

M/s. Park Express Co-op. Housing Society, S. No.5/19, Baner-Balewadi Link Road, Balewadi, Pune – 411 045. No. of Connections – 343 Nos., Connected Load – 1654 KW/ 752 KW (With DF)

1. The present Appeal dt. **9th July, 2018** is filed by the aggrieved consumer, The Federation of Park Express Co-op. Housing Society against the IGRC order No. **3200 dt. 4th June, 2018**. The said appeal is received at the office of the CGRF on **10.07.2018** and registered under Sr. No. **40/2018**. Immediately on **11th July, 2018**, the Respondent Utility was issued notice bearing No. 218 of that date directing it to file their reply to the grievances made by the Appellant making point-wise submissions, providing issue-wise comments on the grievance as also to submit status report(s) and document(s) in support of their defense. The Respondents were directed to file their say within the period of 15 days from the date of receipt of this notice – i.e. on or before **26.07.2018**, with a copy of their reply being endorsed to the Appellant as well. As in the past, the Respondent Utility had failed to file their say within the stipulated time frame and/or have even failed to communicate the office of the CGRF about extended period, if any, they may need for submission of their say to this Office. The Respondents have filed their submission bearing No. 4537 dt. **13.08.2018** with the Office of the CGRF on **14th August, 2018**. Following submission by the Respondents, Notice for final disposal of the Appeal was served on the concerned bearing No. **268 of 13.08.2018**. During the course of hearing, the Appellant informed the Forum that they have filed **Special Civil Suit bearing No. 80/2018** in the Court of Civil Judge, Senior Division, Pune, at Pune which had been slated for hearing on **12.10.2018**. Since the Hon'ble Court has ordered for public notice in the matter, the hearing in the said case is slated 30 days after publication of the said notice. The Appellant further stated that though the Respondent Utility was not a party to the suit, the issues raised in the said suit had direct impact on the sanction of load by the Utility for the Phase – II, and therefore, the Appellant prayed for postponement of the hearing till then. Accordingly, the next hearing in the Appeal was slated on **28.08.2018**, and then on **04.09.2018**.

2. The Appellant has filed the present appeal against the order bearing **No. 3200 dt. 4th June, 2018**, in which the **IGRC** has ordered as under, **quote** –

“The approved building sanction plan by Competent Government Authority, i.e. PMC, for S. No. 5, H. No. 5/3, 5 to 10, 12 to 15, 17, 18, 21 to 28 + S. No. 18, H. No. 1A, /3/3/1/5/6 + S. No.19, H. No. 1A/1 to 19 + 1B + 2A (P)/2A/1 to 20, 2C/1 to 13 + 4A/4B/3/1 to 22, Balewadi, Pune is same for II buildings and the developer for all buildings (already built buildings A,B,C,D,E,F,G,H,I,J and has now developed / built buildings K,L,M,N,O) is same. The sanction issued vides SE/GKUC/Complex/DDF/SNDN/17-18/14 No. 00129 Dtd. 08.01.2018 is as per MSEDCL Circular No. CE (Dist.)/D-III/Req. of Land/28792, Dtd. 17.07.2015. Case is rejected.”

UNQUOTE

3. **The brief facts leading to present appeal, as also the brief facts of the grievance of the Appellant are as under –**

a) The Respondent Utility have sanctioned load to M/s. Park Express Joint Venture, Park Express – Phase – 2 vide their sanction No. SE/GKUC/Complex/DDF/SNDN/17-18-145 No. **00129 dt. 8th January, 2018 without due diligence and ignoring the conditions mentioned in Respondent Company’s Circular No. CE(Dist.)/D-III/Req. of Land/28792 dt. 17.07.2015** wherein revised guidelines have been issued by the Respondent Utility for requirement of adequate land for Distribution Transformer Centers and Substations while releasing connection to Residential / Commercial / Industrial etc. complexes / townships / establishments, having multiple numbers of connection, followed by another Circular CE (Dist.)/D-III/Req. of Land/**39010 dt. 09.11.2015. For ready reference of all the concern, relevant part of the Commercial Circulars under reference is summarized hereunder –**

