

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

Case No. CGRF(NUZ)/0127/2006

- Applicant : Shri Kishanlal Singhee
Plot No.263/264,Telephone Exchange,
Central Avenue,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Gandhibag 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 12.06.2006)

The present grievance application has been filed before this Forum on 08.05.2006 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 non-supply of 641 KVA power for his complex known as Brijbhumi complex at plot no. 263-264 despite completion of all the works and despite completion of all other formalities.

In the instant case, the applicant had applied for release of power of 700 KW with a contract demand of 641 KVA for his commercial complex known as Bhijbhumi complex at plot no. 263-264 on 18.04.2002 alongwith his request for sanction of 10KW construction power. The applicant's request for release of power as requested for by him is still pending. The applicant had been persuing the matter right up to the Superintending Engineer, MSEDCL, NUC, Nagpur. He had requested the Executive Engineer, MSEB, Gandhibag Division by his letter dated 26.07.2005 to provide electric connection at plot no. 263-264 saying that this matter is pending for about more than two years.

He had also addressed a similar letter dated 01.02.2006 to the Superintending Engineer, MSEDCL, NUC, Nagpur. The Executive Engineer, Gandhibag Division replied the applicant by his letter, being letter no. 521 dated 08.02.2006, that the applicant should make payment of arrears of HT dues in respect of M/s. U.K. Roller Flour Mills and submit a No Dues Certificate in this respect. The applicant is constesting that the HT dues outstanding in respect of M/s. U.K. Roller Flour Mills has no connection with the aspect of release of power for the applicant's Brijbhumi Complex since M/s. U.K. Roller Flour Mills and

Brijbhumi Complex are two different entities located at two different locations. The applicant is aggrieved by the claim made by the non-applicant about payment of arrear amount of Rs. 10,00,367.39 demanded from the applicant. Hence, the present grievance application.

The record of the case shows that the applicant had been persuing the pending matter with the Executive Engineer, Gandhibag Division, MSEDCL, Nagpur by addressing letters to him from time-to-time and yet the applicant's grievance has not been settled to the satisfaction of the applicant. Hence, as laid down in Regulations 6.2 of the said Regulations, the applicant is deemed to have complied with the requirement of approaching the Internal Grievance Redressal Cell.

The matter was heard by us on 24.05.2006 and 01.06.2006.

A copy of the non-applicant's parawise comments on the applicant's grievance application submitted before this Forum by the non-applicant in terms of the said Regulations was also given to the applicant and he was given opportunity to offer his say on this parawise report also.

The premises of M/s. U.K. Roller Flour Mills and the premises of Brijbhumi Complex were inspected on 24.05.2006 at around 6 P.M. by the Member-Secretary of this Forum in company with both the parties as requested for by the applicant during the course of hearing on 24.05.2006.

The applicant's case was presented before this Forum by his nominated representative one Shri R.B. Goenka.

It is the contention of the applicant's representative that the applicant Shri Kishanlal Singhee is a partner of project known as Brijbhumi complex. He is also a partner of M/s. U.K. Roller Flour Mills. Brijbhumi complex is a commercial complex at plot no. 263-264 at C.A. Road, NITs Section III Scheme, Lakadganj, Ward no. 23, Tahsil Nagpur, Dist. Nagpur.

He added that M/s. U.K. Roller Flour Mills is an industry located at plot no. 242 at Lakadgunj Layout Nagpur. There is an office of this Industry located in Brijbhumi complex. M/s. U.K. Roller Flour Mills was having electrical supply connected at 11 KV at plot no. 242. The applicant's representative has produced a copy of agreement of supply of power executed between this industrial unit and erstwhile MSEB (now MSEDCL) in support of his contention.

