

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

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**Case No. CGRF(NUZ)/057/2010**

Applicant : M/s. Mahalaxmi Dhatu Udyog Pvt, Ltd.,  
C-52, MIDC, Hingna Road,  
NAGPUR.

Vs.

Non-applicant : MSEDCL represented by  
Superintending Engineer,  
Nagpur Urban Circle,  
Nagpur.

Quorum Present : 1) Smt. K.K. Gharat  
Member Secretary,  
  
2) Smt. Gouri Chandrayan,  
Member,

**ORDER (Passed on 02.09.2010)**

The present grievance application has been filed on dated 28.07.2010 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.

1. M/s. Mahalaxmi Dhatu Udyog Pvt. Ltd., MIDC Hingna, Nagpur, the applicant and the HT consumer of MSEDCL has applied for load extension to the Superintending Engineer, Nagpur Urban Circle, Nagpur the non-applicant. The

same was sanctioned by the non-applicant but did not release the load enhancement by informing to the applicant that the same premises has Permanent Disconnection (P.D.) arrears of Rs.10,33,316/- of the previous occupier / consumer M/s. Accurate Fastners (Pvt.) Ltd., and being the occupier of the same premises he has to submit an undertaking for arrears liability. Therefore the applicant filed his grievance to Internal Grievance Redressal Cell, MSEDCL, Nagpur Urban Circle, on dated 18.06.2010.

The Internal Grievance Redressal Cell has informed to the applicant that consumer the enhanced load would be released only after submission of an undertaking for liability of P.D. arrears till the similar case pending in Hon. Supreme Court as if the case goes in favour of MSEDCL, he will have to pay the entire arrears alongwith interest at the prevailing rate.

Aggrieved by this, the applicant has filed the representation in the Forum on dated 28.07.2010 and requested that

- a) He is not liable to pay the outstanding payment of the Mortgager Company and therefore MSEDCL should not pressurize him for submitting an undertaking for accepting the liability of mortgager company.
2. The applicant has stated in its grievance application submitted to the Forum that he had submitted an application for load enhancement to the non-applicant and the same was sanctioned by the appropriate authority and accordingly he

has paid the amount Rs.2,26,700/- on dated 10.11.2009. But in addition to this MSEDCL has demanded to pay old dues of amount Rs.10,33,316/- in the name of M/s. Accurate Fastners (Pvt.) Ltd as the premises being the same. The applicant has further stated that he had purchased the unit under section 29 of Maharashtra State Financial Corporation Act, 1951, by way of public auction on lumpsum basis. After that he got new connection from erstwhile MSEB as well as sanctioned load extension afterwards. Hence as per G.R. of Govt. of India, liability does not arise and also because of non-release of the load extension its unit is paying penalty on excess demand.

3. The applicant has further stated that the same point was discussed with the non-applicant but he has been pressurizing for submitting an undertaking. According to which, in case MSEDCL win in the Court of law, his unit has to make the said payment along-with interest. So he requested to the Forum to issue appropriate judgment in this regard as the old arrears of Mortgager Company are not his liability.
4. The non-applicant has submitted his reply in the Forum on dated 03.08.2010. According to which, M/s. Mahalaxmi Dhatu Udyog Pvt. Ltd., is an HT consumer with the consumer no. 410019004523, Connected Load 1000 kW, Contract Demand 750 kVA and is connected on 11kV, on dated 21.02.1995. The consumer had applied for load enhancement on dated 14.03.2009. The load enhancement was sanctioned on 27.10.2009 with demand charges of Rs. 2,26,700/-. Also in the

clause no. 16 of the load sanction order, it was clearly stated that the applicant would have to pay outstanding arrears, if any, prior to release of connection.

5. The non-applicant further added that during the inspection for load feasibility for load extension, it was observed that the same premises has P.D. arrears of HT consumer, M/s. Accurate Fastners (Pvt.) Ltd of Rs.10,33,316/-. Hence his office has reminded the applicant on dated 05-02-10 to pay the outstanding arrears. But the applicant has refused to pay the arrears on the grounds that his unit has no connection with the defaulter Company and has purchased the unit under section 29 of Maharashtra State Financial Corporation (MSFC) by way of public auction on lumpsum basis and the applicant has refused to submit the undertaking for this liability.
6. The non-applicant has also pointed out clause no. 23 (B) of condition of supply of erstwhile MSEB, according to which “it shall be lawful for the board to refuse the supply or to give new connection to such persons claiming to be the heir, legal representative, transferee, assignee or successor of the defaulting consumer of such premises, unless the amount of such charges due and/or the compensation demanded from the defaulting consumer, is as the case may be duly paid to or deposit with the Board”.