(I) Circular No. CE(Dist.)/D-III/Req. of Land/28792 dt, 17.07.2015:

i) The guidelines were issued on 20.05.2008 vide Cir. No. 22197,

- ii) A committee was formed to review the load growth, load pattern in different zones and areas, criteria for determination of load of residential and commercial premises in complexes and adequacy of the land required for various types of distribution transformer centers.....
- iii) After a review, following revised guidelines are hereby issued in subject matter,
- iv) D) Requirement of Land for establishment of Distribution Transformer Centre/s – Under this category, a land of 25 sq. meters is consider suitable for Distribution Transformer Centre (Indoor) and (Outdoor),
- v) Applicant may be requested to make available the required suitable piece of land for the Establishment of distribution network for providing the power supply to the establishment by way of lease agreement of Re.1/- annually for the period of 99 years,
- vi) In circumstances of non availability of adequate land / scarcity of land at applicant's premises, Developer may provide to MSEDCL / MSETCL the land from Amenity Space after fulfillment of required necessary compliances of Local Bodies (Municipal Corporation, Municipal Council etc.) by making payment at their end to the local authority,
- vii) Under 'other instructions' the Commercial Circular states that the DDF (First Developer) will give a undertaking allowing to use the infra subject to payment by new developer.

(II) Circular No. CE (Dist.) D-III/Req. of Land / No.39010 dt. 09.10.2015

Following queries raised by some field offices, the above circular was issued by the Respondent Utility in the form clarification about the earlier circular No. **28792** issued on **17.07.2015**. The salient features of the instructions contained in the circular are reproduced hereunder for ready reference of all the concerned –

- i) The diversity factor used for calculation of the load will automatically decide whether the developer is required to provide land (DTC, Sub-Station etc.) for releasing the load. **Thus, the land requirement is directly linked with the load requirement and should not be worked out independently without considering diversity factor.**
- ii) **Load requirement calculations shall be done on the basis of approved sanction map of local authority. In case, the load has reduced as per the Circular referred above, the developer shall be given an option to modify / reduce the infrastructure (Power Transformers, Distribution Transformers etc. which is not already erected / commissioned) as may be calculated using the Circular under reference for having infrastructure commensurate with the calculated load.** Here it needs to be remembered that the Appellant Society has filed a Special Civil Suit in Pune Court, as referred to hereinabove, for alleged unauthorized change carried out by the builder as against the originally sanctioned layout plan by the Local Body (PMC). The matter is subjudice as on date.
- iii) The land required for DTC's shall invariably be handed over by the developer to MSEDCL and the load sanction will be effected thereafter. **The said land for DTC's shall be earmarked in the approved plan and also shall be physically handed over to MSEDCL.**
- iv) **Wherever the Competent Authority has approved the proposals with regards to land requirements as per old Circulars, the same shall stand unchanged. Such cases should not be re-opened and possession of land shall be taken.**
- v) **The proposals which are in process as per the old Circulars and where the decision is not yet taken by Competent Authority as on 31.10.2015, then the said proposals shall be re-submitted as per the revised guidelines.**

vi) As per circular under reference, the estimated load shall be determined considering diversity factor for infrastructure. If the load is available in our system, then connection will be given without insisting for the land where the load of complexes / townships / group establishments etc. is less than 5.0 MVA in Mumbai metropolitan area, Pune, Nashik, Aurangabad, Thane, Nagpur and less than 3.0 MVA in all other areas.

vii) In all other cases, the developer shall be asked to develop infrastructure and augment the capacity as per the requirements.

b) The Appellant further states that the Park Express – Phase – I have not given any consent to the new developer and/or the Respondent Utility to use 3 transformers installed and commissioned under the **order bearing** No. SE/GKUV/T/Est./Complex/DDF-11.3% Sup./10-11/S'Nagar/57/ 9007 dt, 04.11.2010.

