

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

Case No. CGRF(NUZ)/016/2011

Applicant : Shri. Bholanath D. Narnaware,
At Bhgwannagar, Rameshwari Road,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Mahal Division,
Nagpur Urban Zone,
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 07.05.2011)

The present grievance application is filed by, Mr. Bholanath D. Narnaware, resident at Bhagwannagar, Rameshwari Road, Nagpur filed the present grievance application on dated 30.03.2011 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 applicant's case in brief is that, he is owner of the Kh. no. 50/1, situated at Babulkheda. MSEDCL had fixed a extension pole without any number in his land. The electric supply is given to various persons from this extension pole. The connections are also given from pole no. JB-188-D-3 from his residential site. This happened in the year 1993. Since 28.05.1993, he has issued various letters to the officers of MSEDCL and personally contacted them to remove extension pole without number from his side. He also requested to remove pole no. 5B-18-D-4 which is in his side. But no action is taken by MSEDCL since 1993. Therefore applicant filed present grievance application and claimed following reliefs.

- 1) Extension Pole without number situated in his land should be shifted at any other place.
- 2) JB-188-D-4 should be shifted at any other place.
- 3) Suitable action may be taken against defaulter.

The non-applicant submitted reply on dated 18.04.2011 and thereby denied entire allegation of the applicant. It is submitted that applicant did not produce documentary evidence about ownership and titled of the disputed land with Kh. no. 50/1. The applicant did not produce sale-deed of the land nor produced tax receipt by Nagpur Municipal Corporation. Therefore it cannot be said that the applicant is the owner of Kh. no. 50/1 of Babulkheda. In the record of Nagpur Improvement Trust, (NIT), Kh. no. 50 is situated besides Nala. Hence it is not

clear applicant is actually owner of which Kh. no. The N.I.T. has issued a notice dated 28.04.2009 to the applicant bearing no. DO (s)/63 dated 28.04.2009. In this notice Kh. no. 45/2 and 46 are shown. It is specifically mentioned in the notice that the disputed land is under scheme of "Green Belts Control Scheme" and applicant had illegally possess it. Therefore the applicant was called upon remove the encroachment within 3 days.

The non-applicant further submitted that various citizens of the locality had opposed to shift the extension pole. MSEDCL had issued a letter to NIT about ownership of the disputed land but nothing is communicated. Therefore is necessary for the applicant to produce basic documents of the title of the land.

Forum heard arguments of both parties in detail. The applicant also submitted written notes of arguments. The applicant produced documents at Sr. No. 1 to 14 alongwith the list of documents dated 25.04.2011. Forum perused the record carefully.

It is noteworthy that as per the own application of the applicant extension of pole and pole no. JB-188-D4 are in extension since 1993. For the first time, applicant submitted a complaint of MSEDCL on 28.05.1993, thereafter applicant submitted various applications from time to time. Therefore record shows that alleged cause of action arose in 1993 itself. According to Regulation 6.6 of CGRF and Electricity Ombudsman Regulation 2006. The

Forum shall not admit any grievance unless its filed within 2 years from the date of which the cause of action has arisen. In this case, alleged cause of action arose on 28.05.1993. Therefore the applicant should have filed grievance application within 2 years from the date of cause of action i.e. on or before 28.05.1995. But surprisingly the present grievance application is filed on 30.03.2011, therefore it is hopelessly barred by limitation. On this ground the grievance application deserves to be dismissed.

In the entire grievance application, applicant had not mentioned that he is a consumer of the non-applicant, what is consumer no, and what is meter no. The applicant has absolutely no grievance about his electric meter or electric connection. Therefore in fact applicant is not a consumer without mentioning of said Regulation and hence, this Forum has absolutely no jurisdiction to allow present grievance application. On this ground also application deserves to be dismissed.

Further note applicant did not produce any documents of titled of the disputed land i.e. Sale-deed, Gift-Deed, Will-Deed, Exchange-Deed etc. Basic documents of titled of the disputed land is not produced by the applicant. Further note applicant did not produce any tax receipt land issued by NMC. The applicant did not produce any clear certificate issued by the NMC or NIT of Certifying the application to show the ownership

of disputed land. Therefore, there is no evidence on record to show that applicant is legal owner of the disputed land.

It is true that applicant produced one 7/12 of Kh. No. 50/1 of Babulkheda but this 7/12 is very old i.e. for the year 2009-10, 2010-11 are not produced by the applicant, therefore there is no evidence to record shows presently applicant is owner of this land. Further note it is settled up to Hon'ble Supreme Court of land that "Entries in 7/12 has only a presumptive value and it is not a conclusive proof". 7/12 is always based on original documents of titled which is not produced by the applicant. Therefore applicant failed to prove that he is owner of the dispute side/land.

To say that jurisdiction of this Forum is very limited as per provision of the Regulation. This Forum has absolutely no jurisdiction to decide Civil rights of the parties like Civil Court. Therefore applicant is at liberty to approached to appropriate Court to claim declaration by Component Court of law that he is the legal owner and possessor of the disputed land. This Forum cannot give any findings about Civil dispute. On this point also grievance application deserves to be dismissed.

Record shows that NIT had even issued a legal notice under section 90 of NIT Act bearing no. DO (s) / 63 dated 28.04.2009 and informed to the applicant that applicant committed encroachment on the side and it

should be removed within 3 days failing which NIT shall take legal action.

In such circumstances, we find no force in present grievance application and grievance application deserves to be dismissed.

Resultantly Forum proceed to pass the following order.

ORDER

The grievance application is dismissed.

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

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