recoverable after period of two(2) years from the date when such sum became due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of electricity. Hence the notice is illegal and not binding. In view of this position the applicants sought relief as mentioned above from this Forum.

6. The main contention of the non-applicants is that there are totally five number of connections in the same premises. These five numbers are - (1) M/S. R.S.Paraboiling, (2)Smt Vimladei S. Agrawal, (3) Shri Harichandra Agrawal, (4) Shamsundar Matadin Agrawal and (5) R.S.Industries. Non-applicants made permanent disconnction of No. 05892 on 5/11/2006 due to non-payment of accumulated arrears of Rs 2.38 lakhs. This connection was utilized by the consumer for lighting the premises. This was brought to the notice of the consumer that the said connection is showing outstanding arrears of Rs. 2.38 lakhs through oral telephonic communication on receipt of their application for sanction of additional load. This matter was also discussed in front of the Local M.L.A. The connection No. 05892 of Shri Harichandra Agrawal was in use in the same premises where applicants want the additional extension of load. The applicants cannot deny the responsibility of payment of outstanding arrears. This connection was in use upto Nov, 2006 and, therefore, provisions of Section 56(2) of Electricity Act, 2003 is not applicable. The non-Applicants also submitted that unless Applicants clear the technical and commercial formalities, provisions under S.O.P. are not attracted. In view of this position extension of load was not sanctioned.

7. On perusal of the record, the Forum come to the conclusion and decides unanimously as under:

8. It is a matter of fact that the original owner of the premises, Shri Harichandra Agrawal expired on 5/11/1984. This premise was purchased by Smt. Vimladevi Agrawal (Applicant). Out of two connections, she made an application to the M.S.E.D.C.L. for transfer of this connection in her name. She has not made any request or application for transfer of her name in respect of C.L. connection. It is seen from the CPL(Regard pages 40-43) that energy bill of Shri Harichandra Agrawal have been recorded from Aug,2001 to Jan,2007. The Forum also noticed that the bills were paid upto 27/8/2003 but when the bill accumulated to Rs. 2.38 lakhs there was no payment of energy bills. The Forum also noticed that from Aug,2003 to Nov,2006 no action for permanent disconnection or recovery of arrears was done by the non-applicants. Permanent Disconnection was done in Nov,2006. On the one hand the applicants claim that Shri Harichandra Agrawal is a separate and different entity with separate meter number and, therefore, they can not be held responsible for payment. But on the other hand, it is noticed that Smt. Vimladevi Agrawal(Applicant) purchased the premises from Shri Harichandra Agrawal who expired in 1984. It is clear from the N.O.C. issued by Upsarpanch, Grampanchayat, Fulchur that Shri Harichandra Agrawal expired and Smt. Vimladevi Agrawal purchased the Rice Mill (premise under issue) from Shri Harichandra. He has no objection for transfer of the electricity connection in her name. Smt. Vimladevi Agrawal also made an application (Record page 54) to A.E., M.S.E.D.C.L., Gondia in 2005 for recording her name in respect of connection IP/ 8852. Shri Govind Agrawal specifically informed the Forum at the time of hearing that applicants are not aware about the property of Harchandra Agrawal and no connection with the bills and payment thereof. The bills were paid upto Aug,2003 whereas Shri Harichandra Agrawal expired in 1984. Who were making the payment of energy bills upto Aug,2003? Who was utilizing the electricity of this connection? To reply these questions it is obvious that the electricity was in use, it was consumed and, therefore, we find the recording of the bills in CPL though name of Shri Harichandra Agrawal was on the CPL. It is a matter of fact that M.S.E.D.C.L. supplied the electricity and, therefore, entitled for recovery of electricity charges. Smt. Vimladevi Agrawal (Applicant) can not deny her responsibility for making the payment of arrears as rightly claimed by the non-applicants.

9. Smt. Vimladevi Agrawal made an application in form 'X' (Record page 59) showing Shri Harichandra Agrawal as present owner with legal heirs Shri Vishnuprasad Agrawal of Gondia. This application pertains to transfer of electricity power. Thus she wanted to record her name in respect of IP Connection but she made no application about CL connection. She has also given undertaking for change of her name in form 'Y' (Record page 61). She also made a declaration

in form 'Z' on 16.1.2005. This declaration shows the name of Shri Harichandra Agrawal with legal heir Vishnuprasad Harichandra Agrawal . All these documents clearly show that she purchased the premises under subject matter from Shri Harichandra Agrawal and, therefore, cannot deny her responsibility for making the payment of arrears.

