

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION 1 TO 31 OF 2024

In the matter of compensation for delay in release of new connections

| Rep. No. | Name of Appellant | Consumer No. | Flat No. |
|----------|-------------------|--------------|----------|
| 1 | Pankaj Desai | 170507178637 | B-101 |
| 2 | Pankaj Desai | 170507179331 | B-102 |
| 3 | Pankaj Desai | 170507179340 | B-103 |
| 4 | Pankaj Desai | 170517179358 | B -104 |
| 5 | Pankaj Desai | 170507179366 | B -105 |
| 6 | Pankaj Desai | 170507179374 | B-201 |
| 7 | Pankaj Desai | 170507179382 | B-202 |
| 8 | Pankaj Desai | 170507179391 | B- 203 |
| 9 | Pankaj Desai | 170508635764 | B-204 |
| 10 | Pankaj Desai | 170508635772 | B-205 |
| 11 | Pankaj Desai | 170508635781 | B-301 |
| 12 | Pankaj Desai | 170508635799 | B-302 |
| 13 | Pankaj Desai | 170508635802 | B-303 |
| 14 | Pankaj Desai | 170508635811 | B -304 |
| 15 | Pankaj Desai | 170508635829 | B-305 |
| 16 | Pankaj Desai | 170508635837 | C-101 |
| 17 | Pankaj Desai | 170508635845 | C-102 |
| 18 | Pankaj Desai | 170508635853 | C-103 |
| 19 | Pankaj Desai | 170508635861 | C -104 |
| 20 | Pankaj Desai | 170508635870 | C-105 |
| 21 | Pankaj Desai | 170508635888 | C-201 |
| 22 | Pankaj Desai | 170508635896 | C-202 |
| 23 | Pankaj Desai | 170508635900 | C-203 |
| 24 | Pankaj Desai | 170508635918 | C-204 |
| 25 | Pankaj Desai | 170508635926 | C-301 |
| 26 | Pankaj Desai | 170508635934 | |
| 27 | Pankaj Desai | 170508635942 | C-303 |
| 28 | Pankaj Desai | 170508635951 | C-304 |
| 29 | Pankaj Desai | 170508635969 | G1 |
| 30 | Pankaj Desai | 170508635977 | G2 |
| 31 | Pankaj Desai | 170508635985 | G3 |

.....Appellant

V/s

Maharashtra State Electricity Distribution Company Limited, Padmavati Dn. Respondent
(MSEDCL)



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Appearances:

Appellant : 1. Pankaj Desai, Proprietor
2. S.S. Nair, Representative

Respondent: Sanjay Ghodke, Addl. Executive Engineer, Dhankawadi S/dn.

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

Date of hearing: 11th March 2024

Date of Order: 28th March 2024

ORDER

These thirty-one Representations were filed on 1st January 2024 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Common Order dated 9th October 2023 in Case No. 31/2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Pune (the Forum). The Forum, by its order rejected the grievance application.

2. Aggrieved by the above order of the Forum, the Appellant has filed these thirty-one representations independently which are clubbed together for a common order as the subject matter is similar in nature. A physical hearing was held on 11th March 2024. Parties were heard at length. The Respondent filed a common reply on 26th February 2024. For easy understanding, the Respondent's submissions and arguments are stated first as below: [*The Electricity Ombudsman's observations and comments are recorded under 'Notes' in brackets where needed.*]

- (i) M/s. Nath Associates (Prop. Pankaj Desai) were developing a Multistorey Residential Complex (Gr. + 3 floors) at Survey No. 22/2/1 Mangdewadi, Katraj, Pune Satara Road, Pune-46 from the year 2013. The site falls in a semi – rural location, which earlier was covered by a Gram Panchayat, and subsequently got


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



covered under the Pune Corporation in the year 2021 as its limits were expanded. [Note: The building is located in a slum.] It is notable that generally most construction in a Gram Panchayat is single or double storeyed and not high rise. This was a G + 3 structure, hence subject to more stringent construction requirements as in the Corporation area. The Appellant applied for a construction meter (Consumer No. 170020016038) which was released on 03.09.2012 after payment of the statutory charges and laying of a separate cable connection up to the construction meter.

