

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 69 OF 2023

(REVIEW OF THE ORDER IN REPRESENTATION NO. 9 OF 2023)

In the matter of change of tariff category

Lorence Elis Murzello ..... Review Applicant

V/s

Maharashtra State Electricity Distribution Co. Ltd. Virar Dn. (MSEDCL) ..... Respondent

Appearances:

Review Applicant: 1. Lorence Murzello Patil  
2. Ramchandra Pandey, Representative

Respondent : 1. Mahesh Madhavi, Addl. Executive Engineer, Virar (W) S/Dn.  
2. P.A. Manojkumar, Dy Manager (F & A)

**Coram: Vandana Krishna [I.A.S. (Retd.)]**

Date of hearing: 25<sup>th</sup> August 2023

Date of Order : 27<sup>th</sup> September 2023

## ORDER

This Review Application was received on 11<sup>th</sup> July 2023 under Regulation No. 22.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) for review of the Order dated 13<sup>th</sup> June 2023 in Representation 9 of 2023 passed by the Electricity Ombudsman (Mumbai).



(Dilip Dumbre)  
Secretary

Electricity Ombudsman Mumbai



2. The Electricity Ombudsman (Mumbai), by its order dated 13<sup>th</sup> June 2023 disposed of the Representation No.9 of 2023 with the following directions:

*“(a) to release the agricultural connection, if applied, after payment of outstanding balance amount of 24 months.*

*(b) to check the voltage of the consumer’s premises, and to maintain proper voltage as per standards of performance.”*

3. Aggrieved by this order of the Electricity Ombudsman (Mumbai), the Applicant has filed this Review Application. The e-hearing was held on 25<sup>th</sup> August 2023 through Video Conference. Both the parties were heard at length. The Applicant’s written submissions and arguments in brief are as below:

- (i) The Applicant is the owner of agricultural land having Survey No. 29 admeasuring 7.37 acres in Village Mokkam, Virar (W) who was initially an agricultural consumer (No. 002371507453) from 27.03.2009. The Respondent changed the tariff category from agriculture to commercial from February 2022 without any intimation to the Applicant.
- (ii) The Applicant developed a “Krushi Paryatan Kendra” on 2 acres out of 7.37 acres of the said land. The Applicant completed the construction work of “Krushi Paryatan Kendra” project on a diesel generator. The Krushi Paryatan Project was completed with a huge expense of diesel oil.
- (iii) The Respondent issued a supplementary bill of Rs. 29,37,520/- in May 2022 for 44 months towards tariff difference between Agriculture and Commercial tariff category which was revised to Rs. 27,49,850/- as per complaint of the Applicant for correct calculation.
- (iv) The Forum, by its order dated 31.10.2022 partly allowed the grievance application restricting the recovery to 24 months. As per the order of the Forum, the bill of the Applicant was revised for two years for Rs.12,66,520/- only on 24.02.2023 which was paid by the Applicant in toto.
- (v) The Applicant re-applied for a new Agricultural connection (ID no. 42302787) on 29.07.2022 for part of the land area of 5.37 acres of Survey No. 29 at Mokkam village. A copy was also



(Dilip Dumbre)  
Secretary

Electricity Ombudsman Mumbai



given on 30.07.2022 to the concerned subdivision. However, till date the agricultural connection has not been sanctioned.

- (vi) The Krushi Paryatan Project was completed in all respects with all legal statutory permissions as listed below:
- a) Permission Certificate dated 05.02.2018 of Gram-Panchayat.
  - b) License dated 06.04.2018 from Food & Drug Department.
  - c) MTDC Certificate dated 30.10.2018.
- (vii) The Applicant applied for a separate commercial connection on 01.08.2018, but it was totally ignored by the Respondent. This is a serious irregularity which compelled the Applicant to take supply from the agricultural connection. The power supply was used mainly for agricultural purpose and a small portion for Krushi Paryatan Activity. Hence, the supplementary bill was supposed to consider the major portion which was used for Agricultural activity. However, the Respondent billed all the recorded consumption as commercial activity. This is injustice to the Applicant.
- (viii) The Agricultural connection was applied on 29.07.2022, however, till date it has not been released.
- (ix) The Agricultural load as per Applicant's letter dated 10.07.2023 from 2020 onwards is tabulated as below: -

Sr. No.	Agriculture: Crops Plantation	Land in Acres
1	Banana	1.0
2	Papayas	0.8
3	Chilli	0.5
4	Eggplant	0.3
5	Cauliflower	1.0
6	Mango, Common fig, Apple, bore, lemon & Jackfruits	0.5
7	Fish Farming Tank	1.5
	<b>Land area for Ag Use (Sub Total 1 to 7))</b>	5.5
8	<b>Land Area for Resort Use</b>	2.0
	<b>Total</b>	7.5



