

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

Date of Grievance : 17.05.2018

Hearing Dates : 20.07.2018

Date of Order : 10.09.2018

In the matter of – Reconnection of PD in respect of deceased consumer

Anil Tukaram Sonavane ----- Appellant
(Legal heir of Shri Tukaram Gambhir Sonawane – Deceased)
At Post – Pimparkhed,
Taluka Shirur,
Dist. PUNE –
PIN – 410504
(Consumer No.484571363716)

VS

The EX. Engineer, ----- Respondent
M.S.E.D.C.L.
MANCHAR 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

B] - On behalf of Appellant

- 1) Shri Anil Tukaram Sonawane

C] - On behalf of Respondent

1. Shri. S.W.Talape, Dy. EE Manchar Sub-Division
- 2) Shri S.B.Mathpati, A.E.E., Manchar Sub-Division,
- 3) Shri N.G.Kolap, Asst. Acctt., Manchr Sub-Division

Consumer Name : Shri. Tukaram Gambhir Sonwane, Consumer No.184571363716
Sanctioned Load – 10 HP, Date of Connection – 24.11.1993. The Appellant has
filed the present appeal against the order of the IGRC dt. 28.03.2018 in the case
No. 34 of 2017-18 wherein the IGRC has ordered for release of the new connection
to the complainant after the consumer has made full payment of PD arrears

standing in the name of his father Shri Tukaram Gambhir Sonavane (since deceased). The brief details of the case are as under –

2. Shri Anil Tukaram Sonawane is the complainant in the present case. The original consumer of the Utility was Shri Tukaram Gambhir Sonawane who has since passed away on 15.02.2017. The Utility has released 10 HP connection to Shri Tukaram Gambhir Sonawane (hereinafter referred to as “the deceased consumer”) he being an agriculturist on 24.11.1993. Following non-payment of the bills, the supply of the deceased consumer was first disconnected temporarily during March, 2011. However, following failure on the part of the deceased consumer to pay the bills, it was made PD by the Utility on Sept.- 2013, when the net arrears of the bill outstanding against the consumer were to the tune of Rs.36,593.83. As on the date of submission by the Utility before the IGRC, the Utility had total bill due from the deceased consumer for Rs.44,680 as per the Bill issued by the Utility on 24.05.2018. The aggregate dues of Rs.44,680.00 comprise of Net Arrears of Rs.36,593.83 + Interest Arrears – Rs.8,090.74 = Rs.44,684.57, Rounded to Rs.44,680.00.

3. In his submission before the IGRC, the Appellant submitted that his father had Agri. Connection in his name with consumer No. 1845711363716. Regrettably, however, his father committed suicide on 15.02.2017 and the connection still continues in his name even as on date. The Appellant further submitted that the said connection was made PD on 07.12.2013. The Appellant, thereafter vide his application dt. 12.01.2018 to the Manchar Office of the Utility submitted an application alleging that one Mr. Prabhakar Dabhade removed the cables during the year 2010 and that his deceased father had been following the issue with the concerned office of the Utility at Machar followed by five applications over the period, but prior to the suicide by his father. Regrettably, however, the Utility did not respond to the applications submitted by his deceased father at the material. Distressed due to unresponsive approach of the Utility to the grievance, his father (Late) Shri Tukaram Gambhir Sonawane committed suicide on 15.02.2017 with suicidal note alleging the pathetic approach of the Utility towards his grievance. following which his father was admitted to Sasson Hospital, Pune, where he breathed last on the same day – i.e. 15.02.2017. A copy of the death certificate issued by the Health Department, Pune Municipal Corporation is also placed on record of the Forum along with the said application of the Appellant dt. 12.01.2018

to the Utility. In response to the said application / representation, the Utility vide its letter No.167 dt. 17.01.2018 advised the Appellant on the strength of Bill generated on 12.10.2017 to repay the aggregate dues of Rs.45,720.00 so that the Respondent Utility may be in position to act upon his request for reconnection as per the prevailing rules and regulations at the material time. Since the issue did not progress as desired, the Appellant filed an application / complaint on 22.01.2018 with the IGRC, PRC, Pune in Schedule – X for resolution of his grievance of reconnection which was registered with the Office of the IGRC with distinctive number as IGRC/34 of 2007-18. The Appellant accordingly prayed for reconnection of the supply in his name by changing the name of his deceased father, but with the same consumer number as hitherto.