- (ii) In 2014 when the construction work was in progress, the developer applied for anticipated power supply for 30 flats and 1 common connection along with an architecture plan of the building indicating its carpet area.
- (iii) Technical and administrative sanction was accorded by Executive Engineer Padmavati Division vide its letter dated EE/PAD/DHK/ T/ARR-Non DDF/68/14-15 dated 21.07.2014. The relevant details of the sanctioned Scheme are tabulated below:

Table 1:

| Name of Appellant | Sanctioned Load (KW) | Estimate Amount (Rs.) | Scheme | Work involved | Sanction Date | Remarks | Firm Quotation/ Demand Note |
|-------------------------------------|---|-----------------------|---------------------|--|---------------|----------------------------------|---------------------------------|
| Nath Associates (Pro. Pankaj Desai) | 101 KW for 30 flats & 1 common connection | 11,91,000/- | ARR- Non DDF Scheme | 22/04. KV, 100 KVA Dist. Transformer, 450 meter 22 KV cable etc. | 21.07.2014 | Work to be carried out by MSEDCL | Paid Rs. 1,06,000/- towards CRA |

The competent authority sanctioned the new service connection with the following Terms & Conditions by its letter dated 21.07.2014 which are as under:

“The connections should be released after confirming the relevant documents and NOC required. Before releasing the power supply, please confirm that there are no arrears (PD and Live) of the previous consumer in this premises.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



The connections should be released in the name of the flat owners instead of builder.

1. *The work is to be carried out as per MSEDCL Standard methods of construction and Indian Electricity Rules.*
2. ***The meter room should be provided near the point of supply.***
3. *Permission for commissioning of asset, i.e., Line & Equipment's from the Electrical Inspector is to be obtained.*
4. *Before start of work please ensure that that necessary space for the commissioning of DTC is handed over by the party.*
5. ***The Party has submitted the individual AI Forms (Application list enclosed) along with an undertaking on Rs. 100/- stamp paper and rent receipt. Other required documents as per Company's rules must be obtained at subdivision level prior to issue of quotation."***

(iv) The Appellant paid service connection charges (CRA) of Rs.1,06,000/- on 23.07.2014.

(v) MSEDCL issued a Commercial Circular No. 224 dated 05.07.2014 which is based on implementation of Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations 2014). The salient features of the Circular are as below:

"1. New Connection (including Temporary Connection)/Additional load/Reduction of load:

.....

(i) *The MSEDCL shall not be held responsible for the delay, if any, in giving supply on account of problems relating to statutory clearances, right of way, acquisition of land or the delay in consumer's obligation which is beyond the reasonable control of the Distribution Licensee.*


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



(j) *It is mandatory to process the applications for new connection through online system only, which include online feeding of A-1 form, processing of estimate, sanction, issue of work order etc.”*

- (vi) The MSEDCL developed its Web Self Service (WSS) portal in the year 2014. Thereafter, every new connection was routed through this WSS portal from the end of the year 2014. This is a statutory requirement for new connections applied for by the prospective consumer/s.
- (vii) **The Appellant neither submitted any documents of project completion nor did any follow up for releasing the new connections to his residential complex from July 2014 (after payment of service connection charges) till Feb. 2020. The Appellant had also not been able to sell / book the flats, probably due to its proximity to a slum. The main reason was that the said building was still in construction phase during this period, and was only near to completion in Feb. 2020. The Appellant did not submit any Test Reports of its Electric Installations for completion of electric wiring and revised A1 forms in the name of individual Flat Owners. The Appellant did not register the new connections on WSS Portal as per statutory requirement of SOP Regulations 2014.**
- (viii) The Appellant was paying the bill of the construction meter regularly in general.
- (ix) The Respondent visited the construction site of the Appellant for routine site inspection in Feb.2020. During this inspection, it was observed that a 100 KVA, 22/0.433 KV Distribution Transformer was found installed in the premises which was not commissioned. A 22 KV, 3 Core 95 Sq. meter cable was laid partially, and the cable work was found incomplete as there was a serious objection for laying the cable. This said cable was also found damaged in some places. The Respondent advised the Appellant for future follow-up for the new connections, **as the building construction work was still going on.**
- (x) The Appellant claimed that he wrote a letter dated 14.02.2020 to the Managing Director of MSEDCL with a copy to the Chief Engineer, Pune Urban Zone


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



requesting for electricity connection to his residential complex. There are more than 2.8 Cr(+) consumers of MSEDCL. It is not understood why the Appellant did not give a copy of this letter to the concerned Executive Engineer, Padmavati Division / Additional Executive Engineer, Dhankawadi S/dn, Section office who are the sole authority to take a decision in the matter.

