

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

Case No. 27/2019

Date of Grievance: 22.04.2019

Hearing Date : 08.05.2019

10.06.2019

25.06.2019

Date of Order : 31.07.2019

In the matter of illegal disconnection and grant of SOP.

Shri.Baban Pandharinath Komkar, ---- APPELLANT

S.No.50/1, Venkatesh Heights,

flat No.10, Ganjpeth Police Chowky,

Pune -411042.

(Consumer No. 170012536456)

VS

The Executive Engineer, ---- RESPONDENT

M.S.E.D.C.Ltd.,

Rastapeth Division,

Pune.

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
- 3) Mr. Anil Joshi, Member, CGRF, PZ. Pune.

B] - On behalf of Appellant

- 1) Mr. Baban Pandharinath Komkar
- 2) Mr. Rohit Komkar
- 3) Mr.Balu Vasant Komkar

C] - On behalf of Respondent

- 1) Mr. Madhukar Ghume, Ex.Engr., Rastapeth Dn.
- 2) Mr.Mahesh Deshmukh, AEE, Rastapeth S/dn.

The complaint about change of name from Shri.Vasant Komkar to Shri. Baban Padharinath Komkar. The above named i.e. Shri. Babn Komkar has filed the complaint to Ex. Engineer, Rastapeth Dn. on 11.02.2019 in writing informing that he is old consumer was having occupying the premises where the supply is given as M/s. Ambika Metal registered form was occupied & own by parterner Baban Pandharinath Komkar, Popat Padharinath Komkar and Data Komkar. The said occupation used by continued till today in the month of Jan. 2013 and Feb.2013. The consumer received the bill in the name of Shri. Balu vasant Komkar. Therefore this consumer was filed complaint on 11.02.2019 alleging that his brother Vasant Komkar who died and Balu Komkar is his nephew. Therefore he raised the objection for change of name in the electricity bill without any intimation and premises. He claims for change of name as he was old consumer. Initially the consumer was filed his complaint to IGRC. The IGRC registered the case and thereafter on 10.04.2019 IGRC issued notice to the consumer and both the parties were present for hearing on 8.4.2019. On dated 8.4.2019, the matter was fixed for hearing. In view of the notice for the hearing they appeared and file reply that the consumer No.170012536456, Billing Unit No.4608 Rastapeth S/dn. The premises were given supply on 1.1.1979, and as per computerized record available since 2005. The said supply stands old in the name of Shri. B.P.Komkar & in the month of Feb.2013 it was changed in the name of Mr.Vasant Komkar. The name of occupation changed in the name effected Shri. Vasant Komkar. The document and application filed by Shri. Vasant Komkar is not traceable and also as Feb.2013 to 29.08.2018, i.e. after 5 years period is lapsed and there is no any complaint lodged for this purpose. It is submitted by Utility since Feb.2013 Shri. Vasant Komkar is regularly paying bill received in his name. However since the date Feb.2013 till complaint is made on 11.02.2019 no allegation and complaint made by this consumer.

According to Utility the premises was visited by Official Utility and found the premises is used by Balu Vasant Komkar and after his death his

son is occupied the said premises. Utility further submitted that the complaint is not file during the period of 2 years from the date of action allege Feb.2013 therefore complaint is bared by within 2 years. Hence liable to be dismissed with cost. IGRC considered consumer complaint and reply I come to conclusion that in the month of Feb.2013 the change of name in occupation cost as per record of CPL since 2013 the name of supply as per using the premises change in the name of Shri.Vasant Komkar Therefore the complaint is not filed within the period of 2 years as per Regulation of 2006 of Ombudsman Regulations and it is time bared and therefore IGRC dismissed the complaint for want on grievance by said order of IGRC. The present consumer filed complaint before this Forum on 22.4.2019 and allege that the old consumer stands in the name of Shri. Baban Pandharinath Komkar since date of connection under the name of M/s. Ambika Metal was in existence since 1979 to continue today and therefore change of name now in the name of Shri.Vasant Komkar shall be again changed in the name of Shri.Baban Komkar.

After filing the said complaint this office issued notice to the Respondent Utility on 24.4.2019 and directed to Utility to submit reply on or before 8.5.2019. The Respondent Utility appeared and filed reply and documents of CPL and registration of firm other relevant documents submitted by consumer.

As it appear proper to the Forum that, this situation occurred in the month of Jan.2013 and the supply was changed in the name of Shri. Balu Vasant Komkar Therefore to come any final conclusion notice should be given to the present consumer, it appears after the change in the name to another person. Therefore direction was given to issue the notice to Shri. Balu Vasant Komkar also. After serving of the notice Shri.Balu Vasant Komkar, he appeared before the Forum and he submitted all the relevant documents corporation tax paid receipt, receipt of purchasing groups from Sandesh Traders complaint given to Police Commissioner on 12.03.2016. Shop Act & License establishment certificate stands in the name of Bhagavati Traders and old bill on dtd. 25.6.2019. The opportunity was given to

consumer and present consumer Shri. Vasant Komkar & Respondent Utility. Following points arose for my consideration to which I have recorded my findings to the points for the reason given below:-

1. Whether old consumer Shri. Baban Komkar entitled to get change in name of connection in his name as a old consumer?
2. Whether consumer complaint is file within period of limitation as per Regulation 6.6?
3. Whether consumer is entitled for any relief?

