

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

Case No. CGRF(NUZ)/043/2009

Applicant : M/s. METALFAB HIGH TECH
Private Limited
At E-21-25, 33 B/2
MIDC,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
MIDC Division No., NUZ,
Nagpur.

Quorum Present :1) Shri S.F. Lanjewar
Executive Engineer &
Member Secretary,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 22.09.2009)

The present grievance application has been filed on 15.07.2009 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 the provisional assessment bill be cancelled and any other relief which may be deemed fit for granted in favour.

Before approaching to this Forum the applicant approaches to IGRC Nagpur Urban Circle and the hearing was conducted on dated 15.06.2009 in the presence of consumer representative & companies representative.

The applicant had submitted the written reply on dated 13.07.2009. They mentioned the following details that the charges are levied, that the electricity supply was permitted for windmill tower and high pressure vessel on plot no. 23 to plot no. 25. It was notice that the use was extended to the plot bearing no. 33/B-2 which is unauthorized in nature. In the inspection report dated 30.04.2009 by the Executive Engineer MIDC Division Hingna, Nagpur, it is stated that because of use of electricity extended to plot no. 33/B-2 the use became unauthorized. The provisional bill is therefore assessed of Rs.51,96,853=66/-. Further defect was pointed out that there was two connections of the said factory which was not permitted. Only one connection is permitted. As regard to the dual points of supply is concerned the necessary rectification is being made.

In respect of the charge that the use is unauthorized extended to plot no. 33/B-2, it is submitted that if the record is perused in proper perspective, it does not stand scrutiny. The plot no. 33/B-2 was purchased on dt. 20/03/2006 and was amalgamated with existing plot no. E-21 to E-25. The intimation of which was given to MIDC by his letter no.

MF/MIDC/F-033 dated 06.04.2006. The submission is this that the use of electricity extended to plot no. 33/B-2 is not unauthorized and it is wrongly held that the use is unauthorized. He has claimed that, the use of electricity is authorized is based on the following submission.

- i) Intimation of amalgamation of plot no. EE-33/B/2 was sent to MIDC Division on dated 06.04.2006.
- ii) The application for enhancement of power from 325 KVA to 850 KVA has submitted along-with the drawing of the area for the use of electricity which showed amalgamated plot no. 33/B-2 also. The concerned authorities were duly informed about the area for which the power was to be used.
- iii) The amalgamation of plot no. 33/B-2 was done with the approval of MIDC by its letter of dated 22.05.2006
- iv) Along with the load enhancement application the list of plant and machinery to be installed was also submitted.
- v) All the plots are held by the company under single title and used for the same purpose for which electricity is supplied.
- vi) The applicant's application for enhancement of power supply was inspected by the concerned MSEDCL authority and sanctioned the estimate by letter on dated 30.05.2006. At that time also those authorities had found that supply is being extended to plot no. 33/B-2.

He also added in his reply that, it is evident from the above, that the sanctioning authorities were aware of the above said fact at the time of sanctioning. They have also physically seen the plot area and the building, as well as the machines installed. Hence it is very clear that the sanction of enhanced power supply vide letter no. SE/NUC/Tech/-6/6005/HT/852/17/380 dated 03.06.2006 was released only after knowing all the facts.

Therefore, the charge claimed by non-applicant that the use of electricity is unauthorized is not well founded.

He also written that the provision assessment bill is based on wrong assumption that the entire consumption is unauthorized.

The applicant's representative also contended that the provisional assessment bill of dated 16.05.2009, objection was filed on 11.06.2009 and objection was rejected on 26.06.2009. The applicant's had submitted the following documents in support of his submission.

- 1) Sale-deed of plot no. 33/B-2.
- 2) Application for enhancement of power from 325 KVA to 850 KVA.
- 3) Drawing showing plot no. E-23 to E25 and 33/B-2 along with the list of machinery submitted with the application.
- 4) Approval of amalgamation by MIDC by letter on dated 22.05.2006.
- 5) Letter sanctioning of enhancement supply on dated 03.06.2006.

- 6) Provisional assessment bill.
- 7) Objection filed by consumer on 11.06.2009.
- 8) Order of Superintending Engineer on dated 26.06.2009.

The non-applicant has submitted his written submission reply on dated 30.07.2009.

1) The complaint is filed by the applicant challenging the order passed by the competent authority to the final assessment with respect to the liability of consumer as contemplated under Section 126 of the Electricity Act 2003, in pursuance of inspection of the premises of the applicant on dated 30.04.2009, done by Executive Engineer MIDC Division, Nagpur.

