

## BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

### REPRESENTATION NO.68 OF 2020

In the matter of disconnection

Ashish N. Mhatre (User / Occupier) ..... Appellant  
[Milind Chitre (Original Consumer)]

V/s.

Maharashtra State Electricity Distribution Co. Ltd. (Thane-1) .....Respondent

Appearances:

For Appellant : Ashish N. Mhatre  
For Respondent : Jeevan S. Chavan, Executive Engineer

**Coram: Mr. Deepak Lad**

Date of Hearing: 7<sup>th</sup> October 2020


Date of Order : 28<sup>th</sup> October 2020

### ORDER

This Representation is filed on 21<sup>st</sup> August 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 18<sup>th</sup> March 2020 passed by the Consumer Grievance Redressal Forum, MSEDCL Bhandup Zone (the Forum).

2. The Forum, by its Order dated 18<sup>th</sup> March 2020 has partly allowed the grievance application in Case No. 92/2019. The operative part of the said order is as below: -


*“2. The utility shall pay the damages and compensation for his irritation and harassment of consumer. As their levy of Rs.1000/- in case to be paid the consumer within a month.”*

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

- (i) The Appellant (Shri. Ashish N. Mhatre) is the occupier of Flat No. 1B/24, Drug Employees CHS Ltd., Opp. J.K. Gram, 1<sup>st</sup> Pokharan Road, Thane (West) - 400 606 under the Leave and Licence Agreement. Shri Milind Chandrakant Chitre is the flat owner in whose name the connection stands and having Consumer No. 000026216486. The Appellant (occupier) is supposed to pay the electricity bills for the electricity consumed by him under the said agreement.
- (ii) The Appellant states that no intimation was received by Shri Milind Chitre (owner) for disconnection of power supply due to default in payment of electricity charges under Section 56 (1) of the Electricity Act, 2003 (the Act). Not only this, but the electricity meter was removed by disconnecting the power supply of the Appellant and taken away by the Respondent on 10.10.2019. The consumer has the right to receive minimum 15 days' notice prior to disconnection as per Section 56(1) of the Act.
- (iii) The Appellant states that he had preferred an application, in the prescribed format, enclosing the requisite documents to the Internal Grievance Redressal Cell (IGRC) on 17.10.2019. Subsequently, on 14.11.2019, he had received a phone call from the IGRC informing him about the hearing of his case on 15.11.2019. On the day of hearing, the Appellant had been served the copy of notice dated 04.11.2019 about the scheduled hearing. It was given to understand that the letter had been sent by ordinary post.
- (iv) As stated in the notice dated 04.11.2019, the Additional Executive Engineer, Gadkari Subdivision had to provide copy of his reply to the Appellant also. The said reply was to be filed before the IGRC prior to the date of hearing. The copy of reply dated 15.11.2019 was handed over to the Appellant on the date of hearing itself.
- (v) During the hearing in IGRC, the Executive Engineer has stated that the due date is 18.09.2019 of the bill dated 25.08.2019 and it is liable to be disconnected on 04.10.2019. After follow-up, the supply was disconnected on 10.10.2019.

  
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- (vi) The Appellant states that as per disconnection of power supply, the SMS Log Sheet for the month of September 2019, the SMS notices were sent on 14.09.2019 to the consumers whose due date are between 19.08.2019 to 11.09.2019, whereas his due date is 18.09.2019. Further, neither he nor Shri. Milind Chitre received any notice in respect of disconnection of the power supply on SMS. Thereafter, the order was passed by the IGRC on 04.12.2019.
- (vii) The Appellant states that he received the reply of the Respondent on the day of hearing and on the very next day i.e. 16.11.2019, he filed his true and factual, detailed point wise reply but could not produce the said document i.e. the list for the months of August and September 2019 (Outstanding list and Disconnection List).
- (viii) The IGRC, by its order dated 04.12.2019 directed the Respondent to produce or show the Head Office Disconnection List to the Appellant. The IGRC failed to check the disconnection list and passed its order without application of mind.
- (ix) The Appellant states that he had applied on 19.10.2019 for concerned information under the Right to Information Act to the Superintending Engineer, Thane for the proceeding of recovery of outstanding dues from the consumer under Section 56 of the Act. After an extensive exercise of communication, the Appellant received the list for disconnection of power supply regarding SMS/ Log Sheet for the month of August 2019 and September 2019 by email from the office of the Executive Engineer, RTI Officer, Thane (W) on 27.02.2020.
- (x) The name of the consumer is not incorporated in the SMS / Log Sheet for disconnection of power supply for the month of September 2019. The false statement was made in the three replies filed by the Respondent before the IGRC and the Forum.
- (xi) Not satisfied by the order of the IGRC and on being aggrieved, the Appellant filed an appeal before the Forum on 26.12.2019.
- (xii) The Forum passed the order on 18.03.2020 in the name of Milind Chitre whereas the Appellant was the complainant as per the IGRC order dated 04.11.2019. The order was received by the Appellant on 29.06.2020 by email. The Forum, in its order

