

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO.4 OF 2025 (REVIEW OF THE ORDER IN REPRESENTATION NO. 138 OF 2024)

In the matter of retrospective recovery towards under billing

Lazeem Abdul Khan (Original Consumer). ..... Review Applicant  
Ateeque Mohd. Khan (Tenant / User) (Original Appellant)

V/s.

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

### Appearances

Review Applicant: 1. Ateeque Mohd. Khan  
2. Nadeem Ansari, Representative

Respondent: 1. Deepak Sonavane, Executive Engineer  
2. Sandeep Dandwate, Addl. Executive Engineer, Pannalal Sub-dn.


**Coram: Vandana Krishna [IAS (Retd.)]**

Date of hearing: 20<sup>th</sup> March 2025

Date of Order: 15<sup>th</sup> April 2025

### ORDER

This Review Application was registered on 29<sup>th</sup> January 2025 under Regulation No. 22.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) for review of the original Order dated 27<sup>th</sup> December 2024 in Representation 138 of 2024 passed by the Electricity Ombudsman (Mumbai). The Electricity Ombudsman (Mumbai), in its

  
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impugned order, has predominantly dismissed the grievance raised by the Applicant. However, the order provides certain reliefs, including waivers on interest and delayed payment charges, as well as granting an installment facility. The operative portion of the order is as follows:

- a. to withdraw the interest and delayed payment charges levied, if any, from the date of issue of the supplementary bill till the date of revision of the bill if any.*
- b. to grant 10 equal monthly instalments to pay the revised bill without DPC and interest. If the Appellant fails to pay the monthly installment along with his current bill, the Respondent is permitted to recover the interest proportionally for the failure period, and to take action as per the law in force.*

#### **PREAMBLE:**


The Applicant has been categorized as an industrial consumer since December 13, 2002, primarily for service industry purposes. The specific details, including the consumer number, sanctioned load, address, tariff difference recovery and its period are provided below:

Table 1:

Name	Consumer No.	Address	Sanct. Load	Date of Supply	Date of Inspection	Tariff Difference Recovery	Period
Lazim Abdullah Khan	100000418581	Gala No.06, Galli No.02, Patel Compound, Mumbai - 400078	10 HP	13.12.2002	27/06/2023	Rs.4,89,860/- for 24 months from LT V: A (0 to 20 KW) to LTV:B (20 to 50 KW)	April 2021 to March 2023

2. The Applicant being aggrieved with this order of the Electricity Ombudsman (Mumbai) has filed this Review Application. An e-hearing was held on 20<sup>th</sup> March 2025 through video conference where both the parties were heard at length. The Respondent's submissions and arguments are stated first as below:


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- (i) The Applicant-Owner, Mr. Lazeem Abdul Khan, approached the Forum on 20/09/2023 instead of the Tenant, Mr. Ateeque Mohd. Khan. Despite initiating the proceedings, the Applicant-Owner chose not to attend the hearings. In its order dated 04/04/2024, the Forum dismissed the grievance application, observing that hearings had been scheduled multiple times on 13/10/2023, 31/10/2023, 24/11/2023, 19/12/2023, and 08/02/2024, but the Applicant consistently remained absent. Moreover, the Applicant failed to submit any documentary evidence supporting his claim for the withdrawal of the supplementary bill and did not inform the Respondent about renting out his premises.
- (ii) During the impugned period, the Applicant was actively involved in business activities, with consumption pattern as shown in Table 2 below.

Year/ Month	2020-21	2021-22	2022-23	2023-24		2024-25	
	Cons. (Units)	Cons. (Units)	Cons. (Units)	Cons. (Units)	Recorded Demand (KVA)	Cons. (Units)	Recorded Demand (KVA)
<b>Apr</b>	219	<b>3128</b>	<b>4029</b>	5956	30	1693	32
<b>May</b>	219	<b>5097</b>	<b>4304</b>	4696	30	4927	34
<b>Jun</b>	219	<b>4753</b>	<b>6624</b>	3275	26	1663	30
<b>Jul</b>	2188	<b>5276</b>	<b>5570</b>	4172	34	2803	33
<b>Aug</b>	31250	<b>6955</b>	<b>5636</b>	5066	31	2272	29
<b>Sep</b>	484	<b>7126</b>	<b>6347</b>	5627	33	695	25
<b>Oct</b>	28	<b>4986</b>	<b>6234</b>	2760	30	3867	29
<b>Nov</b>	4532	<b>6540</b>	<b>7748</b>	642	28	4489	33
<b>Dec</b>	4711	<b>7117</b>	<b>5313</b>	4764	30	5845	32
<b>Jan</b>	4579	<b>4621</b>	<b>1045</b>	5107	33	5267	31
<b>Feb</b>	4747	<b>5170</b>	<b>5145</b>	3862	31	5366	28
<b>Mar</b>	4417	<b>4247</b>	<b>6241</b>	5076	33	-	-
<b>Total</b>		<b>65016</b>	<b>64236</b>	51003		38887	
<b>Avg/Mth</b>		<b>5418</b>	<b>5353</b>	4250		3889	
<b>Remarks</b>	1. Accumulated consumption 31250 units for 6 months ( Feb' to Aug' 20 ) in Aug. 2020 due to Covid-19 pandemic. 2. The Contract Demand recorded were found 27 & 23 KVA in March & April 2022 where the consumer was billed under LT-V B tariff category						

  
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The Respondent emphasized that the tenant filed this representation before the Electricity Ombudsman on 01/10/2024 challenging the Forum's order dated 04/04/2024, after a delay of six months instead of the required 60 days as per Regulation 19.1 of CGRF and EO Regulations 2020. The delay amounted to four months. The Tenant's excuse seems to be a fabricated narrative of medical issue. The hearing was specifically convened to address the admissibility of the representation. The Electricity Ombudsman (Mumbai) by its order has rightly rejected the alleged grievance.

