

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

**Case No. CGRF/AZ/ARC/715/2018/55
Registration No. 2018120073**

Date of Admission : 26.12.2018

Date of Decision : 26.02.2019

M/s. Konkan Agro Marine Industries Pvt. Ltd.: COMPLAINANT
Gut No. 26/27, Surewadi,
Taluka Gangapur,
Dist. Aurangabad
(New Connection)

VERSUS

Maharashtra State Electricity Dist. Co. Ltd., : RESPONDENT
through it's Nodal Officer, EE(Admn),
Urban Circle, Aurangabad.

For Consumer : Shri H. A. Kapadia,
For Licensee : Shri Y. B. Nikam,
EE(Admin), Rural Circle,
Aurangabad.

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 is M/s. Konkan Agro Marine Industries Pvt. Ltd., Gut No. 26/27, Surewadi, Taluka Gangapur, Dist. Aurangabad (New Connection). The applicant has filed a complaint against the respondent Maharashtra State Electricity Distribution Company Limited through the Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 26.12.2018.

BRIEF HISTORY & FACTS RELATING TO THE GRIEVANCE:

- 2) The brief facts of the dispute as under :-
1. That, the complainant is authorized signatory of above named industrial unit situated at Gut No. 26/27, Surewadi, Village Babargaon, Tuka Gangapur Dist. Aurangabad.
 2. Respondent is authorized officer of Maharashtra Electricity Distribution Company Ltd. which is working as Distribution Licensee as per provision of Electricity Act 2003. The complainant has applied for release of fresh electricity connection for his industrial unit and therefore is a consumer of Respondent Company.
 3. The complainant has purchased premises situated at Gut No. 26/27, Surewadi Village Babargaon ,Taluka Gangapur Dist. Aurangabad, which was previously owned by Mr. Omprakash Khake, owner of M/s. Pranav Omprakash Khake Distilleries Pvt.Ltd. The said purchase was done through Union Bank of India, Aurangabad branch
 4. That, after taking possession of the said premises , the complainant submitted application for release of 11KV HT connection with contract

demand of 500 KVA and connected load of 375 Kw along with copy of 7/12 extract and other related documents in the office of Respondent on 01.11.2018.

5. That the complainant was in receipt of letter No. 4783 dt. 03.11.2018 Wherein the complainant was asked to pay arrears of Rs. 27,72,804.88. Standing in the name of M/S Pranav Agrotech Industries.
 6. That, as per provision of Hon'ble MERC Regulations (10.5), Respondent can demand last six month bill amount from new consumer.
 7. That, the complainant is neither legal heir nor power of attorney holder of the previous owner / consumer and hence Respondent, as per provision of MERC Regulations 10.5 cannot claim total arrears amount from him.
 8. That, due to non availability of electricity supply in the premises, he is unable to carry out any activities in spite of investing huge amount towards purchase of said premises.
 9. The complainant has requested to release 11kv HT connection to his premises immediately. The complainant is ready to submit undertaking for payment of justified amount.
- 2) It is prayed that :-
1. Respondent may be directed to follow provision of MERC Regulation (10.5) in respect of recovery of arrears.
 2. Respondent may be directed to release 11kv HT connection to his premises on receipt of payment of last six months arrears of old consumer in addition to regular connection charges .
- 3) The Respondent has filed say (Page No. 21) as under :-

1. The content of paragraph no 1 is history of purchase of land from Union Bank of India Branch; it is not concerned with Respondent office.
2. The content of paragraph no 2 & 3 are admitted to the respondent. The complainant has applied for new connection on 11KV HT supply on 01.11.2018. As there was arrears of Rs. 2772804.88 in the name of M/S Pranav Agrotech Industries (Con No. 507159042300) from which the Complainant has procured land. Hence this office has given letter to pay the outstanding arrears.
3. The contents of the paragraph no 4 & 5 is reproduction of Hon.ble MERC Regulation 2005, on the same guide lines MSEDCL has issued its internal commercial circular 160 dtd 29/12/12, regarding release of connection in r/o of consumers who have procured the land having electrical energy bills arrears. In this circular as per Board meeting decision on 07/03/2012 guidelines issued are reproduced as below:
 - a) To accept the proportionate arrears amount of six months prior to the date of temporary disconnection in respect of consumer in arrears of the said premises, which have been procured through court/DRT/Liquidators/Judicial/Statutory authorities/private sale is approved herewith.
 - b) In such cases, an undertaking shall be obtained from the new owner in respect of proportionate total arrears of the old consumer. Also, the proportionate arrears, interest, DPC, etc. Thereon shall be shown separately in the subsequent bills of the consumer till such time Apex court decides on our case or the consumer fully pays the amounts as per our records.