  
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- directed to pay Rs. 1000/- to the Appellant towards damages and compensation for the cause of irritation and harassment.
- (xiii) Neither the Appellant nor the owner received any notice under Section 56 (1) of the Act for disconnection of power supply in default of payment.
- (xiv) The Appellant stated that Shri. Rathod, Additional Executive Engineer, Shri. Fulzade, Executive Engineer, Shri. Mahale, Technician had disconnected his power supply on 10.10.2019 without following due process of law. The Appellant had paid the due amount of Rs.16,760/- on the evening of the same day. The power supply was not restored because the reconnection charges were not paid. The electric meter was removed by Mr. Mahale and he advised me to take direct connection of power supply. A conspiracy was hatched to remove the electric meter on the order of MSEDCL Officers Mr. Rathod, Mr. Fulzade to Mr. Mahale (Technician). This was a trap set by the officers to file Criminal Case against the Appellant. These Officers should be punished in following way (1) to stop the increment for at least two years. (2) To suspend them from their work for at least two months. (3) The salary should be deducted for two months. The Appellant has also prayed for compensation of Rs.4,00,000/-.
- (xv) The Executive Engineer of the Respondent has made irresponsible and senseless statements, in the process of litigation. The Appellant is the sufferer for long period of nervousness and restless during the period of litigation from 10.10.2019 till date. In this period, the Appellant has filed three applications before Right to Information Officers to get the information related to the litigation and when not satisfied with the information, filed 1<sup>st</sup> Appeal before the 1<sup>st</sup> Appellate Authority. The Appellant has spent lot of money and time for no fault of himself.
- (xvi) This Appellant has cited the Judgment of the Hon'ble Court bearing No. RFA 784/2010 in respect of adducing and filing false and frivolous statements before all the Hon'ble Forums and with intent to injure or annoy any person. The page No. 11, Para No. 6.5 reads as below :-


*6.5 The words "with intent to injure or annoy and person" in Section 209 means that the object of injury may be to defraud a third party, which is clear from the Explanation of Clause 196 in the Draft Code namely "It is not necessary that the*

  
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*party to whom the offender intend to cause wrongful loss or annoyance should be the party against whom the suit was instituted."*


- (xvii) The Appellant states that the Hon'ble Forum, should have verified the List and Disconnection of Power Supply / SMS Log Sheet for the month of August / September 2019.
- (xviii) This Appellant states that this Hon'ble Authority is well aware that this facility of generating the List, and thereafter sending a SMS on the Mobile Phone in respect of Disconnection of Power Supply who have not paid their dues, has been specifically incorporated for bringing the Transparency in working of Government agencies.
- (xix) The Appellant prays that
- The Respondent be directed to pay Rs. Four Lakhs only cost to the Appellant and not to the Consumer Mr. Milind Chitre, as there exists a Registered Leave and License Agreement in respect of the Flat premises, of which the Respondent is well aware of.
  - The Respondent should be saddled with heavy personal cost and exemplary punishment for its highhanded action and illegally disconnecting the power supply and removing the electric meter.
  - Any other relief as may be deemed and necessary in the interest of justice.
4. The Respondent MSEDCL filed its reply on 14.09.2020 stating in brief as under:
- Shri Milind Chitre is the original single-phase residential consumer (No. 000026216486) since 01.01.1987 at Flat No. 1B/24, Drug Employees CHS Ltd., Opp. J.K. Gram, 1<sup>st</sup> Pokharan Road, Thane. The Appellant is an occupier.
  - The consumer was in arrears in August 2019 for Rs.8370/-. The due date of payment of this bill was on 18.09.2019. The disconnection notice as per Section 56(1) of the Act was sent to the consumer by the Head Office when disconnection list was generated. The disconnection notice communication through SMS is approved by the Commission.
  - As the due date of this unpaid bill of August 2019 was 18.09.2019 and 15 days' notice period expired then the Appellant was liable to be disconnected of his power

  
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supply on 04.10.2019. However, from 04.10.2019 to 09.10.2019, MSEDCL line staff attended this Appellant for recovery of energy bill two times, but premises of the Appellant was found locked. In addition, message was also given to his neighbour to pass on the message that the consumer is in arrears of the electricity bill and to pay the arrears bill to avoid disconnection. After this continuous follow up, the power supply of the consumer was disconnected on 10.10.2019 by removing the meter with intimation message given to the security staff of the said Society.