4. The Utility, however, submitted that since the deceased consumer's connection has been made PD on Sept.- 2013 and that since the complainant, being the heir of the deceased consumer, he owes Rs.44,680.00 to the Utility. Further, the PD connection cannot be restored, but the Appellant would need to apply for fresh connection. The reasons substantiated by the Utility for this were that the PD cannot be restored after the period of six months as per instructions of the Utility as per MSEDCL's Rules and Regulations.

5. After considering the submissions by the both, the IGRC in its order dt. 28.03.2018 ruled that as the supply is PD on 07.12.2013, the consumer has to apply for new agricultural connection after making payment of old arrears. The IGRC further instructed to release the supply after the consumer paid PD arrears bill and apply for new connecting. Aggrieved by the order of the IGRC, the Appellant filed the present appeal before this Forum with date as '12.05.2011' in the 'Schedule – A'. The said appeal has, however, been received in the office of the CGRF on 04.06.2018 and has been allotted the distinctive number as Case No. 32 of 2018. Thus, it is crystal clear that the date put on the 'Schedule – A' reading as 12.05.2011 is human error and not the genuine one. The Office of the CGRF accordingly issued notice to the Respondent Utility – i.e. the Executive Engineer, Manchar Division, Pune, vide its number 165 of 04.06.2018 with directions to file their to the grievances made by the Appellant making point-wise submissions, providing issue-wise comments on the grievance together with status report and documents in support of their submission on or before 19.06.2018. The Respondent Utility, however, failed to submit its reply / interim reply with prayer for

additional time for submission of complete reply, within the time frame, i.e. on or before the scheduled date – 19.06.2018. The Respondent Utility, however, submitted its reply to the notice from the Office of the CGRF vide their letter No.2882 dt. 28th June, 2018, which had been received in the office of the CGRF on 1st week of July-2018.

6. The responses of the Utility to the notice of the CGRF have not been complied by the Respondent Utility insomuch as directions to them for submission of their reply point-wise and grievance-wise. Finally, the Office of the CGRF issued notice to the Appellant and the Respondent, vide their letter No. 223 of 13.07.2018 advising them to remain present on 20th July, 2018 for personal hearing. It is evident from the dated acknowledgement of the Appellant on the CGRF Office copy of the notice of hearing dt. 13.07.2018 on record that the Appellant had received the said notice of CGRF on 20.07.2018 only.

7. In his appeal before this Forum, the Appellant has reiterated what he has submitted before the IGRC that since the 10 HP connection on the river standing in the name of his father was released from another Transformer / DP, one named Mr. Yogesh Dabhade cut and removed the wire from the concerned pole during 2010 leading to disconnection of his supply. The Appellant further states that even after following the issues in person with the concerned office of the Utility he did not receive responses from the Utility, he preferred to file his complaint / grievance against the Utility.

8. In its response bearing letter No. 2882 dt. 28.06.2018 to the notice from the office of the CGRF, the Utility submitted that the Appellant Shri Anil Tukaram Sonawane has demanded reconnection of the supply in respect of consumer Number 184571363716 standing in the name of his deceased father. However, since the connection has been made PD with arrears of Rs.44,680.00, the same could not be reconnected. The Utility further submitted that they have already advised the Appellant vide their letter No. 50 of 05.01.2018 to pay arrears of PD, which have not been paid by him till then. Further, the IGRC had also passed its order on the same lines. Since the supply is PD on Sept.- 2013, the Utility states

that he has to apply for new agricultural connection after making payment of the old arrears as per the instructions and rules of the Utility.

