

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/100/2012

Applicant : M/s. Ashami Builders & Developers,
Plot No. 206, Chamat Chouk,
Dighori,
NAGPUR.

Non-applicant : Nodal Officer,
The Superintending Engineer,
(Distribution Franchisee),
N.U.C., MSEDCL, NAGPUR.

Quorum Present : 1) Shri. Shivajirao S. Patil
Chairman,

2) Adv. Smt. Gouri Chandrayan,
Member,

3) Smt. Kavita K. Gharat
Member Secretary.

ORDER PASSED ON 25.10.2012.

1. The applicant M/s. Ashmi Builders and developers filed present grievance application before this Forum on 21.9.2012 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. Applicant's case in brief is that applicant filed application for new connection on 18.5.2012 to M/s. SPANCO office in Chhaprunagar but it was told to the applicant that it

is necessary to install new transformer. In fact there is no necessity of any transformer. In spite of repeated applications connection is not given to the applicant. Therefore applicant prayed for issuance of directions to non applicant to issue electrical connections to all flat owners of the applicant builder.

3. Non applicant M/s. SPANCO denied the applicant's case by filing reply Dt. 18.10.2012. It is submitted that applicant without availing alternative remedy of approaching I.G.R.C. has directly approached before this Forum and therefore according to Regulation 6.2, 6.4 and 8.2 of the said regulations, application is untenable at law and deserves to be dismissed. It is submitted that applicant has applied for supply under flat scheme on 18.5.2012 with M/s. SPANCO. In technical feasibility of the premises of the applicant, it was revealed that current distribution transformer can not bear the load of the said supply of the applicant and load was not available on the existing distribution transformer to provide requested load to flat scheme. Therefore in consonance with regulation 5.5 of supply code regulations 2005 applicant was requested to arrange and provide 22 Sq.Mtrs. of land / room in their premises for installation of Distribution Transformer and associated equipments vide communication Dt. 18.5.2012. But even after receipt of said communication applicant had not taken any steps. Therefore for this reason non applicant can not proceed further with the application of the applicant. On the grounds

of suppression of the facts, application deserves to be dismissed. Without prejudice to above discussed preliminary objection, non applicant further submitted that applicant had applied load of 27.8 kW for their flat scheme, consisting of 11 RL flats and 2 Shops located at “Ashmi Palace” on Plot No. 206, Chamat Chouk, Dighori Ring Road Nagpur on Dt. 18.5.2012. Applicant is already benefited with one residential connection No. 410017883929 in the name of Shri Pyre Saheb Jiyakha, which has outstanding dues of Rs. 6305/- and same is in arrears till today. On receipt of application of the applicant, non applicant inspected the premises. In the technical feasibility it was discovered that area is fed through 2 distribution transformer namely 200 kVA Distribution transformer 4686474 loaded at 300 Amps. (100 + %) and 200 kVA distribution transformer 4686244 which is also loaded 275 Amps. (100 + %). Being so, new load application if any can not be made out till further addition to the installed distribution capacity. Accordingly, applicant was duly informed that load is not available on D.T.C. and for sanctioning load, additional 11 Flats and 2 Shops comprising of 470 sq. mtrs. of premises of the applicant would require additional load sanction of 49 kW. Therefore for processing the application of supply of the applicant as per regulation 5.5 of supply code regulation 2005 Written communication Dt. 28.5.2012 was made with the applicant. But applicant did not comply. It was only because of failure and non cooperation on the part of the applicant, no action could be taken. Application may be dismissed.

4. Forum heard arguments of both the parties and perused record.

5. Record shows that applicant applied for availing load of 27.8 kW for their flat scheme consisting of 11 residential flats and 2 shops located at "Ashmi Palace". It is an admitted fact that there is residential connection No. 410017883929 in the name of Shri Pyresaheb Jiyakha having arrears of Rs. 6305/-. During the course arguments representative of the applicant orally told that they are ready to pay the arrears.