- (xi) Immediately thereafter, the Appellant filed a complaint in Internal Grievance Redressal Cell (IGRC) on 03.03.2020. There was complete lockdown from 22nd March 2020 due to Covid -19 Pandemic. The lockdown was partially released in stages.
- (xii) The IGRC by its order dated **21.03.2021** directed the Respondent to complete the balance work of 100 KVA Distribution Transformer on top priority. The Appellant was advised to pay the processing fee, Security Deposit and other charges as per MSEDCL circular in force. The Respondent was directed to guide the consumer accordingly. The connections of the Appellant be released on priority basis.
- (xiii) As per the order of IGRC, the Respondent laid down a new cable of 22 KV 3 core-185 Sq. mm XLPE at its own expense, by spending Rs.18 lakhs and by resolving issues of objections of right of way. The Respondent overhauled the 100 KVA distribution Transformer and carried out the remaining works of erection of Distribution Transformer. At the same time, the Respondent guided the Appellant for fulfilling all the paperwork of statutory requirements for the new connections, including A1 Forms. All these applications for new service connections were finally entered into the system and demand notices were generated for the payment of statutory charges in Sept. 2021.
- (xiv) The 31 connections of the Appellant were released in the month of **Sept. 2021** on the existing construction meter, as there was no occupancy found. *[Note: Normally, urgent occupiers take power supply from construction meter to meet the emergency of occupier. During the hearing it was revealed that the developer / Appellant has not been able to sell the flats.]*


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (xv) The 100 KVA distribution Transformer was charged in Feb. 2022 after inspection by the Electrical Inspector.
- (xvi) There was no use/minor use of the connections for the period from Sept. 2021 till date. Consumption is minimal. The Respondent issued bills of fixed charges through the system. However, the Appellant did not pay the same. The Respondent issued disconnection notices as per Section 56(1) of the Electricity Act, 2003. There are some connections which are in arrears presently.
- (xvii) **The Appellant did not submit the building completion report till date.**
- (xviii) The Respondent clarified that its corporate office had issued various circulars for infrastructure development for uniform practice throughout the State including a Circular CE(Dist)/D-III/NSC/30011/dated 20.12.2018 **for infrastructure development for release of new connections.** The Circular is based on Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations 2005) & Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations 2014).
- (xix) During the hearing, the Respondent explained that often, developers understate the expected load to avoid high fixed charges or security deposit. However, this creates problems for the utility, as the transformers get overloaded, and the infrastructure planning is adversely affected. So, a policy decision was taken to consider a realistic expected future load, for the purpose of planning infrastructure / transformer requirements.

Norms for Determination of Load:

As per this circular, the load for Residential /Commercial Complexes should be calculated as per the following norms, based on the carpet area.

Table 2:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



| Sr. No. | Class of premises | Connected load/sq. mtr. Carpet area |
|---------|-------------------|-------------------------------------|
| 1 | Residential | Min. 75 watts/ Sq. mtr. |
| 2 | Commercial | Min. 150 watts/ Sq. mtr. |

- (xx) The Circular states that, for any reason, if the Developer has not disclosed the correct load or anticipated load, and thereby not given the required land for a DTC, MSEDCL will not be bound to provide supply to the Developer, who will be responsible for the consequences (legal/regulatory).

The Diversity Factor for a residential flat having a carpet area up to 500 sq. feet is considered as 1.5, and for a carpet area above 500 sq. meter is considered as 2.5. The Power Factor of the system is considered as 0.9 PF. Considering all these technical parameters, the infrastructure is to be developed by applying the following formula.

KVA Infrastructure Capacity: Total Connected load as per Table 2/(Diversity Factor 1.5 or 2.5 as per carpet area) x PF as 0.9)

The said circular is kept on record. The Appellant has a grievance that his load was unnecessarily increased, hence his costs and billing increased. However, as mandated by the said circular, the expected load is calculated realistically for developing the appropriate infrastructure. If the transformer cannot take the future increased load, it may burn. There was no irregularity in calculating the load of the instant project for infrastructure planning. The Licensee has full authority to do so for development of proper infrastructure. The Respondent did not violate any standards of performance. The security deposit was collected as per directions issued in the relevant Tariff Order of the Commission which is in force.

