

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 214 OF 2019

In the matter of billing

Rahul Sahasrabuddhe – Administrator of Dreams, the Mall Company Ltd..... Appellant

V/s.

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

Mr. Abhay Narayan Manudhane..... Respondent No. 2
Resolution Professional, HDIL

Appearances

For Appellant : Amitkumar Tiwari, Representative

For Respondent No.1 : 1. S.S.Sawairam, Executive Engineer
2. S.H.Borkar, Addl. Exe. Engineer
3. D.D.Sangle, Dy.Exe. Engineer


For Respondent No.2 : Avinash A. Shukla, Representative

Coram: Deepak Lad

Date of Order: 19th March, 2020

ORDER

This Representation is filed on 5th December 2019 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 2nd November 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum).



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2. The Forum by its order dated 02.11.2019 has dismissed the Grievance Application No. 300 of 2019.

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


- (i) The Appellant applied to the Respondent on 29.10.2018 for new electricity connection in the name of Administrator of Dreams, The Mall Company Limited (the Mall) for Building Maintenance Shop (BMS) No. UG 88 and 89 of the Mall. His application specifically mentioned the prospective use of such electricity connection for the Pump Motor and was accordingly provided with new electricity connection of 15 KW. However, even after providing the connection, the Respondent denied the request of usage of such electricity connection for the Pump Motor.
- (ii) It is pertinent to note here that, the permission for usage of the electricity connection for the Pump Motor was mainly for the motive of regulating water supply to the washrooms and restrooms forming part of the common area of the said Mall. As the permission for Pump Motor was denied, the Appellant was not able to restore and regulate the water supply to the washrooms and restrooms forming part of common area of the Mall, resulting into a lot of inconvenience, uncleanliness and foul smelling in the common area of the Mall and further resulting into the adverse health issues being faced by more than 5000 employees working and people visiting the Mall on day to day basis. At present, the electricity supply and the water supply to the washrooms and restrooms forming part of the common area of the Mall is halted.
- (iii) It may be further noted that the Mall was brought into operation in the year 2012 containing nearly 1100 shops, food mall, restaurants and the multiplex theatre. It is further understood that, at the initial stage, the generators were used for the supply of electricity at the Mall and later in the year 2013, the HDIL Entertainment Private Limited (the HDIL) was provided with the franchisee by the Respondent, the MSEDCL. However, pursuant to lack of continuance of the said arrangement, there is inadequacy of electricity in the Mall.
- (iv) This is an attempt of the Respondent not to grant connection to the Appellant just because of the outstanding arrears of the HDIL. This is completely unjust and unfair


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on the part of the shop owners paying the common area maintenance of the Mall regularly and the consumers visiting the Mall on day to day basis, as being deprived of clean environment and basic facilities like water and electricity in the washrooms and restrooms due to the default committed by the HDIL.

- (v) The Appellant filed the grievance application in the Internal Grievance Redressal Cell (IGRC) on 14.01.2019 with the following prayers: -
- a. to authorise the Appellant to use the connection granted in the name of Administrator of Dreams, The Mall Company Limited at BMS No. UG 88 and 89 of the Mall for usage of water pump(s) to regulate the water supply in 12 washrooms/restrooms forming part of the Common Area of the Mall
 - b. to regulate water supply to the washrooms/restrooms forming part of the Common Area of the Mall
 - c. for facilitating the common area maintenance, a third meter be provided in the name of Administrator of Dreams, the Mall Company Limited
 - d. to let the Appellant, know the amount payable by Dreams, the Mall Company Limited to the MSEDCL, if any, to communicate with the management of Dreams the Mall Company Limited in that regard and make an attempt to facilitate the payment.
- (vi) The IGRC vide its order dated 22.03.2019 rejected the grievance on the following grounds:
- *“It is observed that The Amount of Rs. 2,13,53,203 is outstanding against the HDIL in the said premises, LT connection issued to Applicant without verifying the arrears.*
 - *As per the Chief Engineer (Commercial) circular no.19021 dtd. 06.07.2013, New connection shall not be provided in the premises of PD consumer without recovery of PD arrears.*
 - *It is observed that the NCLT Mumbai has been appointed to M/s Rahul Sahasrabudhe as an administrator for common area maintenance. However, NCLT not mentioned in its order that the administrator shall sit in the said premises and to occupy the said premises. Further, NCLT never directed to MSEDCL to issue new connection in the name of Shri Rahul Sahasrabudhe.*
 - *On perusal of the NSC documents of above applicant, it is observed that there are no sufficient documents for providing commercial power supply in the name of applicant.*
 - *In view of the above, new connection or load enhancement shall not be given to applicant or any other person without recovery of outstanding PD arrears of MSEDCL, hence grievance filed by applicant hereby rejected.*