9. I have perused the documents submitted by the Appellant and the Respondent and have also heard both. In view of the documents on record and submissions by the both, following issues are before me for consideration –

- a) Being the PD consumer, whether the Appellant can claim restoration of the electric supply, presently standing in the name of his deceased father, with the same consumer number but in his name?
- b) Whether the Utility can demand payment of entire bill outstanding and in default as on 12 October, 2017 as advised by the Utility to the Appellant vide their letter No. 167 of 17.01.2018 in response to representation by the Appellant to the Utility?
- c) Being the legal heir, whether the Appellant is entitled to get benefits of under the Amnesty scheme - “Amnesty Scheme 2018 for Residential and Agricultural Consumers implemented by the Utility during the intervening period?
- d) What order?

10. REASONING –

a) (i) The Utility had implemented two schemes for the benefit of the consumers who had shown inability to pay entire dues of the Utility as per Schedule in one stroke and requested to reconnect the supply on part payment. One amnesty scheme by name “New Prakash Yojana” was in operations up to August, 2017 and another amnesty scheme by name “*Residential & Agricultural Amnesty Scheme 2018*” was introduced by the Utility vide its Commercial Circular No. 293 of 13.09.2017. The salient features, as outlined in the said Commercial Circular No. 293 are reproduced for ready reference –

- *“Residential and Agricultural Consumers which are PD on or before 31st March, 2017 are eligible for participation in the scheme.*
- *Principal amount as on the date of TD, after adjustment of SD, be paid in equal five monthly installments,*

- *On receipt of 1st installment, the consumer will be reconnected after payment of necessary Connection charges. (After six months from the date of PD, the connection to be treated as New Connection with same number).*
- *The consumer shall pay the balance in four installments along with the subsequently monthly current bill.*
- *100% Interest and DPC to be waived off after recovery of full principal amount.”*

(ii) If we examine the present issue on the parameters of the Utility for the amnesty scheme, it is crystal clear that being the legal heir of Late Tukaram Gambhir Sonawane the Appellant was eligible for benefits under the scheme, his connection date being prior to 31st March, 2017 and the last date for participation in the scheme being 31st March, 2017. As stated hereinabove, in response to the application / representation of the Appellant dt. 12.01.2018, the Utility had forwarded the legal heir of the deceased, as also the Appellant in this case, bill dt. 12.10.2017 generated through the system for Rs.45,720.00 to which the Appellant didn't appear to have responded.

(iii) In view of the foregoing, it is crystal clear that the Appellant, as also the legal heir of the deceased, is entitled to restoration of the supply subject to payment of admissible dues to the Utility as on the date of PD. To that extent, the response to the question No. (a) above are partly in negative. As regards latter part – I.e. “whether the Appellant can claim restoration of the electric supply, presently standing in the name of his deceased father, with the same consumer number but in his name?”, it would be appropriate to refer to the provisions of MERC Regulations as appearing under “Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulation, 2005. Under this, the Regulation No. 10 deals with the issues associated with “Change in Name”. The Provisions contained in Sub-Section (2) of the Regulation No. 10 stipulate that the application for change of name shall be accompanied by such charges as are required under the approved schedule of charges of the Distribution Licensee. Further, the provisions contained in Sub-section (4) of Regulation No. 10 further stipulate that the Distribution Licensee shall communicate

the decision on change of name of the consumer within the second billing cycle from the date of application for change of name. In the instant case, though the Appellant had applied to the Utility for change in name of the consumer from his father to the Appellant vide his letter dt. 12.01.2018. Despite the responses from the Utility to the Appellant vide their letter No.167 dt. 12.01.2018 for repayment of the PD arrears to the extent of Rs.45,720.00, the Appellant didn't appear to have responded for compliances of the same.

(iv) The provisions contained in Sub-section (4) of Regulation 10 of the MERC Regulations referred to hereinabove deal with the liability of the consumer in respect of deceased consumer. The provisions state – *“Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remain unpaid by a deceased consumer or the erstwhile owner / occupier of any premises, as the case may 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.”* Examined on this backdrop, the Appellant, who also happens to be the legal representative / legal heir / successor of the deceased consumer late Tukaram Gambhir Sonawane, is obliged to pay to the Utility admissible unpaid dues on account of his father, where after his name can be substituted against the same consumer name as against his deceased father as the positions stands as on date. To that extent, responses to the latter part of the issue are in affirmative.

