

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

Case No. 8 of 2008

Date: 21/08/2008

In the matter of Mr.C.K.Paranjape

- Complainant

V/S

M.S.E.D.C.L. Padmavati Division

- Opponent

Corum

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. D.K.Mane,

Member,

Mr. T.D. Pore

1 Mr.Chandrakant Keshav Paranjape (Complainant for short) obtained supply of electricity to his premises, bearing consumer No. 160240077415 through electric meter on 08/02/03 from Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short) .The complainant was regularly making payments of the electric charges every month. He was never a defaulter, however supply to his premises was cut off on 05/03/07 without giving him any notice or disclosing him any reason for disconnection. The complainant's son Mr.Nitin served a notice dt.07/03/07 upon the opponent through Advocate explaining that he is a lawful owner of the premises and connection for the supply of electricity given to his premises was legal, however supply to his premises was cut off illegally. By the said notice he requested the opponent to resolve the issue amicably and resume the supply of electricity. Inspite of the notice received by the

opponent , the opponent did not take any action to restore the supply. The complainant delivered letters dt. 24/03/07 and 26/03/07 to the opponent giving it warning that if supply was not restored, he would stage an agitation going on fast sitting in front of the door of the opponent's office. On receiving the above said letters from the complainant, the opponent gave a reply dt. 26/03/07 and informed the complainant that orders were issued to the concerned authority to take appropriate action. The supply was restored to the complainant's premises on 28/03/07. The complainant insisted to explain the reason for which supply of electricity to his premises was cut off. The opponent by its letter dt. 24/04/07 informed the complainant that supply of electricity was cut off as in a letter dt. 13/02/07 received from office of Dnl. Commissioner it was mentioned that the electric meter installed at the premises in question was illegal. However when it was found that it was a mere allegation in the complaint to the commissioner's office, the supply was restored.

- 2 The complainant made a grievance to Internal Grievance Redressal Cell (IGRC) by an application dt.06/05/08 . The IGRC on enquiry found that supply of electricity to the complainant's premises was cut off on 05/03/07 as it received a letter bearing No.476/13.02.07 from Divisional Commissioner in which it was mentioned that meter installed at the premises in question was illegal however, when it was noticed that it was only an allegation made in the complaint received by the commissioner, the supply was restored on 28/03/07. Though the IGRC found that supply of electricity was cut off to the complainant's premises for 23 days it denied compensation Rs. 15,000/- claimed by the complainant on the ground that awarding

compensation was not within its competence and further that the action of disconnection taken by the opponent was not deliberate.

- 3** Complainant was not satisfied with the decision given by the IGRC and therefore he made a grievance to this forum and claimed compensation Rs. 15,000/- as he was illegally deprived of the supply of electricity for 23 days.
- 4** The opponent was served with a notice directing it to file its written statement. The opponent filed its written statement dt. 06/08/07 contending that the chairman of Dharmnagari Hos.Soc. had made an application against the complainant to the office of Divisional Commissioner, the said complaint was forwarded to the opponent with a letter No.476 dt.131/02/07. The Divisional commissioner by that letter informed the opponents that the electric meter installed at the premises in question was illegal. The supply of electricity therefore to the complainant's premises was disconnected. On complaint made by the complainant to the Superintending Engineer Rasta Peth Urban Circle, the S.E. took the decision to restore the supply and accordingly supply of electricity was restored to the complainant's premises. It was contended that there was no intention to harass the complainant or to cause a mental agony to him and the action of disconnection was taken purely acting on letter received from the commissioner. The opponent contended that the claim made by the complainant for the compensation was not justifiable.
- 5** On the date of the hearing the complainant and complainant's representative both argued the case. On behalf of the opponent the Dy.E.E. Gorade argued the case on hearing the arguments

and perusing the documents produced, following points arise for consideration.

- 1- Whether the grievance made by the complainant can be entertained by this forum
- 2- Is the claim made by the complainant for compensation within time under 3rd proviso to Reg.12.2 of Maharashtra Electricity Regulatory Commission,(Standards of performance of Distribution Licensees, period for giving supply and determination of compensation) Regulations,2005 (MERC SOP Regulation 2005)

The points No.1 is answered in the negative and finding to point No.2 is that it does not arise for the reasons given below.

