

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

Case No. CGRF(NUZ)/079/2006

Applicant : Smt. Kalpna Harishkumar Shukla
Ganesh Bhavan,
Near Museum , Civil Lines,
Nagpur – 440 001.

Non-Applicant : The Nodal Officer-
Executive Engineer,
Civil Lines Division,
Nagpur representing the MSEDCL.

Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

3) Shri M.S. Shrisat
Exe. Engr. & Member Secretary,
Consumer Grievance Redressal Forum,
NUZ, MSEDCL, Nagpur.

ORDER (Passed on 13.01.2006)

The present grievance application has been filed on 09.12.2005 under the provisions of Regulation 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer

Grievance Redressal Forum & Ombudsman) Regulations, 2003 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of non-release of new electricity connection to her.

Before approaching this Forum, the applicant had filed her complaint before the Internal Grievance Redressal Unit headed by the Executive Engineer (Adm), NUC, MSEDCL, Nagpur under the said Regulations. This Unit, thereupon, replied the applicant by its letter, being letter no. 4308 dated 03.12.2005, that the applicant's request for release of a new connection can be processed further on the applicant furnishing certain documents viz. "No Objection Certificate" of the owner of the premises, rent receipt of the premises in her possession, Nagpur Municipal Corporation's property tax receipt etc. The applicant's case has subsequently been held in abeyance by the non-applicant. The applicant was not satisfied with this action and hence, the present grievance application.

The facts of the case, in brief, are as under.

The applicant applied to the non-applicant on 31.10.2005 for release of a new electricity connection to the premises occupied by her. After completing enquiry, the non-applicant obtained legal advice from his legal advisor and, thereupon, issued a demand note for Rs. 7,401/- on 29.11.2005 evidently with a view to release the connection. The applicant paid this amount on 29.11.2005. However, the owners Shri Manoharprasad Pande and Shri Mukeshprasad Pande of the said premises filed an application on 02.12.2005 with the non-applicant's Officer informing him that 'Status Quo' has

been ordered by the Hon'ble High Court of Bombay, Nagpur Bench, Nagpur in Appeal Order No. 61/2005 in the case of Gaimukh Deosthan V/s. Akshay Pande & Yogesh Pande and further that no electricity poles can be erected or electricity service line laid in the property which is a subject-matter of the litigation as per the order of the Hon. High Court. In view of this position, the process of releasing new electricity connection to the applicant has been held in abeyance by the non-applicant. The non-applicant has asked the applicant to submit all the relevant papers pertaining to the Court litigation by his letter, being letter no. 6761 dated 16.12.2005.

The matter was heard by us and both the parties were given adequate opportunity to submit their respective say.

The applicant's case has been presented before us by her nominated representative one Shri Narendra Jagatnarayan Pande.

The non-applicant submitted his parawise comments on the applicant's grievance application, a copy of which was given to the applicant's representative.

According to the applicant's representative, the applicant is a tenant in the suit premises i.e. Ganesh Bhawan, Civil Lines Nagpur, house no. 210/2 from the last 23 years. There was an electricity connection in use in the name of owner Shri G.Y. Pande and the applicant was utilizing the electricity from this connection.

He added that the landlord shri G.Y. Pande through his legal heirs Shri Manoharprasad Pande and

Mukesh Pande disconnected the electricity meter with a view to evicting the applicant from the premises in her lawful possession.

The applicant's representative strongly contended that the applicant is still a tenant in the said premises but without electricity since last four months.

The applicant had applied to the non-applicant for releasing a new electricity connection and duly completed all the requisite formalities including payment of demand note amount.

The applicant's representative further submitted that the non-applicant had obtained legal opinion from his legal advisor and that the advisor also opined that new connection sought for by the applicant can be released in view of section 29 of Maharashtra Rent Control Act.

The contention of the applicant's representative is that supply of electricity is an essential service and that the applicant is entitled to obtain it even without furnishing No Objection Certificate from the landlord for this purpose. He had relied upon the ruling given on 15.07.2004 by the Hon'ble Bombay High Court, Nagpur Bench, Nagpur in writ petition No. 2559/04. He has also relied upon the Judgment of Calcutta High Court re-produced in A.I.R. 1999, Calcutta, 102. He has produced copies of these two Judgments in support of his contentions.

The contention of the applicant's representative in respect of the Hon. High Court's Status Quo order is that the same is not applicable to the applicant since the applicant is a

lawful tenant of the premises legally entitled to receive the electricity connection and since she is not at all concerned with the dispute which is a subject-matter of litigation.

He has also produced copies of the following documents.