2) After the inspection was done it was found that the Electric supply including enhanced contract demand duly got sanctioned which for the purposes of the factory established on the MIDC plot no. E-23 to E-25 have been extended to the premises illegally and unauthorizedly situated on the back side of plot no. 23-25 that is plot bearing no. 33/B-2. The inspection was done in the presence of representative of the applicant bearing consumer no. 410019001575. The said inspection report was carried out duly signed by the representative of the consumer of Shri V.R. Khandare, and one copy was also provided to him. In the joint inspection report, the connected load unauthorizedly transferred to the machinery installed on the plot no. 33/B-2 from the H.T. connection which was included enhanced of connected load. The load was given for the plot no. E-23-25. The details are

mentioned in the joint inspection report. The action of the part of the consumer being in violations to the provision of Section 126 of Electricity Act, 2003. The applicant was provisionally assessed the bill as per the methods laid down under Section 126 of the Electricity Act, 2003. The provisional bill was issued on dated 19.05.2009.

3) After receipt of the provisional assessment bill the applicant submitted the objection on dated 11.06.2009 as contemplated as per the provision of Section 126 (3) of the E.A. 2003. After giving due opportunity of the hearing at circle office to the applicant the final assessment order came to be passed by the authority on dated 22.06.2009.

4) The applicant used the electric energy unauthorized. The power supply used on the place where there was no any sanction or no any authorized load sanctioned.

The applicant had submitted himself to the jurisdiction of the Competent Authority / Assessing Officer by filing objections to the provisional assessment made as per the provisions of Section 126. The applicant had already submitted to jurisdiction of the Assessing Officer and in view of the fact that final assessment as contemplated under Section 126 (3) having been passed, the applicant is not entitled to file the case before CGRF challenging the final Assessment of Section 126 of the Electricity Act.

5) The defense has been tried to be raised that the plot bearing no. 33/B-2 to which the supply was extended by the applicant is the portion of the unit of the applicant and that for the said expansion the request for enhancement of the load

was asked for and that, it was duly sanctioned by the non-applicant. It was also added in the submission that the grounds raised are absolutely false and full of malafides and nothing but the efforts of the applicant to avoid the legal liability of which he has made himself liable by indulging in the illegal activities.

6) The applicant unit since beginning was under the name as M/s. Metalfab Hightech Pvt. Ltd on plot no. E-23 to E-25 and having the original connected load 350 KW and contract demand 325 KVA. As against this facility the applicant vide his application dated 11.05.2006 requested for the enhancement of sanctioned load to extend of 900 KW with 525 KVA contract demand. It is pertinent to mention that in the A-1 form in which the applicant is bound to disclosed the description of the premises for which the demand of supply or enhancement thereof is required to give the full description of the property.

In the A-1 form it is specifically mentioned that the enhancement of the load with respect to the plot no. E-23 E-25 MIDC Hingna Road Nagpur. All the connected paper attached to the said application, no where revealed that the proposed load after enhancement is intended to be used for the alleged premises as plot no. 33/B-2 and consequently the allegations that there was inspection at any point of time in respect of the premises bearing no. 33/B-2 of any official of MSEDCL is nothing but the concocted story on the part of the applicant.

It is further that the said applicant had given the intimation to MSEDCL regarding payment made by him against load extension vide his letter no. MF/MSEB/F654 dated 29.06.2006 on which the applicant has mentioned the addressed of his enhancement of power from plot no. E/23-25. He also submitted that the letter no. MF/Maint./MSEDCL/F/993 dated 14.08.2006 given by the applicant to the Executive Engineer MSEDCL MIDC Nagpur was received on dated 16.08.2006 through which it was requested by the applicant for expediting the works, which was required to be completed for release of enhancement of the load. On the said letter the address of the applicant work was given as E/23-25. On the other hand it is submitted that, in the sanctioned letter dated 03.06.2006, it has been specifically mentioned that the enhancement of power supply is in respect of and for the unit of plot no. E/23-25.

The liberty was also given to the applicant to note the requirement /formalities carefully and arrange to comply deficiency if any before making the payment against enhancement the load. No any deficiencies have ever been pointed out by the applicant.

He also further submitted that from the pollution control board certificate no. 351 dated 16.09.2005 submitted by the applicant along with load enhancement application, it is a sufficient evident that the industrial use of said unit was authorized only plot no. E-21 to E-25.