The applicant applied for sanction of power of 700KW with a contract demand on 641 KVA for his commercial complex known as Brijbhumi Complex at plot nos. 263,264 on 18.04.2002 alongwith application for sanction of 10 KW construction power. The applicant's estimate was sanctioned by the non-applicant MSEB on 01.07.2002. Subsequently, load sanction letter was issued and demand note for 15% supervision charges was issued on 11.07.2002 for Rs.1,40,006/-. Load of 10 KW construction power was also sanctioned. The applicant paid the amount of Rs. 1,40,006/- against the 15% supervision charges on 11.07.2002. The non-applicant MSEB issued a letter, being letter no. 2576 dated 18.07.2002, addressed to the applicant stating the procedure to be observed by the applicant while executing the

work. The applicant also paid the demand note amount of Rs. 15,751/- for release of construction power. Accordingly, the construction power of 10 KW was connected on 12.07.2002. The applicant informed the Executive Engineer, Gandhibag Division Nagpur to supervise the execution of work of extension of supply on 01.08.2002. Subsequently the non-applicant issued one letter to the applicant on 19.09.2002 saying that there was an arrear amount of Rs. 13,460/- outstanding against final bill of account no. 410011819064/3 in the name of M/s. Sarvodaya Milling & Engineering Works the previous occupant of the premises. In response to the non-applicant's letter, the applicant paid this amount on 19.09.2002.

The applicant's representative further contended that the applicant received another notice from the non-applicant addressed in the name of M/s. U.K. Roller Flour Mills on 29.08.2002 saying that on plot no. 263 / 264 there was a H.T. connection given to M/s. U.K. Roller Flour Mills and that arrear amount of Rs. 10,00637.39 was outstanding against this permanently disconnected consumer viz. M/s. U.K. Roller Flour Mills. The non-applicant threatened the applicant that supply of power to Brijbhumi Complex would be disconnected in case this amount was not paid within seven days. The applicant clarified by his letter dated 02.09.2002 that the power connection of M/s. U.K. Roller Flour Mills was installed at plot no. 242 which is located behind plot nos. 263-264 and that there is a public road in between these two plots. The applicant also enclosed a layout map alongwith his letter dated 02.09.2002. The applicant further clarified that at

plot no. 263-264 there was an electric supply connected in the name of M/s. Sarvodaya Milling & Engineering Works which was later on permanently disconnected and that the applicant also paid the outstanding dues of this connection as per the non-applicant's demand note.

The applicant's representative further submitted that there is a LT connection of 10 KW construction power already sanctioned at plot no. 263-264 and further load extension was applied for by the applicant which was also sanctioned by the MSEB. Accordingly, for a load of 35 KW construction power, a demand note of Rs. 25,501/- was issued by the non-applicant on 18.08.2005. This amount was paid by the applicant on the same day i.e. 18.08.2005.

It is his further strong contention that an illegal undertaking was taken from the applicant while sanctioning the additional load of 25 KW to the effect that the applicant would be responsible for payment of dues of all other consumers and that the applicant had no other option than to sign this undertaking due to his urgent requirement of continuance of his power supply. The applicant's representative vehemently argued that this undertaking carries no meaning and that it is illegal. He further stated that there is no relation between the premises of the plot no. 242 where M/s. U.K. Roller Flour Mills was erected and the plot no. 263-264 where Brijbhumi Complex is proposed to be constructed. These are two different premises having no connection with each other. The L.T. connection of 35 KW on plot no. 263-264 is still in the use of the applicant for which

the applicant has been making payment of energy charges regularly.

He continued to submit that the applicant completed the electric work of extension of supply of 700 KW and submitted test report to the non-applicant. The applicant also requested the non-applicant on a number of occasions to release the power supply but the non-applicant did not so far supply the power. The applicant ultimately requested the non-applicant by his letter dated 26.07.2005 to provide electric connection at plot no. 263 saying that the supply of power was not released for more than two years. There was no communication from the non-applicant's side and hence, the applicant again addressed another letter, being letter dated 01.02.2006 addressed to the Superintending Engineer, MSEDCL, NUC, Nagpur, to release the load of 641 KVA contract demand for his Complex. The Executive Engineer, Gandhibag Division, MSEDCL, Nagpur replied the applicant on 08.02.2006 saying that the applicant should make payment of outstanding H.T. connection dues in respect of M/s. U.K. Roller Flour Mills as per agreement and submit a No Dues Certificate to his Office.

