

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 28 OF 2021

In the matter of release of second electricity connection

Dhiraj Madhav Pangarkar..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Mulshi (MSEDCL).....Respondent No.1

Keshav Shivram Pangarkar..... Respondent No.2

Appearances:

Appellant : Dhiraj Pangarkar
Respondent No.1 : P. R. Babrekar, Incharge Ex. Engineer, Mulshi
Respondent No. 2 : 1. Keshav Pangarkar
2. Rahul Keshav Pangarkar


Coram: Deepak Lad

Date of hearing: 11th June 2021

Date of Order : 12th July 2021

ORDER

This Representation is filed on 9th April 2021 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) against the Order dated 22nd March 2021 passed by the Consumer Grievance Redressal Forum, MSEDCL Pune Zone (the Forum).



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



2. The Forum, by its order dated 22.03.2021 has rejected the grievance application as the appeal filed by the Appellant is pending in respect of the said premises in the Court of Civil Judge Junior Division, Saswad, Dist. Pune in view of Regulation 7.9 (a) of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF Regulations 2020).

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

- (i) The Appellant is a Commercial Consumer (No.180941975583) since 04.03.2010 especially for Jay Bhavani Hotel at H.No.304, Gat No. 718/1, at post Ketkawale, Tal. Purandar, Dist. Pune.
- (ii) The Appellant is regular in paying electricity bills and hence there are no complaints against him for payment of arrears nor there is any complaint of theft against him.
- (iii) The Appellant had applied for Temporary Disconnection (TD) of the said electric connection (No.180941975583) on 31.03.2019 at Subdivision office of the Respondent due to slackness in hotel business. The Respondent No. 1 vide its letter No.1766 dated 07.12.2019 has confirmed that the supply of the Appellant was temporarily disconnected in March 2019.
- (iv) However, the Respondent No. 1 issued the bill with reading up to August 2019 and all the bills were paid. This shows that though the Respondent No.1 says that the connection is TD and issued letter to that effect, they have factually not temporarily disconnected the supply till September 2019.
- (v) It is stated that the Appellant has not requested for Permanent Disconnection (PD) as per the Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations 2005 (Supply Code Regulations 2005), hence, the consumer is live and paying the bills regularly till date.
- (vi) Respondent No. 2 (Keshav S. Pangarkar) whose name is also shown on 7/12 abstract of Revenue Record (where Jay Bhavani Hotel is situated, and existing Consumer No. 180941975583 is availing the power supply) has applied for


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




Residential connection submitting the documents to the concerned Section office of the Respondent. The complete file of the application of the Respondent No. 2 and its documents is obtained by the Appellant under RTI Act.

- (vii) From the application of Respondent No. 2 (Keshav S. Pangarkar), it is observed that:

Description	Date of incident
Electrical Contractor`s Wiring Completion & Test Report	29.01.2019
Date of Application	01.03. 2019
Date of sanction	01.03.2019
Firm Quotation/Demand Note issued with address 387 Ketkawale	01.03.2019
Affidavit submitted	05.03.2021
Consumer Number allocated	180940001046
Category of tariff	Residential (applied) Commercial tariff on bill
Date of Connection shown on bill	25.09.2019 (under dispute)

From the above, it is seen that before the date of application for TD, the Respondent No. 2 had submitted an application for new connection in the same premises for Residential purpose and the Respondent No. 1 has released the connection for Commercial purpose despite objection raised by the Appellant. The connection release date is also under dispute as date of connection on record and actual date of release is different. Also, at the time of sanction, the A1 form is incomplete with documents, as affidavit of the Respondent No.2 is of dated 05.03.2019 however date of sanction is 01.03. 2019. It clearly indicate that there are various irregularities in sanction.


