

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

Case No. CGRF(NUZ)/019/2007

- Applicant : Shri Vilas Manohar Gajghate
Plot No. 10, Ambedkar Nagar,
Dharampeth,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Congressnagar Division, NUZ,
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 S.J. Bhargawa
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 27.04.2007)

The present grievance application has been filed on 21.03.2007 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance

Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of energy bill dated 03.01.2007 for service connection no. 410010754252 standing in the name of one Shri Sudam L. Salve in which, according to the applicant, improper & illegal arrear amount of Rs.84,978=12 has been shown as recoverable.

Before approaching this Forum, the applicant had filed his complaint on the same-subject matter by his complaint dated 15.02.2007 and another similar complaint dated 12.02.2007 addressed to the Superintending Engineer, Nagpur Urban Circle, MSEDCL, Nagpur. The Superintending Engineer replied the applicant by his letter, being letter no. 1677 dated 14.03.2007, explaining the reasons for recovery of the aforesaid unpaid arrear amount. The applicant was not satisfied with the reply given to him, and hence, the present grievance applicant.

The matter was heard on 17.04.2007.

It is the contention of the applicant that the energy bill dated 03.01.2007 issued by the non-applicant against service connection no. 410010754252 showed for the first time inclusion of an arrear amount of Rs.84,978=12 as recoverable from him. On receipt of this bill, the applicant wrote to the Superintending Engineer, Nagpur Urban Circle, MSEDCL on 12.02.2007 asking for the details of this arrear amount and requested him not to disconnect his power supply. Thereupon, the Dy. Executive Engineer, Shankarnagar Sub-Division, MSEDCL, Nagpur replied the applicant by his

letter, being letter no. 210, that the applicant is the legal heir of deceased Shri Manohar Gajghate against whom P.D. arrear amount of Rs.58,104/- was outstanding against his erstwhile service connection no. 410010754228 and also that another P.D. arrear amount of Rs.26,874/- was outstanding against the tenant one Shri V.N. Meshram, service connection no. 410010754261 in the same premises. Thus a total P.D. arrear amount of Rs.84,978/- has been shown to be outstanding against the premises now owned and occupied by the applicant as a legal heir. He further informed the applicant that this arrear amount has been transferred into the live account of one Shri Sudam L. Salve, service connection no. 410010754252 in the same premises in the energy bill for the month of January 2007.

He relied upon the legal provision contained in section 56 (2) of the Electricity Act, 2003 and argued that recovery of this amount from him is time-barred.

He continued to submit that although the service connections of his father and that of tenant Shri Meshram were permanently disconnected way back in the year 1993 and 1998 respectively, no action was taken by the non-applicant to recover these amounts till the end of the year 2006. The non-applicant has also not shown Consumer General Ledgers maintained of these two P.D. connections prior to November, 1997. According to him, it is not adequately and satisfactorily explained as to how these arrear amounts have been computed. He further contended that the non-applicant has

not taken any legal action as per law for years together for recovery of these arrear amounts from persons responsible.

On the point of permanent disconnection of the aforementioned two service connections, he stated that no prior notices were issued by the non-applicant before disconnecting these connections. The applicant has paid the current bill amount of Rs. 4650/- for the months of January, 2007 and February, 2007. He has also paid an amount of Rs.10,000/- under protest against the arrear amount in question since the non-applicant had threatened to disconnect his power supply.

He lastly requested that the arrear amount in question may be quashed.

The non-applicant has denied the contentions of the applicant stating that the arrear amount of Rs.84,978/- has been outstanding against the premises of which the applicant is the legal owner by inheritance. According to him, the arrear amount in question was rightly transferred into the live account of the consumer Shri Salve whose service connection in the same premises is being used by the applicant. He further stated that the present applicant has been the beneficiary of the electric meter which was standing in the name of his deceased father. The applicant being the legal heir of the deceased Shri Manohar Gajghate, he is very much liable to pay the arrear amount in question.