Giving the above chronology of events, the applicant's representative vehemently argued that supply of power to the applicant's Brijbhumi Complex at plot no. 263-264 is not yet released although the applicant has completed all the works and also the other formalities and that the non-applicant's claim that H.T. connection of M/s. U.K. Roller Flour Mills was on plot no. 263-264 of Lakadgunj, Nagpur is totally incorrect and baseless. According to him,

M/s. U.K. Roller Flour Mills is an Industrial Unit erected in the long past in plot no. 242 which is situated differently from plot no. 263-264 where the applicant's Brijbhumi complex is proposed to be constructed.

The applicant's representative has produced copies of all the relevant communications referred to by him in his submissions.

The applicant's representative further contended that as per provision laid down in Schedule VI of Indian Electricity Act, 1910, the non-applicant ought to have supplied power for the applicant's premises in plot nos. 263-264 within one month from making of his requisition. According to him, the non-applicant has violated this legal provision.

The applicant's representative further relied upon a similar provision made in Section 43 (1) of the Electricity Act, 2003 which provides that every distribution licensee shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises within one month after receipt of the application requiring such supply. He also pointed out the provision made in Section 43 (3) which specifies the quantum of penalty to be imposed on distribution licensee in the event of the licensee's failure to supply electricity within the period one month prescribed by Section 43(1). Citing this legal provision, the applicant's representative vehemently argued that a penalty of Rs. 1000/- for each day of the default may be imposed upon the non-applicant since there has been violation of Section 43 (1) in as much as power supply to the applicant's Brijbhumi complex has not been released within one month's period from

the date of completion of all requisite formalities by the applicant.

The applicant's representative has also cited Regulation 4.1 of the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 hereinafter referred-to-as the SOP Regulations and demanded compensation at the rate of Rs. 100/- per week or part thereof of delay from the date of completion of formalities till the date of actual supply of power to the applicant.

The applicant's representative, during the course of hearing, had requested this Forum to cause an inspection to be done of the premises comprised in plot no. 242-and plot nos. 263-264. The applicant's request was granted by this Forum and the Forum's Member-Secretary was directed to inspect the sites in company with both the parties. Accordingly, a joint inspection was carried out of these sites on 24.05.2006. The Forum's Member-Secretary has produced upon inspection, a layout plan showing the locations of sites in question and also his observations. The site inspection report is also duly signed by the Member-Secretary of this Forum as well as by the Nodal Officer of the non-applicant Company and the applicant's representative. The joint inspection report states that M/s. U.K. Roller Flour Mills is standing in plot no. 242 and that the Brijbhumi Project exists in plot no. 263-264.

The applicant's representative citing this joint inspection report vehemently submitted that the locations of the Industrial Unit of M/s. U.K. Roller Flour Mills and of Brijbhumi complex are two different locations and that these

locations are not one and the same as wrongly contended by the non-applicant.

He lastly prayed that his grievance in question may be removed, power supply to the applicant's Brijbhumi Complex in plot no. 263-264 ordered to be released forth-with and compensation in terms of SOP Regulations may be awarded in addition to imposition of penalty on the non-applicant in terms of Section 43 (3) of the Electricity Act, 2003.

The non-applicant, on his part, has stated in his parawise report and also in his oral submissions that the applicant is trying to mislead this Forum and create a confusion that there are no arrears of electricity charges outstanding against plot no. 263-264.