- 1) Internal Grievance Redressal Unit's reply, being reply letter no. 4308 dated 03.12.2005.
- 2) Receipt dated 24.10.2005 for Rs. 150/- issued by the Water Works Department of Nagpur Municipal Corporation in the name of the applicant towards payment of Water bill for the period from 31.05.2005 to 31.08.2005.
- 3) Bill No. 230702 dated 11.10.2005 for Rs.150/- issued to the applicant by the Water Works Deptt. of Nagpur Municipal Corporation towards Water Tax for the period from 31.05.2005 to 31.08.2005.
- 4) Receipt, being receipt no. 6927339 for Rs. 950/-, issued in the name of Shri G.Y. Pande, consumer no. 410010572731 towards payment of electricity dues.
- 5) Payment receipt, being receipt no. 13693501 dated 29.11.2005, for Rs. 7401/- issued in the name of the applicant by the non-applicant towards payment of the demand note amount.
- 6) Energy bill dated 20.04.2005 for Rs. 950/- for the period from 09.02.2005 to 08.04.2005 issued in the name of consumer Shri G.Y. Pande, Ganesh Bhawan, Civil Lines, Nagpur.

- 7) Energy bill dated 01.03.2004 issued in the name of consumer Shri G.Y. Pande for Rs. 1260/- for the period from 05.12.2003 to 06.02.2004.
- 8) Energy bill dated 19.08.2005 for Rs. 25,060/- for 1904 units for the period from 08.06.2005 to 08.08.2005 issued in the name of consumer Shri G.Y. Pande.
- 9) Energy bill dated 24.06.2005 for 3024 units for Rs. 15250/- for the period from 08.04.2005 to 08.06.2005 issued in the name of consumer Shri G.Y. Pande.
- 10) The applicant's affidavit dated 28.10.2005 submitted to the non-applicant in which it has been stated by her that she is the legal tenant in respect of certain portion of House property bearing NMC house No. 210/2 known as Ganesh Bhawan situated at Civil Lines, Nagpur and that the landlord of the said house property had filed Civil Suit, being Reg. C.S. No. 410/93, for her ejection and for possession of the premises before the 8th Joint Civil Judge, Jr. Division, Nagpur.
- 11) Postal Acknowledgment of money order for Rs. 100/- dated 08.05.1987 towards room rent for the month of May 1987 as per applicant's claim.
- 12) Postal acknowledgment of money order dated 21.04.1987 for amount of Rs. 100/- towards room rent for the month of April, 1987 as per applicant's claim.
- 13) Letter, being letter no. 1341 dated 09.11.2005 addressed to the applicant by the Jr. Engineer,

A.F.O. D/C MSEDCL, Nagpur asking the applicant to file requisite documents.

- 14) Letter, being letter dated 16.11.2005 addressed to the Jr. Engineer A.F.O. Centre, Kasturchand Park, Nagpur by the applicant, replying the Jr. Engineer's letter dated 09.11.2005.
- 15) Postal acknowledgment of money order for Rs. 100/- towards room rent for the month of June, 1987 as claimed by the applicant.
- 16) Complaint dated 23.11.2005 filed by the applicant before the Internal Grievance Redressal Unit.
- 17) Demand note dated 29.11.2005 for Rs. 7401/- issued by the non-applicant in the name of the applicant.

Relying on these documents and the submissions made by the applicant's representative, it is his request that the new electricity connection sought may be released to the applicant without any further delay.

The non-applicant, on his part, has stated in his parawise report that a demand note, being demand note dated 29.11.2005 for Rs. 7401/-, was issued in favour of the applicant with a view to release the electricity connection sought for by her. Legal opinion of the non-applicant's legal advisor was obtained by him before issuing this demand note. However, the owners Shri Manoharprasad Pande and Shri Mukeshprasad Pande filed a complaint application on 02.12.2005 informing him that the Hon'ble Bombay High Court Bench at Nagpur has issued a Status Quo order in respect of the total premises

and hence the process of releasing a new connection has been held in abeyance by him.

The non-applicant added that, according to him, the applicant is entitled for a new electricity connection in the premises in question occupied by her. However, he is prevented from releasing this connection in view of the complaint of the house owners and particularly in view of the Hon'ble High Court's Status Quo order.

The non-applicant has produced copies of the following documents.

