

**BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)**

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

REPRESENTATION NO. 14 OF 2020

In the matter of new electric connection

Humendra Gupta..... Appellant

V/s.

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

Appearances

For Appellant : Humendra Gupta


For Respondent : 1. Suresh S. Sawairam, Executive Engineer  
2. N.A. Sarode, Addl. Executive Engineer

**Coram: Deepak Lad**

Date of Order: - 30<sup>th</sup> April 2020

ORDER

This Representation is filed on 23<sup>rd</sup> January 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 23<sup>rd</sup> December 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Urban Zone (the Forum).

  
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2. The Forum, by its order dated 23.12.2019 has dismissed the grievance application in Case No.39 of 2019 with direction as below:-

*“The Respondent shall pay to cost of the litigation Rs. 3000/- by the Respondent to complainant within month.”*

3. Aggrieved by the order of the Forum, the Appellant filed this representation stating in brief as below: -


- (i) The Appellant is legal owner of flat No. 1403, Golden Isle, Royal Palm, Goregaon (E), Mumbai. There was an electric connection in the name of M/s Royal Palm (Builder) for the said flat which was in arrears.
- (ii) The Appellant has applied for new electric connection at flat No. 1403, Golden Isle, Royal Palm, Goregaon (E), Mumbai on in 2014. The Appellant was requested to pay the outstanding due as Respondent permanently disconnected the electric connection against the arrears. Accordingly, the Appellant has paid the outstanding dues. The electric connection was sanctioned and the Appellant has also paid the statutory service connection charges in 2014.
- (iii) As per the Respondent's policy for new connection, the power supply is to be given to the Consumer within thirty days from the date of receipt of complete application.
- (iv) The Golden Isle Co-Operative Housing Society Ltd. (the Society) is looking of day do day work of the Society. However, the Managing Committee of the society is not acting as per law and regulations of the Cooperative Society. The Society filed the bogus Case against the Appellant and others, in City Civil Court Dindoshi- Goregaon, under Civil Case No. 947/2013.
- (v) The Appellant requested to review carefully all his communications with MSEDCL for providing him new connection about three years delay. The

  
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Respondent claimed that it could not provide his new connection due to reasons beyond their powers due to the Society objection and Civil Case filed by the Society which is not correct.

- (vi) Society objections with respect to Civil Court case:
- a. The society managing committee was found to be misusing their powers and in violation of byelaws. They were dismissed by Registrar, their appeals were rejected by Hon'ble Minister, Government of Maharashtra and High Court. Further, the Registrar also issued debaring order for five years due to numerous violations.
  - b. This managing committee was responsible for obstructing his electricity in collaboration with MSEDCL department officers and management at various levels.
  - c. Another excuse given by MSEDCL is a civil case filed by the Society. How any case filed without any court orders be the ground for unilaterally believing that the Appellant is guilty?
  - d. Clearly MSEDCL is equally liable for not taking action against the Society and delaying the electricity connection to the Appellant. Action needs to be taken as per the Act against all officers responsible for this delay.
- (vii) On numerous occasions, the Appellant has asked them to file FIR at Aarey Police station against the Managing Committee in violation of Maharashtra Essential Services Act and for obstructing Government Officers from discharging their duty. The officials have ignored all his requests and not even accepted police help when the Appellant called police onsite.
- (viii) Tribunals have ruled that electricity boards need no permission from any society to provide essential services.
- (ix) The Appellant request that kindly accept facts stated by him, do not delay any further process of his claim on penalty urgently.


  
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- (x) The Appellant filed its grievance application in Internal Grievance Redressal Cell (IGRC). The IGRC, by its order dated 15.02.2019 has rejected the grievance.
- (xi) Then, the Appellant approached the Forum on 30.07.2019. The Forum, by its order dated 23.12.2019 has dismissed the grievance. The Respondent was asked to pay cost of litigation Rs 3000/-. Order of the Forum is unjust. The Forum agreed that the Appellant has gone through hardship, however, believes it was not intentional. Fact is that the Respondent has overruled court order and delayed connection.
- (xii) The Appellant, therefore, prays that the Respondent be directed to compensate Rs.10 lakhs for delay of over three years in providing new electric connection as per the Electricity Act, 2003(the Act) at Rs. 1000/day considering total delay Days.


