



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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NO. K/N/158/1888 of 2019-20

Date of registration : 02/05/2019

Date of order : 04/06/2019

Total days : 33

IN THE MATTER OF GRIEVANCE NO. K/N/158/1888 OF 2019-20 OF M/S SHREENATH TEXTILE ENGINEERS, OFFICE 301, MATTRUCHHAYA, K.D.ROAD, VILE PARLE (W), MUMBAI, PIN CODE – 400 056 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT NEW CONNECTION.

M/S Shreenath Textile Engineers,
Office 301, Mattruchhaya,
K.D.Road, Vile Parle (W), Mumbai,
Pin Code – 400 056

... (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution
Company Limited
Throughit's Nodal Officer/Addl.EE.
Palghar Circle, Palghar

... (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.Kalpesh Patil, Dy.Manager, Palghar Circle

For Consumer - Shri.Vasant Vaze (C.R.)

[Coram- ShriA.M.Garde-Chairperson, Shri A.P.Deshmukh-Member Secretary
Mrs.S.A.Jamdar- Member (CPO)].

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005]. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Consumer herein M/S Shreenath Textile Engineers having consumer no. 003019015768. Grievance is that premises of one M/S Sarita Alloys Steels Pvt.Ltd. having HT connection no.003019015768 (P.D.) were purchased by the applicant in auction sale. Applicant now wants HT connection there for textile Engineering works. However there are some dues on standing against the previous owner which MSECL is insisting upon the applicant to pay.

3) Applicant further states that regulation 10.5. of supply code applies to this case and accordingly applicant requested to the MSEDCL which is turned down.

4) **Distribution Licensee in reply states that :-**

i) *That, Plot No.18, TarapurIndustrial Estate, Villege-Kolvade, Tal-Palghar was initially owned by M/s.Sarita Alloys SteelPvt.Ltd.M/s.Sarita Alloys Steel Pvt.Ltd was having HT electric supply on said premises vide Con.No.003019015768, the aforesaid supply was made TD in August,1998AND PD in Nov.2000 for want of arrears.The above premises was then auctioned purchased by M/s.Shreenath Textiles Pvt.Ltd , through DRT in year 2008.The arrears of Rs.80,11,505.30 was outstanding as on 20.02.2019 from M/s.Sarita Alloys Steel Pvt.Ltd at said plot.*

ii) *That, M/s.Shreenath Textiles Engineers by application dtd.02.02.2019 has applied for new connection under Reg.10.5 of MERC Supply Code,2005 to MSEDCL on the premises of M/s.SaritaAllyosPvt.Ltd who having dues of MSEDCL to the tune of Rs.80,11,505.30. The Chief Engineer(Comm) has by their mail dtd.16.02.2019 called for the information of total arrears and six month arrears etc of PD consumer. The detail of total arrears and six month arrears under Reg.10.5 has been intimated to the office of Chief Engineer(Comm) by letter dtd.25.02.2019.Meantime MSEDCL launched the Standard Packages(OTS) vide Commercial Circular No.315 dtd.07.03.2019 viz is applicable to prospective consumers who have purchased the premises(having MSEDCL dues) through proceeding of DRT etc. The office of Chief Engineer(Comm) by mail dtd.18.03.2019 intimated to ask the willingness of prospective consumer to opt under the OTS Scheme circulated vide Commercial Circular No.315 dtd.07.03.2019.The intimation of scheme was given and willingness was asked by this office vide letter dtd.20.03.2019.The reply dtd.02.02.2019 regarding refuse to opt for OTS and insisting connection under Reg.10.5 of MERC Supply code was forwarded to the Corporate office. Due the arrears of old Connection and refusal of consumer to opt for OTS Package for settlement of arrears, the proposal was not sanctioned by Corporate Office. In order to get new supply the consumer shall pay entire arrears of Rs.80,11,505.30 or opt for OTS Package Schemeunder Commercial Circular No.315.Standard Packages(OTS) is applicable to prospective consumers who have purchased the premises(having MSEDCL dues)through proceeding of DRT etc. Under Standard OTS Package Scheme on payment of 100% principal + 100% DPC + 50% uptodate interest in one stroke in one tile settlement then 50% uptodate interest on arrears on date of TD and TD to PD minimum demand charges etc are waived off.*

iii) *That, as per R.10.5 of MERC Supply Code,2005, licensee is entitled to recover outstanding arrears of electricity charges of erstwhile old consumer/owner on said premises and such charges are charged on property. The Bombay High Court in Matter of Writ Petition No. 9906 of 2010 decided On: 16.09.2011 Namco Industries Pvt. Ltd.Vs. the State of Maharashtra and ors has held that, the unpaid dues constitute a charge on the property and the distribution licensee was entitled to recover unpaid dues from the new owner/consumer.*

iv) *That, in view of High Court order the dues of old connection constitutes charge on property where new supply was released and hence the S.56(2) will not applicable to the recovery of old dues electricity charges. As such consumer shall pay entire arrears of Rs.80,11,505.30 or opt for OTS Package Scheme under Commercial Circular No.315 then only MSEDCL will able to release new supply. As such the contention of consumer in this respect is liable to be rejected.*

5) We have heard both sides. We have gone through the relevant provision with regard to formation of charge on the property by virtue of the provision in respect of the arrears and the restriction on liability of transferee to be liable for those arrears. There is also the judgment of Hon'ble Bombay High Court on the said legal proposition. That being so we are unable to understand, on what basis MSEDCL has put for word the one time settlement offer to applicant, that too as condition precedent for sanctioning the connection.

6) In the above view the matter applicant is liable as transferee to pay only six months arrears as per Regulation 10.5 of Supply Code.

7) Now it appears that the previous owner's dues are of the year 2000. Arrears shown are 8011505. These are not entirely recoverable. MSEDCL can recover 6 months arrears.

Hence the order

ORDER

- 1) The Grievance application of consumer is hereby allowed.
- 2) Distribution Licensee to grant supply connection to the applicant on payment of 6 months arrears of previous owner of the premises.
- 3) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 04/06/2019

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(A.P.Deshmukh)
MemberSecretary
CGRF, Kalyan

(A.M.Garde)
Chairperson
CGRF, Kalyan

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, KeshavBldg, BandraKurlaComplex,Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.