- 1) Application dated 31.10.2005 filed by the applicant for releasing a new electricity connection.
- 2) Energy bill dated 24.05.2005 for Rs. 1640/- issued in the name of consumer Mrs. Chandramohinidevi Pande.
- 3) Applicant's affidavit dated 28.10.2005.
- 4) Receipt dated 24.10.2005 for Rs. 150/- issued by the Water Works Deptt. of NMC issued in the name of the applicant towards payment of Water bill.
- 5) NMC's Water bill no. 230702 dated 11.10.2005 for Rs. 150/- issued in the name of the applicant.
- 6) Jr. Engineer's letter, being letter no. 1341 dated 09.11.2005, addressed to the applicant asking her to file requisite documents.
- 7) Reply, being reply dated 16.11.2005, given by the applicant to the Jr. Engineer's letter dated 09.11.2005.

- 8) Letter dated 16.11.2005 addressed to the Assistant Engineer by the Jr. Engineer A.F.O., MSEDCL, NUZ, Nagpur seeking instructions in respect of release of new service connection to the applicant.
- 9) Demand note dated 29.11.2005 for Rs. 7401/- issued to the applicant.
- 10) Payment receipt dated 29.11.2005 for Rs. 7401/- deposited by the applicant.
- 11) Letter, being letter dated 27.11.2005 addressed to Adv. Shri Y.R. Dandige - the non-applicant's legal advisor by the Assistant Engineer M.R.S. S/Dn., Civil Lines Division seeking his legal opinion in respect of release of new service connection to the applicant.
- 12) Letter, being letter dated 28.11.2005, containing the legal advise of Adv. Shri Dandige addressed to the Assistant Engineer, M.R.S. S/Dn., Nagpur.
- 13) Letter, being letter dated 22.11.2005, addressed to the Sub Engineer, Civil Lines Division, MSEB Nagpur by S/shri Manoharprasad Pande and Mukeshprasad Pande informing the Sub-Engineer that no electricity poles can be laid in the property land in question in view of the Hon'ble High Court's order.
- 14) Letter dated 06.07.2005 issued by the Assistant Registrar, High Court of Bombay, Nagpur Bench, Nagpur issued in appeal no. 61 in the case of Gaimukh Deosthan V/s. Shri Yogesh Ishwarprasad Pande and two others informing the parties to the

Spl. Civil Suit No. 777/2004 that by way of interim order, the High Court has directed that the Status Quo granted by the trial Court should continue until further orders.

- 15) Letter dated 11.07.2005 addressed to the Police Inspector, Sitabuldi Police Station, Nagpur by Shri Manoharprasad Pande & Shri Mukeshprasad Pande informing the Police Inspector about the ad-interim orders passed by the Hon'ble High Court of Bombay Nagpur Bench, Nagpur.
- 16) Application dated 02.12.2005 addressed to the Executive Engineer, MSEDCL, Gaddigodam Division, by Shri Manoharprasad Pande & Shri Mukeshprasad Pande informing him about the Status Quo order passed by the Hon'ble Bombay High Court, Nagpur Bench, Nagpur and further objecting to erection of electricity poles against the order of Hon'ble High Court of Bombay Nagpur Bench, Nagpur and also requesting for enquiry into the matter of illegal erection of the electricity poles for giving electricity connection in the Ganesh Bhawan property.
- 17) Property Card in respect of City Survey No. 1719 along with a map.
- 18) Will deed dated 03.06.1960 of Shri Ganpatrao Yadavrao Pande - the owner of Ganesh Bhavan, Civil Lines, Nagpur and his Codicil dated 28.11.1967.
- 19) Application of the near-by residents of Ganesh Bhavan, Nagpur addressed to the Nagpur Municipal

Corporation complaining against certain illegal construction being carried out by Shri Yogesh Pande and Shri Akshay Pande.

- 20) Complaint dated 07.05.2004 addressed to the Nagpur Municipal Corporation by the applicants Shri Manoharprasad Pande and Shri Mukeshprasad Pande against illegal construction being done by Shri Akshay Pande and two others.
- 21) Complaint dated 06.05.2004 addressed to the In-charge Officer, Sitabuldi Police Station Nagpur by Shri Manoharprasad Pande & Shri Mukeshprasad Pande against Shri Akshay Pande & two others on the subject of illegal and forcible possession of the land of Gaimukh Deostan Trust, namely Ganesh Bhawan, Civil Lines, Nagpur.
- 22) A similar complaint dated 25.12.2002 addressed to the Police Officer, Sitabuldi Police Station, Nagpur by Shri Manoharprasad Pande & Shri Mukeshprasad Pande.
- 23) Complaint application addressed to the Police Officer Sitabuldi Police Station, Nagpur by the residents of Ganesh Bhawan, Civil Lines, Nagpur against Shri Akshay Pande & Shri Yogesh Pande.
- 24) A zerox copy of the suit dated 01.11.2004 for possession under section 6 of the Specific Relief Act. filed by Gaimukh Deosthan in the Civil Court, Civil Judge, Jr. Division, Nagpur.