4. The Respondent filed its reply by letter dated 07.02.2020 stating in brief as under: -

- (i) The Appellant has applied for new electric connection at flat No. 1403, Golden Isle, Royal Palm, Goregaon (E), Mumbai in 2014. Previously, there was an electric connection in the name of M/s. Royal Palm (Builder) for the said flat which was in arrears. The said electric connection was permanently disconnected for non-payment of arrears. The Appellant was asked to pay the outstanding due. Accordingly, the Appellant has paid the outstanding dues. The electric connection was sanctioned and the Appellant has also paid the statutory charges of service connection charges, etc.
- (ii) At the time of the installation of meter, the Society of Golden Isle has raised objection in April 2014 stating that ownership of said flat is under dispute and matter is sub-judice in the Hon'ble City Civil Court Dindoshi- Goregaon, under Civil Case No. 947/2013 in Case of Golden Isle Co-operative Housing Society Ltd. V/s Humendra Gupta & Anr.

  
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- (iii) The Flat No.1403 was locked. The Society claimed by its letter dated 07.05.2014 that the said Flat is in possession of the Society.
- (iv) The Appellant had requested to release the said Connection. Hence, matter was referred to Chief Legal Advisor, MSEDCL (CLA) on 09.05.2014. The CLA has given opinion by its letter dated 15.05.2014, that the Society has already taken objection for releasing connection. Hence, it would be appropriate to ask to bring specific order from any Competent Court to release the supply. Unless there is such order, matter of new connection cannot be further processed. Same was conveyed to the Appellant as per letter dated 16.05.2014.
- (v) The Appellant had submitted the Interim Order of the City Civil Court, Dindoshi that the Court by its order dated 09.05.2014, has rejected the interim relief in the matter of the said Society.
- (vi) Matter was again referred to CLA on 02.06.2014. The CLA gave opinion on 06.06.2014 that on perusal of order of Hon. City Civil Court, said order cannot be interpreted in favour or against the Appellant. Same has been informed to the Appellant by letter dated 09.07.2014.
- (vii) Letter was issued to Appellant, to be available personally or to depute authorized person on dated 06.02.2015 at 1100 hrs, with a letter stating that MSEDCL shall remain indemnified against any contempt of Court Order or any consequences arising due to release of this connection.
- (viii) The Add Ex. Engineer (Ishwar Nagar Subdivision) with Assistant Engineer (NITIE Section) visited the premises for meter installation on 06.02.2015, in presence of Appellant and Police. But, due to severe dispute between the Society and Appellant, New Connection could not be released.
- (ix) After Appellant informed to the Respondent by email that the said Society has been dissolved, and the Administrator has been appointed.
- (x) Considering all these events, the meter was installed on 19.04.2017 in the Society's common meter room.

  
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- (xi) Again the Said Society by its letter dated 24.04.2017 stated that the flat is under dispute, and the matter is in Hon. City Civil Court, and to get a Judgment copy from the Court before installing the meter and making the Connection. The meter was removed by the said Society and kept in their custody.
- (xii) The Meter was installed again in presence of Appellant on 27.09.2017, and Appellant has acknowledged the same by email on dated 28.09.2017.
- (xiii) Hence, in view of above circumstances, it is crystal clear that the Respondent has tried their level best to provide the electric connection from time to time, but due to such circumstances, where there was severe dispute between Appellant and Golden Isle Society, which was beyond the control of Respondent. Hence, the Respondent was unable to release the electricity connection.
- (xiv) The Respondent referred the Section 2.2.2, 2.2.3 of the Conditions of the Supply based on the Supply Code Regulations in support to their stand which are reproduced as below:-


*Section 2.2.2*

*“The MSEDCL shall neither be responsible nor liable to ascertain the legality or adequacy of any of such certificates / permissions, which might have been submitted by the Applicant / consumer along with the Application. Further it shall not verify the competency of the Authorities who so ever might have issued such certificates / permissions and shall believe such certificates / permissions to be sufficient & valid, unless proved to be contrary.”*

*Section 2.2.3*

*“ In the event, any of the Certificate / Permission / Consent as might have been submitted by the Applicant / Consumer along with the Application Form, is declared as fraudulent at later stage, the cost and consequences shall be borne by the Applicant.”*

- (xv) As per Condition of Supply based on Supply Code Regulations and its Section 5.1 Section 5.2, the new connection will be released subject to completion of Condition of Supply as per Section 2.2.3. In this case, there is objection from the

  
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


said Society and the matter is pending with Hon'ble. City Civil Court. The clear permission for release of supply is not produced by the Appellant and hence the Appellant is not entitled for compensation as per Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations).

