

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 43 OF 2022

In the matter of new electric connection

Sandeep Kumar Kadian..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Kalyan (MSEDCL).....Respondent

Appearances:

Appellant : 1. Dr. Sandeep Kumar Kadian
2. Dr. Prerana Thakur

Respondent : P.L.Kohale, Asst. Executive Engineer, Kalyan (W) S/Dn III

Coram: Vandana Krishna (Retd. IAS)

Date of hearing : 7th June 2022

Date of Order : 7th July 2022

ORDER

This Representation is filed on 31st March 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 9th March 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan (the Forum).

2. The Forum, by its Order dated 09.03.2022 has dismissed the grievance application by directing the licensee representative to keep the status quo.

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Secretary

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3. The Appellant has filed this representation against the order of the Forum, and his written submission along with his arguments are stated in brief as below:

- (i) The Appellant purchased a Commercial property through bank auction (Sale Certificate of IDBI Bank dated 26.03.2021) having address at Shop No. 2, **Giriraj Bhuvan**, Kalyan East, and is in process to get physical possession. Along with all government records, change in name of the electricity connection was applied to the Respondent MSEDCL on 03.12.2021, which is denied by it.
- (ii) At present, the premises has electricity connection with Consumer No. 020020045991 in the name of Shri Navmi Gupta, and his billing address is 41, **Yazdan Bldg**, Lakshmi Market Kalyan 421301 (as per electricity bill record). The electricity bill is issued on this consumer number: however the address mentioned on the bill is entirely different from the Appellant's property address.
- (iii) The Appellant's name is registered in Index II (Sr. No. 751/2021) on 20.01.2021 as per procedure of Registration Authority of Revenue Department, Government of Maharashtra.
- (iv) The Appellant vide letter dated 29.10.2021 has requested for permanent disconnection of supply of Consumer No. 0200200445991. The Appellant has applied for a new connection (Application ID No. 36693641) to the Respondent, being owner of the premises as he has purchased the said premises. However, the Respondent denied the same.
- (v) The Appellant filed his grievance application before the Forum on 16.12.2021. The Forum, by its Order dated 09.03.2022 has dismissed the grievance application by directing the licensee representative to keep the status quo.
- (vi) The Appellant has raised objection in Forum, and it is the main reason why the Appellant does not want to convert that previous meter on his name as the new owner of property, and has applied for disconnection of that meter from his property, and thereafter a new connection in his name in the same property.
- (vii) The Forum failed to understand the basic grievance. The Appellant is the sole owner of the property; however, one Navmi Gupta, Encroacher is enjoying the previous


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electric connection, which is of other address in the said property. The Forum doesn't have any valid legal documentary proof that Occupant- Encroacher Navmi Gupta has any legal right for electricity connection in the said property.

- (viii) The Forum failed to mention the address mismatch in bill and the Appellant's property. The Appellant's question is kept unanswered, and truth is conveniently hidden by the Forum. The order of the Forum is in favour of the Occupant. In case, he defaults on the bill, how will you trace him to recover bill? or will that liability be given on the Appellant, even after rejection of objection submitted by the Appellant. No step has been mentioned by the Forum to fix his liability to pay bill after his eviction.
- (ix) The Appellant also submitted that the said building has 12 /15 shops and the said consumer, Anil Navmi Gupta has not submitted any Aadhar Card or any identity proof.
- (x) The Appellant prays that the Respondent be directed to disconnect the existing connection in the name of Navmi Gupta, and to release a new electric connection in the name of Appellant.

4. The Respondent's reply dated 12.05.2022 and its arguments are stated in brief as below:

- (i) The electricity connection bearing Consumer No. 0200200445991 is in the name of Shri Navmi Chatur Gupta since 1980, and he is its bona fide LT Commercial consumer with Contract Demand of 4.5 KW at Shop No. 2, Ground floor, **Giriraj Bhawan**, Municipal House No. 221, Station Road, Kalyan (W).
- (ii) The Appellant vide letter dated 29.10.2021 requested to permanently disconnect the supply of Consumer No. 0200200445991 and applied for a new connection (Application ID No. 36693641), as he has purchased the said premises in an Auction from IDBI Bank.
- (iii) As per the request of the Appellant, the Respondent visited the site, and it was observed that the above-mentioned Connection No. 0200200445991 (having Meter No.08203249554) is in the name of Shri Navmi Chatur Gupta since 1980 and the consumer is presently carrying out his business at the said premises. This consumer is


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not in arrears for the said connection, hence is not liable for disconnection. Therefore, the application for new additional connection of the Appellant was rejected on 17.12.2021.