c) Perusal of the terms and conditions of approval for giving power supply to Resi. Complex in respect of the Appellant under DDF/1.3%/Sup. Scheme, the Appellant was obliged to give an undertaking on the stamped paper of Rs.100/- before taking up the work in hand and the Appellant would hand over the assets duly commissioned to the Respondent Utility for maintenance purposes and that the Appellant will have no right of ownership on that assets and shall be the property of the Company. The Appellant is, however, obliged to maintain / replace the same if it fails within agreement period. Based on the undertaking provided by the Appellant, the Utility had sanctioned the estimate as 'Dedicated Facility', The Respondents have, accordingly, arrived at the 1.3% Supervision charges at Rs.53,93,100/- and 1.3% supervision charges with aggregate cost having worked out at Rs.70,200/-

d) The Appellant further submits that notwithstanding the terms of the load sanction, the officials of the Respondent Utility had laid down cables inside the transformer room. When the issue was escalated, the Office of the Superintending Engineer issued 'Stop Work' order on 17th February,

2018 to the Developer and had also asked him to remove the cables. **However, neither the Developer had removed the cables nor the Respondent Utility had taken the action against the load sanction order.**

e) As per the terms of sanction vide Respondent's Circular dt. **17.07.2015**, the DDF (First developer – Phase I in this case) was required to give an undertaking allowing to use the infra subject to payment by new developer. The Phase-I has not given any undertaking to the Developers / the Respondents for connecting new load / consumers and for reviewing the capacity and technical analysis by the Respondent.

f) The Appellants have invited attention of the Forum to the administrative instructions communicated by the Respondent Utility to its operating offices vide their **Circular dt. 09/11/2015** referred to hereinbefore, according to which wherever the competent authority of the Respondent Utility has approved the proposals with regard to land requirements as per old circulars, the same shall remain unchanged. Further, such cases should not be reopened and possession of land shall be taken. **The Appellant states that in tune with the guidelines / instructions in vogue at the material time, the Respondents are not authorized to reopen their case when they have been sanctioned the load on dt. 04.11.2010 and transformers already installed. In view of this, the Respondents are not authorized to charge the line from the previously installed transformers.**

4. While arguing its case in the written submission made by the Appellant to this Forum at the time the Appeal has been preferred, the Appellant, while making submission in favour of its prayer, have placed its reliance on certain orders passed by Hon'ble Commission, as also CGRFs to substantiate its prayer. The same have been discussed hereunder in brief for benefit and reference of all the concerns.

I) MERC - CASE NO. 56/2007 – MHARASHTRA RAJYA VEEJ GRAHAK SANGHTNA, ICHALKARANJI, VS. MSEDCL – DECODED PM 16.02.2008

a) The order passed by the Commission on **16th February, 2008** in **Case No. 56 of 2007** between Maharashtra Rajya Veej Grahak Sanghna (Petitioners) Vs. MSEDCL (Respondents) is in the nature of compliance of directives issued to the Respondent Utility under Order dt. **17th May, 2007** passed in **Case No. 82 of 2006**. The Hon'ble Commission has dealt with at length while deciding the issues associated with **the term "Dedicated Distribution Facility"**. The salient features of the issues dealt at length by Hon'ble Commission are reported in the following paragraphs for ready reference of all the concerned -

b) The Commission had observed that the word "*premises*" has been defined under **Section 2 (51) of the Electricity Act, 2003 so as to include "any land, building or structure", and accordingly the term "Dedicated Distribution Facilities as defined under the Supply Code Regulations should be interpreted. (Para – 5),**

c)Almost 95% of the total cases of levy of ORC (Outright Contribution Charges) show that ORC has been levied for ordinary supply, and not for the provisions of Dedicated Distribution Facility. **(Para – 6)**

d) The Commission observed that the MSEDCL should accurately understand the philosophy of Dedicated Distribution Facility, and accordingly consider the levy of ORC. **On an enquiry made by the Commission as to whether MSEDCL, while levying ORC on Dedicated Distribution Facility, has levied rates approved under the approved 'Schedule of Charges', MSEDCL could not respond to the same.Counsel for MSEDCL submitted that the Dedicated Distribution Facility is a facility of supply wherein all parts of the related infrastructure (apart from service lines) is utilized solely for transmitting energy to the premises of the Dedicated Distribution Facility consumer. The Commission had observe that the philosophy behind provision of Dedicated Distribution Facility and levy or ORC is that MSEDCL should not be allowed to charge for costs once borne in the laying of the Dedicated Distribution Facility infrastructure, and further, the infrastructure laid for providing a single Dedicated Distribution Facility consumer cannot be utilized to supply another consumer. It was observed that Dedicated Distribution Facility should be**

'dedicated' to the particular consumer requiring Dedicated Distribution Facility and cannot be shared with another consumer.

