

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

Case No. CGRF(NZ)/150/2015

Applicant : Shri Rajeev P. Dhoble
(M/s. Swastik Developers)
277, Behind Reshimbag
Nagpur : 440009.

Non-applicant : Nodal Officer,
The Executive Engineer,
O&M DN.Congesnagar, MSEDCL
NAGPUR.

Case No. CGRF(NZ)/151/2015

Applicant : Shri Ramakant V. Gaikwad
277, Behind RSS Building
Reshimbag
Nagpur : 440009.

Non-applicant : Nodal Officer,
The Executive Engineer,
O&M DN.Congesnagar, MSEDCL
NAGPUR.

Applicant :- Shri D.D.Dave.

Respondent by 1) Shri Mankar, Addl.Executive Engineer.
Trimurtinagar

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

2) Mrs. V.N.Parihar,
Member / Secretary.

COMMON ORDER PASSED in case No.150/15 & 151/15
ON 24.11.2015.

1. The fact of case No.150/2015 and case No.151/2015 are similar and identical therefore it is convenient and desirous to dispute of both these cases by common order hence this forum is deciding both these cases by common order.

2. The applicant filed present grievance application before this Forum on 29.09.2015 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).

3. Applicant's case in brief are that applicant Shri Rajeev P. Dhoble, Swastik Developers and registered Power of Attorney for construction of Monarch Apartment having 8 flats has applied for sanction of Energy Meters with electric load of 23 KW, to the respondent with the relevant documents on dated 05-05-2014. But the load sanction was kept pending by the respondent. The respondent raised the dispute regarding P.D. arrears. Therefore applicant approached to Learned IGRC. Learned IGRC passed order dated 26-06-2014 to that effect that there are P.D. arrears on the premises, hence consumer is require to pay P.D. arrears of Rs.3,50,810/-

4. Being grievance by the order dated 26-10-2014 applicants approached to this forum vide case No.CGRF (NUZ)/172/2014, this forum on passed speaking order

dated 20-06-2014 and dismissed the grievance application for reasons given in order. Being aggrieved by the order passed by this forum applicant presented case No.86/2014 before Hon'ble Electricity Ombudsman who passed order dated 21-11-2014 and thereby set aside order of this forum. By that order communication of Junior Engineer dated 06-06-2014 is quashed and directed to process application of the applicant in accordance with rules and directed the respondent to fix responsibility of inaction in not recovering the arrears within limitation and to take suitable action.

5. Applicant filed write petition No.2755/2015 before Hon'ble High Court Judiciary Bombay Bench Nagpur and High Court passed order dated 30-06-2015.

6. After passing of the order dated 30-06-2015 in write petition No.2755/2015 applicant again approached to this forum in this case and filed for the first time new claim is submitted before this forum and claim to refund of illegally collected amount of Rs.1,11,570/- and Rs.350/- with interest @ 12% from the date of payment and requested to refund of penalty amount as per section 43(3) of Electricity Act 2003 for delay in giving NSC within 30 days applicant also claim compensation of Rs.8,00,000/- (in case no.150/15) Rs.2,00,000/- (in case no.151/15) towards the losses for not letting off Flats and harassment suffered by the applicant due to inaction on the part of the respondent as per clause 8.2(C) of said Regulations.

7. Non applicant denied the application's case by filing of reply dated 16-11-2015. It is submitted that there were P.D. arrears against the said premises of M/s. Harshal Printers amount of Rs.3,50,810/-. This forum dismissed grievance

application of the applicant on 20-08-2014. Hon'ble Electricity Ombudsman Nagpur decided representation of the application No.86/2014 as per order dated 21-11-2014 with the observation that arrears of Rs.3,50,810/- can not be recovered but with the findings that provision of clause 10.5 of MERC's supply code Regulations are applicable to the present case. After order passed by Hon'ble Electricity Ombudsman applicant approached the present non applicant being convinced that he was liable to P.D. arrears amount of Rs.1,11,570/- and decided the same in provision of clause 10.5 of MERC's supply code Regulations.

8. Non applicant further submitted that subsequently the applicant submitted application for releasing 8 connections, 6 connections now approached (one connection Smt.Shobha Gaikwad and another Shri Ramakant Gaikwad) on 04-02-2015. Demand note on 07-03-2015 of 6 consumers come to be released on 09-03-2015. Connection of Smt. Shobha Gaikwad was released on 06-07-2015 in presence of payment of 29-06-2015, connection of Shri Ramakant Gaikwad was released on 06-07-2015 as an amount of demand was paid on 30-06-2015 and test report was submitted on 01-07-2015.

