

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

Case No. CGRF(NUZ)/043/2007

- Applicant : Qazi Moh. Athar Ali
House No. 112,
Near Chopde Lawn
Prashant Nagar,
Nagpur.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Civil Lines Division, NUZ,
Nagpur.
- 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 29.08.2007)

The present grievance application has been filed on 23.07.2007 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 non-restoration of his supply of electricity which was disconnected on 08.03.2007. The applicant has requested this Forum to direct the non-applicant to restore electricity supply to his premises and to punish erring officials of the non-applicant Company. He has also requested to award compensation to him.

Before approaching this Forum, the applicant had filed his complaint dated 20.04.2007 to the Dy. Executive Engineer Civil Lines S/Dn., Seminary Hills MSEDCL, Nagpur contending therein that his supply of electricity was disconnected illegally and that his supply should be restored forth-with. However, no remedy has been provided to his grievance and hence, the present grievance application.

The intimation given by the applicant to the Dy. Executive Engineer on 20.04.2007 is deemed to be intimation given to the Internal Grievance Redressal Cell in terms of Regulation 6.2 of the said Regulations and as such, the applicant was not required to approach the Cell again before coming to this Forum. Hence, the present grievance application came to be registered by this Forum under Regulation 6.4 of the said Regulations.

The matter was heard on 27.08.2007.

The applicant's case was presented before this Forum by one Shri Qazi Jafar Ali --- father of the applicant.

The applicant's representative has contended that the applicant and his family members are possessing and

occupying house no. 112, in prashantnagar, Nagpur and that this house is purchased by the applicant as per agreement of sale dated 28.01.2004 executed with the applicant by the erstwhile owner Smt. Saritadevi Varma. The applicant has been consuming electricity from the electric meter, vide service connection no. 410014374926. The said electric meter was in the name of deceased one Smt. Taradevi K. Soni who was the mother of Smt. Saritadevi Varma. The premises in question was agreed to be sold to the applicant as per the aforesaid agreement of sale. The applicant has also paid substantial amount towards consideration of sale amount to Smt. Saritadevi and she handed over peaceful possession of the house property to the applicant. The applicant found the electric meter defective and as such, on his request application dated 30.09.2006 the faulty meter was replaced by a new meter by the non-applicant. The applicant is also regularly paying the monthly energy bill amounts and the last bill paid by him was on 21.03.2007. Since Smt. Saritadevi Varma did not execute sale-deed of the property in question, the applicant filed a Special Civil Suit, being Civil Suit No. 76/2006, before the 4th Joint Civil Judge, Sr. Division, Nagpur against Smt. Saritadevi Varma for seeking a direction from the Civil Court for Smt. Saritadevi Varma for executing regular sale-deed. This suit is pending before the Court. In the mean time, a Civil application was moved before the Court by the applicant for granting status-quo in respect of applicant's possession of the house property till the final hearing of the Civil Suit. Accordingly, the Jt. Civil Judge, Sr. Division has ordered to maintain status-quo in respect of the suit property till the next

date of hearing holding that the plaintiff i.e. the present applicant is in possession of the property. This order has been passed on 28.04.2006. The status-quo is also extended further by the Jt. Civil Judge Sr. Division by passing order on 12.04.2007.

On the point of disconnection of power supply to the premises in question, the applicant's representative strongly contended that the non-applicant disconnected power supply without making any enquiry and without verifying the facts of the case and also without any notice to the applicant. According to him, this act of the non-applicant is prima-facie improper and illegal. He alleged that the concerned Dy.EE disconnected the power supply in collusion with Smt. Saritadevi Varma. It is his say that the applicant was the recipient of the electricity after he came to possess the premises in question uninterruptedly till 08.03.2007 on which date his power supply was illegally disconnected suddenly. He has lastly prayed that, looking to the facts and circumstances of the case, his power supply may be ordered to be restored immediately. He also requested that the erring official of MSEDCL responsible for illegally disconnecting power supply may be punished appropriately. He also requested that compensation may be awarded to the applicant towards harassment caused to him.