- (xxi) The Appellant filed a grievance application in the Forum on 05.04.2022. The Forum, by its order dated 09.10.2023 rejected the grievance application being time barred as well as there being no merit in the grievance. The Forum considered the Cause of Action in the year 2014 when the Appellant paid service connection charges. The Appellant did not approach the grievance redressal mechanism within


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



two years from the date of cause of action as per Regulation 7.8 of CGRF & EO Regulations 2020. The Regulations 7.8 is reproduced as below:

“7.8 The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen. “

- (xxii) There was Covid-19 pandemic from 22.03.2020 onwards. There was complete lockdown which was partially opened from June/July 2020 for essential work. The effect of the Covid-19 pandemic was there till March 2022. Even then, the Respondent released the new connections in Sept. 2021, and completed infrastructure transformer work simultaneously and commissioned it in Feb. 2022. The Respondent has set up infrastructure of about Rs.18 lakhs till date. However, it is hardly used, as there are no buyers for the flats (due to its poor location in slums) as admitted by the developer himself from time to time. All this infrastructure is idle, with only the smallest annual revenue return.
- (xxiii) The Appellant regularly rents out this place (open garden with stage) for various functions like marriages, etc. He was advised to take a separate connection for such functions as this requires a commercial connection; however, he overlooked the same. Still, the Respondent has not taken any action against the Appellant on that count, on sympathetic grounds to avoid his further losses.
- (xxiv) In view of the above, the Respondent prays that the representations of the Appellant be rejected with cost.
3. The Appellant’s submissions and arguments are as below:
- (i) The consumer is the sole proprietor of Nath Associates, the promoter of Yash Complex situated at Survey No 22/2/1, near Indian Oil Petrol Pump, Mangdewadi, Katraj, Pune. *[Note: At that time, it was under a Gram Panchayat covering 28 villages]*
- (ii) The Appellant made applications for 31 new electric connections to the Respondent, Executive Engineer Padmavati Division in 2013. The Executive Engineer Padmavati Division, vide its letter dated 21.07.2014 approved the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



sanctioned Scheme as tabulated in Table 1 under ARR NON DDF Scheme. The CRA amount of Rs 1,06,000/- was paid on 14.07.2014 as per the Demand Notice of the Respondent.

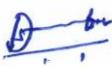
- (iii) The A1 Forms were submitted. This fact was accepted by the Executive Engineer in his sanction letter dated 21.07.2014. In the same para he states that lease agreement for land to locate the transformer was also given.
- (iv) For sanction under ARR NON DDF scheme, the Appellant is required to do only two things. He has to pay the CRA, and give the land on long lease to MSEDCL to erect the transformer. Planning and execution of the work was the task of MSEDCL at their cost.
- (v) The Respondent never made any demand of security deposit and processing fees at this stage though A1 Forms were submitted. Therefore, security deposit and processing fees were not paid.
- (vi) The Appellant referred to the Regulation 4 of SOP Regulations 2014. As per SOP Regulations 4, power should have been connected within a period of thirty days. This falls on 31/08/2014. Verbal enquiries about the delay were answered with vague replies which were accepted by the Appellant in good faith. *[Note: During the hearing the Appellant was asked whether he made any written complaints or correspondence; if not, why not. There was no satisfactory answer to this. Further, the Appellant has not taken into consideration that, before releasing individual connections to flats, it is expected that the building should be nearing completion; the wiring work of the flats should be completed etc. There is no evidence that this stage was achieved in 2014. In fact, the Respondent has contended that construction went on till around Feb.2020.]*
- (vii) Sometime in early February 2020, Appellant's neighbor Mr. Dawood Peersab Shaikh approached the Appellant to seek information regarding his connections as he had received a sanction to be given by MSEDCL for the same transformer which was in the Appellant's premises. It was while the Appellant went through his sanction that he came across the Office note made by the Assistant Engineer,


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Katraj. It was recorded that the cable laying work was stopped due to some land dispute and right of way. He was therefore proposing a new route. Immediately, the Appellant realized that something was wrong and that there was some cover up going on.

- (viii) The Appellant wrote a letter dated 14.02.2020 to the MD of MSEDCL with a copy to the Chief Engineer, Pune Urban Zone requesting electricity connection to his residential complex. *[Note: The Respondent of the concerned division denied that any such letter was received at the local office, which is the authority for sanctioning and releasing these connections.]*
- (ix) The Appellant filed a grievance application in Internal Grievance Redressal Cell (IGRC) on 03.03.2020. The IGRC by its order dated **21.03.2021** directed the Respondent to complete the balance work of 100 KVA Distribution Transformer on top priority. The Appellant was advised to pay processing fee, security deposit and other charges as per MSEDCL circular. The Respondent was directed to release the connections on priority basis.
- (x) Accordingly, the Appellant was advised to submit fresh A1 Forms as the ones submitted earlier were misplaced. This was in September 2021. A demand for a security deposit and processing fees was made and paid promptly by him. Meters were installed in September 2021 but energized only on 13.02.2022 after the transformer was charged on 12.02.2022. *[Note: Appellant claims that Feb. 2022 is the date of cause of action. This logic is not clear. If the grievance is that the connections should have been released in 2014, then the cause of action (grievance) arose in 2014, not when the connections were actually released in 2022.]*
- (xi) However, billing on the new meters commenced from August 2021. All this time the supply of the Appellants was through the construction line, and billing continued on this construction meter.
- (xii) The Appellant filed a grievance application in the Forum on 05.04.2022. The Forum by its order dated 09.10.2023 rejected the grievance application. The