- (viii) The Appellant has filed the Case in Civil Court Saswad on 30.07.2019 and subsequently the matter became sub-judice under Civil Court Saswad as there is dispute of property in family and partition of premises is awaited.
- (ix) It is also apprised that when one meter is in the name of the Appellant already installed in the premises then also second connection in the name of Respondent No. 2 is released under Commercial category in the same premises which is against Regulation 2.2.5 of the Conditions of Supply of the Respondent No. 1, MSEDCL which is based on the Maharashtra Electricity Regulatory


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Commission (Electricity Supply Code & Other Conditions of Supply) Regulations 2005.

- (x) It is observed from the Consumer Personal Ledger (CPL) of Respondent No. 2 (Keshav S. Pangarkar) with Consumer No. 180940001046 that the connection on record is released in the month of September 2019. However, functioning of energy meter is seen from August 2020 and not from September 2019. This shows that meter was not installed in the premises on the date of installation shown on record. The meter is installed after oral as well as written objection being taken as an owner of premises in lockdown period. The concerned Section In charge and Subdivision Officer of the Respondent had not taken any cognizance of the Appellant's objection and also impute of theft at that premises.
- (xi) The Appellant filed the grievance with Internal Grievance redressal Cell (IGRC) on 07.12.2020. The Appellant pointed out in the hearing that the address in the bill of the Respondent No. 2 was 387 Ketkawale. The Respondent mentioned that it was due to oversight and will be rectified. However, the IGRC did not take any cognizance. The IGRC by its order dated 04.01.2021 has disposed of the grievance as the case is pending in Court of Law. Thereafter, the Appellant approached the Forum on 07.01.2021. The Forum, by its order dated 22.03.2021 has rejected the grievance application due to pending appeal in respect of the same premises before the Court of Law.
- (xii) The land record of 7/12 abstract of Revenue Record is common for the entire premises and no partition is shown in the premises. In such scenario, the Respondent No. 1 ought to have taken No Objection Certificate (NOC) from the other owner of the premises before sanction of connection as per prevailing practices and Regulations. However, no such NOC was obtained. This sanction of connection in the name of Respondent No. 2 appears with incomplete documents. It indicates that Respondent No.1 has deliberately entertained the application by sanctioning in the same premises of Jay Bhavani Hotel.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (xiii) It is also apprised that there is dispute of common land / common premises and not the electricity supply in the Court of Law. The petition is registered under Case No. 231/2019 which is filed on 30.07.2019. Thus, the decision of the Forum about rejection of appeal under Regulation 7.9 (a) of CGRF Regulations 2020 is erroneous and need to be rectified.
- (xiv) The Appellant does agree that if one matter is already under one tribunal, simultaneously it cannot be entertained in another tribunal. Here, the subject matter is not same. The matter which is sub-judice is of partition / subdivision of premises and its authority to decide is with the Civil Court. The matter which is submitted before the electricity grievance mechanism is release of second connection in same premises of same category. This application cannot be rejected under Regulation 7.9 (a) of the CGRF Regulations 2020 therefore, the orders passed by the IGRC, and the Forum is erroneous and need to be rectified. Hence, this Representation / Appeal is filed.
- (xv) The Respondent officials who are involved in the release of the second connection in same premises shall be booked under Section 142 and 149 of the Electricity Act, 2003 (the Act) for noncompliance of directions by the Maharashtra Electricity Regulatory Commission (the Commission) and penalty to be recovered from guilty officers. The offence made by the concerned officer with knowledge and deliberately for their own interest, after pointing out the irregularities and non-rectification of the incorrect sanction and release of second connection in the same premises and hence attract the Section 149 of the Act.
- (xvi) The Appellant request that justice be given, and order may please be issued in his favour.