4) As per the commercial circular no. 53, dtd. 07.05.2007, the consumer has to produce undertaking that, he undertakes that in case the decision in Appeal No. 5312-5313 of 2005 MSEB & Anr. Vs. Super & Stainless HI Alloys Ltd & Ors. With Civil Appeal No. 5314 of 2005, SLP No. 10732 of 2006 and SLP No. (C) No. 6068 of 2006 pending in the Supreme Court goes in favour of MSEB, that he will pay the entire arrears along with interest at the prevailing rate till the date of payment on the amount i.e. due at the time of release of connection due on the premises towards electricity charges.

The old consumer PD arrears detail is as below:

- a) M/S Pranav Agrotech Industries Consumer No. 507159042300
 - b) As on PD time Principal Arrears: 12,10,188.79
 - c) As on PD time Interest on Principal: 71,171.21
 - d) PD period Interest (Aug 12 to Oct-18): 14,91,444.89
 - e) Total Arrears Rs. 27,72,804.89
- 5) The contents of Para no. 6 is denied by the respondent.
- 6) It is submitted that complaint may be dismissed.
- 7) The complainant has submitted rejoinder (Page No. 49) as under :-
1. That, MSEDCL circular No. 160 dt.29.03.2012 discloses that when a consumer purchases property through court/liquidator/statutory authorities etc, then electricity connection shall be releases by accepting arrears amount of six months prior to the date of temporary connection. The above said circular is in line with provision of Regulation No. 10.5 of MERC supply code Regulations 2005.
 2. The complainant further submits that as per CPL submitted by Respondent, electricity supply of old consumer M/s. Pranav Agrotech

Industries was temporarily disconnected in the month of May 2012 and then permanently disconnected in August 2012.

The arrears status in the month of May 2012 was as under.

Total bill Amount due in May 2012 :	12, 97,651.17
Less security deposit Amount :	1, 63,500.00
Arrears :	11,34,151.17

- 8) The complainant, as per circular No. 160 dt. 29.03.2012 and provision of MERC Regulations 10.5 is ready to pay amount of last six months bills prior to date of temporary disconnection i.e. May 2012.
- 9) The Respondent may be directed to submit amount to be paid by the complainant as per above provision. The complainant is ready to submit undertaking as per provision of said circular.
- 10) The Respondent has submitted their Say (Page No. 51) as under :-
 1. As per the Board Meeting decision on date. 07/03/2012, the following guidelines issued will be applicable for this consumer they are reproduced as below:
 - a) To accept the proportionate arrears amount of six months prior to the date of temporary disconnection in respect of consumer in arrears of the said premises, which have been procured through court/DRT/Liquidators/Judicial/Statutory authorities/private sale is approved herewith.
 - b) In such cases, an undertaking shall be obtained from the new owner in respect of proportionate total arrears of the old consumer. Also, the proportionate arrears, interest, DPC, etc. Thereon shall be shown separately in the subsequent bills of the

consumer till such time Apex court decides on our case or the consumer fully pays the amounts as per our records.

- c) As per the commercial circular no.53, dtd. 07.05.2007, the consumer has to produce undertaking that he undertake that in case the decision in Appeal No. 5312-5313 of 2005 MSEB & Anr. Vs. Super & Stainless HI Alloys Ltd & Ors. With Civil Appeal No. 5314 of 2005, SLP No. 10732 of 2006 and SLP No. (C) No. 6068 of 2006 pending in the Supreme Court goes in favour of MSEB, that he will pay the entire arrears along with interest at the prevailing rate till the date of payment on the amount i.e. due at the time of release of connection due on the premises towards electricity charges.

10) The old consumer PD arrears detail is as below:

- a) M/s. Pranav Agrotech Industries Consumer No. 507159042300
- b) The consumer made PD in the month of July-2012 with total arrears including Security Deposit was Rs. 14 ,44,860.00
- c) In the month of Dec-2016 the Security Deposit amount is adjusted against the arrears bill
- d) As per the Commercial Circular no.160 the last six month arrears from the date of TD is 12,97,851.17.

11) The Respondent is here by submit its 2nd rejoinder as under.

