

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

Case No. CGRF(NUZ)/0111/2006

- Applicant : Shri Sanjay G. Borikar
At Shop No. 1 Plot No. 44,
Beside Anna Restaurant
Bajajnagar,
Nagpur.
- Non-Applicant : The Executive Engineer,
Congressnagar 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 13.04.2006)

The present grievance application is filed on 13.03.2006 under 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 him despite the fact that he applied to the non-applicant way back on 22.03.2005 to release the new connection. He has also demanded compensation of Rs. 15,000/- for the delay caused by the non-applicant and for the loss of his business.

Before filing the present grievance application, the applicant had approached the Executive Engineer (Adm), Internal Grievance Redressal Unit, Nagpur Urban Circle, MSEDCL, Nagpur for redressal of this grievance by filing his application dated 10.01.2006. However, no remedy was provided to the applicant's grievance in terms of the said Regulations within the prescribed period of two months which ended on 10.03.2006. Hence, the present grievance application.

The matter was heard by us on 03.04.2006.

The applicant's case was presented before us by his nominated representative one Shri D.D. Dave.

A copy of the non-applicant's parawise reply submitted by him as per the said Regulations was given to the applicant before the case was taken up for hearing and he was given opportunity to offer his say on this parawise report also.

The contention of the applicant's representative is that the applicant applied to the non-applicant for release of a new electricity connection at his tenanted premises on 22.03.2005. However, although a period of more than one year

has elapsed from the date of filing of his application, no action has been taken by the non-applicant so far to release the new electricity connection sought for by him.

It is the say of the applicant's representative that the applicant is a legal tenant of the landlord one Shri Raipure. No communication, whatsoever, was addressed so far to the applicant in response to his application dated 22.03.2005. The applicant came to learn from his landlord that his case has been refused on the ground that an outstanding arrear amount of Rs. 38,739/- had remained un-paid in respect of the premises occupied by the erstwhile tenant of the landlord Shri Raipure. This amount was outstanding against the previous tenant one Shri Arvind Koyal, service connection no. 401100067271.

It is his strong contention that the applicant had closed down his business because of non-release of the new connection for a long period and he has suffered a loss of Rs.15,000/- during the year 2005-2006 because of the inaction of the non-applicant. He has, therefore, claimed compensation of Rs. 15,000/-.

The applicant's representative added on the point of the outstanding unpaid arrear amount Rs. 38,739/- that the said arrear amount is fictitious. The erstwhile consumer Shri Arvind Koyal had paid his last electricity bill of November, 1988 and thereafter, he vacated the premises. The arrear amount in question pertains to a period of 17 years which remains un-recovered because of the lapse on the part of the non-applicant.

According to him, this amount cannot be recovered from the present applicant who is the new occupier of one of the shops in the same premises and that the non-applicant is duty-bound under the MERC (Electricity Supply Code Other Conditions of Supply) Regulations, 2005 hereinafter referred-to-as the Supply Code Regulations to release the new connection sought for by the applicant.

He also added that the applicant's request has been held up for the last one year for no sufficient reasons.

He lastly prayed that the non-applicant be directed to release the new connection to the applicant forth-with and that a compensation of Rs. 15,000/- be awarded to the applicant.

The non-applicant has stated in his written submission that the premises of the plot no. 44 are owned by landlord one Shri T.B. Raipure. There are in all eight existing meters sanctioned in the building constructed on plot no. 44. Out of these eight meters, five were sanctioned for residential purposes and the remaining three for commercial purposes. Apart from these eight meters, three connections of three erstwhile tenants were permanently disconnected because of non-payment of electricity charges. Amounts outstanding against two tenants have been paid. The third P.D. meter viz. the electricity connection having consumer no. 40110006727 was standing in the name of one Shri Arvind Koyal who was the tenant of landlord Shri Raipure. There were arrears to the tune of Rs. 38,379/- outstanding against Shri Arvind Koyal which are still not paid.

According to him, instead of making payment of the arrear amount in question, the landlord Shri Raipure has been trying to seek a new electricity connection for the present applicant who is his new tenant.

He added that the applicant was informed that unless & until the arrear amount in question is paid, the new connection cannot be sanctioned. According to him, such an information was given to the applicant through his landlord Shri Raipure.

He has also referred to an order passed by this Forum in case no. 73/2005 filed by landlord Shri T.B. Raipure in the same subject-matter and contended that the grievance application in respect of releasing a new connection sought for by Shri Raipure for the shop occupied by the present applicant was rejected by this Forum.