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Appellant has shown his extreme disappointment at the way the Forum conducted the hearing. In the one-hour hearing, the Chairperson kept enquiring about commencement certificate and completion certificate of the building, a topic not raised by the Appellant or by MSEDCL. He asked the Appellant to submit all these papers and yet whatever conclusions they have drawn from them does not find a place in their order. Similarly, he insisted that the Appellant produce the old A1 Forms which was told to him was misplaced. However, the fact that he had submitted them is not disputed and is admitted by MSEDCL in the sanction letter itself. Since the Appellant had submitted A1 Forms in 2014, MSEDCL should have made a demand for security deposit and processing fees. They did not do so. So to now turn around and say that non-payment of security deposit and processing fees was the cause of connection not being given is questionable.

(xiii) The Forum has accepted the argument that the Appellant's demand for damages is time barred at face value. The Appellant was never given an opportunity to counter it.

- Standard of Performance Compensation is an amount calculated on the time a service becomes due to the time that the service is received by the consumer. It has a starting date and a closing date. In this case the starting date was 31.08.2014. The closing date was on 13.02.2022. **That was the date on which the new connections were energized. Therefore, the cause of action occurred on 13.02.2022 and will become time barred only on 12.02.2024.**
- The fixation of 75 watts per sq meter being taken as the minimum demand load based on carpet area is totally arbitrary. This does not have MERC Approval to the best of his knowledge. This is a matter which affects the finances of the consumer. Before energizing the new meters, the load of the building was being taken up by the construction service which has a demand load of only 2 KW. Now the total demand load is more than 50KW as calculated by the 75 watts per sq. meter formula. Security deposit is proportional to the demand load and


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



therefore this excess amount being collected is only a cheap source of finance for MSEDCL.

- (xiv) As per the Gram Panchayat Rules, it is not mandatory to submit such documents as required by the Respondent. Gram Panchayat gives property tax receipts for the individual flats. There is no need for building completion certificate. The Appellant cited the Case of Maharashtra Real Estate Appellate Tribunal Mumbai in Appeal No. U-14 of 2019 S. Vijaykumar V/s Shikara Constructions Pvt. Ltd. dated 18.07.2023 in support of his claim.
- (xv) **The Appellant has been paying commercial rates on his construction meter from 01.09.2014 to 13.02.2022 which is on the higher side. Had he received residential connections as per SOP, he would have been billed on residential tariff and that too divided by 33 connections.**
- (xvi) The delay be condoned for filing the representations.
- (xvii) In view of the above, the Appellant prays that the Respondent be directed
- to reimburse this excess amount collected under construction account instead of residential. (The bill used to come very high of Rs.15000/16000 per month.)
 - to pay compensation of Rs 25000/-for mental harassment.
 - to pay litigation costs of Rs. 15000/-.

4. The Appellant filed a rejoinder on 12.03.2024, which is nothing but a repetition of the points which are already covered in the previous submissions.

Analysis and Ruling

5. Heard the parties and perused the documents on record. M/s. Nath Associates (Prop. Pankaj Desai) was developing a Multistorey Residential Complex (Gr. + 3 floors) at Survey No. 22/2/1 Mangdewadi, Katraj, Pune-Satara Road, Pune-46 from the year 2013. The


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Appellant took electric supply for construction purpose (Consumer No. 170020016038) which was released on 03.09.2012.

6. The Respondent contended that as per its records, when the construction work was in progress, the Developer had applied for anticipated power supply for 30 flats and 1 common connection in the year 2014 along with architecture plan of the building indicating carpet area etc. Technical and administrative sanction was given by Executive Engineer Padmavati Division, vide his letter dated 21.07.2014. The relevant details of the sanctioned Scheme are tabulated in Table 1. Accordingly, the Appellant paid service connection charges (CRA) of Rs.1,06,000/- on 23.07.2014.

