

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No. 25/2018

Date of Grievance : 10.05.2018

Hearing Date : 19.06.2018

26.06.2018

11.09.2018

Date of Order : 12.09.2018

In the matter of complaint of shifting of transformer situated in the Society premises.

Mr.Mallikarjun Basavanneppa Mastamardi, ---- Complainant

Flat No.6, H-Type Siddhinagari Housing Socy.,

Behind Ganesh Mandir of Mahesh Society,

Bibwewadi, Pune - 411037

(Consumer No.170014239653)

VS

The Executive Engineer,

---- Respondent

M.S.E.D.C.L.

Padmavati Division,

Present during the hearing:-

A] - On behalf of CGRF, Pune Zone,Pune.

- 1) Shri. A.P.Bhavathankar, Chairman, CGRF,PZ,Pune
- 2) Mrs.B.S.Savant, Member Secretary, CGRF, PZ, Pune
- 3) Mr.Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Shri. Mr.Malikarjun Basavanneppa Mastamardi.

C] - On behalf of Respondent

- 1) Shri. S.R.Waiphalkar, Ex. Engr., Pimpri Dn.
- 2) Shri.A.M.Jadhav, AEE, Chinchwad Sub/dn.

Mr.Mallikarjun Basavanneppa Mastamardi, Flat No.6, H-Type Siddhi Nagari Housing Socy., Behind Ganesh Mandir of Mahesh Society, Bibwewadi, Pune – 411037.

The present complaint is about shifting of transformer of the Respondent Utility elsewhere, presently installed in the Siddhi Nagari Society premises, for safety and security reasons of the inhabitants of the said Society. The above named consumer has been occupying the Flat No.6, H-Type of the Siddhi Nagari Housing Socy., Behind Ganesh Mandir of Mahesh Society, Bibwewadi, Pune – 411037. As is evident from the documents produced, the said transformer in question appears to have been installed in the Society complex / premises on or around 15.11.2004. The consumer had raised his grievance initially in writing for shifting of the said transformer on security grounds to the Ex. Engineer. The cause for such a complaint, according to the consumer, was that the said transformer of the Respondent Utility was oil-based transformer and that it had been occupying the place in the Siddhi Nagari Housing Socy. Being the oil-based transformer, the consumer had apprehensions against eventual loss of human lives of the inhabitants of the said Society if examined on the backdrop of their safety and security. The consumer had further stated that the Pune Municipal Corporation officials too had initially made enquiries in respect of the apprehensions sounded by the consumer and that the local body had also communicated to the Respondent Utility that the said transformer in question had not been installed as per sanctioned plan of the Corporation. The consumer further stated that their society is located at lower location when compared with other adjacent housing societies surrounding it and that due to these facts, the area where the transformer is located is flooded with rain water during the rainy season on regular basis. The consumer, therefore, claimed that the permission granted by the Electrical Inspector for installation of the said transformer in the premises of the Society is void. In response to the complaint of the consumer to the Pune Municipal Corporation on this grounds, the Corporation, vide their letter No.1116 dt. 13.06.2017, too had confirmed about unauthorized installation of the transformer in the vicinity of the said housing society and accordingly, vide their letter referred to hereinbefore, advised the Addl. Ex. Engineer, Market Yard Sub-Division, Pune to remove the said transformer from the premises of the consumer's society. The aggrieved consumer, therefore, prayed for shifting of the transformer in question, as also the 'Breaker / Switch Gear Room', to some

other suitable place outside the vicinity of their Society. The consumer further stated that towards this end, he had lodged complaints on various dates with various authorities of the Respondent Utility, as well as other concerned authorities with the issues involved bringing to their notice the inherent dangers to the human lives of the society.