According to him, an electric connection on the piece of land bearing plot no. 263-264 was sanctioned to M/s. U.K. Roller Flour Mills and the same was in operation in these two plots. He further stated that the office of M/s. U.K. Roller Flour Mills was located in plot no. 263 and that the Industry namely the M/s. U.K. Roller Flour Mills does not exist in plot no. 242. He added that the applicant's application for supply of power is still pending because the applicant has not cleared the arrear dues of Rs. 10,00367.39 outstanding against M/s. U.K. Roller Flour Mills against plot no. 263-264. The applicant's application is still incomplete for want of payment of this unpaid amount

The non-applicant also referred to an undertaking given by the applicant on 06.08.2005 in which the applicant has agreed to settle the outstanding liability in question. He

has further referred to the communication dated 26.04.1993 addressed to the Chief Engineer by the partner of M/s. U.K. Roller Flour Mills in which the applicant had agreed to pay the outstanding dues in question in installments and a request was also made not to disconnect the power supply of M/s. U.K. Roller Flour Mills.

According to him, release of construction power of 35 KW does not amount to waiver of applicant's liability to make payment of the outstanding dues of Rs. 10,00,367.39/-. He also vehemently argued that this is not a new demand made by the non-applicant but the same was made to the applicant way back in August 2002 when a letter, being letter no. 1129 dated 29.08.2002, was addressed to M/s. U.K. Roller Flour Mills, Brijbhumi Complex plot no. 263-264 Lakadgunj, Nagpur whereby the applicant was asked to clear the unpaid dues failing which power supply of M/s. Brijbhumi Complex would be disconnected. Relying on this, he further stated that the applicant was very much aware of this demand made in the year 2002 but the applicant was trying to avoid this liability by playing upon and creating confusion in respect of the plot nos.

He further pointed out that a Civil Suit is pending since 1996 in respect of recovery of the outstanding liability of Rs. 10,00,367.39 against M/s. U.K. Roller Flour Mills. It is his say that the applicant's representative has made false statements and he is avoiding his liability to make payment of the outstanding dues in question.

The non-applicant has denied the applicant's representative's contention that his application is still pending without any sufficient reason.

He further strongly submitted that the address of M/s. U.K. Roller Flour Mills in its energy bills was shown as plot no. 263 of Lakadgunj Layout right from the year 1975 till its power supply was disconnected in the year 1994 and further that the applicant never objected to this at any point of time. Relying on the energy bills issued to M/s. U.K. Roller Flour Mills, the non-applicant contended that the address of plot no. 263 mentioned in the energy bills proves that the H.T. connection for this Industrial Unit was given in plot no. 263.

According to him, none of the provisions of law cited by the applicant's representative would come to the rescue of the applicant and that the grievance of the applicant is full of malafides and it is made with an ulterior motive to avoid his legal liability.

A point has been raised in his written submission dated 22.05.2006 by the non-applicant that the applicant cannot be treated as a consumer since the supply of 641 KVA is not yet commissioned.

The applicant's claim of award of compensation as per SOP Regulations and his claim about imposition of penalty in terms of Section 43 (3) of the Electricity Act, 2003 are refuted by the non-applicant saying that these claims are misconceived and irrelevant.

He lastly prayed that the grievance application may be rejected.

The non-applicant has produced copies of the following documents in support of his contentions.

- 1) Copies of energy bills of M/s. U.K. Roller Flour Mills (H.T. Supply) for address proof.
- 2) Copies of printed letter head of M/s. U.K. Roller Flour Mills in which address of plot no. 263 C.A. Road, Nagpur is shown.
- 3) Copy of No Objection Certificate No. GA/871/FB dated 11.02.2001 issued by N.I.T. to the partner of M/s. U.K. Roller Flour Mills for sanction of building plan at Plot No. 263-264.
- 4) Copy of N.I.T.'s letter No. BE/8428 dated 15.09.1999 regarding address proof and plot no. on which M/s. U.K. Roller Flour Mills was located.
- 5) Copy of Indenture between "Lessor" and "Lessee" dated 25.03.1992 regarding details of plot no. 263 as per Schedule A and plot no. 264 also.
- 6) Copy of Panchnama regarding fire accident.
- 7) Copy of letter dated 11.06.2002 given by M/s. U.K. Roller Flour Mills communicating its willingness to pay the arrear dues in a single stroke.
- 8) Copy of approval dated 05.10.2002 of one time settlement duly approved by the Recovery Committee vide Chief Engineer's letter dated 05.10.2002.
- 9) Copy of Undertaking dated 06.08.2005 given on a stamp paper of Rs. 100/- on behalf of Brij Bhoomi Complex.