It is his strong contention that he has every right to refuse to sanction a new connection to the present applicant in view of the fact that the an arrear amount of Rs. 38,739/- is still outstanding against the premises in question.

He further stated that the present applicant cannot approach this Forum since he is not the non-applicant's consumer. He also relied upon Regulation 10.5 of the Supply Code Regulations and stated that the arrear amount in question is charged on the premises involved in the present case and that the arrear amount stands transmitted to the new occupier of the premises, namely, the present applicant.

He lastly prayed that there is no substance in the present grievance application and that the same may be dismissed.

The only question that needs to be decided in this case is whether the non-applicant can refuse to sanction a new connection to the present applicant on the ground that an unpaid arrear amount is outstanding against the said premises.

According to us, the legal provision contained in Regulation 10.5 of the Supply Code Regulations is applicable to the present case.

The text of this Regulations 10.5 reads as under.
“Any charge for electricity or any 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.”

It is an un-disputed position in the present case that the present applicant is a new occupier of the premises in question in place of the previous tenant. Although the landlord is the same, the present applicant is a new occupier. Hence, the entire outstanding arrear amount of Rs. 38,739/- cannot be recovered from the present applicant who is a new occupier. The non-applicant is also not disputing that the present applicant is not a new occupier. The maximum amount that can be recovered from the present applicant is restricted to a maximum period of six months of the un-paid charges for the electricity supplied to such premises. Hence, the non-applicant will have to work out the liability of the present applicant in terms of the Proviso to Regulation 10.5 of the Supply Code Regulations.

It is also a matter of record that the applicant did apply to the non-applicant for releasing a new electricity connection on 22.03.2005. It is also a matter of record that the present applicant was in the knowledge of refusal of his request through his landlord Shri Raipure on the ground that a huge arrear amount was outstanding against the premises belonging to him of which the applicant's shop is a part.

It is true that no formal communication was issued to the applicant to this effect by the non-applicant in reply to the applicant's application dated 22.03.2005 which he ought to have done. However, the fact remains that the landlord Shri Raipure was informed accordingly since he was trying to get a new connection on behalf of the present applicant and that this was in the knowledge of the applicant.

It seems that the non-applicant was harbouring under the impression that the Supply Code Regulations particularly Regulation 10.5, entitles him to recover the entire arrear amount of Rs. 38,739/- from the present applicant. However, as held by us above, the non-applicant's interpretation of Regulation 10.5 is not correct and legal.

The non-applicant has referred to a decision given by this Forum in the grievance case no. 73/2005 in the same subject-matter. The grievance application in this case was filed by the landlord Shri Raipure and it was held that he has no locus-standi to approach this Forum as no application for release of a new connection was made by him. His request was rejected on a different ground. Hence, rejection of the grievance application of the landlord can, in no way, disentitle the present applicant to approach this Forum for redressal of his rightful grievance. Hence, the contention raised by the non-applicant in this respect is of no consequence.

The non-applicant's contention that the present applicant has not yet become his consumer and that as such, he cannot approach this Forum for redressal of his grievance cannot be accepted by us for the simple reason that a grievance of an 'applicant' in respect of non-supply of electricity is very much entertainable by this Forum in terms of the definition of the word 'Applicant' made in the Supply Code Regulations and of the word 'Grievance' made in the said Regulations.

The applicant's representative's submission that the non-applicant is duty-bound to provide a new connection to

the present applicant is, therefore, correct and legal. The present applicant, however, will have to pay for the liability coming to his share in terms of the legal provision contained in Regulation 10.5. The applicant will also have to fulfill other obligations viz. payment of demand note amount, submission of test report etc.

In the result, the grievance application of the applicant is allowed by us partially and in that, we direct the non-applicant to consider and grant the applicant's request for releasing a new connection subject to his paying his share of liability as mentioned in this order and subject to his completing other formalities.

The applicant has also requested for award of compensation of Rs. 15,000/- to him. In this respect, no proof is submitted by him to substantiate his demand. Moreover, it was brought to the notice of this Forum during the course of arguments by the non-applicant that although new connection was not released to the present applicant, he had obtained supply of electricity from another meter in the same premises and that no loss has occurred to him as contended by the present applicant. We do not see any reason to disbelieve the non-applicant.

The applicant's request for compensation is, therefore, rejected.

Thus, the present grievance application stands disposed off accordingly.

This order is passed without any prejudice to the non-applicant's right to recover the outstanding amount from the parties concerned through other legal remedies under law.

The non-applicant shall report compliance of this order on or before 31.05.2006.

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.**

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