On the point of legal provision of Section 56 (2) of the Electricity Act, 2003, the non-applicant's submission is that this provision is not applicable to the present case since

the arrear amounts were shown in the concerned CPLs as continuously recoverable in the respective service connection accounts even after their permanent disconnection. According to him, there is no deficiency in service and that the applicant's request is malafide and further that it has been made with the sole intention to avoid the legal liability of payment. He further stated that the applicant is using and enjoying the supply of electricity by putting the non-applicant Company to financial loss.

He lastly urged that the grievance application may be rejected.

It is a matter of record that there were three service connections in the same premises which were permanently disconnected on the ground of non-payment of energy bills. They are service connections no. 410010754228 and 410010754236 both standing in the name of one and the same person viz. Shri Manohar M. Gajghate the father of the applicant. These two service connections were disconnected permanently in May, 1993 and November, 1998 respectively. The third permanently disconnected connection was in the name of tenant Shri Vijay L. Meshram in the same premises (service connection no. 410010754261) which was permanently disconnected way back in November, 2001. At the time of permanent disconnection of these connections unpaid arrear amounts of Rs. 58,104/- and Rs.26,874/- were outstanding respectively against Shri Manohar Gajghate and Shri Meshram. There is a fourth connection installed in the same premises in the year 1984 in the name of consumer Shri

Sudam Salve, service connection no. 410010754252, which connection is still live. Thus, there were in all four service connections in the entire premises out of which three were permanently disconnected in the past and as at present, only one service connection in the name of consumer Shri Sudam Salve is live and in running account. There is no service connection standing in the name of the applicant. It is his contention that he is using electricity for the entire premises from Shri Salve's connection. It is also a matter of record that a notice was issued to the applicant by the non-applicant on 14.02.2007 asking him to pay the arrear amount of Rs.84,978/- against the consumer no. 41001075252.

The first and foremost point that needs to be considered by this Forum is whether the applicant can be termed as a consumer. In terms of definition of word "Consumer" made in Section 2 (15), of the Electricity Act, 2003 the applicant fits into definition of consumer since he is the recipient of electricity. The non-applicant has also issued a notice to the applicant on 14.02.2007 treating him as a consumer. The applicant also admits to be a consumer.

It is pertinent to note that the applicant himself has categorically stated that the service connection no. 410010754252 is his connection though standing on paper in the name of Shri Salve. He claims to have paid all the current bills of this connection. He also admits that he is making use of this connection for his premises. When asked during hearing as to why the applicant did not effect change of name in r/o service connection no. 410010754252, there was no iota of any

explanation or justification forthcoming from him. What he stated was that Shri Salve is his maternal uncle and he keeps on coming to the premises intermittently. It is therefore clear that the applicant is a de-facto user and holder of this service connection. He is continuing use of electricity since past for the premises where in the earlier three connections were permanently disconnected in the past. The premises are occupied by him as a legal heir of deceased Shri Manohar Gajghate. He emphatically claims to be holder of the connection. Had it been not his connection, he would not have applied to the non-applicant for redressal of the grievance.

It is also seen from record that the connected loads of the two P.D. service connections viz. Nos. 410010754228, 410010754236 both belonging to Shri Manohar Gajghate and No. 410010754261 belonging to tenant Shri Meshram were respectively 0.20 KW, 1.80 KW and 0.30 KW. The connected load of existing live service connection No. 410010754252 in the name of Shri Salve in the same premises is 0.20 KW. The applicant is thus using this live connection having 0.20 KW load for the remaining portions of the premises connected load of which is $0.20 + 1.80 + 0.30 = 2.50$ KW. This clearly demonstrates that drawal of power by the applicant has been not only excessive but it was also not lawful. The live service connection also belongs to the applicant de-facto while the name of consumer Shri Salve appears only on paper. Despite this position, the applicant did not take any steps to get the live connection transferred in his name. This, he seems to have not done with the intention to

avoid the legal liability of payment of un-paid dues in r/o his father's service connection.