- (xvi) The Appellant filed its grievance application in IGRC. The IGRC by its order dated 15.02.2019 has rejected the grievance. The IGRC observed in the decision which is reproduced as below :-

*Decision:-*

- *The Applicant has been applied for fresh connection on dtd. 29.09.2014 and immediately firm quotation/ demand note issued on dtd. 02.04.2014.*
- *It is on record, the Respondent has been taken several efforts for installation of meter. However, due to objection and strong protest from society and litigation of said flat before court of law, the Respondent was not able to install the meter.*
- *The meter is installed on dtd. 07.09.2017 by Respondent after making several efforts for the same.*
- *The responsibility to remove the local objections lies on the Applicant. Even though several Efforts are taken by Respondent to install the meter.*
- *The demand note issued on dtd. 02.04.2014 and meter installed on dtd. 27.09.2017. The delay is Caused due to strong objection of society dispute of possession, which is beyond the control of Respondent/ MSEDCL . It is the duty of Applicant to remove the objections in the, however, the Applicant has been failed to do so.*
- *.....*
- *After receipt of application from Applicant for fresh connection, the Respondent has taken several efforts to install the meter, however the meter not due to objection of society, the delay is not caused by MSEDCL. There is no any type of deficiency, short coming, fault, imperfection, delay or inadequacy on the part of Respondent. The Respondent has taken efforts time to time, hence, the Respondent cannot be held for the delay in installation of meter.*
- *The regulation no.12.2 of MERC (SOP) Regulation 2014 is as below :-*
  - *The Distribution Licensee shall be liable to pay to the affected person, such compensation as provided in Appendix A to these Regulations : Provided that any person who is affected by failure of the Distribution Licensee to meet the standards of performance specified under these regulation and who seeks to claim compensation shall file his claim with*

  
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*such a Distribution Licensee within a maximum period of sixty (60) days from the time such a person is affected by such failure of the Distribution Licensee to meet the standards of performance*

- *Provided further that the Distribution Licensee shall provided information to consumers with regard to its offices/competent authority to he claims for compensation : provided further that the Distribution Licensee shall compensate the affected person (s) within a maximum period of ninety (90) days from the date of filling his claim. As per above mentioned regulation, the Applicant must file his claim within 60 days from the time such a person is affected by such failure. In case, there is no any kind of failure on the part of Respondent. Further, the Applicant must submit his claim within 60days from the time such a person is affected by such failure.*
  - *In view of the above, there is no any kind of failure in performance by Respondent and the claim filed by Applicant is also time barred.*
- ***Hence, the grievance of Applicant is hereby rejected. (Emphasis added)***

- (xvii) The Appellant approached the Forum on 30.07.2019. The Forum, by its order dated 23.12.2019 has rightly dismissed the grievance.
- (xviii) The order of the Forum is implemented and cost of litigation of Rs.3000/-has been given to the Appellant vide cheque No 093114 dated 31.01.2020 through R.P.A.D.
- (xix) In view of the above, nothing is remained in the grievance. The Respondent prays that the Representation of the Appellant be rejected.

5. During the hearing on 19.03.2020, both the parties argued at length, in line with their written submissions. The Appellant argued that the Appellant is sole owner of the said flat and he has applied for new connection in the year 2014. The Appellant received demand note immediately and he paid the same along with previous arrears. Appellant argued that the Respondent is duty bound to provide the electric connection within 30 days after completion of all formalities like payment of statutory charges. The Managing Committee was responsible for obstructing his electricity supply in collaboration with the Respondent. Another excuse was given by the Respondent that the Civil Court Case is filed by the Society. The Respondent is

  
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equally responsible for not taking action against the Society and delaying the connection. Various tribunals have ruled that it is not necessary to take permission from the Society for giving electricity Connection. The Appellant prays that the Respondent be directed to compensate Rs. 10 lakhs for delay of over three years in providing electricity as per the Act at Rs. 1000/day for total delay Days.