We have carefully gone through the record of the case, documents produced on record by both the parties & their respective written & oral submissions.

In the present case, it is seen that the applicant's application dated 18.04.2002 for supply of power of 700KW with a contract demand note 641 KW for the applicant's commercial complex, Brijbhumi, is still pending. In the meantime, the applicant is availing of construction power of 35 KW as per his demand and as per sanction given by the non-applicant.

In view of this position, the non-applicant's contention that the applicant cannot be treated as a consumer with reference to his original application dated 18.04.2002 cannot be accepted by us. Even otherwise the definition of word 'grievance' made in Regulation 2.1 (c) of the said Regulations supports the fact that the applicant is legally entitled to make a grievance before this Forum since the manner of non-applicant's non-performance is rightly questioned by him.

It is also a matter of record that the applicant has paid 15% supervision charges of Rs. 1,40,006/- on 11.07.2002. Not only this but the applicant has also paid an amount of Rs.15,751/- on 12.07.2002 for release of construction power of 10 KW initially. It is also not disputed that the arrear amount of Rs.13,460/- that was outstanding against the final bill of A/c No. 410011819064/3 in the name of M/s. Sarvodaya Milling & Engineering Works-the previous occupant in the premises namely plot no. 263-264, was also paid by the applicant.

The point of dispute in the present case is whether outstanding dues of Rs. 10,00,367.39 against the permanently disconnected consumer M/s. U.K. Roller Flour Mills are against the premises namely plot no. 263-264 or otherwise where the applicant has proposed to construct Brijbhumi Complex. The other point that needs to be looked into is whether the present applicant who is the representative of Brijbhumi Complex is liable to pay this unpaid amount outstanding against M/s. U.K. Roller Flour Mills.

In order to do away with the confusion about the exact plot no. in which the industrial unit namely M/s. U.K. Roller Flour Mills was erected in the long past and to verify as to exactly on which premises H.T. connection was released by the non-applicant to this Industrial Unit, as per this Forum's directions, a joint inspection of the sites in question was carried out by this Forum's Member-Secretary in company with the Nodal Officer of the non-applicant Company and the applicant's representative. The Joint inspection report dated 24.05.2006 is on record. All of the them have verified and agreed that the Industrial Unit M/s. U.K. Roller Flour Mills was still standing in plot no. 242 and that construction of Brijbhumi Complex was noticed on plot no. 263-264. There is a public road dividing plot no. 242 and the plot no. 263-264. Even the Nodal Officer of the non-applicant company has agreed on this point. Since the Industrial Unit was erected in the long past on plot no. 242, evidently it follows that H.T. connection must have been given by the non-applicant on plot no. 242 in order to enable this Industrial Unit to operate its functioning. The non-applicant's contention that M/s. U.K.

Roller Flour Mills was situated on plot no. 263-264, therefore, gets falsified. Moreover, a copy of agreement produced on record by the applicant in context of supply of power to M/s. U.K. Roller Flour Mills executed way back by both the parties on 01.10.1975 clearly demonstrates that this Industrial Unit was constructed on a plot totally different from plot nos. 263,264. This agreement in fact is showing plot number as 243. There seems to be a clerical error and this plot no. was 242 only. It is, therefore, not understood as to how the non-applicant is making a claim that this Industry was situated at plot no. 263-264. It now follows that M/s. U.K. Roller Flour Mills is situated at plot no. 242 while construction of Brijbhumi Complex is proposed in plot no. 263-264. These two premises are obviously totally different from each other.

