

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/AUC/694/2018/34
Registration No. 2018090046**

Date of Admission : 18.09.2018

Date of Decision : 23.10.2018

Shri Sayyed Zohab Sayyed Mumtaj, : COMPLAINANT
Raj Heights, Seven Hills,
Jalna Road,
Aurangabad 431 001
(New Connection)

VERSUS

The Executive Engineer (Admn) : RESPONDENT
Nodal Officer, MSEDCL, Urban Circle,
Aurangabad.

Complainant : Shri H. A. Kapadia,
Respondent : Shri M. V. Yeotikar,,
Addl. EE, Kranti Chowk SDn

CORAM

Smt. Shobha B. Varma, Chairperson
Shri Laxman M. Kakade, Tech. Member/Secretary
Shri Vilaschandra S. Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant Shri Sayyed Zohab Sayyed Mumtaj, Raj Heights, Seven Hills, Jalna Road, Aurangabad is applied for New Connection to Mahavitaran. The said application was rejected on the ground that there are arrears on the said premises. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 18.09.2018.

BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:

2) The complainant purchased basement area admeasuring 613.42 sqft. situated at CTS NO. 13972, Sabji Mandi, Paithangate, Aurangabad from the owner Shri Nurul Masjid Qureshi on 28.02.2017.

3) The complainant has submitted that, after purchase of basement area from Shri Nurul Masjid Qureshi, he submitted application for release of single phase connection in the office of consumer Facility center (CFC Center) situated at Kranti Chowk, Aurangabad on 02.06.2018.

4) The complainant has submitted that, the said application was rejected by in charge of CCF center vide letter 27.06.2018 on the ground that, there are arrears on the said premises .No details of arrears were provided to the complainant.

5) The complainant therefore filed his grievance before IGRC of Respondent company and requested to direct concerned office for releasing connection.

6) That IGRC, without going into merit and by violating provisions of MERC Supply code Regulations 2005 dismissed the grievance of the complainant.

7) It is pleaded that, initially the said premises admeasuring area of 163 sqmtr. was owned by one Mr. Mohd. Yusuf Abdul Karim. The said property was then transferred in the name of his four successors on 30.09.2004.

The PR card discloses that Mohd. Shoeb A. HabibBagwan and two others purchased part of the premises admeasuring 46.50 sqmtr. through registered sale deed in the year 2010 . The balance area admeasuring 120.81 Sqmtr. was later on purchased by Mr. Nurul Masjid Qureshi in the year 2012.

The complainant purchased part of area admeasuring 57.01sq.mtr from Nurul Masjid Qureshi who is neither a legal heir nor successor of late Shri Mohd. Yusuf Abdul Karim.

8) The complainant has submitted that, the provision No. 10.5 of MERC Supply code Regulations 2005, which provides that, the liability of new owner who is neither legal heir nor successor is restricted to maximum of six months of the unpaid charges for the electricity supplied to such premises.

In view of aforesaid regulation, the complainant is ready to pay his liabilities limited to period of six months due before six months from date of permanent disconnection of electricity supply.

9) The complaint has prayed that, Respondent may be directed to accept last six month liabilities and to release electricity connection.

10) The Respondent has filed say (Page No. 27), it is contended that, there are arrears of Rs. 4,07,962/- on electric connection bearing consumer No. 490010045239 given in the disputed premises.

11) It is submitted that, provision No. 10.5 of MERC Supply Code Regulations 2005 pertains to considerations of change of name as mentioned in the index. It specifies that,

“In the case of transfer of connection to a legal heir, the liabilities transferred under this regulation 10.5 shall be restricted to maximum period of six months unpaid charges for electricity supplied to such premises.”

12) The complainant has applied for new connection, hence this provision is not applicable for applicants demanding new connection. That Rule 10.5 referred above is applicable for only change of name.

13) That, IGRC has ordered to release connection after recovery of arrears.