(Dilip Dumbre)  
Secretary

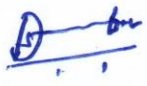
Electricity Ombudsman Mumbai



- (x) The legitimate claim of agricultural consumption was not given in the original order. The Applicant has to pay higher tariff of commercial rate for agricultural consumption.
- (xi) In view of the above, the Applicant prays that the present Review Application be allowed as per Regulation 22 of CGRF & EO Regulations 2020. The Respondent be directed
- to release the new agricultural connection (Application ID No. 42302787 on 29.07.2022)
  - to revise the bill after deducting units used for irrigating agricultural land from Consumer No.002371507453 for the period from June 2018 onwards till the installation of the new agricultural connection.
  - to rectify the issue of low voltage on priority.
  - to compensate Rs. 5000/- for no response on request demand of Applicant dated 30.07.2022 for restoring the supply.
  - to allow a supplementary demand of compensation of Rs.3,16,648/- for loss of profit in business.
  - to take action against the concerned staff responsible for not releasing agricultural connection.


4. The Respondent MSEDCL filed its written reply on 08.08.2023. Its written submissions along with its arguments on 25<sup>th</sup> August 2023 are as below: -

- (i) The Applicant is an agricultural consumer (No. 002371507453) from 27.03.2009 at Survey No. 29, Village: Mukkam, Mamachi Wadi, Virar (West). The Respondent inspected the site of the Applicant on 07.01.2022. During the site inspection, it was found that the Applicant was using supply for running a resort. The Applicant was indulging in unauthorized use of electricity from agriculture to commercial, as the Applicant was being billed under agriculture tariff category having lower tariff rate. This was a serious irregularity, and the Applicant can be booked under Section 126 of the Act for unauthorized use of power supply. The Applicant did not inform the Respondent regarding use of electricity supply for a resort from his agricultural connection.

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



- (ii) After going through the detailed documents, it was found that the Applicant had applied online on 01.08.2018 for a new connection for commercial use, but the application was incomplete, showing error and hence was not processed further by the System. Hence, no action was taken for sanction of the new commercial connection. However, instead of charging the Applicant under Section 126 of the Act, the Respondent preferred to bill the Applicant for the tariff difference between agricultural and commercial tariff for the period of June 2018 to Jan. 2022. Accordingly, a supplementary bill of Rs. 24,79,330/- was issued to the Applicant in Feb. 2022.
- (iii) The Forum, by its order dated 31.10.2022 partly allowed the grievance application, restricting the recovery to 24 months. As per the order of the Forum, the bill of the Applicant was revised to two years for Rs.12,66,520/- only and served to the Applicant on 24.02.2023.
- (iv) The Applicant's irregularity of changing the purpose for using the supply for a resort came to light in a special drive conducted by the Respondent. The Applicant has unauthorizedly enjoyed power supply for the resort from August 2018 for commercial use.
- (v) The Respondent stated that the Applicant applied for a new agricultural connection on 29.07.2022; however, the Applicant did not make any differentiation for agricultural activity. In other words, he did not demarcate the agricultural plot. Hence, the Respondent was unable to process the application for a second connection on the same premises. In addition to this, the Applicant was in huge arrears of Rs.12,66,520/- (as per the Forum's order) on the said plot for Connection No. 002371507453. Hence, the application of a new connection for agriculture was closed, as system considered it as an incomplete application. Meanwhile, the Applicant paid the revised outstanding dues of Rs. 12,66,520/- as per order of the Forum. The Respondent has advised the Applicant to apply for a new agricultural connection afresh **with separate demarcation of the agricultural plot**. However, the Applicant has not completed this formality till date. If the Applicant comes forward for a new agricultural connection, it will be released on priority after compliance of the statutory formalities.
- (vi) The Respondent argued that the Applicant has not pointed out any new evidence or discovery of new points which will affect the original order of the Ombudsman. In order words, the

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



Applicant has failed to show any error on the face of the record in the order. The points raised by the Applicant are nothing but a repetition of the original submissions which were already on record for deciding the original Representation by the Electricity Ombudsman (Mumbai). As such the present review is not maintainable considering the provision of Regulation 22 of the CGRF & EO Regulations 2020.

- (vii) The Applicant is using most of the land for “Mamachi Wadi Agro Tourism Resort” which has its own website. The content of its website is reproduced below:

*“At Mamachi Wadi Agro Tourism Resort, we strive to deliver experiences that you can cherish for a lifetime. Being one of the best resorts near Agashi, we seek to exceed the tastes and needs of our discerning clientele. We aim to enhance our guest’s travel experience by combining unmatched ambiance, personalized service, trust, and reliability”.*

*“The Activity covers with Swimming Pool, Water Slide, Rain Dance and Agro Farming.”*

There are A/c Rooms/ non-A/c rooms for stay.