He also further added that after notification of Supply Code Regulation 2005, revised guidelines are proposed

vide commercial circular no. 53 in respect of the property having arrears and which being procured through Court / DRT /Liquidators / Judicial / Statutory authorities. As per MSEDCL Commercial Circular no. 53.:

“(1) Before release of electricity connection following methodology should be adopted and obtain an undertaking from such consumer that he undertake that in case the decision in appeal no. 5312-5313 of 2005 MSEB and Anr. Vs. Super & Stainless HI Alloys Ltd., & Ors. With Civil Appeal no. 5314 of 2005, SLP No. 10732 of 2006 and SLP No. (C) No. 6068 of 2006 pending in the Supreme Court goes in favour of MSEB, that he will pay the entire arrears along-with interest at the prevailing rate till the date of payment on the amount i.e. due at the time of release of connection due on the premises towards electricity charges.

(2) We shall claim arrears of electricity charges as per condition no. 10.5 of the Supply Code without prejudice to his right in the pending appeal before Apex Court in addition to undertaking as referred in (a) above.”

Hence the non-applicant has asked to the applicant to submit the undertaking in order to create the charge on the property vide letter dated 30.07.2010. But the same circular was amended by Circular no. 97. According to which “the consumer will have to submit the undertaking as per Commercial Circle 53 without creating the charges on the property.

7. The non-applicant has also admitted that his office should have been demanded the arrears at the time of connection in 1995 and also treating previous enhancement of load. But the action was not taken, hence as per commercial circular no. 53 following Company's rules & regulations, the action was taken in the interest of Company. He further requested to the Forum that as there is no material substance in consumer's objection in submitting the undertaking, the grievance application should be rejected and Forum should ask the applicant to cooperate, so that the enhancement of load in respect of the consumer can be released at earliest.
  
8. The matter was heard in the Forum on dated 16.08.2010. Both the parties were present. On behalf of non-applicant Shri M.S. Kele, Superintending Engineer, Nagpur Urban Circle, (NUC) and Smt. Jiwtode, Assistant Engineer, NUC were present. The applicant, Shri Krishna N. Rathi has presented the case.

Shri Rathi has informed to the Forum that as per section 29 of State Financial Act, his Company has no liability for Mortgager's electricity dues. He further added that previously new connection as well as load extension was awarded without raising any liability for old arrears. Therefore he is not liable to submit an undertaking for previous consumer's arrears. Also he has purchased the unit on lumpsum basis and State Financial Act is applicable to all, hence as per section 29 his company is not liable for payment of previous arrears.

9. The non-applicant presented his side by stating that this Act is not applicable to his company and all actions has been taken as per company's rules and regulations. As the property is transferred to the applicant by public auction and the same matter for recovery of arrears is pending with Supreme Court. Hence the consumer has to submit an undertaking for liability of old arrears on the same premises for release of load extension.
  
10. The documents on record reveal that the applicant has purchased unit by way of public auction in 1994. He received electricity supply in 1995. After that he has applied for load extension in the year 2009. At this time the non-applicant had informed to the applicant that arrears of Rs.10,33,316/- are due on the mentioned premises in the name of M/s. Accurate Fastners Pvt. Ltd. But the applicant has argued that as he has paid amount in lumsun to MSFC at the time of auction so no liability of previous company exist on the assets. Hence he has refused to submit an undertaking to the non-applicant. As per non-applicant's submission, matter of recovery of arrears on the property through auction and similar ways is pending with Court of law for decision. So in the interest of company the applicant has to submit an undertaking for accepting the liability of P.D. arrears on the same premises.

11. As per Forum's opinion the document in respect of sale of assets guidelines submitted by the applicant cannot be treated as a Govt. notification because it is a simple printout without any authentic signature or proof. Further section 29 of State Financial Corporation Act 1951 states the right of financial corporation in case of default, but it does not comment on treatment of liability on the assets or unpaid electricity charges.

Also as per MERC (Electricity Supply Code and other Conditions of Supply) Regulation 2005, section 10.5

“Any charges 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.”  
Therefore the new owner/occupier is liable for payment of erstwhile occupier of the premises.



12. Further the forum has observed that the applicant has paid the demand charges on the basis of demand note of load sanctioned order issued by the non-applicant. As per clause no. 16 has clearly stated that “the applicant has to clear all the outstanding arrears, if any, prior to release of connection”. In other words the applicant has accepted all the terms & condition of load sanctioned order by paying the demand charges. Also it is observed by the Forum that matter of recovery of arrears on the property through auction and similar ways is pending with Apex Court and will be decided on the decision of Hon. Court. Therefore, in Forum’s opinion there is no material substance to accept the applicant’s grievance application.

**ORDER**

The applicant’s grievance application is hereby rejected.

Sd/-  
(Smt.K.K. Gharat)  
Member-Secretary

Sd/-  
(Smt.Gauri Chandrayan)  
MEMBER