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➤ *The applicant is not having sufficient documents for commercial power supply and there is huge outstanding arrears on common utility of said mall. Hence the applicant is not permitted to use said LT connection in the premises where outstanding arrears amount is in existence.”*

(vii) Aggrieved with the order passed by the IGRC, the Appellant filed grievance with the Forum on 27.03. 2019.

(viii) The Appellant has also provided in his submission with the Forum that

- a. In the order passed by the very Forum dated 01.03.2017 in the matter of M/s Carnival Films Entertainment Private Limited V/s. MSEDCL Bhandup Sub Division, it was considered that the action taken of transferring dues of the HDIL against the Carnival Films Entertainment Private Limited is wrong and illegal. It was further directed to the Respondent utility to restore the supply within 3 days.
- b. The Appellant has been appointed as an Administrator of the Mall vide an order dated 31.08.2018 of the Hon’ble National Company Law Tribunal, Mumbai Bench (NCLT) and is acting in capacity of Officer of the Court. The Appellant in his progress report(s) filed with the NCLT has kept the NCLT informed with the occupation of office of BMS No. UG 88 & 89 for administrative purposes and has also informed with respect to the status of electricity connection of the Mall.
- c. As per the order of the NCLT dated 31.08.2018, the Administrator has been appointed to run the Mall independently on the contributions made by the petitioners and other shop owners.
- d. The assertions of the IGRC, stating that the NCLT has not mentioned that the Administrator shall sit in the said premises and occupy the premises, even after the order of the NCLT dated 31.08.2018 being so specific and clear are totally vague and ambiguous.
- e. The Appellant affirms that he has been appointed and authorised by the NCLT to perform all such tasks and duties as may be required to run the Mall independently on the contributions made by the petitioners and other shop owners.
- f. The NCLT in its order dated 31.08.2018 has specified the role of the Administrator, which is to run the Mall independently on the contributions made by the petitioners and other shop owners until the further orders. The NCLT has also clarified in the same order that this order will not have any bearing on the


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rights and contentions of either side and it is an order to run the Mall so as not to let any hazards come upon the people working there and public coming there.

- g. The NCLT vide its order dated 10.10.2019 has also granted the undersigned, the immunity from all actions arising out of discharging his duties as an Administrator of the Mall.
- h. He has the existing electricity connection in the name of Administrator of the Mall on providing the required documents. The new connection(s) requested by the Appellant are also in the name of Administrator of the Mall. The Appellant has no association with the outstanding dues of the HDIL and should be allowed to use the existing electricity connection for usage of water pump(s) to regulate the water supply in 12 washrooms/restrooms forming part of the Common Area of the Mall and also for facilitating the common area maintenance, another meter be provided in the name of Administrator of the Mall on humanitarian grounds, taking into consideration the health, welfare and benefits of more than 5000 people working and visiting the Mall on day to day basis.

