

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 157 OF 2019

In the matter of billing and disconnection of the agricultural connection

Shri Ganesh Dadu Meher.....Appellant

V/s

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

Appearances

For the Appellant : Ramchandra Pandey, Representative

For the Respondent : 1. A. H. Holmukhe, Executive Engineer, Virar
2. R. B. Vaman, Asst. Law Officer

Coram: Mr. Deepak Lad

Date of Order: 31st October 2019

ORDER

This Representation is filed on 21st August 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 10th July 2019 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan Zone (the Forum).

2. The Forum by its order dated 10th July 2019 has disposed the grievance application in Case No. 115/1874 of 2018-19 with the operative part of the order as below: -

- “1) Reconnection cannot be granted.*
- 2) If the consumer wants separate Agriculture connection he should specify the property and point out separate well therein.”*

3. Aggrieved by the order of the Forum, the Appellant has filed this representation. The case of the Appellant is as under:-

- (i) The Appellant initially is an agricultural consumer having Consumer No. 001651437861 from March 1993 at Navapur, Vasai. The total area of his agricultural land is 144.72 gunthas having various survey numbers. The Appellant started construction of Resort on Survey No. 161 of an area of 26.3 gunthas.
- (ii) The Respondent issued assessment bill towards alleged use of electricity for construction of Resort. The Appellant objected towards the assessment bill of Rs.49473/- by his letter dated 06.07.2017.
- (iii) After lot of correspondence, the Respondent replied by its letter dated 16.11.2017 that there is a tariff difference adjustment of Rs.19593/- and the bills of June and July 2017 are of commercial category. The Appellant disagreed and hence requested vide his letter dated 22.01.2018 to give opportunity for hearing and resolve the issue of wrong bill revision to avoid further litigation in future.
- (iv) The Respondent levied commercial tariff for the consumption of agricultural use. This is against the law.
- (v) Meanwhile, the Appellant applied for new connection for his Resort which was sanctioned on 09.06.2017. The commercial connection of the Resort having Consumer No.00163016268 was released on 17.12.2018. Simultaneously, the Respondent has disconnected permanently the said agricultural connection.

- (vi) There was a billing dispute. The Respondent has disconnected the supply of the Appellant. The Appellant paid Rs.100000/- (Rs. One lakh only) on 25.01.2019 to restore supply; however, the Respondent did not restore the supply.
- (vii) The Appellant approached the Forum on 10.04.2019 for restoring the supply of the agricultural connection, to revise the bill as per the agricultural tariff for disputed period and to refund excess amount recovered.
- (viii) The Forum, by its order dated 10.07.2019 has not granted reconnection to his agricultural connection and the Forum erred in understanding the basic issues.
- (ix) The Appellant prayed that the Respondent be directed
 - (a) To restore agricultural connection for 118.42 gunthas for irrigation.
 - (b) To revise bill and refund excess recovered bill as per applicable law.

4. The Respondent MSEDCL has filed its reply by letter dated 16.09.2019 stating as below:-

- (i) The Appellant is originally an agricultural consumer having Consumer No. 01651437861 from March 1993 at Navapur.
- (ii) The electric installation of the Appellant was inspected on 13.02.2017. It was observed during inspection that the Appellant was using electricity unauthorizedly from this agricultural connection for construction activity at his Atlanta Resort since last five months. The Appellant was booked under Section 126 of the Electricity Act, 2003 (the Act) and the assessment bill of Rs.29890/- was issued towards unauthorized use of electricity. The Appellant paid the assessment bill of Rs.29890/-.
- (iii) His maximum use of electricity was commercial and was supposed to change tariff category from Agriculture to Commercial, however, the Appellant was billed for agricultural tariff category for April and May 2017 through oversight. Subsequently, the supplementary bill of tariff difference was issued and the Appellant paid the same. The tariff category of the Appellant was changed to commercial and the Appellant was categorized under Commercial category for billing from June 2017.

- (iv) Meanwhile, the Appellant applied for new connection to his Resort in commercial category. The estimate was sanctioned on 09.06.2017 subject to capacity enhancement of the distribution transformer. The electric connection (Consumer No. 00163016268) was released on 17.12.2018 under Commercial tariff category after installation of 200KVA transformer. The agriculture connection (Consumer No. 001651437861) was then permanently disconnected immediately as its use was negligible, since the well is situated in the middle of the Resort and about 95% of its use is for the Resort. The Respondent pointed out that there is no boundary between the Resort areas and so called agricultural land.
- (v) The average consumption of the Appellant was 287 units per month in the year 2015-16 and 338 units per month in 2016-17 (upto Oct-2016). Subsequently, his consumption increased up to 9000 units per month.
- (vi) The Respondent prayed that the Representation of the Appellant be rejected.

5. During the hearing, the Appellant and the Respondent argued in line with their written submissions. The Appellant argued that the total agricultural land is 144.72 gunthas of various survey numbers. Out of this, area of the Resort is only 26.3 gunthas, whereas, the balance agricultural area is 118.42 gunthas. The well is in the Resort area and underground pipeline has been laid for agricultural land. Hence, the Appellant prayed to restore the agricultural connection having Consumer No. 001651437861.