- 25) Application dated 01.11.2004 filed before the Civil Judge, Sr. Division Nagpur by Gaimukh Deosthan under order 39 rule 1 & 2
- 26) Reply dated 08.12.2004 by Shri Yogeshprasad Pande and others in Special Civil Suit 777/2004 filed before the 2nd Joint Civil Judge, Sr. Division, Nagpur.
- 27) Order dated 28.06.2005 issued by the 2nd Joint Civil Judge, Sr. Division, Nagpur rejecting application for temporary injunction and vacating the Status Quo granted earlier.

The non-applicant has lastly prayed that the electricity connection sought for by the applicant could not be released because of the litigation referred to by him and particularly because of the Status Quo order passed by the Hon'ble High Court of Bombay, Nagpur Bench, Nagpur.

We have carefully gone through all the documents produced on record by both the parties and also all submissions, written and oral, made before us.

The basic question to be decided in this case is whether the electricity connection sought for by the applicant should be released by the non-applicant looking to the circumstances of the case and orders issued by the Hon'ble High Court.

It has been contended before us by the applicant's representative that the applicant is entitled to get the new electricity connection from the non-applicant since she is the legal tenant of the premises in question. For this purpose, he

has relied upon two judgments passed by two different High Courts.

The Hon'ble Bombay High Court, Nagpur Bench, Nagpur has held in its order dated 15.07.2004 passed in writ petition No. 2559/2004 in the case of Atul Khemka V/s. MSEB, Nagpur that Section 29 of the Maharashtra Rent Control Act, 1999 makes it abundantly clear that the respondent MSEB shall provide the essential supply of electricity without insisting on production of "No Objection Certificate" from the landlord by the petitioner-tenant. It is has also been held that conduct on the part of the respondent MSEB is totally contrary to law and cannot be sustained in law.

In the other writ petition, being petition No. 9078 (W) of 1998 decided on 08.07.1999 by the Hon'ble High Court at Calcutta, it has been held that the tenant is entitled to get electricity connection on completing the formalities of deposit of money etc. and that refusal to give the electricity connection by the concerned authority on the ground of landlord's objection is not proper.

Both these rulings of the Hon'ble High Courts, no doubt, otherwise support the case of the present applicant as regards her entitlement to get the electricity connection.

Even the non-applicant has also admitted before us that the applicant is very much entitled to get a new electricity connection. As a matter of fact, after taking legal advice from his legal Counsel, the non-applicant did issue a demand note to the applicant evidently with a view to release the electricity connection in favour of the applicant.

Although the applicant is entitled to get a new electricity connection as a tenant, it is to be seen whether such a connection can be released by the non-applicant looking to the text of the order issued by Hon'ble High Court of Bombay, Bench at Nagpur on 26.07.2005 in respect of the property in question namely Ganesh Bhawan, Civil Lines, Nagpur.

The applicant's representative has himself produced a copy of the order dated 26.07.2005 during the course of hearing. The Hon'ble High Court by way of Interim order in appeal order No. 61/2005 has directed that, during the pendency of the appeal, neither the appellants nor the respondents shall carry out any constructions or any other activities on the entire property i.e. Ganesh Bhawan, Civil Lines, Nagpur and that neither of the parties would create any third party rights.

The above text of the Hon'ble High Court's Order dated 26.07.2005 makes it clear that no construction of any kind is permissible on the entire property of Ganesh Bhawan. Erection of electricity poles in the property of Ganesh Bhawan would also amount to carrying out of a construction. Similarly no third party rights are to be created in the entire property of Ganesh Bhawan as per the Hon'ble High Court's Order. No activities of any kind are permissible in the land of Ganesh Bhawan.

The Hon'ble High Court has passed a specific order as stated above in respect of the entire property of Ganesh Bhawan and according to us, since the premises occupied by

the applicant also form part of the property of Ganesh Bhawan, no activity of any kind including erection of electricity poles in the land of Ganesh Bhawan is permissible. Hence, we are inclined to hold and do hold accordingly that the non-applicant has rightly held in abeyance the process of release of new electricity connection to the applicant.

In the result, the applicant's grievance application can not be accepted by us and the same stands rejected.

Sd/-	Sd-	Sd/-
(M.S. Shrisat)	(Smt. Gouri Chandrayan)	(S.D. Jahagirdar)
Member-Secretary	Member	CHAIRMAN

CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR

Member-Secretary
Consumer Grievance Redressal Forum,
Maharashtra State Electricity Distribution Co.Ltd.,
Nagpur Urban Zone, NAGPUR.