The applicant is trying to reply on the paper like sale-deed of Assignment cum-sale and alleged order dated

20.03.2006 of Regional Office MIDC Nagpur, so also the letter permitting amalgamation of plot no. 33/B-2. It is be noted that those documents were never part and parcel of application nor there has been any reference regarding the alleged rights of the applicant with respect to the plots no. 33/B-2 for the purpose of treating the said premises as part or expansion of the unit of the applicant at any point of time. There are documentary evidence to show that the enhancement supply was specifically asked with respect to the unit of the applicant already existing on the plot nos. E-23-25 and merely because his indulgence in unauthorized extension of load to the said premises came to be detected, absolutely false defense is tried to be raised to take advantage of enhancement of sanction of load. The specific letter dated 16.10.2006 was issued to the applicant specifying there under that the sanction of load is with respect to the unit on plot no. E-23-25 and that the said letter to be treated as part of the agreement executed between the parties with respect to the supply of HT.

Further, it is to be noted that the documents like Deed of Assignment, Amalgamation of plot; etc are not having any relevance for the purpose of trying to make said piece of land and unit erected thereon to be part and parcel of the unit situated on plot nos. E-23-25 as it was never disclosed and the supply was never sanctioned for the said premises.

The case was heard on dated 31.07.2009

The applicant's case was presented by his nominated representative one Shri Khandare & Shri Sandeep Jain while the Superintending Engineer Shri M.S. Kele &

Executive Engineer Shri Fulkar MIDC Division, MSEDCL, Nagpur represented the non-applicant side.

Applicant Shri Jain while arguing the case replied that the MSEDCL authority visited the premises on dated 30.04.2009 and they said that because of use of electricity extended to plot no. 33/B-2 the use became unauthorized. They issued the provisional bill of Rs.51,96,853=66. There were two connections of the said factory which was not permitted, only one connection was permitted.

He also added in his argument that the use of supply to the said plot is charged by MSEDCL is unauthorizedly used, i.e. supply extended to plot no. 33/B-2. It is mentioned in the record. The plot no. 33/B-2 was purchased on 20.03.2006 and was amalgamated with exiting plot no. E-21 to E-25 & the intimation of which was given to MIDC by letter, on dated 06.04.2006. Hence the use of electricity extended to plot no. 33/B-2 is not unauthorized. He focus that the use of electricity is authorized on the following documents.

- 1) The intimation of amalgamation of plot no. E-33/B-2 was sent to MIDC on 06.04.2006.
- 2) The enhancement of power from 325 KVA to 850 KVA the drawing is also submitted where the drawing is shown of amalgamate plot no. 33/B-2 and the information is given to authority.
- 3) The amalgamation of plot no. 33/B-2 was done by MIDC by the letter on dated 22.05.2006.
- 4) The details of machinery which are to be installed were also attached.
- 5) Company hold all plot on one name.
- 6) The plot was inspected by MSEDCL authority and sanctioned for the estimate, consumption was granted by

letter on dated 30.05.2006 the documentary evidence were submitted in support of his say.

The non-applicant replied in his overall reply during hearing that

There are two nos. of HT connection in the name of Metalab High Tech Pvt. Ltd. One is plot no. E-23 E-24, E-25 & other is on plot no. E-21 E-22 that were released as one on 01.08.1981 & other released on 25.01.2005 respectively.

Load extension of 520 KVA was asked for connection E-23-24, E-25 bearing consumer no. 1575 was applied on 15.05.2006 & it was released on 08.09.2006, while inspecting by the Executive Engineer MIDC on dated 30.04.2009. There were found the things in the applicant's premises.

1) HT connection bearing no. 41001-900-157-5 is sanctioned for consumer load on plot no. E-23-25 as per sanctioned on dated 03.06.2006. The consumer has unauthorizedly extended the electric supply of this connection for above machineries connected on plot no. 33/B-2. It means that the applicant is using power for the premises or as other those for which the supply of electricity was authorized. Therefore the applicant is found indulging in unauthorized use of electricity which fall under Section of Electricity Act, 2003.

2) As per the MIDC Dn. letter no. MIDC/RO/NGP/2520/2006 dated 22.05.2006 plot no. 33/B-2 is amalgamated with E-21, E-22 & E-23 E-24 & E-25. The another HT connection bearing consumer no. 41001-900-7560 is available on plot no.

E-21 E-22. It means that two connections are given within one premises. Hence one connection should be disconnected.