4. The Respondent No.1, MSEDCL filed its reply dated 06.05.2021 and on 07.06.2021 by email stating in brief as under: -

- (i) The Appellant is a Commercial Consumer (No.180941975583) from 04.03.2010 for Jay Bhavani Hotel at post Ketkawale, H.No. 304, Tal. Purandar, Dist. Pune.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (ii) The Appellant is a nephew of the Respondent No.2 (Keshav Shivram Pangarkar). Both are co-owners of the said property (Milkat No. 304 on record) at Ketkawale Tal. Purandar Dist. Pune.
- (iii) Jai Bhavani Hotel is being run by Respondent No.2 in the said premises. It was given to understand that there is a mutual understanding between the Appellant and Respondent No.2 along with his cousin, Rahul Keshav Pangarkar for running the hotel business. There is dispute among the family members for property issue.
- (iv) It is learnt that the Appellant has lodged First Intimation Report (FIR) against the Respondent No.2 at Saswad Police Station vide No. 398/2019 due to internal quarrel between them.
- (v) The Appellant is in service with Indian Railways and does not reside at Ketkawale village whereas Respondent No.2 and Rahul Keshav Pangarkar are living at Ketkawale village and were running Jai Bhavani Hotel at the said premises which is their livelihood. The power supply was TD in March 2019 at the request of the Appellant. The connection status in the MSEDCL system is Temporary Disconnected.
- (vi) The Appellant and Respondent No.2 made a temporary partition of the said Property which is not lawfully divided. As per the documents submitted by the Appellant, he has filed a Case in Civil Court Saswad on 30.07.2019 against the Respondent No. 2 and his cousin, Rahul K. Pangarkar and hence the matter is sub-judice before the Civil Judge Junior Division at Saswad, Tal. Saswad, Dist. Pune vide case No. 231/2019. The decision in the case is pending till date.
- (vii) The Respondent No.2 who is running Jai Bhavani Hotel required electricity supply for it, hence, he applied for new connection on 01.03.2019 at the said premises having Ref. No. 304. The Respondent No. 2 orally assured to submit required affidavit before release of new connection. The same was submitted on 05.03.2019. In the affidavit, the Respondent No. 2 declared that Milkat No. 7/18/304 belongs to him and required new connection at site. It was also mentioned that MSEDCL can disconnect the supply in case any local dispute arises.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Meanwhile, the Respondent No. 1 sanctioned the said connection (Consumer No. 180940001046) after observing Rules and Regulations.

- (viii) The connection was released on 25.09.2019 with sanctioned load of 2 KW for Commercial category at Milkat No. 7/18/304, Ketkawale. The Respondent No. 1 totally disagrees with the Appellant that the meter is not installed in the premises on the date of installation i.e. September 2019.
- (ix) The Appellant filed the grievance with IGRC on 07.12.2020. As pointed out by the Appellant regarding wrong address in the electricity bill of Respondent No. 2, the Respondent No.1 has admitted the mistake during the IGRC hearing. The Milkat number mentioned on electricity bill was 387 instead of 7/18/304 which is rectified. The IGRC by its order dated 04.01.2021 has disposed of the grievance as the case is pending in Court of Law. Thereafter, the Appellant approached the Forum on 07.01.2021. The Forum, by its order dated 22.03.2021 has rejected the grievance application due to pending appeal in respect of the same premises before the Court of Law.
- (x) The new connection is released in view of MSEDCL's main work being to sale and distribute electricity in the state of Maharashtra being the Distribution Licensee. At any given circumstances, MSEDCL cannot adjudicate the property dispute of proposed or existing consumer. The Respondent No.2 was in need of electricity for his business at Jai Bhavani Hotel and after application to MSEDCL subsequently, he got a new connection at the premises having Ref. No. 304. which is the only active connection at said premises at present.
- (xi) The new connection bearing Consumer No. 180940001046 was released in pure business interest of MSEDCL, otherwise, there were chances of unauthorised use of electricity.
- (xii) It is stated that this second connection of Respondent No.2 is not released in the same premises of the Appellant but has been applied for Commercial connection in other part of combined property (Milkat No. 07/18/304) and after following MSEDCL due procedures, connection was released, as both applicants are different, and both are co-owners. Hence, the application was processed subject to


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



submission of indemnity bond by the Respondent No.2. In such circumstances, field offices take affidavit (indemnity bond) while issuing connection to avoid further delay in releasing new connection as per Standards of Performance of MSEDCL.