In response to the various complaints from the consumer, the Respondent Utility officials informed the Asst. Electrical Inspector, Yerawada, vide their letter Nos. 1572 and 87 dt. 27.07.2016 and 25.01.2017 respectively, to examine the grievance of the consumer. Accordingly, the Electrical Inspector had carried out the site inspection on 22.02.2016 and advised for the corrective steps to be taken in this regard by the Respondent Utility. The Respondent Utility had initiated necessary steps to protect the safety and security of not only the residents of the housing society, but also the transformer installed therein, and advised the Society for necessary corrective steps to be initiated by them to resolve their grievance at the first stage vide letter No. 86 and 42, dt. 30.11.2015 and 20.01.2017 respectively.

With a view to resolve his grievance, the consumer had also preferred a complaint on Government Portal – “*APLE SARKAR*” – vide Token ID No. 2017/3445 dt. 06.05.2017.

The consumer had also lodged complaint with the concerned Zonal Office of the PMC. Accordingly, vide their letter No.1116 dated 13.6.2017, the Zonal Office of the Corporation had advised the Respondent Utility for removal of the unauthorized oil-based transformer. Thereafter, the consumer too lodged his complaint with IGRC on 09.02.2018, and the IGRC registered the case bearing No.9/2018 and posted it for hearing on 28.3.2018. An opportunity for personal hearing in the dispute was given by the IGRC official to the consumer and the Respondent Utility on the scheduled date, i.e. 28.3.2018. IGRC heard the dispute and passed order against the consumer stating that transformer installed was before two years and hence the complaint made by consumer is beyond the period of limitation. IGRC also observed that in so much as allegations of safety and security of the society people are concerned, the Respondent Utility Officials do take necessary steps for it. Being aggrieved by the order of IGRC, the consumer approached this Forum and filed his complaint on 10.05.2018 along with the

documents, copy of IGRC order, copy of letter, copy of PMC notice to MSEDCL, copy of site photographs along with the documents obtained from the Respondent Utility under RTI Act. After filing the dispute the said case is registered with No. 25 of 2018. Thereafter the office of the CGRF served notice to the Respondent utility on 11.5.2018 and with directions to file their say in the matter with the office of the **CGRF** on or before **24.05.2018**. The Utility accordingly submitted its reply on 28.5.2018. The Respondent utility submitted that that the consumer Mr. Mallikarjun Mastamardi resides in Flat No.6, H-Type Siddhinagari Housing Socy. and the transformer was installed in the vicinity of premises of society during the year 2004. It was on the demand from the builder of the society when the construction work of the residential complex was in progress. The Utility further stated that it had followed all the prescribed procedure as per Regulations at appropriate time, and the work was completed through contractor and the transformer was installed and supply was given in the year 2004. However the consumer has submitted his grievance to the Utility officials on or around 02.02.2016 for the first time, followed by correspondence to which Respondent utility advised the consumer for payment of estimate of 1.3% normative charges, together with suitable alternative place for shifting of the said transformer, and the authorized contractor to be appointed, estimate for shifting to be prepared immediately. The Respondent utility officials accordingly visited the premises and informed the Society Chairman for necessary compliances. However during the intervening period, the consumer Mr. Mallikarjun Mastamardi obtained information under RTI Act. During the visit to the site, the officials of the Respondent utility observed that the area adjacent to the transformer in the society premises, due to absence of proper outlet, the rain water was causing disturbances in the areas around the transformer. To come over the possible threat on this count, the Respondent utility also advised the Secretary of the Society suitably vide their letter No._1217 dt. 04.07.2016 to take necessary precautionary and preventive measures. The Sub-Engineer, Building Plan Section, Zone No.5, Pune Municipal Corporation, had informed to the Addl. Ex. Engineer, Market Yard, Pune for removal of the unauthorized oil-based transformer vide his letter dt. 17.06.2017. However, the

Respondent Utility submitted that the said letter from the Corporation had not been received by it. However, on receipt of copy the said document filed by the consumer in CGRF, the Respondent Utility raised the issue with the Corporation with specific reasons under which the said transformer installed during 2004 was declared as unauthorized installation by it. However, the Respondent Utility submitted that they failed to get any responses from the Corporation to their letter. Therefore, as submitted by the Utility, it had taken all the necessary steps to ensure safety of the transformer installed as advised by the Electrical Inspector. The Respondent utility officials also had taken necessary precautions to guard against entry of any type of water in the areas of the transformer and also the yard is locked, necessary 'Danger Boards' displayed at site. All these developments and compliances were also reported to the Asst. Electrical Inspector Pune, vide letter No. 1572 dt. 27.07.2016 from the utility. These facts were also informed to the consumer, but the consumer disagreed for the same and raised the dispute before IGRC and then before this Forum.

