

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

Case No. CGRF(NZ)130/2016

Applicant : Shri Kapil B.Mudliar
295/B, Nana Soni Line
Sitabuldi, Nagpur-12

Non-applicant : Nodal Officer,
The Executive Engineer,
Congresnagar Dn., NUC, MSEDCL,
NAGPUR.

Applicant :- In person.

Respondent by 1) Shri M.Pharaohkhanewala, Addl.EE.(Regent)

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

2) Shri N.V.Bansod
Member

3) Mrs. V.N.Parihar,
Member, Secretary

ORDER PASSED ON 21.09.2016.

1. The applicant filed present grievance application before this Forum on 04.08.2016 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).

2. Applicant's case in brief is that he is owner of House No.295/B, Sitabuldi Nagpur. Applicant filed application for new residential connection in House No.295/B. However MSEDCL informed the applicant that there are P.D. arrears against House

No.289 owned by grandfather of applicant named late Shri Kannappa Ramaswamy Mudliar. Therefore applicant was directed to pay P.D. arrears Rs.20065/- + interest Rs.75845/- = Total Rs.95910/-. Unless & until P.D. arrears of House No.289 are not paid, connection will not be released in House No.295/B. According to the applicant House No.289 against which there are P.D. arrears is totally difference property and therefore he is entitle for new electricity connection in House No.295/B.

3. Non applicant, denied applicant's case by filing reply dated 25.08.2016. It is submitted that there are P.D. arrears against the property since 1993. Unless & until P.D. arrears are not paid new connection will not be released.

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

5. There is difference of opinion amongst all 3 members of the forum. Therefore decision is based on majority view of Hon'ble Chairperson and Hon'ble member (CPO) whereas Dissenting Note of Hon'ble member/secretary is noted in the judgement & it is part parcel of the judgement.

Reasoning & finding of majority view of Hon'ble chairperson & Hon'ble member (CPO).

6. It is an admitted facts that there is P.D. arrears against House No.289 owned by grandfather of applicant late Shri Kannappa Ramaswamy Mudliar Rs.20065/- since 1993. It is noteworthy that MSEDCL issued electricity bill on 08-02-2016 and in this bill P.D. arrears are shown Rs.20065/- + interest Rs.75845/-. In this bill it is specifically mentioned that these P.D. arrears are outstanding on property i.e. House No.289. Non-applicant sent reply to A-1 form submitted by the applicant on 12-01-2016. By this reply dated 12-01-2016 Assistant Engineer, Regent Distribution

Centre, MSEDCL, Nagpur informed to the applicant that there are P.D. arrears against the owner of House No.289 late Shri Kannappa Ramaswamy Mudliar. From the documents issued by non-applicant it is clear that P.D. arrears against House No.289.

7. However applicant applied for new connection in House No.295/B. Evidence on record shows that the House No.289 & House No.295/B are totally different properties. Applicant also produced tax receipt issued by N.M.C. Nagpur regarding House No.295/B. As both the properties are totally different P.D. arrears against House No.289 can not be recover from the owner of House No.295/B. Unless & until both the properties are not one and same P.D. arrears can not be recover. Therefore provision of Regulation 10.5 of MERC's Electricity supply code are not applicable to the present case and applicant is entitle for new service connection in House No.295/B.

8. We have carefully perused order passed by Hon'ble Electricity Ombudsman Nagpur in representation No.30/2016 dated 10-08-2016 in the matter of Shri Vijay Kanhaiyalal Chug V/s. Superintending Engineer, MSEDCL, NUC, Nagpur. However facts of that authority are totally different and distinguishable from the facts of present case. As per the facts of this authority consumer required new electricity connection on first floor on the same house No.1198 against which there were P.D. arrears. In para 9 of the authority it is reads as under;

"The appellant orally submitted that he wants new electricity connection on the first floor of the said house. However, this is no where mentioned in his application dated 23.3.2016 in the

prescribed form A-1. On the contrary, the entire House No.1198 on plot no.176 of East Wardhamannagar, Nagpur is mentioned as an address of the place where electricity supply is required. Hence, the provisions of Clause 10.5 of the Electricity Supply Code are attracted to the present case.”

9. However in the case pending before us P.D. arrears are outstanding against House No.289 and not against House No.295/B. Both the properties are totally different Therefore facts of the present case are different & distinguishable. Therefore this authority is not applicable to the case in hand.

10. As both the properties are different, provision of Regulation 10.5 of MERC's Electricity Supply Code are not attracted and applicant is entitle for new electricity connection in House No.295/B.