7. MSEDCL developed its Web Self Service (WSS) portal in the year 2014 as per the requirement of SOP Regulations 2014. Thereafter, each and every new connection was routed through this WSS portal from the end of the year 2014. The Respondent erected a 100 KVA transformer at the site and laid a partial cable. However, the work could not be completed due to a Right of Way (ROW) issue. The Appellant failed to submit any documents of project completion nor did any follow up from July 2014 to Feb. 2020 for releasing the new connections to his residential complex **as the said building was still in construction phase**. The Appellant did not register the documentary requirements for new connections on the WSS Portal as per statutory requirement of SOP Regulations 2014. Actually, the residential connections for the flats should be applied in the name of the individual flat owners, which the Appellant did not comply with. The Respondent contended that since there were hardly any buyers for the flats, partly due to its location and partly because it was still under construction till Feb.2020, probably the Appellant deliberately delayed the full application procedure for the 31 new connections.

8. The Appellant filed a grievance application in IGRC on 03.03.2020 for new connections. However, the Covid-19 pandemic started from 22.03.2020 onwards. There was complete lockdown which was partially opened from Jun/July 2020 only for essential work.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



The IGRC by its order dated **21.03.2021** directed the Respondent to complete the balance work of 100 KVA Distribution Transformer on top priority. The Appellant was advised to pay the processing fee, Security Deposit and other charges. As per the order of the IGRC, the Respondent laid down a new cable of 22 KV 3 core- 185 Sq. mm XLPE cable by resolving issues of objections of right of way. The Respondent also guided the Appellant to fulfill all paperwork of statutory requirements for the new connections including A1 Forms. All these applications for new service connections were entered into the system and demand notices were generated for the payment of statutory charges in Sept. 2021. The Appellant paid the required charges, and the connections of the Appellant were released in the month of **Sept. 2021** on the existing supply of construction meter, as there was no occupancy found. The 100 KVA distribution Transformer was charged in Feb. 2022.

9. The Appellant contended that he applied for 31 new electric connections to the Respondent, Executive Engineer Padmavati Division in 2013. The Executive Engineer Padmavati Division, vide his letter dated 21.07.2014 approved the sanctioned Scheme as tabulated in Table 1 under ARR NON DDF Scheme. The CRA amount of Rs 1,06,000/- was paid on 14.07.2014 as per the Demand Notice of the Respondent. The Appellant also handed over a piece of land to the Respondent and paid service connection charges. The Respondent was duty bound to release the new connections in 2014, however failed to do so. The new connections were released only in Sept. 2021 on the existing construction supply, and hence he was not able to take any load. The 100 KVA Distribution Transformer was charged on 12.02.2022. **The Appellant is entitled to get SOP compensation from 14.07.2014 to 13.02.2022 for failure to release new connections within the stipulated time frame.**

10. The Appellant also has other grievances. He contended that the fixation of load of 75 watts per sq. meter being taken as the minimum demand load based on carpet area is totally arbitrary. The Security deposit is proportional to the demand load, and therefore, an excess amount of security deposit was collected. Further, the Appellant contends that as per the Gram Panchayat Rules, it is not mandatory to submit a building completion certificate. We find this


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



argument to be incorrect. Even otherwise, the basic flat wiring is expected to be completed along with the test report of the authorised electrical contractor before the supply of individual flat connections can be released.

11. Finally, the Appellant claims that he has been paying commercial rates on his construction meter from 01.09.2014 to 13.02.2022 which are higher than residential rates which were due. **This assumption of the Appellant seems to be faulty. In fact, had the 31 residential connections been given in 2014, the Appellant's bill would have increased substantially, as he would have had to pay fixed charges of 31 connections as tabulated below:**

| Tariff Order of the Commission | Fixed Charges for Residential connection | | With Effect From | Fixed Charges for 31 connections per month | | Progressive Charges (Rs.) |
|--------------------------------|--|--------------------|------------------|--|--------------|---------------------------|
| | Single Phase (Rs.) | Three Phase ((Rs.) | | Monthly (Rs.) | Yearly (Rs.) | |
| 121 of 2014 dated 26.06.2015 | 50 | 150 | 01.06.2015 | 1,550 | 18,600 | 18,600 |
| 195 of 2017 dated 12.09.2018 | 80 | 300 | 01.09.2018 | 2,480 | 29,760 | 48,360 |
| 322 of 2019 dated 30.03.2020 | 100 | 340 | 01.04.2020 | 3,100 | 37,200 | 85,560 |
| | 102 | 340 | 01.04.2021 | 3,162 | 37,944 | 1,23,504 |
| | 105 | 350 | 01.04.2022 | 3,255 | 39,060 | 1,62,564 |
| | 107 | 357 | 01.04.2023 | 3,317 | 39,804 | 2,02,368 |

12. In order to determine whether the Appellant was entitled to get 31 residential connections in 2014, it is necessary to study the provision of SOP Regulations 2014. The Regulation 9.4 provides as below:

“9.4 The Distribution Licensee shall make available—


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



- (i) *to each applicant for new connection, upon request, on acceptance of his application;*
- (ii) *to consumers of the Distribution Licensee, upon request, subject to payment of reasonable reproduction charges—*
 - (a) *The Electricity Supply Code and Other Conditions of Supply Regulations;*
 - (b) *The Standard of Performance Regulations;*
 - (c) *The Terms and Conditions of Supply along with the approved Schedule of Charges and the prevailing approved Tariff Schedule ; and*
 - (d) *A Consumer Rights Statement*

Provided that the hard copies of the aforesaid documents, shall be made available at any of the consumer service center / billing center / Sub-division office / Division Office / Circle office / Zonal Office / Section Office / Ward office of the Distribution Licensee.

Provided further that the aforesaid documents shall be uploaded in downloadable format on the Distribution Licensee's internet website.

The Regulation 4 stipulates that

4. Period for Giving Supply

New Connection (including Temporary Connection)/Additional Load/Reduction of Load

4.1 The Distribution Licensee shall, on an application made by post or by hand by the owner or occupier of any premises, give supply of electricity to such premises after receipt of the application by chronological order of receipt of its complete application requiring such supply.

4.2 The application referred to in Regulation 4.1 shall be deemed to be received on the date of receipt of the duly completed application in accordance with the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 including any amendments thereto in force from time to time.

.....

*4.8 Where the supply of electricity to a premise requires extension or augmentation of distributing mains, the Distribution Licensee shall give supply to such premises within three (3) months from the **date of receipt of the completed application and***


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



payment of charges. *The extension or augmentation of distributing mains includes the extension of HT, LT lines and augmentation of distribution transformer substation.*

4.9 *Where the supply of electricity to a premise requires commissioning of a new sub-station forming a part of the distribution system, the Distribution Licensee shall give supply to such premises within one (1) year from the date of receipt of the complete application and payment of charges. The commissioning of new substation forming a part of the distribution system will include substation having transformation from HT to HT or HT to LT or switching station from where the HT distribution lines originate.*

4.10 *The Distribution Licensee shall not be held responsible for the delay, if any, in giving supply on account of problems relating to statutory clearances, right of way, acquisition of land or the delay in consumer's obligation which is beyond the reasonable control of the Distribution Licensee.*

It is seen that several of the above statutory requirements were not fulfilled. The Respondent argued that there was no clear right of way to lay the cable; there was opposition and obstruction from others. Secondly, the 31 connections had still not been applied for in the name of the individual flat owners, as the Appellant had not been able to sell the flats. Thirdly and most importantly, the building had not reached completion stage with completed wiring of the flats. The meter room had also not been provided. The Appellant has argued that a building completion certificate is not required under the Gram Panchayat rules. As already pointed out earlier, this argument is faulty. When a G+3 building is constructed, even in a semi-rural area, the basic building norms must be complied with before connections are released.

The Regulation 8 provides that

“8.3 Every Distribution Licensee shall employ or engage sufficient number of persons at its Call centre(s) and also earmark or allot or establish a basic telephone or cellular mobile telephone number having sufficient communication


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



lines or connections to be called as the “toll free number” or “consumer care number” or “helpline number” as the case may be, at Call centre(s).

8.4 The call charges or short message service charges shall not be levied upon, or made payable by the consumers, for calls made, or, short messages sent, to the “ toll free number ” or “ consumer care number ” or “ help line number ”, as the case may be.

8.5 Every Distribution Licensee shall, immediately upon establishment of Call centre(s), inform through a public notice in newspapers in circulation in the Area of Supply, by uploading on internet website of the Distribution Licensee and should also ensure proper circulation of information to the consumers in case of any changes in the contact numbers.

The Respondent had already established a “Consumer Facilitation Centre” at Pune which has been working satisfactorily for the last many years. The Appellant had an opportunity for getting guidance regarding the required procedure for getting the new connections at CFC Pune, where a service for data entry (which is supposed to be done by the Appellant) is also provided at nominal cost. The Appellant failed to use these services.