4. The Respondent No. 1 filed its reply by letter dated 30.12.2019 stating in brief as under: -

- (i) There was a HT Consumer (No.000069042300) with Connected Load of 2000 KW in the premises of the Mall namely as M/s. HDIL Entertainment. This connection was given for supply to Common Utility of the Mall.
- (ii) This consumer was permanently disconnected on date 19.08.2016 due to non-payment of arrears of Rs.1,92,15,432/- against the electricity consumption.
- (iii) Thane Urban Circle Office of the Respondent No.1 has already filed Special Civil Suit vide No.469 of 2017 in the Court of Hon. Civil Judge (Senior Division), Thane, for recovery of amount of Rs.1,69,31,398/- and interest thereof.
- (iv) There were also two Special LT Connections in the Mall which were also permanently disconnected due to the pending arrears of HT connection as mentioned in point No. (ii) in the name of:-
- (a) M/s. HDIL Entertainment Pvt. Ltd. - Multiplex (No. 000060316591)
- (b) M/s. HDIL Entertainment Pvt. Ltd. - Food Court (No. 000060316589)



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- (v) There are existing 951 number of LT commercial connections, to individual shops, in the Mall. These connections are released long back, before PD of this HT Connection. These LT Consumers are paying their bills regularly.
- (vi) Shri. Rahul Sahasrabudhe, Administrator of the Mall applied for LT Connection of 15 KW for BMS No.UG - 88 and 89. The LT connection was released vide Consumer No. 000060464171 strictly for office use only.
- (vii) The Administrator filed grievance with the IGRC vide Case No.11/2019. In its say, Appellant has demanded to allow them to use this LT connection for Common Utility like water pumps, common toilets & washrooms, or requested to give separate connection for these common utilizations, for which HT Connection made permanently disconnected for huge arrears.
- (viii) The IGRC vide its order dated 22.03.2019 dismissed their demand by stating that the Appellant is not having sufficient documents for commercial power supply and there is a huge outstanding arrears on common utility of the said Mall. Hence, the Appellant is not permitted to use the said LT connection in the premises where outstanding arrears amount is in existence.
- (ix) The Appellant then filed the grievance with the Forum vide Case No.300/2019. The Forum also dismissed the grievance application under the following observations:

"We have heard both the sides & gone through the decision of IGRC it appears admittedly that there are huge arrears of PD connections. The application of the consumer for new connection cannot be granted as per Regulation of MERC. We have not found any discrepancy and unlawfulness in the order of IGRC. Therefore, there is no change & modifications required in the order of IGRC. Applicant consumer fails to prove his Grievance & therefore this application is liable to be rejected."

- (x) As per MSEDCL Commercial Section Circular No. P-Com/Accts/19021 dated 06.07.2003, new connection should not be released of PD consumer in premises without recovery of arrears. As per Regulation 10.5 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations 2005 (Supply Code Regulations), it is mentioned that any charge of electricity or any sum other than charge of electricity due to the Distribution


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Licensee which remain unpaid by deceased consumer or the erstwhile owner / occupier of any premises, as a case may be shall be a charge on the premises transmitted to the legal representative / successor – in – law or transferred to the new owner / occupier of the premise, as the case may be and the same shall be recoverable by the Distribution Licensee as due from such legal representative or successor in law or new owner / occupier of the premise, as the case may be

- (xi) Therefore, it is to state that the connection in the said premises will be given only after recovery of all dues of the Respondent No.1.
- (xii) In view of above, the Respondent No.1 request to reject the application of Mr. Rahul Sahastrabuddhe, the Administrator.

5. The Respondent No.2, Abhay Narayan Manudhane, filed its reply on 24.12.2019 stating in brief as under: -

- (i) It is submitted that the NCLT vide Order No. CP (IB) - 27/I & BP/MB/2019 dated 20.08.2019 has admitted the petition for initiation of Corporate Insolvency Resolution Process (CIRP) of the HDIL and he has been appointed as the Insolvency Resolution Process (IRP) for conducting CIRP.
- (ii) An appeal was filed with Hon'ble National Company Law Appellate Tribunal, New Delhi (NCLAT) by Shri Rakesh Wadhawan, Shareholder of the Company, praying for withholding the formation of Committee of Creditors pending OTS with Financial Creditor (BOI). After several dates/hearings, the Hon'ble NCLAT on 17.12.2019 vacated the interim order dated 26.09.2019 regarding 'not to constitute 'Committee of Creditors'. The order also states that the 'Resolution Professional' will ensure that the company remains as an on- going concern.
- (iii) Mr. Abhay Narayan Manudhane, as an Interim Resolution Professional, have no role to play in respect of relief sought by the Appellant from the Electricity Ombudsman. Claims if any, are to be submitted by the creditors in the prescribed form in response to the Public Announcement made in the newspapers.