Only because the energy bills meant for M/s. U.K. Roller Flour Mills were showing address of plot no. 263, it does mean that the H.T. power supply was given to the Industrial Unit in plot no. 263 particularly when it has been confirmed upon site inspection that this Industrial Unit is still standing in plot no. 242. The applicant's contention in this respect that this Industrial Unit was having its office in plot no. 263 and hence the address of plot no. 263 was appearing on the energy bills sounds to be quite reasonable.

It is a matter of record that the previous outstanding bill against plot no. 263-264 in respect of account no. 41001819064/3 in the name of M/s. Sarvodaya Milling & Engineering Works for cleared by the applicant.

As laid down in Regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply)

Regulations 2005, hereinafter referred-to-as the Supply Code Regulations, 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.

The premises of M/s. U.K. Roller Flour Mills and the premises of Brijbhumi complex are not the same premises. These are totally different from one another and hence the legal provision contained in Regulation 10.5 of the Supply Code Regulations shall not be applicable to the present case.

It is also pertinent to note that the permanently disconnected consumer namely M/s. U.K. Roller Flour Mills and the applicant's Brijbhumi complex are two independent legal entities.

The record also shows that the premises of the plot no. 263-264 were respectively leased out by N.I.T. to one Smt. Shreebai alias Shreekunwarbai through her general power of attorney Shri Kishanlal Singhee and to M/s. U.K. Roller Flour Mills through its partner shri Kishanlal Singhee.

What is also seen in this case is that the applicant has complied with all the requirements asked for by the non-applicant from time-to-time after submission of his application dated 18.04.2002.

The non-applicant's claim that the applicant is liable to pay the unpaid liability of Rs. 10,00,367.39 outstanding against M/s. U.K. Roller Flour Mills on the ground that H.T. connection for this Industrial Unit was given in plot no. 263-264 cannot be accepted by us in view of above position.

A point has been made by the non-applicant that a Civil Suit is already pending for the recovery of Rs.10,00,367=39. However, no details whatsoever, have been given either in his written submissions or during the course of hearing. Whether this Civil Suit for recovery was filed by the non-applicant against Brijbhumi Complex is also not forth-coming.

In this respect, we hold that the non-applicant's right to recover this outstanding liability from the parties responsible remains intact and he is free to pursue this recovery in the appropriate Court of Law. We, at this Forum, are concerned with the grievance of the applicant in respect of non-supply of power for the applicant's Brijbhumi Complex which is situated at a location totally different from the one in which H.T. connection to M/s. U.K. Roller Flour Mills was sanctioned & given.

The non-applicant has made a point about execution of an undertaking by the present applicant. A copy of this undertaking dated 06.08.2005 is brought on record by him. This undertaking mentions that after due diligence or inspection of site and submission of papers if Recovery Committee decides that the P.D. arrears of M/s. U.K. Roller Flour Mills located on plot no. 242, Lakadgunj, Nagpur and the premises in the use of the complex located at 263-264

Central Avenue Road, Nagpur are common, in that event, the liability will fall on Brijbhumi complex and that the ruling of MSEB's Recovery Committee would be acceptable to Brijbhumi Complex. The contention of the applicant on this point is that this undertaking itself is illegal. He further stated that this was signed by the applicant's representative since the applicant was in need of continuance of construction power.

Whether any decision was taken by Recovery Committee consequent upon execution of this undertaking is not brought on record by the non-applicant. Moreover, as held by us above the premises of plot no. 242 where the Industrial Unit M/s. U.K. Roller Flour Mills is still standing and the premises of Brijbhumi complex namely plot no. 263-264 are totally different from each other and as such no weightage can be given to this undertaking. Hence, the applicant's contention about ignoring this undertaking deserves to be accepted.

