

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

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**Case No. CGRF(NUZ)/61/2013**

Applicant : Shri Subhash Narayanrao Gulgulwar,  
177, Shri Narayan Niwas, Tajeshwar  
Nagar, Hudkeshwar Road, Narsala,  
NAGPUR.

Non-applicant : Nodal Officer,  
The Superintending Engineer,  
(Distribution Franchisee),  
MSEDCL,  
NAGPUR.

Quorum Present : 1) Shri. Shivajirao S. Patil  
Chairman,  
  
2) Adv. Subhash Jichkar,  
Member,  
  
3) Smt. Kavita K. Gharat  
Member Secretary.

**ORDER PASSED ON 28.5.2013.**

1. The applicant filed present grievance application before this Forum on 9.4.2013 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. The applicant's case in brief is that M/s. SPANCO, Franchisee of Distribution Licensee had given electricity connection to tenant of the applicant named Shri Arun H. Khobragade, residing in House No. 779, Shop No. 2, Golibar Chouk, Pachpaoli Nagpur without written permission of the applicant. Previously there was electricity connection for commercial purpose in the name of the applicant for this shop, but tenant did not pay electricity bill. Therefore M.S.E.D.C.L. disconnected electricity supply in 2001. The applicant filed Civil Suit for eviction and possession of the shop against the tenant in 2001 and since then the shop is closed. Tenant did not seek any permission of the court for taking electricity connection. Appeal No. 573/09 is pending before District Judge at Nagpur. Therefore electricity connection given to tenant of the applicant is illegal and it should be disconnected.

3. Non applicant denied the applicant's case by filing reply (undated). It is submitted that Shri Arun H. Khobragade had applied for release of connection. Demand note of Rs. 4226/- was given to said consumer vide Consumer No. 410018146014. The applicant is not consumer in respect of this connection and therefore grievance application may be dismissed.

4. Forum heard arguments of both the sides and perused the record.

5. Record shows that M/s. SPANCO had given electricity connection to tenant of the applicant Shri Arun H. Khobragade who had paid amount of Rs. 4226/- vide Consumer No. 410018146014. Therefore applicant is not the consumer within the definition of "Consumer" laid down u/s 2(15) of Electricity Act 2003. Therefore application filed by the applicant is untenable at law and deserves to be dismissed.

6. It is the grievance of the applicant that electricity connection should not have been given to his tenant without written order of the court or his written permission. This aspect of the matter does not fall within the definition of "Grievance" laid down under regulation 2.1(c) of MERC (CGRF & Electricity Ombudsman) Regulation 2006 and for this reason also grievance application is untenable at law.

7. The applicant argued before this Forum that initially he filed Civil Suit No. 302/01 against his tenant Shri Arun H. Khobragade in the Court of Additional / Small Cause Court Nagpur for eviction and possession of suit premises i.e. shop. He further argued that his suit for possession is dismissed. He filed first appeal No. 573/09 u/s 34 of Maharashtra Rent Control Act 1999, in the Court of District Judge Nagpur on 30.11.2009 and it is pending. Forum orally made a query to the applicant whether he had produced copy of judgement in Civil Suit No. 302/01 Dt. 17.11.2009, but the applicant told that he did not produce copy of

said judgement. On perusal of the entire record, it is clear that suit for eviction and possession filed by 1) Smt. Godabai wd/o Narayanrao Gulgulwar and 2) Shri Subhash Narayanrao Gulgulwar (Applicant) against tenant Shri Arun H. Khobragade is dismissed by Additional Judge, Small Cause Court, Nagpur. The applicant intentionally did not produce copy of that judgement on record. This important document is suppressed by the applicant. It is an admitted fact that suit for eviction and possession is dismissed and first appeal No. 573/09 is filed by the applicant against judgement Dt. 17.10.2009 in suit No. 302/01. Therefore it is clear that Additional Judge, Small Causes Court Nagpur held that applicant is not entitle for eviction and possession of the shop from Shri Arun H. Khobragade. Therefore unless and until the said tenant is not evicted by competent court of Civil Jurisdiction and by process of law, he is entitle to possess that shop and he is entitle for electricity connection in that shop. Needless to say that there are specific provisions even under Maharashtra Rent Control Act 1999 that if any owner disconnects electricity supply or water supply of the rented premises, court can issue certain directions even to restore it. Suit of the applicant is dismissed; therefore possession of the applicant is protected. Hence tenant is entitled to get electricity supply from distribution licensee and owner has no right to object it. Further more, it is an admitted fact that matter is subjudice before District Judge Nagpur and it is already decided by Additional Judge Small Causes Court Nagpur as per judgement Dt. 17.11.2009 in Civil Suit No. 302/01. According to Regulation

6.7(d) of the said regulations, grievance application is untenable at law where representation by the consumer is pending in any proceedings before any court, tribunal or arbitrator or any other authority or decree or award or final order has already been passed by such court, tribunal, arbitrator or authority. In this case, matter is decided by Additional Judge, Small Causes Court, in Civil Suit No. 302/01 as per Judgement Dt. 17.11.2009 and held that possession of the tenant is legal. Matter is subjudice in Appeal No. 573/09 before District Judge.

8. For these reasons, in our opinion, applicant can not object for electricity connection given to said shop. In fact, it is not the grievance within the meaning of the regulations, but nature of the dispute is civil dispute. The applicant is at liberty to approach competent court of Civil Jurisdiction. In our opinion, the application is untenable at law. Hence Forum proceeds to pass following order :-

### ORDER

- 1) Grievance application is dismissed.

Sd/-  
(Smt.K.K.Gharat)  
MEMBER  
SECRETARY

Sd/-  
(Adv.Subhash Jichkar)  
MEMBER

Sd/-  
(ShriShivajirao S.Patil)  
CHAIRMAN