- (iv) After the disconnection of the supply, this Appellant visited the office of the concerned Section Engineer and informed the line staff that the energy bill due amount is paid by him. Accordingly, the line staff went to his premises and before reconnection asked him to show paid energy bill and reconnection charges receipts, but the Appellant failed to show these receipts. Hence, the supply was not reconnected on 10.10.2019.
- (v) Thereafter, the Appellant paid arrears of energy bill through online system in the night hours. The Appellant requested the Respondent for reconnection of supply on 10.10.2019, without payment of reconnection charges of Rs. 236/-. As the Appellant did not paid reconnection charges, power supply of the Appellant was not reconnected. The supply of the Appellant was restored on 11.10.2019 at about 16.00 hrs. after payment of reconnection charges.
- (vi) The Appellant filed the grievance in IGRC on 04.11.2019. The IGRC, by its order dated 04.12.2019 directed to provide disconnection list of August 2019 and September 2019 and accordingly, the available disconnection list was handed over on 24.12.2019.
- (vii) Not satisfied with the order of the IGRC, the Appellant approached the Forum on 01.01.2020. The Forum, by its Order dated 18.03.2020 has directed to pay cost of Rs. 1000/- to the Appellant towards damage and compensation for irritation and harassment. Hence, the credit B-80 for amount Rs.1000/- is prepared by Subdivision office and submitted for approval. However, the B-80 approval still awaited.

  
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(viii) The mobile number of the consumer, Shri Milind Chitre is in the billing system hence, all correspondences of digital communication done on mobile goes to the original consumer. The Appellant is the occupier. The Respondent is not aware of this fact. On the contrary, the Appellant did not update his mobile number in the computerised billing system. So, Shri. Milind Chitre is the only consumer of MSEDCL and feasible to file complaint against MSEDCL.


(ix) The Respondent followed a routine procedure of disconnection and reconnection. The grievance of the Appellant is already resolved. Therefore, the Respondent prays that the Representation of the Appellant be rejected.

5. The Appellant filed an additional submission dated 25.09.2020 stating in brief as under:

(i) Ongoing through the information which had been sought i.e. the disconnection of power supply / SMS log sheet that had been obtained for the month of August and September 2019, the name of the consumer, Milind Chitre, is not in the disconnection list. The Respondent has illegally with an ulterior motive disconnected the power supply and removed the meter.

(ii) The Appellant has made the application under R.T.I. before the Public Information Officer, the Secretary of the Forum dated 30.07.2020 for the information to furnish the Roznama of hearing of enquiry dated 21.01.2020, he has not received the said Roznama till today, which he required for argument in Representation No. 68 of 2020 before the Electricity Ombudsman at the time of hearing.

6. The hearing was held on 07.10.2020 on e-platform due to the Covid-19 epidemic. The Appellant, Ashish Mhatre argued in line with his written submission. The Appellant is the occupier of the premises vide Leave and Licence Agreement executed with the owner, Shri Milind Chitre around 1½ years ago. Suddenly, the electricity connection to the said flat was disconnected on 10.10.2019 and the meter was also removed. The Appellant was not aware about the disconnection thinking it to be power failure and came to know about it in the evening. On realising about the disconnection, he immediately went to the Respondent's office and lodged a complaint. In this process, the Appellant was also advised by one of the official of the Respondent to take direct connection till the meter is placed. Somehow or the other, out


  
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of great difficulty, the Appellant made the balance payment online in the same evening. The supply was reconnected the next day i.e. on 11.10.2019 after payment of reconnection charges of Rs.236/- The Appellant argued that no notice was received by him nor any SMS by the original consumer as per the Section 56 (1) of the Act, hence, the disconnection is illegal as per law. The Appellant followed up with the Respondent resulting various RTI correspondences through which he obtained the disconnection of power supply / SMS Log Sheet for the month of September 2019. On perusing the said sheet for the month of September, the name of the consumer was not there .The Appellant argued that the Appellant taking this as a criminal offence decided to file in the court of law and therefore, approached the grievance redressal mechanism for justice.