(Para – 7),

e) **.....The Commission observed that in such a case, the provision of supply made available to the principal consumer ceases to be Dedicated Distribution Facility.** The MSEDCL could not explain as to why should the principal consumer solely bear the entire charges for extension of distribution facility (ORC), and neighbouring consumers, on subsequent requisition, and then be free to escape from the levy of ORC. **(Para – 8),**

f) **.....**However, in the EA 2003 regime, where the Schedule of Charges for MSEDCL have been given regulatory approval, costs towards infrastructure (save and apart from what is required for provision of Dedicated Distribution Facilities) cannot be recovered from consumers directly, but through tariff approval as an annual revenue requirement. **..... (Para – 9)**

g) The Commission further observed that while interpreting the concept of 'Dedicated Distribution Facilities', MSEDCL are required to meet the universal service obligations under the DA 2003. Examining the concerns of buildings, residential premises, hutment dwellers, who cannot afford dedicated supply, it was observed that MSEDCL are obliged to provide supply to them in terms of the universal service obligations. **(Para – 10),**

h) **Counsel for MSEDCL submitted that so far as the concept of Dedicated Distribution Facility is concerned, MSEDCL were under the impression that such a consumer requiring Dedicated Distribution Facility may not have dedicated supply forever, and that the neighboring applicant-consumers may be provided supply through the same infrastructure. Counsel submitted that as per the observations of the Commission, it is clear that (i) Dedicated Distribution Facility is to be provided on specific request (on demand) and not otherwise; and (ii) Dedicated Distribution Facility shall remain as dedicated connection forever.** **(Para – 11)**

i) Having heard the parties and after considering the material placed on record, the Commission is of the view as under:

(1) (i) - “(g) **Dedicated Distribution Facilities**” means such facilities, not including a service line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises.”

.....Thus, in the distribution system, Dedicated Distribution Facility means a separate distribution feeder or line emanating from a transformer or a substation or a switching station laid exclusively for giving supply to a consumer or a group of consumers. The transformer or the substation can also form a part of Dedicated Distribution Facility if it is provided exclusively for giving supply to these consumers and no other consumer is fed from the said transformer / substation. Also Dedicated Distribution Facility cannot be shared in future by other consumers. (Para – 12)

II) ELE. OMBUDSMAN – MUMBAI - REPRESENTATION NO. 30 / 2013 – M/S. MISAN MOULDINGS LTD. VS. MSEDCL – DECIDED ON 09.05.2013

Brief details of the case are as under –

a) The Appellant has filed this Representation against the order passed by CGRF, Kalyan on 19th March, 2013. Application of the Appellant for supply of electricity of 1700 KVA maximum demand (MD) at 33 KV voltage was sanctioned by the Respondent (i.e. MSEDCL) on 5th November, 2007. The entire cost of 33 KV bay with VCB (Vacuum Circuit Breaker), isolator, control and relay panels at Respondent’s Warangade sub-station, 33 KV electric line from Warangade sub-station to Appellant’s premises including 11 km of overhead line and 1 km of underground cable was borne by the Appellant under **DEDICATED DISTRIBUTION FACILITY (DDF)** on the basis of its Commercial Circular No. 43 dt. 27th September, 2006. **Any action of the Respondent, giving connection from this line to the other consumer is not legal and proper.** On 12th August, 2011, supply was interrupted without any prior intimation. On enquiry, the Appellant understood that the work of tapping Appellant’s DDF line was taken up by the Respondent for giving supply to another consumer at Churipada. The

Appellant has filed the grievance seeking immediate disconnection of supply given by tapping DDF line. **According to the Respondent the supply is extended by tapping this line to Respondent's Warangade sub-station from which 33 KV line is given to the Appellant. Therefore, supply given to the Appellant cannot be said to be pure DDF.**

b) Examined on the backdrop of the present order of the Ombudsman, or order of the Commission in the case **No. 56 of 2007** dt. 16.02.2008, any supply or connection given is said to be DDF only if it is available through a separate distribution feeder or line emanating from transformer or substation or switching station. The Appellant himself has referred to the Commission's order which speaks that tapping existing (HT&T) line cannot be treated as DDF. The Forum had held that there is no force in the Appellant's contention that supply available to it falls under DDF category and rejected the grievance.

