

Before Maharashtra State Electricity Distribution Co. Limited Consumer Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, IInd flr. Pune-11

Case No. 18/2013

Date: 12/12/2013

In the matter of

Shaikh Hasan Shaikh Yakub,
S.No.79, Vikasnagar,
Ghorpadigaon, Pune-1.

- Complainant

V/S

The Executive Engineer,
M.S.E.D.C.L.,
Nagarroad Division, Pune.

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.N.S.Prasad
Member	Shri.Suryakant Pathak

1. Mr. Shaikh Hasan Shaikh Yakub filed the complaint being dissatisfied by the decision of IGRU dated 26.9.2013.
2. The main grievance of complainant is that he is consumer of M.S.E.D.C.L. vide No.170051055333 since 1994. The owner of the property where electricity supply is given is Sheikh Karim Mujjaphar Shaikh.
3. The complainant submitted that M.S.E.D.C.L. has illegally changed the name of electricity connection (Meter) relying on forged and fabricated documents. It is contended that bills were issued in the name of complainant till Jan.2013.
4. M.S.E.D.C.L. filed written statement and submitted that Mr.Nadim Shaikh applied for change of name of consumer No.170061055333 and submitted all necessary documents required as per Maharashtra Electricity Regulatory Commission (Electricity supply code and other conditions of supply)

Regulation 2005 and name was changed by accepting requisite fees. It is submitted that the requisite documents and affidavits were produced along with application.

5. M.S.E.D.C.L. Executive Engineer submitted that owner of land filed case No.465 of 2012 before District Court and also Mr.Nadim filed Case No.586/2012 for declaration before Civil Court. The issue is pending before the court for adjudication. Mr.Nadim filed affidavit on stamp paper for taking responsibility. It is submitted that documents are supplied to consumer on application under RTI Act-2005. It is averred that documents pertaining to change of name are submitted before Yervada Police Station as per directions by Police.
6. The following points arise for our determination:-
 - 1) Whether M.S.E.D.C.L. was justified in recording change of name of consumer?
 - 2) What order ?
7. Our finding is
 - i) In the negative
 - ii) As per final order

REASONS

8. Admittedly Mr.Shaikh Hasan Shaikh Yakub is consumer of M.S.E.D.C.L. till Jan.2013.
M.S.E.D.C.L. contended that Mr.Nadim produced on record the U form bearing signature of old & new consumer, affidavits of both Mr.Shaikh Hasan and Shaikh Nadim, affidavit of owner of land Mr.Karim & property tax receipt and considering these documents, change has been made as per rules.
9. The consumer mainly challenged the order of I.G.R.U. Mr.Shaikh Nadim Hasan has presented the case of consumer. He brought on record the facts that the electricity bill is in the name of Shaikh Hasan since supply. He

specifically submitted that M.S.E.D.C.L. official has deliberately deprived him of electricity supply without any fault on the part of consumer. It is alleged that M.S.E.D.C.L. was informed in writing by Mr. Shaikh Karim Shaikh by letter dated 16th April-2012 addressed to Executive Engineer, specifically mentioning that there should not be change in the name. He lamented that M.S.E.D.C.L. was again informed in writing on 16.7.2012 and also on 29.12.2012 but in vain. He argued that M.S.E.D.C.L. Officials in collusion with Nadim Shaikh high handedly deprived the consumer of his right to electricity supply and caused mental agony and stress.

10. Mr. Shaikh Nadim Hasan contended that M.S.E.D.C.L. was informed through Advocate Notice before change of name but unfortunately M.S.E.D.C.L. officials have not taken cognizance due to financial consideration.
11. Mr. Shaikh Nadim Hasan submitted that Mr. Nadim Shaikh has caused loss to M.S.E.D.C.L. by producing false & fabricated documents. He requested that legal action as per law may be initiated against wrongdoer. It is his contention that the dispute relating to specifically present electricity supply or meter is not pending before court. The judicial inquiry before Civil court is not relating to deficiency in service by M.S.E.D.C.L.
12. On hearing both sides in the light of observations by I.G.R.C. it reveals that M.S.E.D.C.L. has changed the name of consumer without valid and legal grounds. The I.G.R.C. in conclusion column observed that M.S.E.D.C.L. was intimated by owner stating that there should not be change of name, through letters dated 16.4.12, 16.7.12 and 29.12.12 I.G.R.C. held that due to pendency of Civil cases referred above the request of consumer cannot be considered.
13. We have perused the copy of order passed by small cause court dated 13.9.12 at Ex.5. We have perused Judgment dated 4.7.13 by District Judge Pune in Misc.Civil Appeal No.465/2012 setting aside order of small cause court. The original case is pending before court, we specifically state that our observations have no bearing on merits of cases before civil court. Our concern is regarding the legality of action taken by M.S.E.D.C.L. within

framework of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

14. We are of considered view that M.S.E.D.C.L. has taken action of change of name of consumer based on disputed documents, irrespective of the repeated oral or written communication for not doing so by consumer & owner.
15. This is a case of harassment by Public functionary. On perusal of documents and hearing both sides, it appears that M.S.E.D.C.L. took decision to change name of consumer which caused agony and loss to consumer.
16. The Hon'ble Supreme Court
In Lucknow Development Authority

Vs

M.K.Gupata (1994) 1 SCC 243

The Hon'ble Supreme Court observed, a public functionary if he acts maliciously or oppressively and exercise of power results in harassment and agony then it is not exercise of power but its abuse. No law provides protection against it. He who is responsible for it must suffer for it. Harassment of a common man by Public authorities is socially abhorring and legally impermissible. It may harm him personally but injury to society is far more grievous. Nothing is more damaging than the feeling of helplessness. An ordinary citizen instead of complaining and fighting succumbs to the pressure of undesirable functioning of offices instead of standing against it.

The M.S.E.D.C.L. was under an obligation to act fairly without bias and in good faith. However the facts show that M.S.E.D.C.L. failed in its obligation, which resulted into wrongful loss to consumer. M.S.E.D.C.L. is under a duty take steps to avoid the harassment of bonafide consumer. It is not the case of M.S.E.D.C.L. that change in the name was made relying on decision of Civil Court. The change is only on the basis of disputed documents. We are of the view that M.S.E.D.C.L. should take steps within the limits of guidelines of M.E.R.C. & M.S.E.D.C.L. Circulars for restoration

of electricity supply and also make detail inquiry regarding the change of name and the person responsible for the same.

In the result, we pass the following order :

- 1) M.S.E.D.C.L. is directed to release new electric connection in the said premises if it is found that said place is in possession of complainant without charging any fees, as his supply is wrongly disconnected.
- 2) M.S.E.D.C.L. shall inquire the persons who were responsible for this deficient service causing agony to consumer.
- 3) No order as to cost.

N.S.Prasad,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 12/12/2013