7. The Respondent reiterated its submission stating that the said electricity connection is a residential connection in the name of Shri Milind Chitre (C. No.000026216486) since 01.01.1987. The said connection had arrears of Rs.8370/- for the month of August 2019. The due date was 18.09.2019. The Respondent argued that the supply was disconnected after issuing notice as per Section 56(1) of the Act. The disconnection notice was sent by digital mode i.e. SMS on the registered mobile of the Consumer. Such type of digital messages is regularly sent through IT system by the Respondent all across its jurisdiction. Since the messages were given to the consumer, after 15 days' period, the supply of the Appellant was disconnected by removing the meter. Normally, the disconnection staff coordinate and wait some time giving opportunity to pay the bill, however in this case there was lock to the premises. The security guard of the society was informed about the disconnection. The Appellant has paid the arrears on 10.10.2019 on night odd hours without reconnection charges. The supply of the Appellant could not reconnect at night. It was hasty decision of staff on duty. The Respondent was ready to extend supply without meter for one day as disconnection team was in general duty. However, the Appellant felt that the action is illegal. The Appellant paid reconnection charges on 11.10.2019 then after the supply was reconnected on 11.10.2019. The intention behind the disconnection was to do recovery of dues. However, the Appellant has taken the same on personal level. The issue is resolved. The Forum has already fined the Respondent for the same. The Respondent will be more cautious for handling disconnection of consumers in future.

  
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8. During course of the hearing, the Respondent is directed to give the following information within 10 days from the date of hearing.


- (a) The concerned disconnection list where the consumer's name appears, and SMS of disconnection notice sent.
- (b) To check whether the mobile number of the consumer, Milind Chitre is registered in the system.

The Respondent has requested by email on 16.10.2020 for extension of time limit of seven days for submission of the above details since the data is to be received from the Information Technology Cell of the Respondent's H.O. office.

### **Analysis and Ruling**

9. Heard both the parties and perused the documents on record. The Appellant is in possession of the said Flat No.1B/24, Drug Employees CHS Ltd. as occupier as per registered Leave and License Agreement. According to the Appellant, he is regular in payment during the course of leave and licence agreement. Only one-month outstanding bill of Rs.16,760/- was pending inappropriately. The Appellant and / or the consumer Shri Chitre did not receive the disconnection notice as per Section 56(1) of the Act (even if on digital mode of SMS). The supply of the Appellant was disconnected on 10.10.2019 by removing meter. The Appellant is Senior Citizen. After disconnection of supply, the Appellant paid outstanding bill online. However, the supply was not restored for want of payment of reconnection charges.

10. The Respondent contended that the consumer was in arrears in August 2019 for Rs.8370/-. The due date of payment of this bill was on 18.09.2019. The disconnection notice as per Section 56(1) of the Act was sent to the consumer by the Head Office when disconnection list was generated. The disconnection notice communication through SMS is approved by the Commission. As per disconnection list generated by HO, the name of the Appellant was in arrears. The Respondent stated that the disconnection notice as per Section 56 (1) of the Act was sent through SMS on consumer's registered mobile which is system

  
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generated as there were outstanding arrears in the month of August 2019. The Appellant's mobile number was not updated in the computerised billing system.

11. It is noted that the Commission through its Tariff Order dated 12.09.2018 in Case No. 195 of 2017 has allowed the distribution licensee to make digital communications with the Consumers for various purposes. The said para of the said order is reproduced below:-

*9.5. Key Considerations for Tariff Design*


*9.5.8. In this context, some of the main tariff-related features of this Order are summarized below:*

*E. Mode of Communication*

*The Commission notes that the Hon'ble High Court of Judicature at Mumbai in its Judgement in the matter of Notice No. 1148 of 2015 in Execution Application No. 1196 of 2015 dated 11 June, 2018 has taken on record the WhatsApp message sent to serve notice on the Respondent and ruled that the same is sufficient for the purposes of service of Notice. The relevant portion of the Order is reproduced below:*

*"2. The Claimants have also learnt that the Respondent resides at Nalasopara in a place which he seems to have taken on rent. The Claimant will furnish the particulars of address so that a warrant, if necessary can be issued against him. 3. In the meantime, the present Notice is made absolute. 4. A print-out of the WhatsApp message is taken on record and marked "N" for identification with today's date. The second print out is of the WhatsApp contact number of the Respondent. This shows his contact number. This is also taken on record and marked "N2" for identification with today's date. This is sufficient for the purposes of service of Notice under Order XXI Rule 22. 5. By way of abandon caution and so that it remains a part of the record a scan of the print outs is attached to this order as well."*