11. Furthermore these P.D. arrears are since 1993 i.e. since last 23 years. Record shows that officers of MSEDCL did not attempt to recover these arrears in 23 years. Even as per law of limitation there is 3 years limitation to recover arrears. These arrears are also not carry forward in every month bill as per Sec.56(2) Electricity Act 2003 therefore in facts this amount is time barred. In facts it is necessary to conduct departmental enquiry against the officers of MSEDCL who never take steps for recovery of P.D. arrears since 1993. We don't know who were working the officers during the last 23 years, who neglected to recover the arrears. Now as same circular alleged to have received from the Head Office, therefore present officer of MSEDCL are taking action to recover these time barred P.D. arrears that too even from the owner of

another property.

12. In our opinion applicant is entitle for new service connection in House No.295/B.

13. **Dissenting note of Hon'ble Member/Secretary is as under:**

“1. The grievance applications is filed on dt.04-08-2016 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).

2. It is also submitted by Applicant in his application that, his Grandfather Late Kannappa Ramaswamy Mudliar was the owner of NMC house no.289-295 and all the electric meter were allotted in the name of K.R.Mudliar in the year 1972.late Kannappa expired in the year 1990 and transferred his house no. 295 along with two connections namely 410010665926 and 410010665942 in the name of his 3 sons M/s Govind(NMC house no. 295),Balmukund NMC house no. 295/B),Arvind (NMC house no. 295/A),After expiry of Balmukund Mudliar NMC house no. was transferred to his son Kapil B. Mudaliar.

3. The P.D. connection no. 410010674259 disconnected on dt.22/03/1993,had arrears of Rs.20065/-and was in the property bearing house no.289.After the death of Kannappa Mudliar the present ownership of house no.289 is not mentioned any wherein the applicant, except the fact that applicant's late grandfather was owner of house no.289.The map submitted by the applicant also could not substantiate clearly the division and ownership of the houses in the said premises and hence could not substantiate the afore said facts.

4. As per Respondent, an Applicant applied for a new commercial electric supply

on dt 01/01/2016 in the name of his tenant M/s.Indus TowerLtd. at House no.289, Happy home lodge, Soni Lane, Sitabuldi, Nagpur

5. The A.E. regent carried out spot inspection and on verification of old record observed that the house no. 289 was having old supply bearing consumer no. 410010674259 in the name of Shri K.R. Mudliar which was permanently disconnected for unpaid amount of Rs. 20,065/-in the year1993 and hence informed the applicant that new connection will be released only after paying total arrears of Rs.95,910/- (Rs20,065 and interest Rs.75,845/-)

6. An applicant again made another application on dt.11/04/2016 in the name of, M/s.Indus TowerLtd. at House no.295, Happy home lodge, Soni Lane, Sitabuldi, Nagpur.

7. The A.E. regent again carried out spot inspection of the said premises and verified the record and found that premises for both house no 289 and 295 mentioned in both the new connection's application is one and the same.

8. As per provisions of Clause 10.5 of the Electricity Supply code, the outstanding arrears are charge on the premises, and not on the person, which reads as under:-

“Any charge for electricity or sum other than a charge for electricity due to the distribution licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives/successors-in-law or transferred to the new owner/occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner/occupier of the premises, as the case may be.”

Provided that except in the case of transfer of connection to a legal heir, the liabilities

transferred under this regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.”

9. *Hence an applicant Kapil B. Mudaliar, being grandson of the erstwhile consumer late shri.Kannappa Mudliar, is liable to pay the outstanding arrears*

In view of circumstances mentioned above, I am of the opinion that, action taken by respondent is correct and therefore order of IGRC is correct and needs no interference. Hence Applicant is liable to pay old permanent disconnection dues/arrears amount Rs20,065/-along with interest Rs.95,910/-, Total being Rs,95,910/-in order to get new connection at Houseno.295, Happy home lodge, Soni lane,Sitabuldi,Nagpur.

14. **Concluding Reasoning & finding of majority view of Hon’ble chairperson & Hon’ble member (C.P.O.) of the forum.**

Therefore majority view hold that applicant is entitled for new service connection in House No.295/B.

15. Hence we proceed to pass the following order.

ORDER

1. Grievance application is allowed.
2. Non-applicant is directed to issue electric connection in House No.295/B of the applicant on completion of other necessary formalities by the applicant.
3. Non-applicant is directed to submit compliance report within 30 days from the date of this order.

Sd/-

(N.V.Bansod)
MEMBER

sd/-

(Mrs.V.N.Parihar)
MEMBER/SECRETARY

sd/-

(Shivajirao S. Patil),
CHAIRMAN