The Respondent utility submitted that the complaint and allegations made by the consumer are under wrong presumptions and misconception of his own without any sufficient grounds. Under the given circumstances, there is no necessity now to change and shift the transformer to other place. Further, it is uncalled for grievance thereby no cause of action survives. The Utility, therefore, prayed for dismissal of the complaint with cost. Respondent utility submitted all the relevant documents in support of their submission.

I have perused all the documents filed by consumer and the Respondent utility both carefully, following points arose for my consideration to which I have recorded my findings to the points given below :

1. Whether oil-based transformer situated in the premises needs to be shifted to some other place of safety for preventive security measure?
2. Whether the dispute of shifting of transformer is within the jurisdiction of this Forum?
3. Whether the consumer is entitled for any relief?
4. What order?

Reasoning :-

I have given an opportunity to the consumer who appeared personally who stated that he was a qualified Engineer and is authorized / empowered by the Society to raise the dispute. The Respondent utility officials appeared and submitted all the relevant documents and correspondence. The question that arose is whether the transformer is installed in the premises before the issue arises. I found from the documents submitted by the consumer which reveal that Siddhinagari Housing Socy. is established and registered vide Registration No. PNA/PNA-1/HSG/(TC)/7909/2006-07 dtd.29.6.2006. The said society came into existence subsequently after the installation of transformer is performed by the Respondent utility officials. The date of energy supply was 15.11.2004 and the society was formed thereafter during June, 2006. The various issues were raised by the Society for the first time during April, 2015. The letter which is relied upon by the consumer and issued by the Sub-Engineer, Building Plan Section, Zone No.5, Pune Corporation bearing No.4893 dtd. 15.3.2017 according to which the oil-based transformer installed by the Utility is illegally. It appears to me that the letter of the Corporation in question does not undertake any cognizance of safety and security measures merely stating that the ground of installation of transformer in question was illegal. I am not inclined to accept the said arguments of the Corporation since to my view the installation of transformer was carried out by the Respondent utility officials by observing Rules & Regulations properly and correctly viz. obtaining required necessary permissions / sanctions from the competent authorities, carrying out completion testing, obtaining permission from the Electrical Inspector for charging the said transformer and thereafter the connections were released to the inhabitants of the society. The supply to the society from the said transformer is for a considerable period of about fourteen years by now and no unworthy incidences are on record till date. Further, following the complaint of the consumer, the Respondent Utility had taken all the additional preventive steps in this regard as per the advices from the Asst. Electrical Inspector. These compliances have also been reported by the Utility to the Asst. Electrical Inspector. I find that the consumer has unnecessarily raised the present dispute on his personal ground to various authorities. The complaint of the consumer to the Pune District Consumer Forum vide Case No.CC/16/773 has already been dismissed as per order dtd. 28.12.2016

stating that the relation between the Consumer and the service provider is not maintained. Thereafter the consumer preferred the grievance under the grounds of safety and security giving under the reasoning of installation of transformer in the vicinity of the society premises. From the documents on record, it appears that the consumer managed to obtain a letter from PMC, already referred in the grievance, which is raised in contention of consumer for shifting of transformer by making incorrect submission before the several authorities. The Respondent utility submitted that as per joint inspection report and advices incidental thereto, it had taken care of all the safety measures including underground cabling work, draining out of the rain / normal water etc. at the premises of the transformer yard. The Respondent Utility has, accordingly, ensured successful compliance of all the safety measures and, therefore, no cause of action survives, though the matter of breach of issues is contested before this Forum. Considering the arguments of the consumer, I do not find any reasons compromise in the safety and security measures in general and pertaining to the transformer yard and switch gear room. The Respondent utility submitted that despite follow up, the consumer / the society did not come forward for payment of normative charges @ 1.3. Therefore at present there is no cause of action / room to be raised for the dispute for alleged short fall of security and safety measures, since already completed by the Utility and informed accordingly to the consumer and also the concerned authorities.