6. The Respondent argued during hearing that while going through details of the events of total episode of Appellant's new connection, it is seen that the Respondent has taken almost all sincere efforts to get the new connection to the Appellant. The Respondent has sanctioned the new connection immediately. However, there are various issues especially the dispute between the Society which was hurdled to releasing the new connection and second issue was of Court Case. The Respondent denied the baseless charges blamed by the Appellant. The Respondent argued that as per Section 43 of the Act, the Commission is authority to frame Standard of Performance. Not admitting but assuming that if the Distribution Licensee fails to give power supply on request, there is no such penalty of Rs. 1000/- per day as per SOP Regulations. The Compensation is specified as Rs. 100 per week as per SOP Regulations. This is not applicable to the Appellant as the Respondent has extended sincere efforts for getting connection. The Appellant has never applied for compensation as per Regulations 12.2 of the SOP Regulations. The Respondent implemented the order of the Forum by giving cost of Rs. 3000/- to the Appellant. Nothing is remained. The Respondent prays that the Representation of the Appellant be rejected.

### **Analysis and Ruling**

7. Heard both the parties and perused the documents on record. The Appellant has applied for new connection and the Respondent has sanctioned the same immediately. The Appellant paid the statutory charges. The Respondent's letter dated 25.04.2014 shows that it received the objection letter from the Society in connecting the said meter to the Flat No. 1403 of the Appellant, as the said flat is in lock and key of the Society and that ownership of said

  
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flat is under dispute and matter is sub-judice in the Hon`ble City Civil Court Dindoshi-Goregaon, under Civil Case No. 947/2013 in Case of Golden Isle Co-operative Housing Society Ltd. V/s Humendra Gupta &Anr. Apart from this, there appears to be lot of correspondence on the suit matter. There was serious dispute between the society and the Appellant. Even at one point of time, the police authority was present at the site. Finally, the meter was installed on 27.09.2017. The Forum has appropriately appreciated the facts on record. The Forum`s observation in Last Para of the Order No. 39/2019 is reproduced as below: -


*“On perusal of both the sides, it appears that the applicant complainant or consumer has to struggle a marathon to get the electricity connection from Respondent in his flat and lastly he has taken it. However the Respondent have also supported the allotment of connection with due procedure adopted by them and taking legal advice from Chief Legal Advisor. From the perusal it appears that there is much delay cause from the Respondent and the claim of compensation by the applicant appears to be without any fault of the Respondent. There where lawful process of allotment of connection, there was a lawful process of pendency of the cases of City Civil Court and other court and therefore the delay was occurred in allotment of electricity connection. We found there will be no deliberate or intentional Act against the consumer applicant by Respondent. However looking to the hardship suffered by the consumer Applicant we are inclined to award cost of litigation from the Respondent.”*

8. It is important to note that though the Appellant has prayed for grant of compensation for delay in release of connection, the Appellant has failed to apply for the same in accordance with Regulation 12.2 of the SOP Regulations which is quoted below:-

*12.2 The Distribution Licensee shall be liable to pay to the affected person, such compensation as provided in Appendix A to these Regulations:*

***Provided that any person who is affected by the failure of the Distribution Licensee to meet the standards of performance specified under these Regulations and who seeks to claim compensation shall file his claim with such a Distribution Licensee within a maximum period of sixty (60) days from the time such a person is affected by such failure of the Distribution Licensee to meet the standards of performance :***

*Provided further that the Distribution Licensee shall provide information to consumers with regard to its offices/ competent authority to settle claims for compensation:*

  
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*Provided further that the Distribution Licensee shall compensate the affected person(s) within a maximum period of ninety (90) days from the date of filing his claim.*

***Emphasis added***


9. In view of the above provisions, the prayer of the Appellant for grant of compensation does not sustain because Maharashtra Electricity Regulatory Commission (Standards of performance of Distribution Licensees, Period for giving Supply and Determination of Compensation) Regulations 2014 is made by the Commission in exercise of the powers conferred to it by the various provisions of the Electricity Act, 2003.

10. Moreover, the conduct of the Respondent does not indicate that there is deliberate intention on its part not to release the connection of the Appellant. This is very much clear from the fact that the Respondent immediately issued demand note to the Appellant on submission of the application for grant of connection. It is noteworthy that considering the legal complexities of the case, the Respondent field officer has taken advice of its Chief Legal Advisor and acted in furtherance of it. It has taken all due care and acted in good faith which is expected of a public utility officer. However, it cannot be denied that the Appellant had to run a marathon with lot of hurdles. This has been appropriately considered by the Forum in its order.

11. I, therefore, do not find it necessary to interfere with the order of the Forum.

12. The Representation is disposed of accordingly.

Sd/  
(Deepak Lad)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