Reasons

6-Point No. 1: The complainant in his grievance did not plead any thing about the civil suit filed by him in the court of civil judge, junior division Pune against Dharmnagari Co.Op.Hos.Soc. and the opponent, however when complainant was asked whether he had taken any action against the Dharmanagari Hos. Soc. Who had made an application to the commissioner making allegation that electric meter was illegally installed to his premises, the complainant produced a xerox copy of the plaint in a suit filed by him. He also produced the xerox copy of the written statement filed by Dharmanagari Hos. Soc. From the contents of the copy of the plaint produced by the complainant, it is clear that opponent is also made a party to it as defend No.2. In the prayer clause of the plaint para 19 D the complainant

has sought a declaration that the action of the defend No.2 in cutting the electric meter of the said flat is illegal and arbitrary. He also sought the relief of the restoration of supply by defend No.2 there in. Unless the question of the act of defend No.2 in disconnecting the supply of electricity to the complainants premises is illegal or arbitrary is answered first, the relief of compensation claimed by the complainant cannot be decided. Clause-d of Reg.6.7 of Maharashtra Electricity Regulatory Commission,(Consumer Grievance Redressal Forum & Electricity Ombudsman Reg.2006 (MERC CGRF Reg. 2006). Reads as follows.

6.7 The Forum shall not entertain a Grievance :

- (d) Where a representation by the consumer, in respect of the same grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.

The grievance made by consumer that disconnection of the supply of electricity to his premises by the opponent is illegal is a subject matter of Reg. Civil suit No. 355 of 2007 which is pending before the civil court and therefore in view of the above Regulation. this forum cannot entertain the present grievance made by the complainant. The complainant ought to have disclosed the fact of pendency of the civil suit filed by him against the opponent in which he had raised dispute alleging that action of disconnection of the supply of electricity to his premises taken by the opponent was illegal. This forum because of the above referred mandatory provision contained

in clause (d) of Reg.6.7 of MERC CGRF Reg.2006 can not entertain the complaint as representation by the complainant in respect of the same grievance is pending in the proceeding before the civil court.

When complainant was asked as to why he did not disclose the fact of suit being pending in which relief has been claimed against the opponent that the disconnection of supply be declared illegal he pleaded that he was not aware of the provision in the Regulation. His representative was asked to explain why he did not at least plead the said fact in the complaint he said that the complainant did not disclose anything about the suit pending in the civil court. It is worth to note that both the complainant and his representative have signed a declaration that the subject matter of my grievance (illegal disconnection of my electric supply) has not been decided by any competent authority/court /arbitrator, and is not pending before any such authority/court/arbitrator. It has not been argued by the complainant that the civil suit pending in the civil court is in respect of altogether different connection other than the connection in question. It appears that the premises is own by the complainant's son Nitin while connection has been obtained by the present complainant. The forum also got it confirmed by requesting the Dy.E.E. Marketyard to make enquiry. The Dy.E.E. on making enquiry submitted report dt.20/08/08 that in Dharmnagari Society there is only one flat owned by Paranjape and its No. is E-6 though wrongly mentioned as D-5 in the bill and the electricity supply given to it is under Con.No. 160240077415.

7- Point No.2:- It is an admitted fact that supply of electricity was restored to the complainant's premises on 28/03/07. The complainant for the first time claimed compensation by making a grievance on 06/05/08 to the opponent. Relevant part of Reg.12.2 of (MERC SOP Regulation 2005) reads as follows.

12.2 Failure by the Distribution Licensee to pay the compensation in accordance with Regulation 12.1 shall constitute a Grievance, which shall be dealt with in accordance with the procedure set out in the Grievance Redressal Regulations.

Provided that -----

Provided further that-----

Provided also that no claim for compensation shall be entertained if the same is filed later than a period of sixty days from the date of rectification of the deficiency in performance standard

The claim made by the complainants for compensation is on the ground that his supply of electricity was cut off by the opponent illegally for such act no compensation is provided under Appendix "A" to (MERC SOP Reg.2005) . The ground on which the complainant has claimed compensation is altogether a different from the grounds covered by Appendix "A" and therefore this forum is of the opinion that above said provision of claiming compensation within 60 days from the date of rectification of the deficiency in performance is not applicable. On the said ground the grievance can not be dismissed, however

finding recorded to the point No.1 is in the affirmative and therefore the complaint can't be entertained.

ORDER

The complaint is dismissed. It can not be entertained as provided under Reg.6.7 (d) of (MERC CGRF Reg. 2006).

Sign:

Mr. D.K. Mane,
Member/Secretary

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

Date: **21/08/2008**