6. Record shows that in the technical feasibility it was discovered that area is fed through two transformers but there is already more than 100 % load on these transformers and therefore load is not available and for sanctioning load for additional 11 Flats and 2 Shops comprising of 470 sq.mtr. of premises of the applicant would require additional load sanction of 49 kW. Though non applicant sent written communication Dt. 28.5.2012 to the applicant even then it is not complied. Therefore there was failure on the part of the applicant who did not comply the written communication Dt. 28.5.2012. It appears that for additional load sanction of 49 kW separate transformer is necessary. Therefore it is necessary for the applicant to comply for additional load sanction of 49 kW for additional 11 Flats and 2 Shops. Unless and until applicant does not comply written communication

Dt. 28.5.2012, request application of the applicant to provide electric supply to their flat owners and shop owners is practically not possible. Therefore it is necessary on the part of the builder Ashmi Builders & Developers to comply written communication of the non applicant Dt. 28.5.2012.

6. Further more, applicant Ashmi Builders & Developers (Prop. Pyaresahab Jiyakha) authorized one Mr. Suresh yerne Nagpur (Electrical Contractor) to file grievance application on behalf of Ashmi Builders & Developers. Along with this authority letter, Proprietor of Ashmi Builders & Developers had produced simply typed list of 11 Flat Owners and 1 Shop Owners, namely 1) Shri Mangesh Chintawar 2) Smt. Anjum Bano 3) Shri Fahim Sheikh 4) Smt. Raziya Bano 5) Shri Nitin N. Deshmukh 6) Shri Sajid Sheikh 7) Shri Pyre Jiyakha 8) Shri Salim Yusuf Ajani 9) Shri Pyare Jiyakha 10) Shri Abid Khan Wahid Khan 11) Shri Balaji R. Kuradkar & shop owner 12) Shri Mahesh Padole. Therefore it is clear that these 11 Flat Owners and one Shop Owner are intending to take individual electricity connections. However, all these 12 persons did not file any grievance application before this Forum nor they authorized either Ashmi Builders & Developers or Builders representative Shri Mangesh S. Yelne. Therefore representative of Ashmi Builders named Shri M.S. Yelne is not the representative of these 12 persons (Flat owners and shop owner) and hence applicant or its representative has no locusstandi and authority to file the application for these 12 persons. After the builder comply

written communication of M/s. SPANCO Dt. 28.5.2012 thereafter all these 12 persons have to file application in A-1 form before non applicant and to comply all other requisite formalities and even then if the connection is not given to them they are at liberty to approach first to IGRC and then before this Forum. Therefore present application can not be treated as application of 11 Flat owners and one shop owner. For this reason also application deserves to be dismissed.

7. Further more, record shows that applicant did not file any application to I.G.R.C. The applicant also did not file complaint to superior authorities of the non applicant and hence present application does not fall within “Deemed Provision” of regulation 6.2 “2nd Proviso”. According to “2nd Proviso” of regulation 6.2 of the said regulations, it is mentioned that “Provided also that the intimation given to officials who are not part of I.G.R.C. to whom consumer approach due to lack of general awareness of I.G.R.C. established by distribution licensee or procedure for approaching it shall be deemed to be intimation for the purpose of this regulation, unless such officials forthwith direct the consumer to the I.G.R.C.”. There is nothing on record to show that applicant Ashmi Builders & Developers had given any intimation to other officials of the non applicant about non compliance. There is nothing on record to show that applicant builder has lack of general awareness of I.G.R.C. On the contrary, it is a common sense that nowadays such builders are very well aware about I.G.R.C., C.G.R.F. etc. and

it is their day to day business of construction of flats and obtain electric connection. Therefore it is not a case of “deemed provision” within the meaning of provision 6.2 of the said regulations and therefore direct application to C.G.R.F. without approaching to I.G.R.C. is untenable at law. Therefore in this matter only certain speaking orders can be passed. Hence Forum proceeds to pass following order :-

ORDER

- 1) Grievance application is partly allowed.
- 2) Applicant M/s. Ashmi Builders & Developers is at liberty to comply written communication of M/s. SPANCO Dt. 28.5.2012 being compliance on the part of the builder.
- 3) 11 Flat owners and 1 shop owner are at liberty to file application in A-1 form to M/s. SPANCO after full and final compliance of written communication Dt. 28.5.2012 sent by M/s. SPANCO to the builder and thereafter to comply all other requisite formalities if individual connection is required.
- 4) On such compliance in case no relief is given by the non applicant aggrieved party is at liberty to approach first to I.G.R.C. in accordance with the said regulations.

Sd/- (Smt.K.K.Gharat) MEMBER SECRETARY	Sd/- (Adv.Smt.GauriChandrayan) MEMBER	Sd/- (ShriShivajirao S.Patil) CHAIRMAN
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