14) We have gone through the pleadings, documents & arguments advanced by both the parties. Following points arise for our determination & we record our findings on it for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether the complainant is entitle for new connection in his self owned property bearing, CTS No. 13972?	Yes
2)	Whether the complainant's liability in respect of electric connection of original owner Mohd. Yusuf Abdul Karim of CTS No. 13972, is restricted to maximum six months of the unpaid charges?	Yes
3)	Whether order passed by IGRC is just legal & proper?	No
4)	What order?	As per final order

REASONS

15) **Point No. 1 to 2 :-** The parties are not at quarrel, about the fact of ownership of the complainant on the basis of sale deed (produced at Page No. 48-55) of CTS No. M.P. No. 5-19-39, Sheet No. 87 basement area, admeasuring 613.42 Sq. Ft. That, the said property is purchased by the complainant by regd. Sale deed dt. 01.03.2017 from owner, namely, Shri Nurul Masjid Qureshi.

16) That the original owner of CTS No. 13972, admeasuring 163 Sq. mtr. Area was one Mr. Mohd. Yusuf Abdul Karim. That, he had transferred the said property on 30.09.2004 in the name of four successors. That, out of total area 46.50 Sq. mtr. is purchased by Mohd. Soheb A. Habib Bagwan by regd. Sale deed & balance admeasuring 120.80 Sq. mtr. was purchased by Mr. Nurul Masjid Quereshi in the year 2012. That 57.01 Sq. mtr. Area is purchased by the complainant from Nurul Masjid Quereshi. Original owner Mohd. Yusuf Abdul Karim is in arrears with PD consumer No. 490010045239 of Rs. 4,07,960/- towards electricity supply provided to him by the Respondent. The copy of bill is produced at Page No. 28 & CPL is produced at Page No. 32 to 36.

17) That, the complainant has submitted application on 02.06.2018 for release at single phase connection in the office of Consumer Facility Centre, Kranti Chowk, Aurangabad. That, the said application was rejected by I/c CFC Centre on 27.06.2018, on the ground that there are arrears on said premises, however details were not provided. Therefore the complainant has knocked down the doors of IGRC for releasing new connection, by filing application. However, IGRC has passed order (copy is at Page No. 11) on 23.07.2018, holding that, on recovery of complete arrears, etc. supply be provided to the complainant. All these facts are admitted by the Respondent.

18) New Rule 20.8 (Old Rule 10.5) of MERC Supply Code, Regulations 2005, mandates as follows :

“20. CHANGE OF NAME / OWNERSHIP OF INSTALLATION:

20.8 Any charge of electricity or any sum other than the charge of electricity due to the MSEDCL, which remains unpaid by a deceased consumer or the previous owner / occupier of any premises, as the case may be, shall 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 MSEDCL as due from such legal representatives or successors – in – law or new owner / occupier of the premises, as the case may be; except in the case of transfer of connection to a legal heir, the liabilities transferred shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.”

19) In order to enlight on the subject, Consumer Representative, Shri Kapadia has drawn our attention to the ratio laid down in a case decided by Hon’ble Ombudsman, Nagpur, in representation No. 52/2014 M/s. Ajanta International Vipasana Samiti V/s. Executive Engineer, Rural Circle, Aurangabad dtd. 08.12.2014 (produced at Page No. 20)

20) While interpreting above rule following observations are made at Para No.11 :-

“From the above Clause, it would be evident that the arrears of the previous owner viz. Shri Masood Ahmed Saidoddin Ahmed is a charge on the land purchased by the appellant and it is transmitted to the appellant and is recoverable by the respondent as due from the new owner of the said land. The appellant is, however, covered by the proviso to Clause 10.5 it being the new owner of the land and not legal heir of the previous owner. Hence its liability is restricted to a maximum period of six months of the unpaid charges. The appellant became owner of the land on 10.1.2012. Hence its liability would be restricted to the arrears for the period from July, 2011 to December, 2011 only.”