9. It is submitted that the connection in the name of Smt. Shobha Gaikwad and Shri Ramakant Gaikwad were released very much after submission before Hon'ble High Court that the demand note are already served and upon making payment by the applicant. Electricity connection shall be released within one week.

10. It is submitted that after passing of order in representation No.86/2014, there was immediate action by non applicant. In writ petition before Hon'ble High Court MSEDCL

filed reply stating there-in in view of compliance of said Shri Ramakant Gaikwad present application the Electricity supply will be released within 7 days and consequently writ petition came to be withdrawn. While withdrawing said writ petition merely because request Mr. Ramakant Gaikwad to take such steps as permissible in law was permitted by High Court. Hon'ble High Court, applicant can not be allowed to take advantage by misinterpreting the said order of High Court. Write petition came to be withdrawn. Applicant has no right to claim compensation of the present case. Provision of Section 43/3 are not applicable to this case. Grievance application deserves to be dismissed.

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

12. It is noteworthy that the in the first round of litigation before: (1) IGRC (2) this forum i.e. CGRF, (3) Hon'ble Electricity Ombudsman Nagpur and (4) Hon'ble High Court matter is finally decided in first round. Grievance of the applicant is fully redressed in order passed by Hon'ble Electricity Ombudsman. If there is non compliance of the order of Electricity Ombudsman then remedy to be applicant is to file application under section 142 of Electricity Act 2003 by filing contempt petition before Hon'ble MERC. It is noteworthy that this forum is not the executing authority if order passed by Hon'ble Electricity Ombudsman is not comply. This forum is not executing authority to the order of Electricity Ombudsman. Applicant is entitled to file application under section 142 and Electricity Act 2003.

13. Furthermore we have carefully perused claims of the

applicant in grievance application before IGRC decided on 26-08-2014, before this forum in case No.172/14 and before Hon'ble Electricity Ombudsman vide case No.86/14 decided on 21-11-2015. In this case first round of litigation till before Hon'ble Electricity Ombudsman applicant did not claim the relief of (1) refund of amount of Rs.1,11,570/- and Rs.350/- with interest of payment (2) Refund of penalty amount as per Sec.43(3) of E.Act 2003 from the date of application to till the date of release of connection in May 2015. (3) Compensation of Rs.8,00,000/- (in case no.150/15) Rs.2,00,000/- (in case no.151/15) for loss of not letting of flat and harassment suffered by the applicant under clause 8.6 (c). However for the first time demand these new reliefs are claimed before this forum in present grievance application. These reliefs are not claim in the first round of litigation before IGRC, CGRF & Electricity Ombudsman.

14. However applicant for the first time has claimed these new reliefs before this forum i.e. (1) Refund of Rs.1,11,570/- and Rs.350/-, (2) Refund of penalty amount as per Sec.43(3) of E.Act 2003 from the date of application to till the date of release of new connection. (3) Compensation of Rs.8,00,000/- (in case no.150/15) Rs.2,00,000/- (in case no.151/15) towards the losses for not letting off Flats and harassment suffered by the applicant due to inaction on the part of the respondent as per clause 8.2(C) of said Regulations.

15. It is true that in writ petition No.2755/15 Hon'ble High Court disposal of the writ with liberty to applicant to take such steps as are permissible law. Hon'ble High Court make it clear that they had not considered other prayers with regard to their respective merits and rival contentions are available to both the parties. In our considered opinion it is necessary to file

application first to the IGRC for these new relief in this fresh round. There is non compliance of provisions of Regulation 6.2 of the said Regulation so for as these new reliefs are concerned applicant has no right directly to come to CGRF. Hence application is not tenable at law. However the applicant is at liberty to approach to IGRC for the new reliefs, if his grievances are not redress by IGRC then he can approach this forum with this total new prayer. Direct application submitted to this forum is not tenable at law hence we proceed to pass the following order.

ORDER

1. Case No.150/15 Shri Rajeev P. Dhoble vs. MSEDCL Nagpur and case No.151/15 Shri Ramakant Gaikwad vs. MSEDCL are hereby dismissed.
2. Applicant is at liberty to approach to IGRC for these new relief claimed. If his grievance is not redress by IGRC or no order is passed within two months by IGRC then the applicant is at liberty to approach to this forum if the circumstances, limitation, law of Regulation permit.
3. With these directions grievance application is disposed.

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

sd/-
(Shivajirao S. Patil),
CHAIRMAN

