

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

Case No. CGRF(NUZ)/082/2005

- Applicant : Shri Dilip Govindrao Joshi,
R/o 135, Ramnivas, Sathe Marg,
Dhantoli,
Nagpur.
- Non-Applicant : The Nodal Officer-
Executive Engineer,
Congressnagar Division, NUZ,
Nagpur representing the MSEDCL.
- Quorum Present : 1) Shri S.D. Jahagirdar,
Chairman,
Consumer Grievance Redressal Forum,
Nagpur Urban Zone,
- 2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum,
Nagpur Urban Zone, Nagpur
Nagpur.

ORDER (Passed on 31.12.2005)

The present grievance application is filed before this Forum on 12.12.2005 by the applicant in the prescribed schedule "A" as per Regulation 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of non-provision of a three phase new electricity connection to his

house, being house no. 135 at Ramniwas, Sathe Marg, Dhantoli, Nagpur.

Before filing the present grievance application, the applicant had approached the Internal Grievance Redressal Unit by filing his complaint application, being application dated 25.10.2005, in the prescribed Annexure "X" under the said Regulations for redressal of the present grievance. This Unit, there-upon, replied the applicant by its letter, being letter no. 4118 dated 23.11.2005, informing him that there is an unpaid arrear amount of Rs. 1,08,543/- outstanding against the erstwhile tenant one Shri Bonde having consumer no.410013530550, in the same premises and further that the new connection sought for by the applicant would be released only upon payment of the afore-mentioned arrear amount. The applicant being not satisfied with the reply given by this Unit to him hence filed the present grievance application before this Forum under the said Regulations.

Both the parties were heard by us on 29.12.2005. Documents produced on record by both of them are also perused and examined by us.

After receipt of the present grievance application, the non-applicant was asked to submit before this Forum his parawise comments on the applicant's grievance application in terms of the Regulations 6.7 & 6.8 of the said Regulations. Accordingly, he submitted his written submission on 29.12.2005. A copy thereof was given to the applicant on 29.12.2005 before the case was taken up for hearing and he as given opportunity to offer his say on this parawise report also.

The contention of the applicant is that he applied to the non-applicant on 28.07.2005 for releasing a new three phase electricity connection with connected load of 7.8 kw. His house was thereupon inspected by the representative Officer of the non-applicant Company in August, 2005. Since nothing was heard from the non-applicant about the fate of the applicant's application, he made inquiries with the Jr. Engineer, Dhantoli S/stn. MSEDCL, NUZ, Nagpur regarding the status of his application. He was then verbally told that there is an outstanding payment against consumer no. 41001017878 in the same premises and as such, his request for a new connection was pending. Thereupon, the applicant addressed a letter, being letter dated 02.09.2005, to the Jr. Engineer clarifying there-in that the premises where the applicant was seeking a new electricity connection were inherited by him from his grand father way back in September,1963 as per his Will and further that the consumer Shri Bonde having consumer no.410010017878 was a tenant of house no. 136 owned by his elder brother Shri A.G. Joshi through the Rent Controller. It was also clarified by him that half portion of the building owned by him is an independent premises totally independent from the premises which were occupied by the tenant Mr. Bonde and further that there are no electricity dues outstanding against the premises owned by him. He further requested the Jr. Engineer that the electricity connection sought for by him may be released without any further delay. No reply was received by the applicant to this clarification and hence, he went before the Internal Grievance Redressal Unit for redressal of his grievance by filing his

complaint application dated 25.10.2005. There-upon, the Unit informed the applicant that the new connection would be released only upon payment of the outstanding dues in question subject to payment of demand note amount, submission of test report, etc. He is not satisfied with the reply of the Unit.

He strongly contended that he owns house bearing a distinct house number 135 adjoining to his brother Shri A.G. Joshi's house, being house no. 136 and that Shri Bonde was never a tenant of house no. 135. According to him, as per his grand father's Will, the house no. 135 came to be inherited by him while the house no. 136 went to his brother Shri A.G. Joshi. He added that his request for release of a new connection cannot be withheld on the ground that there are outstanding electricity dues against the consumer Shri Bonde-tenant of his Brother Shri A.G. Joshi who occupied different and independent premises bearing house no. 136.

He has produced a copy of his grand father's Will dated 17.03.1963 and also a copy of Nagpur Municipal Corporation's receipt dated 16.09.2005 pertaining to payment of property tax in respect of house no. 135 owned by him in support of his contentions.

He also stated that his house has no legal connection with house number 136 and that his premises comprised in house no. 135 are totally independent premises.

He lastly prayed that the non-applicant be directed to release the electricity connection sought for by him without any further delay.

The non-applicant has stated in his parawise report that, after receipt of the applicant's application for a new connection, spot inspection was done by his Officer who found that the entire building is one unit. The Inspecting Officer also found that presently electricity supply is being used and enjoyed by the northern portion of the house from the meter installed in the southern portion of the house. According to him, the statement made by the applicant that the house in question is partitioned between him and his brother Shri A.G. Joshi cannot be relied upon in the absence of any registered document to that effect.

He strongly contended that the entire house property is to be treated as one unit and one premises.

He added that nothing has been submitted by the applicant before him to show that the applicant was not the beneficiary of the electrical connection installed previously. There is nothing on record to show that the meter, being meter no. 410010017878, which was standing in the name of Shri Bonde was exclusively used and enjoyed by the said consumer and also that the present applicant was not the beneficiary of the said meter.