Another point has been made by the non-applicant that the demand of recovery of the arrear amount of Rs.10,00367.39 was not made for the first time against the applicant in the year 2005 or there after. In that, he relied upon a letter, being letter no. 1129 dated 29.08.2002 by which a notice for payment of arrear amount of Rs. 10,00,367.39 in the context of permanently disconnected H.T. supply at plot no. 263-264 was served upon M/s. U.K. Roller Flour Mills, Brijbhumi complex plot no. 263-264 Lakadgunj Nagpur. In this respect, mere perusal the text of this notice demonstrates that the non-applicant's Assistant Engineer signing this notice has clearly mentioned that H.T. connection of M/s. U.K. Roller Flour Mills was on plot no. 263-264. This statement made in

this notice is totally incorrect in as much as even the Nodal Officer of the non-applicant Company has verified himself and agreed in the joint inspection report dated 24.05.2006 that this Industrial Unit is still standing in plot no. 242 and not on plot no. 263-264.

No any other cogent and convincing reason is put forth by the non-applicant for not providing power supply to the applicant's Brijbhumi Complex in plot nos. 263,264.

In the result, we hold that the applicant's application for supply of power is complete in all respects and that the non-applicant ought to have released power to the applicant as per his original application dated 18.04.2002 without insisting upon payment of the arrear amount in question.

The applicant's representative during the course of arguments has referred to a provision in schedule VI of Indian Electricity Act, 1910 and contended that the non-applicant ought to have supplied power within one month from the date of making of requisition therefore. He has also stated that the non-applicant has violated this legal provision. The Indian Electricity Act, 1910 has since been repealed w.e.f. 10.06.2003 by the Electricity Act, 2003 and hence, this contention is now not valid.

Another point about violation of legal provision contained in Section 43 (1) of the Electricity Act, 2003 has been made by the applicant's representative and in that, he wants penalty to be imposed on the non-applicant in terms of Section 43 (3). He has requested that this Forum may pass orders in respect of imposition of this penalty amount.

In this respect, we hold that the powers of imposing of penalty in terms of Section 43 (3) are not vested in this Forum. We are of the view that as laid down in Section 128 of the Electricity Act, 2003, these powers are vested in the MERC. Hence, we refrain ourselves from passing any order in respect of imposition of such a penalty on the non-applicant.

The applicant's representative has also demanded payment of compensation as per Regulation 4.1 of the SOP Regulations. We do find substance in this contention of the applicant's representative. Regulation 4.1 read with Regulations 12 and Appendix "A" of the SOP Regulations lay down that a compensation of Rs. 100/- per week or part thereof of delay is payable if the prescribed time limit for provision of supply from the date of receipt of completed application is not adhered to by a distribution licensee.

The SOP Regulations have come into force w.e.f. 20.01.2005. The applicant's application for supply of power was pending with the non-applicant on this date. Moreover, the applicant's application was complete in all respects on 20.01.2005. Hence, the non-applicant ought to have supplied power to the applicant's complex on or before 20.02.2005. Evidently, there has been a delay beyond 20.02.2005 to meet the standard of performance w.e.f. 20.02.2005. Hence, the non-applicant shall be required to pay compensation to the applicant at the rate of Rs. 100/- per week or part thereof w.e.f. 20.02.2005 till the date on which the applicant's power supply to his complex is actually commissioned.

The non-applicant shall take very delight steps to release the power to the applicant otherwise the burden on

him of payment of compensation would un-necessarily increase.

In the result, we allow the applicant's grievance application and direct the non-applicant to release the power supply to the applicant's complex forthwith and in any case on or before 30.06.2006 in terms of this order and also to pay compensation to the applicant in terms of Regulation 12 of the SOP Regulations.

The non-applicant shall report compliance of this order to this Forum on or before 31.07.2006.

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

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