- (viii) The Applicant says that he applied for a commercial connection on 01.08.2018 but that there was no response. However, this application is a mere muse or strategy to create a misleading record. The Applicant had no intention of making a genuine application. This is a type of modus operandi, as initially the Appellant applied on the Web Self Portal for a new connection for commercial purpose **with incomplete documents**, and simultaneously extended power supply from the lower agricultural tariff category and remained silent on the main commercial use. The Applicant had the remedy to approach the **grievance redressal mechanism established by CGRF & EO Regulations 2020 if his application for a new commercial connection was not sanctioned in 2018**. However, the Applicant preferred to remain silent on this subject. The major load to the tune of 80 to 90% is being used for Mamachi Wadi Agro Tourism Resort, and the balance load of 10 to 20% for Agricultural purpose. Naturally, tariff applicable is commercial tariff category as **there is no provision to bill on proportionate basis of mixed load** as per Tariff Orders issued by the Commission from time to time.

(Dilip Dumbre)  
Secretary

Electricity Ombudsman Mumbai



- (ix) In view of above facts, the Respondent prays that the Review Application of the Applicant be rejected with cost.

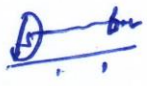
## Analysis and Ruling

5. Heard both the parties and perused the documents on record. The issues raised by the Applicant were discussed at length.
6. We are of the opinion that all important issues in sum and substance have already been covered in the original order. The review application is nothing but a repetition of the original representation, wherein the main issue raised by the Applicant is that some portion of the land is used for agricultural purpose. We are convinced that the major part of the electric load is used for the purpose of Mamachi Wadi Agro Tourism Resort. Commercial tariff is applicable as the major load is being used for commercial purpose. The Respondent contended that out of 44 months, the Forum has allowed recovery of commercial tariff for 24 months. The Applicant has thus already benefitted for 20 months' consumption of about Rs.11 Lakhs. The Appellant has committed irregularities for converting agricultural load into commercial load.
7. Provision with respect to review of order passed by the undersigned is given in Regulation 22 of the CGRF & EO Regulations 2020. The relevant provision is quoted below: -

### *“22 Review of Order of Electricity Ombudsman*

*22.1 Any person aggrieved by an order of the Electricity Ombudsman, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the Electricity Ombudsman, under the following circumstances:*

- (a) Where no appeal has been preferred;*
- (b) on account of some mistake or error apparent from the face of the record;*
- (c) upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed.*

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



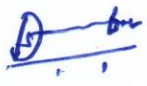


- 22.2 *An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record.*
- 22.3 *The review application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.*
- 22.4 *When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application:  
Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.*
- 22.5 *When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for."*

8. The Review Applicant has not brought out any new issue which has not been dealt with in the impugned order, which is the primary requirement for a review of this order under Regulation 22 of the CGRF & EO Regulations 2020.

9. The Applicant filed this review on 3<sup>rd</sup> April 2023, after 3 months and 13 days of when the original order was issued on 20.12.2022, which is a delay of 2 months 13 days. A review is required to be filed within thirty (30) days from the date of the order. As such, the present review is not maintainable considering the provision of Regulation 22 of the CGRF & EO Regulations 2020. We are of the opinion that all important issues in sum and substance have been covered in the original order. The scope of a review is limited. A mistake on the face of the record in the order need not necessarily be searched through a microscope; it should be clearly visible at first glance. The Applicant did not raise any new issue which can influence the decision of the original order, nor did it point out any mistake on the face of record of the order. The Applicant is trying to seek an appeal under the guise of review which is not permitted. The undersigned has the power to review its ruling to correct a patent error, and not a minor mistake of inconsequential import. This principle has been stipulated in many judicial pronouncements of the Constitutional Courts which are quoted below: -

- (a) Kamlesh Varma v/s Mayawati and Ors reported in 2013 AIR (SC) 3301.
- (b) Jain Studios Ltd v/s Shine Satellite Public Co. Ltd. reported in (2006) 5 SCC 501.

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai





10. The Forum, by its order dated 31.10.2022 has partly allowed the grievance application in Case No. 069 of 2022 allowing retrospective recovery of only 24 months, even though the Applicant consumed the majority of its electricity load for 44 months for commercial purpose.

11. In view of the above, the Review Application of the Applicant is rejected with cost of Rs.2000/-

12. The Secretariat of this office is directed to refund the balance amount of Rs. 23000/- by way of adjusting in the ensuing bill of the Applicant. The representation is disposed of accordingly.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