3) The applicant has informed that the plot no. 33/B-2 was purchased from M/s. Vibrant Info Tech Ltd and was transferred by MIDC on dated 20.03.2006. The applicant also mentioned that the plot no. 33/B-2 was written on his application form; load sanctioned form; and point of supply map. All these documents which were submitted at the time of load extension for the connection no. 410019001575. He also added in his argument that along-with the same application the possession receipt of plot no. E-23 certified from DIC regarding registration of SSI unit; Certified from MPCB dated 16.09.2005. The list of machinery were submitted along-with a) DIC certificate of plot no. E-24 E-25 b) The MPCB certificate was for plot E-24 E-25 plot no. 33/B-2, was nowhere mentioned in application or any of the documents submitted for load extension. The load extension was 525 KVA given for plot no. E-24 E-25.

The applicant did not taken any permission from company for amalgamation of plot no. E-21, E-22, E-23, E-24, E-25 & 33/B-2. The permission was not given by the company the load extension on plot no. 33/B-2, which is the premises or area where supply of electricity was not authorized.

The letter of Electrical Inspector where the details of consumer's installation which was addressed to EE MIDC Nagpur on which there was overwriting and the same letter was submitted by the applicant along-with the test report.

In addition to this the applicant does not show the details of correspondence till today, which was made for the plot no. 33/B-2 No any agreement was made by the applicant with the company for plot no. 33/B-2 by even after release of extended load.

The letter no. SE/NUC/Tech/6/HT/B-756/7475 dated 16.10.2006 says that this letter is a part of agreement executed by the applicant with the company. It is also further to clarify that no any application was made by the applicant for the load extension of supply on plot no. 33/B-2 from HT connection no. 410019001575.

The non-applicant also clarified that as per EA 2003 clause no. 43 the application means that the application complete in all respects, along-with all the details and it should be in appropriate format and other documents like payment of necessary charges & other required documents should be attached.

Further he also added in his reply that the applicant did not submitted any application for electric supply or extension of supply on plot no. 33/B-2 and the applicant was found using the load of electric supply by an unauthorized way which were not mentioned in application or any documents submitted by the applicant up-till now. The map submitted by the applicant along-with application clearly shows the details of E-23 to E-25 and not shows the details of plot no. 33/B-2. Moreover the applicant was found indulged in unauthorized use of electricity for premises or areas other than those the supply of electricity was authorized & that which comes under

Section 126 (6) (b) (v). The document's which are submitted by the applicant of MPCB department it is clearly shows the plot no E-21 to E-25. It is clear means that both the connections were utilized for one & same purpose in same names which is not allowed as per company rules. Without company permission a new transformer of 850 KVA was added in the system and earlier 400KVA transformer was not removed which is still lying at applicant's premises. The letter which was submitted by the applicant's the electricity was being used on all these plots namely E-21 to E-25 & 33/B-2 from 22.05.2006 so the applicant should be billed accordingly from the date of 22.05.2006.

It is clear understanding that there should not be two connections in the same name for same purpose so both the connections should be clubbed immediately. The applicant should submit the separate application immediately for authorized use of electricity in plot no. 33/B-2 in the prescribed format along with execution of agreement.

Lastly he said that whatever the provisional bill is issued to applicant is correct and the period for the provisional bill should be considered from the date of sanction of load extension.

The Hon'ble Electricity Ombudsman had passed the order in one of the similar case M/s. Shri Rani Satiji Agro Industries V/s MSEDCL vide order no. Elect/Ombud/MERC/29 of 2009/29 dated 27th April 2009.

The Forum has examined the case and observed that the matter falls within purview of Section 126 of the Electricity Act, 2003 and therefore, the Forum has no jurisdiction to take cognizance of the appellant's grievance in terms of Regulations 6.8 (a) of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006. The non-applicant has raised the Assessment bill under Section 126 of the Electricity Act, 2003. The applicant confirmed that he is concerned that the provisional bill raised by the non-applicant is on higher side. In view of the facts on record, it appears that the Forum has made no error in concluding that the matter is outside its jurisdiction. Hence the Forum has taken the decision.

Decision

In view of the aforesaid there appears no need to interfere in the matter. The applicant's representation deserves to be and is hereby rejected as being beyond the jurisdiction of the Forum. Due to some technical problem order is passed on 22.09.2009.

(S.F. Lanjewar)
Member-Secretary

(Smt. Gauri Chandrayan)
MEMBER

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