c) The Ombudsman, in its order has referred to the order passed by the MERC in case No. 56 of 2007 and has further observed that the Respondent does not have a clear conception of DDF and it is necessary to provide guidance on the same and accordingly ruled that **DDF means a separate distribution feeder or line emanating from a transformer or a sub-station or a switching station, laid exclusively for giving supply to a consumer or a group of consumers and the DDF cannot be shared in future by other consumers.**

d) The Ombudsman further observed that it is undisputed that the Respondent interrupted HT supply of electricity to the Appellant on 12th August, 2011, without giving any prior intimation to the Appellant, for the purpose of tapping Appellant's DDF line for giving supply to another consumer, which is clearly contrary to the Commission's order dt. 16th February, 2008 and **Regulation 3.3.3, 3.3.4 and 3.3.5 of the Electricity Supply Code Regulations, 2005.** On this backdrop, the Ombudsman (Mumbai), directed the Respondent to provide infrastructure at its own cost to give supply to another consumer/s and remove the tapping from Appellant's DDF facility within 3 months from the date of

the order. The Ombudsman, accordingly, set aside the order of the Forum while disposing off the said Representation.

5. The Appellants have also forwarded copies of the relative orders of the Commission, CGRF Bhandup etc. to the Respondents under the cover of their letter dt. 21st August, 2018.

6. In view of the foregoing submission, the Appellant have prayed to this Forum as under –

(i) Load sanction to M/s. Park Express Joint Venture, Park Express – Phase -2 vide letter reference No. SE/GKUC/Complex/DDF/SNDN/17-18-145 No. 00129 dt, 8th January, 2018 may please be cancelled / revoked,

(ii) The Respondents may kindly be directed to remove the cables laid by their officials from the Office of SE, GKUC,

(iii) Developers / MSEDCL may kindly be directed to provide the sanction as per defined and applicable rules and circulars.

7. The Respondents, vide their letter No. 4537 dt. 13th August, 2018, have made their written submission to this Forum. In their submission, the Respondents have stated as under –

a) The Respondents have previously sanctioned estimate for providing power supply to the residential complex in respect of M/s. Park Express Joint Venture Phase – 1 at S. No. 19/18, Balewadi, Pune for 343 connections – i.e. 342 residential connections and one connection for common use.

b) The Respondents received an application for providing supply in respect of M/s. Shrinivas Pride Purple Properties LLP, “Park Grandeur” for 122 connections consisting of 93 residential connections, 15 commercial connections and 4 connections for common use,

c) The Appellants further submitted that the 7/12 extract for Survey No. 5, 18 and 19 are in the name of M/s. Shrinivas Pride Properties LLP and the said S. No. houses Park Express Phase – I, Park Express Phase – II and Park Grandeur,

- d) Park Express Phase I has been completed and obtained power from DTC located in Park Express Phase – I premises. For commercial reasons, “Park Express Phase – I” has been undertaken in the name of “Park Express Joint Venture” although the share holders of the complete project remain the same,
- e) M/s. Shrinivas Pride Purple Properties LLP have undertaken to carry out maintenance of existing three transformers for the period of five years from the date of load sanctioning for ‘Park Grandeur.’
- f) The Respondents had received a letter from the existing Society – The Federation of Park Express Co-op. Housing Society, requesting the Respondents not to approve any additional capacity and the connections for power distribution from the installed transformer in their premises till handover to MSEDCL is complete by the Developer. The Chief Engineer of the Pune Zone of the Respondent Utility, accordingly, directed the Respondents to take needful action within the ambit of Circulars issued by the Utility from time to time on the subject regarding load sanction etc.
- g) According to the submission of the Respondents, **the higher authorities of the Respondent vide Circular No. CE (Dist.)/D-III/DTC dt. 07.12.2017 regarding use of commensurate capacity of DTC and provision of DTC metering, had advised that use of higher capacity DTC causes additional financial burden on account of capital expenses as well as operation losses of deploying a higher capacity DTC, which was not desirable. Therefore, to guard against use of higher capacity DTC, the proposed load of 526 KW (with DF) proposed to cater the load on existing DTC sanctioned to the Appellant M/s. Park Express Joint Venture, Park Express- Phase – II in tune with their application dt. 22.09.2018.** Accordingly, the estimate was sanctioned **on 08.01.2018** for the Phase – II for providing power supply to Residential Complex in respect of M/s. Park Express Joint Venture, Park Express Phase – II, K, L, M, N & O building for development of infrastructure for giving power supply to 197 consumers.
- h) The Respondents further state that they have also asked the Developers to hand over the space of 70 meters for the transformer as per