(xiii) Therefore, there is no case made out by the Appellant and deserves to be rejected.

5. The Respondent No. 2 has filed its reply by email dated 10.06.2021 stating in brief as under: -

- (i) The Respondent 2 clarifies that he is running the Jai Bhavani hotel since last many years though the electric connection stands in the name of the Appellant. This is joint property (Gat No. 718/1 Milkat No. 304) of the family in the name of Respondent No. 2 and the Appellant.
- (ii) The Respondent No.2 is in need of electricity in the said property for his livelihood hence he has applied new connection along with necessary documents for electricity connection.
- (iii) The Appellant has filed a Case in Civil Court Saswad vide case No. 231/2019 on 30.07.2019 against the Respondent No. 2 and his cousin, Rahul K. Pangarkar. The decision in the case is pending till date.
- (iv) The Respondent No. 2 has requested that, the electricity connection in the name of the Respondent No. 2 be allowed for his livelihood till the decision of the Hon`ble Court.

6. The hearing was held on 11.06.2021 on e-platform through video conferencing due to the Covid-19 epidemic and the conditions arising out of it.

7. The Appellant argued in line with his written submission. The Appellant stated that he has created establishment of Jai Bhavani Hotel at Milkat No. 304 with all due permissions from Government Authorities. Further, he invested huge amount towards the establishment of the hotel along with electric connection (No. 180941975583) on 04.03.2010. The Respondent No. 2 and his cousin requested him, on humanity grounds, to allow them to manage the Appellant's



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



hotel business on internal terms and conditions. However, after some years, the Appellant observed the intention of Respondent No. 2 and hence requested them to vacate the premises. However, they refused to vacate. The Appellant argued that the Respondent No.2 has taken illegal electric connection with the help of Respondent No. 1 with malafide intention. This total piece of land is the ancestral property of his joint family belonging to three co-owners including himself. However, the establishment of Jai Bhavani hotel belongs to him. Hence, the electric connection given to the Respondent No. 2 by the Respondent No. 1 is illegal and this connection was released after filing the case in Civil Court Saswad for land demarcation among the family members which is sub-judice before the Court of Law. At present, there is no partition on the said property. In such scenario, the Respondent ought to have taken No Objection Certificate (NOC) from the co-owner of the premises before sanction of electricity connection as per prevailing practices and regulations. However, no such NOC was obtained. The Appellant argues that the present representation is filed against sanction of another electricity connection in the same premises for the same category and hence, he prays for its disconnection. Therefore, the subject matter of the representation being different than what is contemplated in the Civil Suit, the Appellant prays that the representation be allowed.

8. Respondent No. 1, MSEDCL argued that the connection was given to the Respondent No. 2 on his demand application after inspection of the premises. The said premises had temporary partition and hence connection was given. The connection was released on the statutory documents as per requirement. The first connection in the name of the Appellant for Jai Bhawani hotel was temporarily disconnected hence the connection was given to the Respondent No.2 in the premises which was partly divided. Despite this, regarding NOC of the other party, it is the duty of the Respondent No.2 to submit it to the distribution licensee. It also argued that connection was released to avoid theft of energy on the premises. The Respondent No. 1 has acted as per the rules and regulations in giving new connection to the premises hence the above submission.

9. The Respondent No.2 argued that the said Jay Bhawani hotel is the property of his joint family which is operated and maintained by him. The electricity bills of the previous


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




connection were also being paid by him regularly. The Appellant forcefully disconnected the supply to cause inconvenience. Even though after disconnection, the hotel was run on diesel generator for some time. This option was not affordable hence he applied for new connection with his legal documents. There was a temporary partition on site hence the connection was released. He states that the property related dispute is sub-judice before the Civil Court, but he is ready for a mutual settlement. He prays that until the order is passed by the Court, the electricity connection may be allowed to be used on his premises for his livelihood.