6. The Respondent argued that the Appellant is billed as per meter reading and the Appellant unauthorizedly utilised the power for his Resort and hence, the Appellant was booked under Section 126 of the Electricity Act, 2003 (the Act) in February 2017. Further, the Appellant was billed on commercial tariff category as maximum load of the connection was used for Resort purpose. Hence, the bill was recovered / issued as per actual consumption on commercial tariff category. After recovery under Section 126 of the Act, further recovery is only tariff difference from agricultural to commercial for April and May 2019 and afterward the billing code of commercial category was filled up in the billing system. There is no billing

dispute at all. There is no demarcation of land for Resort and agricultural. The well is situated in the middle of the Resort and about 95% of its use is for the Resort. The Appellant was booked under Section 126 of the Act for using agricultural connection power for the Resort purpose which is commercial. Agriculture metering installation is in the Resort. The possibility of misuse cannot be ruled out. Hence, the agriculture connection (Consumer No. 001651437861) was permanently disconnected immediately to avoid further irregularities.

Analysis and Ruling

7. Heard both the parties on 26.09.2019. In view of the peculiar circumstances of the case, it was advised to the parties to find out a suitable workable solution to the issue. Both the parties agreed to this and sought two weeks' time which was granted.

8. In its letter dated 10.10.2019, the Respondent informed that both the parties carried out joint inspection on 04.10.2019 and following resolution has been agreed to:-

- "1. The point of supply (metering point) of existing old connection Con. No. 001651437861 will be shifted to Agriculture land.*
- 2. The new over ground water pipeline shall be installed from Agriculture land to submersible pump in well which is situated in Commercial premises of water Resort.*
- 3. The outgoing cable from meter outgoing terminal upto the water submersible pump shall be installed through over ground pipe of appropriate size.*
- 4. The arrears of Con. No. 001651437861 shall be paid prior to reconnection.*
- 5. The undertaking of Non-judicial stamp paper of Rs.200/- shall be given to the effect that you will be abide by above terms and conditions No. 1 to 3 will not misuse the supply or else shall be liable for action u/s 126, 135 of EA, 2003 as the case may be."*

Accordingly, the Appellant by its letter dated 14.10.2019 intimated that

- a) The Appellant agreed for the point no. 1.

- b) The Appellant disagreed with the point no. 2 as the separate underground piping from well to agriculture land is already existing. The new other overhead pipeline is wastage of money.
- c) The Appellant agreed for the point no. 3.
- d) The Appellant disagreed for the point no. 4.
- e) The Appellant agreed for the point no. 5.

9. The Respondent vide its letter dated 16.10.2019 further informed that the Appellant is non-cooperative despite the agreement subsequent to joint inspection as could be seen from its letter dated 14.10.2019.

10. Perused the documents on record. There is no dispute as to the ownership of the entire parcel of land where originally agricultural connection was released by the Respondent. The cause of action started when the Respondent started constructing its own Resort in one part of the land and using power of the agricultural connection for the construction purpose. The Respondent therefore billed the Appellant under Section 126 of the Act. The Appellant also paid the amount for unauthorised use of electricity as calculated by the Respondent under Section 126. I do not intend to delve into this aspect as it is outside the scope of the undersigned.

11. The Appellant during the hearing argued that proportionate consumption for agriculture use be carved out from the total consumption recorded by the meter meant for Resort and should be billed as per Agricultural tariff and for the rest of the consumption, the Appellant shall pay as per Commercial tariff. However, there is no regulatory support in favour of this argument and therefore, cannot be accepted.

12. It cannot be denied that the Appellant is the owner of the parcel of land where part of it is used for agriculture and part for Resort (Commercial) purpose. There is only one well. Use of water from this well for different purposes cannot be denied. Therefore, the only option left with the Appellant as well as the Respondent is to ensure that two connections on one well with zero possibility of unauthorised use needs to be ensured.


13. I noted that the consumption of the Resort has reached to a level of 9000 units per month and the Appellant has argued that the agriculture consumption is very minimum. Thus, major use of power in the entire parcel of land is for Resort i.e. Commercial purpose and not for agriculture.

14. It is an obligation cast upon the Respondent licensee under the law to fix the point of supply and ensure insulating the premises where there is possibility of misuse. It goes without saying that, all the necessary changes / alterations, if any, in order to fulfil this obligation are to be done by the Appellant at its own cost.

15. In view of this, it is left to the parties as to how best they can reach to a workable model, the modalities of which the undersigned would not like to go into. It is the bounden duty of the Respondent to see that while the model is workable, there is no scope for unauthorised use of power as the Appellant has already been penalised in accordance with Section 126 of the Act for unauthorized use of power. Unless these things are put in place, agricultural connection cannot be released.

16. Hence, the representation is disposed of with no order as to cost.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