the layout plan sanctioned by the competent authority – i.e. Pune Municipal Corporation vide commencement certificate dt. 31.12.2015.

i) In view of what has been submitted hereinabove, the Respondents prayed for rejection of the Appeal.

8. During the Course of hearing the Appellants have informed that they have filed a Special Civil Suit No. 80 of 2018 in the Hon'ble Court of Civil Judge, Senior Division, Pune, at Pune against the builders, M/s. Shriniwas Developers, as also the Pune Municipal Corporation, being the local authority and the sanctioning authority of the layout plans of the designated project who have issued various commencement certificates and sanctioned plans submitted by the Defendants. The Appellants state that following alleged changes in the plans subsequent to the year 2010, the Builders have resorted to unilateral changes in the layout plan and have accordingly claimed the connections from the Respondents. On this backdrop, the Appellants have prayed the Hon'ble Court for cancellation and setting aside the sanctioned plan of 2013, Revised Plan of 2015.

9. Heard the Appellant and the Respondent during personal hearing on 20/08/2018, 28/08/2018 and on 04/09/2018. After careful examination of the documents on record and submissions made by the both, following issues have emerged for my consideration and decision –

- a) Whether the Appellants could prove that they being the DDF consumers, the Respondents are not entitled to provide connections to other consumers from the transformer established under DDF Scheme for the Phase – I?
- b) Whether the claim of the Respondent for utilization of the unused capacity of the existing transformer of the Appellant is legal and in order
- c) What order?

REASONING

a) (i) The response to this is in affirmative. In support of their claim, the Respondents have produced **MERC order** in Case No. **56/2007**

— Maharashtra Rajya Veej Grahak Sanghna, Ichalkaranji Vs. MSEDCL, decided on 16.02.2008. While deciding the case, the MERC in unequivocal and crystal clear terms stated that **Dedicated Distribution Facilities” means such facilities, not including a service line, forming part of the distribution system of the Distribution Licensee which are clearly and sole dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises.”** The Commission has also further observed and recorded that the **Dedicated Distribution Facility cannot be shared in future by other consumers.**

(ii) **The Commission had also further observe that the philosophy behind provision of Dedicated Distribution Facility and levy or ORC is that MSEDCL should not be allowed to charge for costs once borne in the laying of the Dedicated Distribution Facility infrastructure, and further, the infrastructure laid for providing a single Dedicated Distribution Facility consumer cannot be utilized to supply another consumer. It was observed that Dedicated Distribution Facility should be ‘dedicated’ to the particular consumer requiring Dedicated Distribution Facility and cannot be shared with another consumer.**

(iii) Further, while deciding the Representation No. 30/2013, M/s. Misan Moulding Vs. MSEDCL, decided on 09.05.2013, Hon’ble Ombudsman (Mumbai), too had specifically held that any action of the Respondent giving connection to the other consumers under Dedicated Distribution Facility is not legal and proper.

(iv) Examined on the backdrop of the present order of the Ombudsman, or order of the Commission in the case **No. 56 of 2007** dt. 16.02.2008, any supply or connection given is said to be DDF only if it is available through a separate distribution feeder or line emanating from transformer or substation or switching station.

(v) In view of the discussions hereinabove, the Appellant has established the facts beyond doubt that they being the DDF consumers, the

Respondents are not entitled to provide connections to other consumers from the transformer established under DDF Scheme for the Phase – I.