(b) The Utility has claimed repayment of the entire PD arrears to the tune of Rs,45,720.00 as is evident from the bill enclosed to their letter No. 167 of 17.01.2018 addressed to the Appellant. Towards this end, the provisions of Sub-Section (5) of the Regulation No. 10 of MERC need to be considered, which have also been mentioned against Para No. (a) (iv) above. Since the Appellant is legal representative of the deceased consumer and since the electricity bill in default pertains to the same premises (i.e. Agricultural land), the Appellant is obliged to pay the amount in default to the Utility. However, the liability of the Appellant and the legal heir would be restricted to the amount in default as on the date of PD – i.e. 07.12.2013 and without any interest, DPC and/or penalty but not what the Utility

has claimed. After careful perusal of the electricity bills on record, it is observed that though the billing cycle of the consumer is once in three months, the Utility has not maintained uniform date of billing covering the period of three months. The perusal of the CPL indicates that as at the end of September 2013 quarter, the deceased consumer had net arrears to the extent of Rs.34,300.10, which also include an amount of Rs.1,533.36 being the interest on arrears. Accordingly, net of the bill in default, excluding the interest on arrears comes to Rs.33,766.74. Accordingly, the Utility is entitled to recover Rs.33,766.74 from the Appellant and the legal representative of the deceased, as against its claim for Rs. Rs,45,720.00.

c) i) Since the consumer has failed to participate in the "Residential & Agricultural Amnesty Scheme 2018" up to 31st March, 2018, as provided in the Commercial Circular No. 293 of 13th September, 2017, the Appellant is not entitled for any amnesty under the Scheme and accordingly liable to pay to the Utility the bill arrears in default as on the date of PD – i.e. Rs.33,766.74 as on 07.12.2013 – without loading of any Delayed Payment Charges, interest for delayed payment and/or penalty for the same.

(ii) The Appellant has also submitted an order passed on 06.08.2011 in the case No. 32/21018 under "*Mahatma Gandhi Tantomukt Gav Mohim*", scheme in operation as per the Govt. Resolution dt. 26.12.2007 for resolution of the grievances at local / village level. The Appellant had made a complaint against Shri Yogesh Prabhakar Dabhade and Shri Navnath Motiram Darekar for removal of cable from the pole as stated hereinbefore. Shri Sonavane, the Applicant and the other two Respondents entered into a compromise proposal before the Committee and as per the terms of compromise agreed in presence of the Chairperson of the "*Tanta Mukh Gav Samiti*" on 06.08.2011, both the Respondents agreed to pay to Shri Anil Tukaram Sonawane, the Complainant, Rs.5,000/- being the cost of the cables removed by the Respondents from the main pole. It is observed from the CPL of the deceased consumer that as at the end of June, 2011 net bill in arrears against him was Rs.8,442.50. The deceased consumer and/or his legal heir and the present Appellant, however, did not pay the same to the Utility towards part payment of arrears payable by the deceased consumer / his legal heir to the Utility.

11. After careful examination of the order passed by IGRC, appeal made by the Appellant before this Forum, documents produced by the Appellant and the Respondent before the Forum, submissions made by both as also oral submission made by the both during personal hearing on 20.07.2018.

Every opportunity was given to the Appellant as well as Respondent for filing the relevant documents during the hearing and hence the period of 60 days could not be maintained for disposal of the grievance.

I am inclined to pass the following order -

ORDER

- a) The Appeal of Shri Anil Tukaram Sonawane, legal heir of the consumer Shri Tukaram Gambir Sonawane (since deceased) is dismissed,
- b) The Appellant is directed to pay the bill in arrears as on the date of PD amounting to Rs.33,766.74 to the Respondent in monthly installments, within the period of six months from the date of order without any interest, Delayed Payment Charges and/or penalty for the same. In the event the Appellant fails to make payment to the utility as per the order, the Utility will be entitled for usual delayed payment charges / penalty and interest on unpaid bill amount on expiry of the period of six months from the date of the order.
- c) If the Appellant wants electric supply for his Agri. Purposes, he is directed to make fresh application for the same to the Utility as applicable for new connections for Agri. consumers,
- d) No order as to cost.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 10th 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