- (iv) However, the Addl. Executive Engineer (Subdivision 3, Kalyan West) informed and requested the consumer, Shri Navmi Gupta to submit his say along with the title documents of the said premises within stipulated time, in view of the disconnection application from the Appellant.
- (v) In response, Shri Anil Navmi Gupta submitted his reply dated 27.12.2021. According to him, the Appellant has purchased the said premises in Auction, and he is in “symbolic possession”. The ownership of the said premises was transferred to various persons from time to time, but Shri Navmi Chatur Gupta is in the actual physical possession of the said premises since 1951 on rent basis. He also requested not to disconnect the supply of the premises, as he is regular in payment of electricity bills.
- (vi) In the meanwhile, the Appellant approached the Forum. The Forum, by its order dated 09.03.2022 has dismissed the complaint of the Appellant by holding that the Appellant has purchased the litigation property, and also requested him to follow the due process of law to take possession from the concerned authorities rather than by getting the electricity disconnected. The Forum has also further held that in these peculiar circumstances, licensee cannot disconnect the electricity connection of the present consumer.
- (vii) It is also further submitted that the Sale Certificate dated 26.03.2020 issued by IDBI Bank clearly reveals that the bank has only handed over the ‘symbolic’ possession of the said property to the Appellant.
- (viii) The consumer, Shri Navmi Chatur Gupta is in lawful possession of the said premises by way of Tenancy, and as the Appellant has not yet taken legal possession of the vacated premises, the Respondent rejected the application of the Appellant for permanent disconnection of Consumer No. 0200200445991.
- (ix) The Respondent also further argued that the address on the electricity bill “41, **Yazdan Bldg**, Lakshmi Market” is the same building, which is now addressed as **Giriraj Bhavan**, Municipal House No. 221, Station Road”


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(x) In view of the above, it is most humbly prayed that the instant Representation deserves to be rejected as it is devoid of merits.

5. During the hearing, the Respondent was asked to furnish certain documents such as :

- (a) Documents pertaining to the said premises from the Kalyan Dombivli Municipal Corporation.
- (b) Electricity bills of some neighbouring galas in the said building.

6. As directed, the Respondent submitted the electricity bills of some galas in the said building. It is observed that the galas which have connections released in 1980 have the address as Yazdan bldg., Laxmi Market, whereas the galas with connections from 2016 onwards have the address as Giriraj Bhavan. The Respondent has also written a letter to KDMC for availability of documents of the disputed premises and whether the present Giriraj Bhavan is the same building known earlier as Yazdan bldg.

Analysis and Ruling

7. Heard the parties and perused the documents on record. The Appellant filed the grievance with the Forum and the Forum, by its Order dated 09.03.2022 has dismissed the grievance application by directing the licensee representative to keep the status quo.

8. The Appellant has purchased the commercial premises from IDBI through Bank Auction. However, the Appellant is only in 'symbolic' possession of the premises as per the sale certificate. At present, the premises itself is being occupied through tenancy by one Mr. Anil Navmi Gupta, and the electricity connection in the premises is in the name of Mr. Navmi Chatur Gupta from the year 1980. The occupier is running his business in the premises and is regular in paying the electricity bills. Prima facie, it seems that the Appellant, as the new owner, is trying to evict the tenant by using electricity disconnection as a tool for this purpose. In these circumstances, there is no question of disconnecting his connection and providing a new connection to the Appellant. In view of this, no grievance exists as per the CGRF Regulations 2020.


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9. The Commission has framed the Regulations called as CGRF Regulations, 2006 & 2020. These Regulations are framed under the Electricity Act, 2003 for providing guidelines to the distribution licensees for establishing Forums for redressal of grievances of consumers and for appointment of the Electricity Ombudsman, for making representations against the non-redressal of grievances of consumers. The CGRF Regulations do not specifically define “consumer”, however, Regulation 2.2 of the CGRF Regulations stipulates that words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings respectively assigned to them in the Act.

The Commission has also framed Regulations called Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021. Regulation 2 (1) specifically provides that

“Consumer” refers to any person as defined in Section 2 (15) of the Act.”

The “consumer” has been defined under Section 2 (15) of the Electricity Act, 2003 as under:

“consumer means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.”

From the above definition, it seems that the tenant in possession of the premises, Shri Navmi Gupta, is the actual consumer of the licensee, while the grievance has been raised by another party. It is beyond the purview of the Electricity Act, 2003 and the Regulations to determine whether the tenant / consumer is actually legally entitled to enjoy the possession of the said premises or not.

10. The CGRF Regulations 2020 defines “grievance” as per Regulation 2.1 (e) as under:-

“Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and (b) grievances in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.”


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11. The Appellant, in the instant case, is aggrieved for rejection of his application for a new connection by the Respondent. However, as one electricity connection already exists in the said premises but under a different name, which has made the Respondent reject the application. Hence, this grievance is not of any fault, imperfection, shortcoming or inadequacy in the quality, nature, and manner of performance of the Respondent under the Electricity Supply Code Regulations. This is a matter of civil or tenancy dispute about the ownership and possession of the concerned property, which has to be settled in the appropriate Court of Law. The provisions of the Electricity Act, 2003 or its Regulations cannot be used for this purpose.

12. The Appellant, in this case, for the reasons stated above, is neither a consumer, nor does his complaint constitute a grievance as per the CGRF Regulations. The issue raised by the Appellant therefore does not fall within the purview of the Forum or the Ombudsman for that matter. The Forum has rightly held that it does not have jurisdiction to settle this case. On the same lines, the Ombudsman has no jurisdiction to entertain the instant representation for the simple reason that the complaint of the Appellant does not fit into the definition of the Grievance as quoted above.

13. Since the Forum and the Ombudsman do not have jurisdiction to entertain the complaint of the Appellant, no order can be passed for relief as sought by the Appellant. Therefore, there is no question of interference with the order of the Forum.

14. In view of the above, the representation is disposed of accordingly.

Sd/-
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