Reasoning :-

On dated 10.6.2019 and 25.6.2019 I have given an opportunity again the consumer who was old on record Shri. Baban Pandharinath Komkar. I have also gave oppountintity to present consumer Shri. Balu Vasant Komkar. It appears that old consumer Shri. Baban Pandharinath Komkar was occupying the same premises. And shop under M/s.Ambika Metal Mart copy of registration of certificate there surname of 3 partners namely Shri.Baban Pandharinath Komkar, Shri.Popat Pandharinath Komkar and Shri.Dada Pandharinath Komkar. During the hearing it is submitted by present and old consumer that the said registration of firm due to death of partner is not in existence. The old consumer Baban Pandharinath Komkar also filed old receipt of rent and copy of registration of firm which is admittedly. The record which is available prior to Jan.2013. The Respondent Utility submitted that the premises are visited and inspection was taken accordingly. The statement of present occupying Shri.Balu Vasant Komkar kept to be recorded as Shri.Balu Vasant Komkar filed document which is relevant on record which indicates that the receipt stands in the name of Bhagavati Metals, copy of shop & Licensee produce indicates that the shop and establishment came to existence from 25.04.2016. The premises which is occupied by the present consumer who got change of name in the year Jan.2013 as he was occupying the said premises. In view of Section 43 of Indian Electricity Act-2003 the supply shall be given to person who is in occupation legally and validly entitled to receive the supply on usual terms and conditions. As per application the supply is given to son of deceased Shri. Vasant Pandharinath

Komkar who happened to a partner in old Shri.Balu Vasant Komkar is in occupation of the said premises to my view if entitled to received and used electrical supply to in his premises.

The cause of filing complaint in the year 2019 is appears from the record documents and hearing submitted by present occupant Shri.Vasant Pandharnith Komkar gave complaint 12.3.2016 informing that property litigation civil regular special suit No.1453/2012 was filed where the present consumer is a party to the proceedings. The said premises allege to occupy by old consumer Shri. Baban Pandharinath Komkar and his sons. Against this order the regular civil appeal is also filed bearing No.284/2015 in which interim order not to disturb the connection is passed. In view of pending in the court the present consumer seems to be in lawful occupation since Jan.2013 and therefore no objection of taken at the relevant time by old consumer Shri. Baban Pandharinath Komkar.

In view of Section 43 of Indian Electricity Act- 2003 the present occupant Shri. Balu Vasant Komkar is lawfully occupying the premises and he is entitled to retain the connection in his name.

IGRC contention that consumer complaint is not filed within the period of 2 years from the date of cause of action. Seems to be legally valid and proper as the original common action arose in the month of Jan. and Feb.2013 admittedly old consumer did not raised objection due to Civil litigation. He wanted to create document to show his possession considering old connection was in his name. This malafied attempt to get change in name objection filed by him. I come to conclusion that such objection cannot be entertained by this Forum as civil ligation is already pending. In competent civil court as the said consumer complaint not filed within the period of 2 years from the date of cause of action Feb.2013. I am not inclined to entertain to this complaint and to grant any relief. The said premises shall be

continued in the subsequent change effect in the name of Shri. Balu Vasant Komkar until competent civil Court decided the issue finally.

I agree,

Sd/-
B.S.Savant
 Member/Secretary
 CGRF:PZ:PUNE

Sd/-
 Anil Bhavthankar
 Chairperson
 CGRF:PZ:PUNE

Member (Anil Joshi, CPO) :

In view of what has been discussed hereinabove, and after taking total and pragmatic views in the present Appeal, I state that the change in the name resorted to by the DL first during January, 2013 and thereafter in February, 2013 is not bonafide and legal and, therefore, need to be set aside.

Submitted for favour of judicious consideration.

Sd/-
Anil Joshi
 Member
 CGRF:PZ: PUNE

I have perused the objections raised by the Member

In view of judgment of Ombudsman Case No.124 of 2019 objection raised by Member of CGRF Shri. Anil Joshi stands rejected & order is confirmed.

The time limit of 60 days prescribed for disposal of the grievance could not be adhered due to the hearings taken twice time.

Hence I proceed to pass the following order:

ORDER

1. Consumer Complaint of Case No.27 of 2019 stands dismissed.
2. No order as to the cost.
3. The Licensee is directed to report the compliance within one month from the date of this order.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Pune Urban Zone, Pune on 31st July - 2019.

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/-

A.P.BHAVTHANKAR
CHAIRPERSON
CGRF:PZ:PUNE

Sd/-

BEENA SAVANT
MEMBER- SECRETARY
CGRF: PZ:PUNE