*The Commission notes that serving of Notices to the consumers through digital medium such as WhatsApp message, email, SMS, etc. will not only be environmental friendly and save administrative cost but also free the human resources for other consumer service related works. Hence, the Commission has allowed the Distribution Licensee to issue notice under Section 56 of the Electricity Act, 2003, through digital mode such as WhatsApp message, email, SMS etc. The Licensee can also use the digital medium of communication for issuing other information to the consumers including information regarding billing, outstanding payment, outage details, etc. There is also a need to create awareness regarding this provision and accordingly, the consumer needs to be made aware of this by informing him through various means of communication including messages on bills and other publicity means.*

  
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12. The basic issues in the instant case are as follows and are analysed in subsequent paragraphs: -


- 1) Whether it was served with 15 days' notice in the form and manner as provided for under Section 56(1) and /or by the Commission, before disconnection?
- 2) Whether the registered mobile number of the Consumer was ever used to serve the notice under Section 56(1) of the Act or for oral communication?

13. The Appellant's case is that he is the occupier of the premises owned by Mr. Chitre. The connection is in the name of Chitre whose mobile number is registered with the Respondent. Neither he (occupier) nor Mr. Chitre (owner) was ever contacted or received any communication in the form of SMS on registered mobile number for serving proper notice before disconnection.

14. The Respondent submits that the disconnection notice through a system generated SMS was sent to the consumer on the registered mobile number. However, the Appellant did not pay the arrears and therefore, power supply was disconnected on 10.10.2019 by removing the meter. Before disconnection, the security guard /neighbour were given to understand about the disconnection being made as the said premises was found locked.

15. The Appellant's allegation that it / owner never received disconnection notice through system generated so-called SMS. The Respondent contested this allegation vehemently but failed to provide any substantial evidence which will vouch the fact that the system generated SMS was sent to the Appellant in token of disconnection notice.

16. Instead of going round in circles, it could have well adopted the shortest route of contacting the owner on registered mobile number, which is available with it very easily. Instead, it wasted valuable manhour in senseless exercise which appears to be an afterthought. There was no reason for the Respondent to have contacted the security guard and the neighbour. Therefore, the Respondent acted highhandedly without any sense of duty. Even

  
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the action lacked the sensitivity which an officer of public utility ought to have shown in dealing with consumers at large because serving consumers and getting the payments done is more important than disconnection.


17. I failed to understand that Respondent was fully aware of the fact that documentary proof of having sent the SMS would definitely be asked by the adjudicating authorities as the case revolves around it. It could have well taken proactive action right from IGRC. But till the date of hearing before the undersigned, it simply remained idle. Not only that, after hearing, it was given time to submit the same within 10 days. But it simply asked for further extension. Even this time limit is also over but no record has been submitted. It is utter failure on the part of the Respondent. I am, therefore, convinced that notice through appropriate approved media was not sent to the Appellant or owner before disconnecting the power supply for non-payment of arrears. Not only this, the Respondent did not establish any communication as a matter of courtesy with the owner before disconnection. Keeping the consumer in dark overnight when the utility is on the wrong side of the law cannot be accepted. Even after payment of outstanding arrears on the evening of 10.10.2019, the Respondent could have either debited the reconnection charges in the immediate next bill or as an alternative could have taken the undertaking for payment of reconnection of charges and reconnected the consumer immediately. I am therefore of the opinion, the Respondent's rank and file officers have shown zero sensitivity to the entire issue and invited avoidable litigations.

18. Therefore, to avoid such recurrences in future it is necessary that the Respondent be saddled with fine for undue harassment to the consumer/owner/occupier and for not following due process of law.

19. The Forum has imposed a fine of Rs 1000/- but I am of the opinion that it is very meagre.

I therefore direct the Respondent to:-

- (a) Pay Rs 4000/- towards harassment meted out to the occupier consumer.
- (b) Pay Rs 500/- towards cost.
- (c) This is in addition to the amount awarded by the Forum and to be adjusted against ensuing bills of the Appellant.


  
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- (d) The order of the Forum is revised to the extent above.
- (e) The Respondent is at liberty to recover the total amount from the responsible officers / staff.
- (f) Other prayers of the Appellant are rejected.

20. The Representation is disposed of accordingly

Sd/-  
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Electricity Ombudsman (Mumbai)

  
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