Coming to the crucial issue in this case I found the dispute of shifting of transformer is not an appealing dispute within the definition of Section 16 A of Electricity Ombudsman Regulation, 2006. In this regard, I have come across two judgments, CGRF Nagpur judgment

The grievance of the applicant is that a nuisance is being caused to the applicant and his family due to the continuous humming sound emanating from the Transformer. He has, therefore, prayed that the Transformer in question may be shifted to some other distant location. It is pertinent to note that the site for the Transformer is allocated to MSEB by the Builders. It was necessary for the MSEB to make provision for such a Transformer for the purpose of releasing electricity connections to the residents of the area including the applicant. The Builders set apart and allocated the open site in their possession for the purpose of erection of a

315 KVA Transformer. The job of erection of Transformer was allotted to the Builders under the Outright Contribution Scheme which has been duly approved by the Chief Engineer. The MSEB's stand is that the Builders Page 8 allocated the site which was approved by them and that the placement of the Transformer is at standard clearance from the house of the applicant and that it is also electrically safe. In the instance case, the Electrical Inspector has also inspected and approved the erection of Transformer. It is also pertinent to note that the applicant has been agitating the selection and allocation of this site for the purpose of erection of the Transformer primarily with the Builders. The applicant has also made a submission that the Builders had not specified the place of MSEB's Transformer in the layout plan while getting it sanctioned from NIT, Nagpur and that at the eleventh hour, the Transformer was erected without the consent of the applicant and further that the Builders deliberately allotted the space close to his plot for the MSEB's Transformer. This demonstrates that the main grievance of the applicant was directed against the Builders. It will, therefore, be appropriate if the applicant challenges the action of the Builders in respect of allocation of the site for the Transformer before an appropriate authority under appropriate Law like Consumer Forum under Consumer Protection Act. The subject-matter of allocation of space by the Builders for the Transformer or for that matter any violation alleged to have been committed by the Builders as contended by the applicant does not fall within the jurisdiction of this Forum. With a view to understand the gravity of the problem being faced by the applicant, it was decided by us to inspect the site of the Transformer. Accordingly, the site was Page 9 inspected by us on 26.05.2005 in the presence the applicant and also the non-applicant. The applicant has told us on the spot that some maintenance was carried out by the non-applicant with the result that the problem of smoke coming out from the Transformer and sparking of wires etc. is not now there. The applicant also admitted that the intensity of the humming sound is somewhat reduced. At the time of inspection, we found that the Transformer is erected in an open space admeasuring 60 ft. x 40 ft. We also noticed that the height of the compound wall constructed by the applicant was around 9 ft. We also heard the humming sound of the Transformer. However, the surrounding area of the site of this Transformer was clearly seen to be an open area. We also visited the house of the applicant at his request. On inspection of the house, we found that the intensity of the humming sound was tolerable and much less on the ground floor of the applicant's house i.e.