It is his contention that this meter has gone in permanent disconnection on account of non-payment of charges to tune of Rs.1,08,000/- and further that this meter was installed in the same premises where the applicant is seeking a new electricity connection.

It is his strong submission that since the present applicant has become the owner of the said premises on the

basis of the Will of the applicant's grand father, he will have to take on him the liability in question also of this property.

The non-applicant relied upon Regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 here-in-after referred-to-as the Supply code Regulations and strongly contended that the liability in question stands transmitted to the applicant since he is the legal heir acquiring ownership right of the premises in question.

He has produced a copy of CPL in respect of Shri S.O. Bonde, Consumer no. 410010017878, from December, 1997 to October, 2005.

He lastly prayed that the present grievance application may be dismissed since there is no substance in it.

We have carefully gone through all the documents produced on record by both the parties and also all submissions made before us by both of them.

The main point to be decided in this case is whether the present applicant is liable to pay the outstanding dues of Rs.1,08,543/- which are outstanding against the tenant Shri Bonde in house no. 136.

The applicant has produced a copy of his grand father's Will dated 17.03.1963 to show that he inherited only the block on the Northern portion of the building. Shri Ramkrishna Balwant Joshi-the applicant's grand father died on 09.12.1963 as stated by the applicant. Hence, the Will dated 17.03.1963 has come into effect w.e.f. 09.12.1963 i.e. date of death of the destator of the Will. According to this Will, the present applicant has become the successor-owner of the

northern portion block. The other block on southern portion of the same building has been inherited, as per this Will, by the applicant's elder brother Shri A.G. Joshi. Hence, the building in question stands divided into two independent premises, namely, the premises on the northern side and the premises on the southern side. Hence, the contention of the non-applicant that the entire property is to be treated as one unit and one premises is not correct. The ground mentioned by the non-applicant in this respect is that there is no registered document to prove that the building in question is divided into two independent portions. This contention is also not correct because a Will can be executed by a destator even on a plain paper. Registration of a Will document is not compulsory in the eyes of law.

Moreover, the applicant has produced a copy of property tax payment receipt of Nagpur Municipal Corporation which amply demonstrates that he is the owner house no. 135.

Even the CPL produced by the non-applicant in respect of consumer Shri Sumantrao Bonde, Consumer No. 41001017878 against whom electricity dues in question are outstanding indicates the address of the premises as house no. 136.

This means that Shri Bonde was a tenant of house no. 136 and that this house is independent from house no. 135. In other words, house no. 135 & 136 are two independent premises legally formed on the basis of the Will dated 17.03.1963. Hence, the non-applicant's contention that the

entire property should be treated as one unit and one premises is mis-conceived and hence can not accepted.

It is pertinent to note that the tenant Shri Bonde, Consumer No. 410010017878, inducted as such in the premises called house no. 136 got the supply of electricity on 21.01.1972 and further that this connection was permanently disconnected on 30.01.1992. These two dates are disclosed to us by none other than the non-applicant himself. This indicates that Shri Bonde was inducted as a tenant much after coming into force of the Will deed of applicant 's grand father. This, in turn, clearly demonstrates that the applicant became successor-owner of house no. 135 and his brother Shri A.G. Joshi became the successor-owner of house no. 136 legally from the date of death of their grand father and that induction of Shri Bonde as a tenant of house no. 136 came into force much after forming of two independent premises namely the house No. 135 & No. 136.

Therefore, contention of the applicant that the consumer connection no. 410010017878 pertaining to erstwhile tenant Shri Bonde of his brother Shri A.G.Joshi has no relation to the premises comprised in house no. 135 is quite legal and correct.

The non-applicant has contended that the present applicant is the beneficiary of the electrical connection installed in Shri Bonde's name can not be accepted by us without any proof to that effect. It is also the say of the applicant that the tenant Shri Bonde was allotted the house no. 136 distinctly by the Rent Controller after 1970. There is no comment from the non-applicant on this submission.

In nutshell, contentions raised by the non-applicant are not at all cogent, correct and legal. On the contrary submissions made by the applicant are well justified and legally correct.

The non-applicant has relied upon provision made in Regulation 10.5 of the Supply Code Regulations the text of which reads as under.

“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:

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.”

Relying on this legal provision, the contention of the non-applicant is that the outstanding charges of Rs.1,08,543/- against the premises comprised in house no. 136 stands transmitted to the applicant since he is the legal heir of his grand father and because he has acquired the property through inheritance.

We are unable to accept the reasoning given by the non-applicant for the simple reason that house no. 135 owned by the applicant and house no. 136 which was occupied by the Bonde are two independent premises and that the liability outstanding against house no. 136 can not be legally transmitted to another independent premises namely the house no. 135.

Documentary proof produced by the applicant clearly goes to show that house no. 135 owned by him is totally independent of adjoining house no. 136 which is owned by his brother and that the outstanding dues in question were pertaining to house no. 136 and not house no. 135.

In the result, we accept the grievance application of the applicant and direct the non-applicant to release the new connection sought for by him on or before 15.01.2006 without insisting upon the applicant to pay the outstanding dues in question subject to his fulfilling other formalities like payment of demand note amount, submission of test report, etc.

The non-applicant shall report compliance of this order to this Forum on or before 31.01.2006.

Sd/-
(Smt. Gouri Chandrayan)
Member

Sd/-
(S.D. Jahagirdar)
CHAIRMAN

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