1. As per the office note dated.08.02.2019 approved by competent authority, The consumer has to pay the last six month arrears amount of Rs. 12,36,145.00. The amount shall be paid by the consumer before processing his application. After clearing all the PD arrears by the consumer the new connection application would be process by MSEDCL.

14) We have gone through the pleadings, the documents filed by both the parties. We have heard arguments of Consumer Representative Shri Hemant Kapadia & Respondent Representative, Shri Y. B. Nikam, Executive Engineer, Nodal Officer, Rural Circle, Aurangabad. Following points arise for our determination, & we have recorded our findings thereon for reasons to follow:-

Sr. No.	POINTS	FINDINGS
1)	Whether provision of MERC Regulation (10.5) in respect of recovery of PD arrears is applicable in this case ?	Yes
2)	Whether 11 KV HT Connection be released to the complainant on his payment of six months arrears of old consumer?	Yes
3)	What order?	As per final order

REASONS

15) **Point No. 1** :- Complainant has purchased premises at Gut No. 26/27, Surewadi Village, Babargaon, Taluka Gangapur, Dist. Aurangabad which was previously owned by Shri Omprakash Khake, owner of M/s. Pranav Omprakash Khake Distilleries Pvt. Ltd. The purchase was done through Union Bank of India, Aurangabad.

16) The complainant has submitted application for release of 11 KV HT Connection with contract demand of 500 KV and connected load of 375 KW along with copy 7/2 exist and related documents in office of Respondent on 01.11.2018. By letter No. 4783 dtd 03.11.2018, complainant was asked to pay arrears of Rs. 27,72,804.88 standing in the name of M/s. Pranav Agrotech Industries.

17) Respondent has mentioned in his submission dtd 15.01.2019 that, MSEDCL has issued guidelines through Commercial Circular 160 dtd. 29.12.2012 regarding release of connection in respect of consumer, who have purchased land having electrical energy bills arrears to accept proportionate arrears amount of six months prior to date of temporary disconnection in respect of consumer in arrears of the said premises, which have been procured through Court/DRT/liquidator/Judicial/Statutory Authorities/Private Sale is approved. Undertaking shall be obtained from new owner in respect of proportionate total arrears of old consumers. As per commercial circular No. 53 dtd 07.05.2017. Consumer has to produce undertaking that he undertake in case decision in Appeal 5312 – 5313 of 2005 MSEB & others Vs Super & stainless HI Alloys Ltd. & others with Civil Appeal No. 5314 of 2005, SLP No. 10732 of 2006 & SIP NO. (C) No. 6068 of 2006 pending in Supreme Court it goes in favour of MSEB, that he will pay entire arrears.

18) Respondent on page (57) submitted calculation sheet of Last six months from date of TD i.e. for period November 2011 to April 12 amount of Rs. 12,36,144/- as closing arrears. Respondent has produce approval to this amount from company authority i.e. Superintending Engineer, letter No. SE/ARC/ Acct/ 668 dtd. 08.02.2019 (Page No. 59). Complainant has shown his readiness and willingness to pay the aforesaid amount on basis of MERC Regulation 10.5 & requested to add the amount of arrears in demand note. Copy of the said letter issued to Superintending Engineer dtd 08.02.2019 is on record (Page No. 58). On the basis of Rule 10.5 of MERC Regulation, Internal Commercial Circular 160 dtd. 29.12.2012 is issued by this circular proportionate arrears of six months prior to the date of temporary disconnection in respect of consumer, in arrears of said premises, which have been procured through Court/DRT/ Liquidates/ Judicial/

Statutory Authorities / Private sale is approved. As such on basis of said circular calculated amount is correct & acceptable. Further the complainant has shown his readiness to execute required undertaking. Therefore, we answer point No. 1 affirmative.

19) **Point No. 2** :- After payment of arrears of Rs. 12,36,144/- and procedure as per Commercial Circular No. 53 dtd 07.05.2012 regarding undertaking from complainant, new connection by released following due procedure. Hence we answer point No. 2 affirmative.

20) We pass order in reply of Point No. 3 as follows :-

ORDER

The petition is hereby allowed in the following terms :

- 1) After the payment of arrears of six months of old consumer i.e. Rs. 12,36,144/- (as per MERC Regulation 10.5) & on undertaking as per Commercial Circular 53 dtd 07.05.2017, Respondent is hereby directed to release new electric connection to the complainant.
- 2) Parties to bear their own costs.
- 3) Compliance be reported within 30 days from the date of receipt of the order.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member