in the kitchen and one bedroom close to the kitchen as compared to the intensity of humming sound out-side the compound wall. The humming sound was also heard by us on the terrace of the applicant's house. The applicant has also admitted before us that humming sound is an inherent property of an Electrical Transformer. He admits that the humming sound in such a case is bound to be there. According to him, the intensity of humming sound is felt more particularly during the night time. This was also admitted by the non-applicant. This is obvious because intensity of the humming sound emanating even from a tube-light is felt more during night time as Page 10 compared to its intensity during the day time. The main reasons for feeling the tolerable intensity of the humming sound are : 1) All the surroundings of the site of Transformer are open spaces. 2) There are no constructions around the site of the Transformer. 3) The location of Chintamani Nagari No. 1 in question is far away from the city. 4) The direction of the blowing-wind is also one of the causes. 5) The Transformer is not fully loaded as stated by the non-applicant. With a view to feel and compare the intensity of the humming sound of a 315 KVA Transformer, we also inspected two Transformers of the same capacity one installed in Shree Harinagar and the other on the main Manewada Road. We found that humming sound was, no doubt, emanating from these Transformers. However, intensity there-of was felt comparatively less due to the constructions of houses / shop traffic on roads etc. around the Transformers. The applicant was also asked to accompany us for the inspection of these two Transformers. However, the applicant did not accompany us. The entire exercise of inspection of the site of the Transformer in question was carried out by us with a view to understand the gravity of the applicant's problem in its Page 11 proper perspective. The humming sound of a Transformer is its inherent property. There is absolutely no doubt about this. The Electrical Inspector has approved the erection of the Transformer in question before it was commissioned by the MSEB. The Electrical Inspector is the appropriate authority to certify the proper erection of the Transformer and its cables / wires etc. and also to certify that the Transformer is electrically safe. The MSEB has also stated that the Transformer in question is electrically safe. The standard distance clearance is also approved by the Electrical Inspector and also MSEB. The Builders have allocated the space to MSEB for the purpose of erecting the Transformer the cost of which is already recovered by the Builders from the residents of the area including the applicant. Shifting of the

Transformer is also a very costly proposition. We, therefore, do not see any sound reason to shift the Transformer as requested by the applicant.

Single judgment given by Hon'ble Ombudsman.

On the issue of under section 2-A shifting of transformer incidence of and guidelines dispute not cover within purview of this Forum making reliance of all single judgment referred to hearing above. I found the dispute which is raised by the consumer does not fall under within preview of definition of dispute under statute as definition in the Regulation. Hence the allegation cannot be entertained by this Forum. I therefore come to conclusion that consumer complaint of shifting the transformer can be decided by the Civil Court and not by this Forum.

The consumer requested for postponement of the hearing due to demise of his mother. Further, to have independent and unbiased view in the complaint of the consumer, as also submission of the Respondent Utility, both were given fair opportunity to prove their side. Towards this end, the Ex. Engineer, Electrical Inspection Department, Zone – 5, Pune Municipal Corporation was also instructed to carry out requisite site inspection vide letter No.222 dtd.13.07.2018 followed by reminder notice No.263 dated 7.8.2018 followed by second reminder No.269 dated 13.8.2018 following upon the Pune Municipal Corporation to have in the pendent inspection of the site of the society where the disputed transformer is installed. However since no compliance has been received from the Pune Municipal Corporation, we have relied upon the earlier report submitted by the Electrical Inspector in this regard. On dated 11.09.18 argument of consumer finally heard. He objected at this stage transformer was not installed on the place given by builder as per approved map. On verification I found objection at this stages raised by the consumer not tenable for delay of issue. Hence prayer of consumer for shifting of transformer can not be entertained as earlier observation & findings already given by this Forum.

Since to follow the principals of natural justice every opportunity was given to the Appellant, the period of 60 days could not be maintained for disposal of the grievance as revised report inspite of opportunity is not filed.

I find that the dispute is without any cause of action and not a billing dispute., hence I am not inclined to any relief to the consumer. I proceed to pass the following order:

ORDER

1. Consumer complaint No. 25 of 2018 stands dismissed.
2. No order as to the cost.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 12th Sept. - 2018.

Note:

- 1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman

The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

- 2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I agree/Disagree—

I agree/Disagree

Sd/-
ANIL JOSHI
MEMBER
CGRF:PZ:PUNE

Sd/-
A.P.BHAVTHANKAR
CHAIRPERSON
CGRF: PZ:PUNE

Sd/-
BEENA SAVANT
MEMBER- SECRETARY
CGRF:PZ:PUNE