6. During the hearing on 21.01.2020, all the parties argued in line with their written submissions. The Appellant while reiterating its submission has argued that use of existing connection be allowed for common washrooms and restrooms keeping in view the general hygiene in the entire premises of the Mall else, health issues may crop up.


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7. The Respondent No.1, MSEDCL however argued that HT connection which was given earlier and subsequently permanently disconnected (PD) was basically for common area including that of motor pump which supplied water to common washrooms and restrooms. There are huge arrears to be recovered against this HT connection and it has filed Civil Suit in appropriate Court of Law. The Appellant's demand either by way of totally new connection for the motor pump which will supply water to washroom and restroom or allowing it to use power available at BMS at UG 88 and 89 for the same purpose cannot be allowed for the simple reason that these areas were previously supplied power through common HT connection which is arrears now and PD. Even Regulation does not allow this.

8. The Respondent No.2 who is Insolvency Resolution Professional through its submission and argument has pleaded that it has no role to play in the instant proceedings.

Analysis and Ruling

9. Heard all the parties and perused the documents on record. I note that the Appellant has been appointed as an Administrator by NCLT through its order dated 31.08.2018. It is an admitted position that HT connection standing in the name of HDIL is PD for non-payment of energy bill to the tune of Rs. 2,13,53,203/-. This connection was being used to supply power for common area of the Mall including washrooms and restrooms. It apparently means that every equipment, fixtures, escalators, etc. were being supplied power from this HT Connection. Now the Appellant has requested Respondent No.1 to release new connection for motor pump which will supply water to the washrooms and restrooms so as to maintain general hygiene. It is also an admitted position that there are about 951 shops which are provided independent electricity connections, bills of which are being paid by the respective shop owners. The issue is only with respect to powering the common area and that too the Appellant has restricted to washrooms and restrooms. It has not been brought before the undersigned by the Appellant and the Respondent No.1 as to how common area, excluding washrooms and restrooms will be supplied power. Anyway, that is not the issue before the undersigned. The Appellant has requested specifically either to release new connection for motor pump which will supply water to washrooms and restrooms or else power from existing electrical connection to BMS UG 88 & 89.


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10. Regulation 10.5 of the Supply Code Regulations as cited by the Respondent No.1 is reproduced below.

“Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner / occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner / occupier of the premises, as the case may be:

Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.”


Bare perusal of this Regulation clearly shows that it casts obligations on the successor to pay the unpaid arrears of the erstwhile owner or occupier of the suit premises to the Respondent No.1. Therefore, the Respondent No.1 is right in denying new connection on the same premises unless previous arrears are paid. The Respondent No.1 is also right in not allowing existing electricity connection at BMS UG 88 & 89 to supply power to pump motor which will supply water to washrooms and restrooms as this connection has not been released for the purpose of pump motor as submitted by the Respondent No.1. In view of this standing provision, the representation does not sustain, therefore, the same is rejected.

11. The other prayers of the Appellant are also not maintainable. However, in pursuance of the Appellant’s request to get the complete details of the outstanding arrears, the Respondent No.1 is directed to furnish the same to the Appellant. In case the Appellant still has any doubt, the Respondent No.1 is directed to schedule a meeting with the Appellant for explaining the entire issue of the arrears due.

12. No order as to cost.

13. The Secretariat of this office is directed to refund the amount of Rs.25000/- deposited by the Appellant immediately.

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


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Secretary
Electricity Ombudsman Mumbai