The non-applicant has filed his parawise report dated 08.08.2007 which is on record. He has stated in this parawise report that the electric meter attached to house no.112 was standing in the name of one Smt. Taradevi Krishna Soni. According to him, the applicant is not the lawful

owner of the house property. There is no registered documents to that effect in his favour till this date. The registered consumer Smt. Taradevi K. Soni was the legal beneficiary and the consumer of the said meter. No documents have been produced to prove that Smt. Taradevi K. Soni transferred the house property alongwith the meter to the applicant. He further submitted that, at no point of time, there was any application from the present applicant claiming with the MSEDCL in writing about right, title and interest in the said property and consequently there has been no question of making any request for transfer of meter attached to the connection in his name. He also pointed out that Smt. Saritadevi is already litigating the matter in the Court of law and that there is a Civil Suit pending before the Civil Court in the matter of right of ownership of the applicant. Though, the Civil Court has ordered to maintain status-quo in respect of house property, the status of his possession is not yet finally decided by the Civil Court. He denied for want of knowledge execution of agreement of sale dated 28.01.2004 between the applicant and Smt. Saritadevi. He added that it is absolutely false to say that the applicant is consuming electricity from the aforementioned service connection. According to him, the applicant has been making correspondence with MSEDCL in the name of deceased Smt. Tarabai K. Soni by signing application for Smt. Tarabai K. Soni and thereby misleading the non-applicant. It was after issuance of a notice to the applicant that he disclosed that the registered consumer Smt. Tarabai K. Soni is dead.

He continued to submit that the meter attached to the said service connection standing in the name of Tarabai came to be replaced vide applications dated 16.09.2006, 20.09.2006 and 30.09.2006 made in her name bonafidely believing that these applications were made by her. However, it was subsequently revealed that some other person has been signing the said applications without any authority and thereby misleading MSEDCL officials for the purpose of getting the meter replaced. He denied that the applicant is a consumer and that he is making payment of energy charges regularly. He did not dispute that the application requesting to disconnect the power supply was submitted and also that it was in the name of the Tarabai K. Soni. Believing that the application for disconnection was on behalf the registered consumer Tarabai, the electric supply came to be disconnected. Since the premises were found to be locked, supply was required to be disconnected from electricity pole. After disconnection of electric supply, the same person who had submitted earlier applications dated 16.09.2006 and 20.09.2006 and 30.06.2006 again submitted application dated 22.03.2007 along with documents claiming that two persons namely Hazi Mohd. & Smt. Noorjahan are the prospective purchasers and are in possession of the premises in question and that they are having right to use and enjoy the said electric supply. The MSEDCL's verification also reveals that the applicant signing application in the name of Smt. Taradevi K. Soni as stated above and the said prospective purchasers are also different persons and that the prospective purchasers have never submitted any application under their signatures,

nor did they make any correspondence with MSEDCL and hence, MSEDCL was constrained to issue a notice dated 02.04.2007 in the name of Smt. Taradevi K. Soni with a copy to Smt. Saritadevi Varma.

He added that the applicant tried to mislead this Forum by making absolutely false and baseless allegations with the sole intention to hide his own misdeeds and illegality as clarified in the legal notices given on 02.04.2007 and 29.04.2007.

According to him, the injunction application filed by the applicant is not yet decided by the Court on merits. Further in the order passed by the Civil Court it has not been accepted that the applicant is in legal possession of the property. What the Court held is that the applicant is in possession of the house property. Whether the applicant is in lawful possession or otherwise is yet to be decided by the Court. He vehemently stated that it will not be possible to restore the power supply to the premises unless a Court order is produced by the applicant prima-facie proving himself to be a legal occupier of the said premises.

According to him, the legal proposition as it stands is that there is an agreement between MSEDCL and the registered consumer and that power supply is to be continued till such registered consumer is in actual possession of the premises.