(b) (i) The response to this issue is in negative. While issuing the order No. 129 dt. 08.01.2018, the Respondents have totally ignored the orders passed by Hon'ble Commission on 16.02.2008, as discussed hereinbefore.

In the present Appeal, the Respondent had not produce any orders, either from the Commission and/or the Hon'ble High Court which had set aside the orders of the Commission in the case No. 56 of 2007. In view of this, the act on the part of the Respondents to sanction load from the existing DDF to Phase – II of M/s. Park Express is in gross violation of the orders of Hon'ble Commission and hence, not legal, tenable and, therefore, set aside.

(ii) In its response No.4537 dt. 13th August, 2018, on Page No. 3, the Respondents have made a reference to Circular No. CE(Dist.)/D-III/DTC Capacity & Meeting No. 29874 dt. 07.12.2017 regarding use of commensurate capacity DTC and provision of DTC metering which states that use of higher capacity DTC causes additional financial burden on account capital expenses as well as operational losses of deploying higher capacity DTC, which is not desirable. On this backdrop, the Respondent have granted permission to Phase-II from the existing Phase – I, and that too without even seeking consent, leave permission, from the existing customer. Further, if the instructions issued vide Ciurcular No. 29874 dt. 07.12.2017 are interpreted, understood and implemented in such a manner, in gross violation of the orders of the Hon'ble Commission, then there is need for the higher authorities of the Respondent Utility to issue exact position obtaining on this regard. Needless to mention, under any circumstances none of the authorities of the Respondent Utility are empowered to issue administrative instructions to its subordinates which may amount to infringement of the orders of the Commission.

(iii) In this connection, it is also pertinent to go through the minutes of the meeting held on 17.04.2018 between the Appellant and the Respondent Utility, as recorded by the Appellant and forwarded to the

Respondent Utility. As claimed by the Appellant, they have reiterated that DDF and related equipment is dedicated for Phase – I only as per the existing rules, circulars of the Utility and the instructions mentioned therein. The Appellant have specifically brought to the notice of the authorities of the Respondent Utility that DDF equipment is dedicated for Phase-I only and consent / NOC from the existing consumer is required for extending the facility future consumers. The Appellant also appear to have stated in the said meeting that declaration given by the new developer is not correct and that their (Appellant's) issues have not been resolved by the Builder despite directions from the Respondent Utility. The minutes further state that though the MSEDCL officials attended the meeting and agreed to review the case and do further needful in the matter to give instructions to the developers and other officials to stop the work, the officials of the Utility Company present in the meeting have not signed minutes of the meetings. The responses of the Respondent Utility vide their letter No. 4537 dt. 13.08.2018 are, however, silent on this aspect.

(iv) In view of the claims made by the Appellants during the course of hearing that the Developer has changed the original sanctioned lay-out plans of the year 2010 submitted to the Respondent Utility initially, and for which the Appellant have filed Special Civil Suit No. 80 of 2018, in the Hon'ble Court of Civil Judge, Senior Division, Pune, at Pune, the Respondents were instructed to file a copy of the originally sanctioned lay-out plant when an application was made by the Builder / Developers for provision of Electric supply to proposed housing projects, the Respondent Utility expressed their inability to do so since the relevant record was not traceable at their end.

Due to certain technical / legal intricacies, the Appellants have resorted to legal remedy against the Builder, wherein the Respondents have not been made a party. However, since in every likelihood of order of the Hon'ble Court is likely to have wider impact on the acts of the Respondent Utility, it was considered proper to wait for the reasonable period in the matter before the final order of the Forum is passed. Due to it, the period of sixty days for final disposal of the Appeal could not be maintained.

d) On this backdrop, I am pleased to pass the following order –

ORDER

- a) Appeal is partly allowed,
- b) The Respondent Utility is directed (i) to remove the cables laid down by the officials of the Respondent Utility / Developer (ii) to stop further / future connections from the Transformer of the Appellant, as also to remove the existing extended connections, if any granted for Phase-II forthwith,
- c) No order to costs.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 22.10.2018.

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

Sd/-
ANIL JOSHI
MEMBER
CGRF:PZ: PUNE

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