21) The facts at the said case are similar to present case about deciding liability of purchase in respect of dues of original owner & transfer of connection or releasing new connection to the purchaser.

22) The present complainant & his vendor are neither legal heirs nor successors of original owner Mr. Mohd. Yusuf Abdul Karim, against whom there are dues of Rs. 4,04,962/- of electricity bill. As such his liability under Rule 20.8 (Old Rule 10.5) of MERC Regulation Supply Code is restricted to a maximum period of six months of unpaid charges. There is reference in the sale deed page No. 4 about payment of light bill by Nurul Quereshi i.e. vendor of complainant. However, the CPL does not show any payment towards arrears. Learned Consumer Representative Shri Kapadia for the complainant by filing purshis (Page No. 46) has submitted that the said reference does not pertain to disputed arrears. As such it does not pertain to subject matter.

23) Next authority relied upon by Consumer Representative Shri Kapadia is Representation No. 59/2012, Mr. Surendra Datta V/s B.E. S & T undertaking decided on 10.10.2012 (Page No. 41) at para 7 following observations are made :-

“7. Regulation 10.5 of the Electricity Supply Code Regulations, 2005, mandates that the charges which remained unpaid by the erstwhile occupier of the premises shall be recoverable from the new occupier of the premises, not being a legal heir, restricted to a maximum period of six months of the unpaid charges of electricity supplied to such premises. In this case, the Respondent has recovered the entire energy bill arrears for the period of February, 1999 to June, 2004, unpaid by the erstwhile occupier, which is clearly contrary to the said regulation 10.5. The Respondent is, therefore, hereby directed to work out the charges of electricity supplied during a period of six months prior to the date of disconnection of supply i.e. 11th June, 2004, deduct this amount from the amount recovered from the Appellant and refund the excess amount recovered, along with interest at bank rate of Reserve Bank of India.”

24) Considering the ratio of both the above cases we, hold that, the complainant's liability for unpaid arrears of six months is prior to the date of temporary disconnection of supply i.e. before September 2014, which is seen from CPL i.e. March 2014 to August 2014. Also similar type of guidelines are given in Commercial Circular no. 53 dtd. 07.05.2017.

25) The third case cited by Consumer Representative Shri Kapadia for Ms Sharmistha Gaikwad V/s The Superintending Engineer, Nagpur, Representation No. 3/2018 is on different footing of facts, wherein point of limitation & in that case liability was arose. Hence does not prove helpful to present state of affairs.

26) Considering Rule 20.8 (Old Rule 10.5) we are of the opinion that the liability of complainant is restricted to a maximum period of six months of unpaid charges before disconnection i.e. before September 2014 i.e. from March 2014 to August 2014. On such deposit, he is entitle for new connection claimed by him. We answer points No. 1 & 2 in favour of the complainant.

27) **Point No. 3 :-** The view taken by learned IGRC about payment of complete arrears are in breach of Rule 20.8 (Old Rule 10.5) MERC Regulations supply code, hence is not just, legal & proper & requires to be set aside and quashed. We answer point No. 3 in the negative.

28) Considering the above discussion, the petition deserves to be allowed. However, while releasing new connection undertaking as per commercial circular No. 53 dtd. 07.05.2007 be taken from the petition.

ORDER

The application is allowed in the following terms :

- 1) The order passed by IGRC in case No. 2018-19/46 dtd. 23.07.2018 is hereby set aside & quashed & in its place following order is substituted.
- 2) It is hereby declared that the complainant's liability is restricted for the period of six months in respect of unpaid charges of electricity i.e. before temporary disconnection, i.e. before September 2014, i.e. from March 2014 to August 2014.

- 3) On deposit of aforesaid unpaid charges of six months by the complainant & on taking undertaking as per circular No. 53 dtd. 07.05.2017, the Respondent is directed to release fresh electricity connection applied by the complainant.
- 4) Parties to bear their own costs.
- 5) Compliance be reported within 30 days.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member