10. It was proposed during the hearing as to whether the Appellant and Respondent No 2 are willing for mutual settlement. However, no such proposal in writing is received.

Analysis and Ruling

11. Heard and perused the documents on record. It is seen that initially there was a Commercial connection (No.180941975583) for Jai Bhawani hotel which is still in the state of temporary disconnection. This was disconnected as per the request of the Appellant. The entire piece of land of the said premises is an ancestral property whose legal heirs are Appellant, and Respondent No. 2, as claimed by them. As of now, it is an unpartitioned property. Despite being well aware that it is a joint ancestral property, and there being an existing connection with a TD status, the Respondent No. 1 (MSEDCL) went ahead with sanction of the case, issue of firm quotation in absence of proper documentation. Moreover, submission of A1 form by Respondent No. 2, sanctioning and issuing of firm quotation took place on the same date. The so-called Indemnity Bond was submitted afterwards. On bare perusal of the Indemnity Bond, it is observed that it speaks of residential connection, there is no mention whatever with respect to joint family property. Therefore, in backdrop of this shortcoming, the efficiency shown by the Respondent No.1 is questionable. The arguments advanced in support of this undue haste on the part of the Respondent No. 1 are really amusing being that it is in the business of electricity and its prime duty is to release connection and if the connection is not released, there may be a possibility of theft of power, particularly, in the backdrop of non-submission of required document such as Indemnity Bond and without ascertaining the factual position at site. Therefore, I am of the opinion that the entire story of the Respondent No. 1 is cooked up


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




to cover up its failure to undertake due diligence because there was already a connection on an undivided property notwithstanding its temporary disconnection status.

I could sense that the Appellant got his connection disconnected with an ulterior intention to cause some problem in running the business of his hotel by Respondent No. 2 due to family feud. As per the current status, the case is filed by the Appellant in Civil Court Saswad. Though the case does not speak about electricity connection as such, it is definitely a case of property dispute and shares of the respective owners being an ancestral property. There is a direct nexus between release of connection and valid lawful occupation of a person demanding electricity on a particular premise. Therefore, there is no force in the argument of the Appellant that pendency of Civil Suit has no bearing whatever on the illegal release of electricity connection to the Respondent No. 2. I am unable to comprehend as to what the Respondent No. 1 will do if the Appellant insist on reconnecting its connection and the property remains undivided.

The order of the Forum with respect to disciplinary action on the officials of the Respondent No. 1 speaks a lot on the conduct of concerned officials. I concur with the finding of the Forum in this regard and also direct higher authorities of Respondent No. 1 to investigate and examine the case in the backdrop of glaring irregularities on the part of lower rank and file officials.


12. In view of the entire sequence of events, I am of the opinion that allowing status-quo to continue with respect to electricity connection in the name of Respondent No. 2, will tantamount to allowing wrong to continue and simultaneously the so-called Indemnity Bond submitted by the Respondent No.2 will lose its sanctity. Therefore, it will be in the interest of natural justice if Respondent No. 1 serves a three months' notice to Respondent No.2 to have a physical partition in the undivided premises by mutually resolving the issues amongst themselves and continue the second connection in his name. Failure to implement this, the Respondent No. 1 will disconnect the connection of Respondent No.2 after issue of 15 days' notice.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



13. In view of the above, I pass the following order:
- (a) The Respondent No.2 to arrange for physical partition in the premises for his impugned connection to continue within 3 months from the date of this order.
 - (b) Respondent No.1 to disconnect the supply of the impugned connection of Respondent No. 2 if (a) above is not implemented by giving 15 days' notice.
 - (c) The Forum's order is modified to the extent above.
 - (d) Compliance to be submitted within 5 months from the date of this order.
14. The Representation is disposed of accordingly.
15. The secretariat of this office is directed to send a copy of this order to the Chief Engineer Pune Zone for appropriate action on the concerned officials.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