Considering the sequence of events, it is seen that from 2014 to 2020, the Appellant did not follow up nor made any correspondence for the connections. He simply remained silent and approached MSEDCL for the first time only in Feb 2020. Even then, he wrongly addressed his letter to MD MSEDCL on 14.02.2020 with a copy to the Chief Engineer, Pune Urban Zone, requesting for electricity connection to his residential complex. It is beyond understanding why the Appellant did not directly address or atleast give a copy of this letter to the concerned competent authority who had sanctioned the ARR Non –DDF Scheme on 21.07.2014. This letter indirectly indicates that the Appellant’s residential project was nearer to completion only in Feb.2020, and the Appellant probably did not need the electric connections before that. Otherwise, he would have sent this letter much earlier.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



13. The Appellant approached IGRC on 03.03.2020 for the new connections. So, it is seen that the Appellant sent his first letter for the connections on 14.02.2020, and without waiting for a response or without approaching the concerned Executive Engineer directly, he immediately approached the IGRC on 03.03.2020, i.e. within 18 days. In fact, even if he had not approached the IGRC, his connections would have sanctioned in any case, considering the near – completion of construction by Feb. 2020. The IGRC by its order dated **21.03.2021** directed the Respondent to complete the balance work of 100 KVA Distribution Transformer on top priority. The Respondent has laid down a new cable of 22 KV 3 core- 185 Sq. mm XLPE cable by resolving issues of objections of right of way. The new connections were released in Sep. 2021 on the existing construction supply for the time being. The Distribution Transformer was energized in Feb. 2022. This was the period of the Covid-19 pandemic. There is nothing wrong in the sequence of release of connections.

14. The case is also not maintainable, being time barred as per Regulation 6.6/7.8 of CGRF & EO Regulations 2006/2020, wherein the Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen. The Appellant's main grievance is that the connections were not released in time; they should have been released in 2014. At the same time, he claims (in order to avoid the limitation clause) that the cause of action arose in Feb 2022. This is a clear contradiction. The only purpose of this representation seems to be to obtain compensation and reimbursement of the payment made from 2014 to 2022. Had he seriously wanted the early release of connections in 2014, he would have approached the Forum in 2014 itself. Under the Regulations, the Appellant had to approach the Consumer Grievance Redressal Forum latest by 2016. However, he filed the grievance application in the Forum only on 05.04.2022. On this ground of limitation, the Forum as well as the Electricity Ombudsman has dismissed various cases.

The Hon'ble Bombay High Court, Aurangabad Bench has also passed Judgment dated 21.08.2018 in W.P no 6859, 6860, 6861 & 6862 of 2017) regarding limitation and has ruled that: -


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



“If I accept the contention of the Consumer that the Cell can be approached anytime beyond 2 years or 5/10 years, it means that Regulation 6.4 will render Regulation 6.6 and Section 45(5) ineffective. By holding that the litigation journey must reach Stage 3 (Forum) within 2 years, would render a harmonious interpretation. This would avoid conclusion that Regulation 6.4 is inconsistent with Regulation 6.6 and both these provisions can therefore coexist harmoniously”.

Further in Case No 5 of 2020 in M/s. Jaygangatara Magaswargiya Co-op. Ind. Ltd and 12 Others V/s MSEDCL, the Commission in its order para no.17 has cited the Judgment of Page 15 of 29 77,78,79,80,81 & 82 of 2022 Sangram Group the Hon’ble Supreme Court in the Case of A.P. Power Coordination Committee Vs. Lanco Kondapalli Ltd. The ratio of the said judgment is applicable to the present case also. The observation of Commission in para 17 reads as under: -

“The Hon. Supreme in the case A.P. Power Coordination Committee Vs. Lanco Kondapalli Ltd. while disposing of the Civil Appeal No, 6036 ,6061, 6138 of 2012, 9304 of 2013, and 6835 of 2015 dated 16 October, 2015 (2016) 3SCC 468, (Para 30), has held that a claim coming before the Commission cannot be entertained or allowed if it is barred by limitation prescribed for an ordinary suit before the Civil Court.”

The relevant extract of the Order is reproduced below:

“In this context, it would be fair to infer that the special adjudicatory role envisaged under Section 86(1)(f) also appears to be for speedy resolution so that a vital developmental factor - electricity and its supply is not adversely affected by delay in adjudication of even ordinary civil disputes by the Civil Court. Evidently, in absence of any reason or justification the legislature did not contemplate to enable a creditor who has allowed the period of limitation to set in, to recover such delayed claims through the Commission. Hence we hold that a claim coming before the Commission cannot be entertained or allowed if it is barred by limitation prescribed for an ordinary suit before the civil court.”

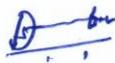

(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



15. It is seen that the Appellant approached the Forum well beyond the prescribed time frame. Considering the above facts, the Appellant's Representations are time barred and also do not stand on merit. Hence, the Representations are rejected.

16. The Representations are disposed of accordingly.

Sd/-
(Vandana Krishna)
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