He vehemently submitted that the privity of contract automatically comes to an end as soon as the registered consumer either vacates the premises or leaves the same for some reason or the other. In the present case the

registered consumer is already dead. No legal heir has come forward claiming the benefits of the electric meter. Hence, MSEDCL has every justification or rather legal obligation to disconnect the electric supply to such premises. Explaining reason behind this submission, he stated that no unauthorized persons can be permitted to use and enjoy the electric supply in order to avoid the contingency or happening of any untoward incident in the premises and in order to avoid any misuse, theft or pilferage of electricity by such unauthorized person. In view of this legal proposition, it was within the rights of MSEDCL to disconnect the power supply. The applicant, according to him, should have gone to the Civil Court for seeking relief instead of approaching this Forum.

The non-applicant has relied upon judgment given in C.W.P. No. 61/1986 dated 24.03.1986 reported in AIR 1986--Delhi at page no. 454. Relying upon this judgment, the non-applicant stated that the MSEDCL gets the power to stop supply to a person who is neither owner nor legal occupier of premises though in the first instance, he may have had such connection.

In the instant case, the applicant has requested for restoration of power supply to the house property in question. As laid down in Regulation 4.1 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, here-in-after referred to as Supply Code Regulations the applicant shall provide the following information / particulars / documents to the Distribution Licensee while making an application for restoration of supply among other things.

- 1) Applicant's name and, whether or not the applicant is the owner of the premises for which supply of electricity is being applied for;
- 2) Where applicant is not the owner of the premises, name of owner of premises etc.

In the present case, the applicant is claiming to be the owner of the premises which has been challenged by the non-applicant. For this purpose, the applicant is relying upon agreement of sale dated 28.01.2004 executed by him with the erstwhile owner Smt. Saritadevi Varma and also the Civil Court's order dated 28.02.2006 by which the Court has ordered to maintain status-quo in respect of suit property till further orders. Mere agreement of sale does not bestow any right of ownership on any person. What is necessary is execution of a proper and legal sale-deed. The sale-deed of the house property in question is not yet executed by the erstwhile owner. The applicant has already filed a special Civil Suit for specific performance and completion of contract in the Civil Court. Moreover, whether a person is a lawful owner of any property or not cannot be decided by this Forum. It is a matter of record that a Civil suit, being civil suit no. 76/2006, is pending decision before Civil Court in respect of right of ownership of the applicant. It is true that the Jt. Civil Judge Sr. Division, Nagpur has ordered to maintain status-quo in respect of suit property till next date of hearing holding that plaintiff i.e. the present applicant is in possession of the house property. However, status of applicant's possession is not yet finally decided by the Civil Court. Until this is finally decided, it

cannot be concluded that the applicant is the lawful owner of the property.

The status-quo is extended by the Hon'ble Civil Court on 12.04.2007 till next date of hearing. It is not known or made known as to which is the next date of hearing after 12.04.2007 and whether on next date of hearing, if any, after 12.04.2007, status-quo is further extended or not.

In view of above position, we hold that the applicant cannot be treated as a legal owner at this stage till the pending Civil Suit is finally decided by the Civil Court. Since the requirement of Regulation 4.1 of Supply Code Regulation is not fulfilled, it is difficult to accept the applicant's request for restoration of supply. The submissions made by the non-applicant in his parawise report are quite cogent, convincing and legal. Hence, we are inclined to hold and do hold accordingly that the supply of electricity to the premises in question came to be disconnected rightly on 08.03.2007. The allegations made by the applicant against the officials of the MSEDCL are not substantiated by the applicant & they are without any basis.

We also hold that the service connection which is now already disconnected could not have been transferred in the name of the applicant since in terms of Regulation 10.3 of the Supply Code Regulations, consent letter of the transferor for transferring connection in the name of transferee is not produced by the transferee-applicant. In the absence of such a consent letter, the applicant is required to produce a proof of ownership of premises. However, such a proof is also not produced. As a matter of fact, production of such a proof of

ownership is also not possible in the absence of regular sale-deed and in the absence of any order from the Civil Court confirming the legal right of ownership of the applicant.

In the result, the grievance application stands rejected.

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

CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION CO LTD's
NAGPUR URBAN ZONE, NAGPUR.