10. M.S.E.D.C.L. has a right to recover the arrears for electricity supplied. The Regulation 10.5 of the MERC(Electricity Supply Code and other condition of supply) Regulations,2005 provides that any charge for electricity or any sum other than charge of electricity due to the D.L. which arrears unpaid by the deceased consumer or the erstwhile owner/occupier of any premises, shall be charged on the premises transfer to the legal Representative/consumer in law or transferred to the new owner/occupier of the premises, shall be recoverable by the D.L. from such person. In the instant case, Smt Vimladevi Agrawal is successor in law and also new owner of the said premises. The electricity charges are on the premises. The owner or occupier may change but the premises remain the same and, therefore, M.S.E.D.C.L. has right to recover the charges. The non-Applicants relied upon the judgement of the Hon'ble Supreme Court in M/S. Amit Production Vs Chief Engineer(Record page 31). In this case the Hon'ble Supreme Court held that the appellant company is none other than sister concern of M/s. Amar Amit Jalna Alloys and was representing the same consumer who had committed the default. Applicants in their written note of arguments submitted that the non-applicants failed to submit any proof to show that the LT Consumer/Hemant Agrawal is in the same premises. This contention is not acceptable to the Forum as the site map (Record page 65) clearly shows that the CL/76 connection and Smt. Vimladevi's connection are in the same premises. Smt Vimladevi is getting supply from the connection in the office with No.CL/76 which originally belongs to Harichandra Agrawal. No doubt, Smt. Vimladevi is responsible and liable for the arrears under dispute. However she gets the benefit as provided under proviso to the Regulation 10.5 of the Supply Code Regulations. It has been laid down under this proviso that provided that except in case of transfer of connection to the legal heir, the liabilities transfer under this Regulations 10.5 shall be restricted to maximum period of 6 months of unpaid charges for electricity supply to such premises. The non-applicants admitted that the enquiry was made about the abnormal high charges as appeared in the bill of Feb, 2004 amounting to Rs. 1.25 lakhs (Record page 41). This means there is a scope for fresh enquiry and assessment of the exact bill showing the outstanding arrears of Rs. 2.38 lakhs. Smt. Vimladevi Agrawal is not the legal heir of Late Harichandra Agrawal and, therefore, she is not responsible and liable for whole amount of arrears in terms of the proviso to Regulation 10.5 of the Supply Code Regulation. It is surprising to note that the non-Applicants are not in a position to trace out the name and address of the legal heirs of

deceased Harichandra Agrawal. It is very clear from the heirship certificate and the declaration in form 'Z' that the name of legal heir has been shown as Vishnuprasad H. Agrawal. . The non-applicants can not recover the whole amount of arrears from Smt. Vimladevi except the amount restricted to maximum period of six months of the unpaid charges. It is clear from the record that the legal heirs of deceased Harichandra Agrawal appears on record with detailed address. It is responsibility of the non-applicants to recover the amount from the legal heir/heirs of Harichand Agrawal. They are entitled to recover the unpaid charges for six months prior to Nov,2006. Remaining amount should be recovered from the legal heir/heirs of deceased Harichandra Agrawal. Shri Govind Agrawal has totally disowned the identity of Harichandra Agrawal and his legal heirs. It is surprising to note that Smt. Vimladevi purchased the premises in question from Harichandra Agrawal, she made application for transfer of her name and also made specific declaration mentioned above. This claim of applicants can not be accepted denying the liability about utilization of electricity. Applicant also relied upon the provision under Section 56(2) of Electricity Act, 2003. The non-applicants have rightly submitted that this section is not attracted in the instant case as the connection under subject matter was in use upto Nov, 2006. The Forum agrees with the non-applicants and reject the claim of Applicants to apply provision under Section 56(2). Applicants on one hand are totally denying the identity of deceased Harichandra Agrawal but on the other hand they are claiming shelter under section 56(2) of the Electricity Act, 2003.

11. The non-applicants are directed to consider the applications about extension of additional load as applied by applicants within one month after payment of the charges of six months as mentioned above and also on completion of legal, technical and commercial formalities as prescribed by the Supply Code and the M.S.E.D.C.L. The non-applicants are also directed to re-examine the outstanding bills of Rs. 2.38 lakhs in term of their own submission in this regard.

12. With the above observations, the Forum pass the following order unanimously:

- a) Application is rejected.
- b) The claim about compensation under SOP is also rejected.
- c) The non-applicants to provide extension of additional load within one month from the date of payment of charges of six months by applicants and on completion of prescribed formalities.
- d) The non-applicants are directed to re-examine the outstanding bill within one month and intimate the applicants about the same.
- e) Claim of Applicant under section 56(2) is also rejected.

No. CGRF/NZ/R/

Date:

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. Shri. Hemant S. Agrawal, R.S.Paraboiling, Fulchur Peth, Gondia-441 601.
2. The Chief Engineer, Nagpur Zone (Rural) MSEDCL, Vidyut Bhavan, Katol Road, Nagpur.
3. The E.E./N.O., Circle Office, O&M Circle, MSEDCL, Gondia, for inf. & necessary action.
4. The E.E., C.C.O&M Dn., MSEDCL, Gondia 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)