Looking to the circumstances of the case, the applicant's contention that Section 56 (2) of the Electricity Act, 2003 is applicable to his case cannot be accepted so far as transfer of arrear amount of Rs.58,104/- into the live account No. 410010754252 is concerned.

In the circumstances of the case, this Forum finds that

- (1) The live service connection No. 41001075252 de-facto belongs to the applicant though in the name of Shri Salve on paper only and he is using this connection for premises wherein the erstwhile service connections were permanently disconnected in the long past.
- (2) Drawal of power from the live connection for the use of the entire premises is not lawful.
- (3) The applicant is the legal heir of deceased Shri Manohar Gajghate and the entire premises in question belongs to his as owner & legal heir.
- (4) The applicant did not take any steps to effect change of name in the live connection in place of Shri Salve through he himself has admitted that he is the de-facto holder of this service connection for the premises.
- (5) As a legal heir to deceased Shri Manohar Gajghate, the liability of payment of unpaid dues to the extent of Rs.58,104/- of his father's disconnected service

connection (service connection No. 410010754228) devolves upon the applicant in terms of Regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 herein-after referred-to-as the Supply Code Regulations.

- (6) The non-applicant has rightly transferred the unpaid amount of Rs.58,104/- into the live account No. 41001075252 and the non-applicant has the legal right under Section 56 (1) of the Electricity Act, 2003 to recover the arrear amount by transferring it into the live account which de-facto belongs to the applicant.
- (7) As regards the arrear amount of Rs. 26,874/- against P.D. service connection No. 410010754261 which was in the name of tenant Shri Meshram, the applicant cannot be held responsible for payment thereof and in terms of section 56 (2) of the E.A., 2003 this sum cannot now be recovered from the applicant. The non-applicant's action of transferring this amount into the live account No. 410010754252 for recovery purpose is not legal.

A point has been made by the applicant that no notices were issued before permanently disconnecting the service connection of applicant's father and that of tenant Shri Meshram and that as such the P.D. made was not legal. We do not accept this contention because this plea is taken after lapse of period of more than eight years. It is thus hit by Regulation 6.6 of the said Regulations.

A submission was made by the applicant that the C.G.L. (Consumer General Ledger) maintained by the non-applicant prior to computerization of the data was not shown to the applicant. The non-applicant replied this point saying that the old CGL record prior to 1997 is not now available and as such, this record cannot be produced.

In this respect, this Forum observes that the computerized data recorded in the CPL since November, 1997 was in the natural course of business and it cannot be faulted with at this point of time and no malafide intention can be attributed to the non-applicant. The point raised by the applicant is, therefore, of no consequence.

In the result, we partly allow the grievance application and hold and direct as under:.

- (1) The non-applicant's action of transferring the arrear amount of Rs.58,104/- in respect of the applicant's father's P.D. service connection into the live account No. 410010754252 which belongs to the applicant is correct and the applicant, as a legal heir is liable to pay this amount in terms of Regulation 10.5 of the Supply Code Regulations.
- (2) The transfer of P.D. arrear amount of Rs.26,874/- in respect of disconnected service connection of tenant Shri Meshram into the live account No. 410010754252 is not legal in terms of Section 56 (2) of the Electricity Act, 2003 and that the applicant is not required to pay this

amount. Inclusion of this amount in the said live account stands quashed.

- (3) The applicant should take immediate steps as per rules to transfer in his name the service connection No. 410010754252 since he is the de-facto holder thereof.
- (4) Looking to the circumstances of the case, there is no question of award of compensation to the applicant. His request for awarding compensation towards mental harassment stands rejected.

The grievance applications thus, stands disposed off accordingly.

This order is passed without prejudice to the non-applicant's right to recover the outstanding arrear dues by suit in terms of Section 56 (1) of the Electricity Act, 2003.

Sd/- (S.J. Bhargawa) Member-Secretary	Sd/- (Smt. Gauri Chandrayan) MEMBER	Sd/- (S.D. Jahagirdar) CHAIRMAN
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**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**