- (iii) **The Applicant was found to be utilizing electricity unauthorizedly, exceeding 20 KW against the sanctioned load of 10 HP since 2020, as detailed in Table 2.** The Applicant tenant did not approach this authority with clean hands in this matter, and the delay should not be condoned. Consequently, this review application warrants rejection at the admission stage. Furthermore, the case laws referred to in support of condonation of delay are not applicable to this case.

#### **Submissions:**


- (iv) A meter (Genus make, No. 06331894) with a capacity of 10-40 A was installed for the Applicant on the date of supply, i.e. 13/12/2002. During a routine inspection in April 2023, the said meter displayed a Maximum Demand of 27.34 KVA. On 26/04/2023, the Respondent attempted to retrieve data from the meter; however, this was unsuccessful due to a communication error that prevented data retrieval. The cause of this error was deemed suspicious and questionable since such issues are uncommon for this type of meter. Consequently, the old meter was replaced on 26/04/2023, with the final reading recorded as 191,800 KWH.
- (v) On 27/06/2023, the Additional Executive Engineer, MSEDCL Flying Squad, Thane inspected the Applicant's premises. It was found that electricity was being utilized for manufacturing plastic granules through the recycling of plastic using an extruder machine. **The consumption pattern ranged between 4,000 to 6,000 units per month, indicating a load substantially exceeding 20 KW (27 HP) against the**

  
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**sanctioned load of 10 HP.** The Applicant was billed under the LT-V A (0 to 20 KW) tariff category with concessional rates, instead of the appropriate LT-V B (20 to 50 KW) tariff category. The Maximum Demand recorded on the new meter was 25.046 KVA.

- (vi) The Respondent issued a supplementary bill of Rs.4,89,860/- for 1,32,676 units towards tariff difference from LT- V A to LT-V B to the Applicant on 07/07/2023 **for the period from April 2021 to March 2023 (24 months)** as per Section 56(2) of the Electricity Act, 2003.
- (vii) The Respondent has submitted the Applicant's consumption pattern from April 2020 onwards for about five years (April 2020 to Feb. 2025), as shown in Table 2 above. The consumption data indicates that the Applicant's electricity usage consistently ranged between 20 to 40 KW. The standard rule for such activities is 150 units per KW per month. Load exceeding 20 KW typically results in monthly consumption above 3,000 units.
- (viii) During the retrospective recovery period (2021-22 and 2022-23), the Applicant's average monthly consumption was 5,418 and 5,353 units, respectively. This indicates unauthorized use of electricity via unsanctioned additional load, falling under the LT-V B (20 to 50 KW) tariff category, while the Applicant benefitted from a lower tariff rate. Such conduct amounts to unauthorized electricity usage for undue gain. Although the case falls under Section 126 of the Electricity Act, 2003, the Respondent opted for plain tariff difference recovery following a practical approach, limiting it to two years, in compliance with Section 56(2) of the Act.
- (ix) Despite being billed under the LT-V B tariff from April 2023 onwards, the Applicant did not initiate regularization of this load.
- (x) The Applicant–Owner filed Schedule A in the Forum, which subsequently rejected the grievance application through its order. If dissatisfied with this decision, it was incumbent upon the Applicant–Owner to challenge the Forum's order. However, the opposing party submitted Schedule B during appellate proceedings before the Electricity Ombudsman (Mumbai). This submission is not in accordance with the rules

  
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and regulations stipulated under the CGRF & EO Regulations 2020 and is therefore statutorily non-maintainable.

- (xi) The Applicant has failed to show any error on the face of the record. As such the present review is not maintainable considering the provision of Regulation 22 of the CGRF & EO Regulations 2020. Hence, it is requested to dismiss this Review Application and to direct the Applicant to comply with the order with immediate effect.

3. The Applicant's submissions and arguments are as below.

- (i) The Applicant (owner) is an industrial consumer since 13.12.2002. Lazim Abdullah Khan, as the owner, leased this industrial unit to Ateeque Mohd. Khan, the tenant from 1st February 2023 under a leave and license agreement notarized on stamp paper of Rs.100/- dated 27th January 2023. The tenant, Mr. Ateeque Mohammed Khan is recognized as the actual user and consumer of MSEDCL in accordance with Sections 43(1) and 2(15) of the Electricity Act, 2003. As the actual user, occupier, possessor, and consumer of MSEDCL, we have jointly submitted this review petition.
- (ii) The owner - Applicant as well as Tenant are uneducated and unfamiliar with the procedures, practices, and rules for filing a representation. They also lack an understanding of the law of limitation and the appeal process. In support of the request for condonation of delay, the Applicants referred the judgment of the Hon'ble Supreme Court of India in the case of M/s. New Okhla Industrial Development vs. Omvir Singh dated 15.12.2022, and the case of Ram Nath Sahu and Others vs. Gobardhan Sao and Others, dated 27.02.2002. In several cases, the Hon'ble Supreme Court and Hon'ble Bombay High Court have explicitly ruled that delays in filing appeals may be condoned if the Applicants are illiterate. In view of the above, the delay in filing the present Appeal was not intentional and not deliberate, but due to illiteracy of both Applicants and serious medical reasons of Applicant-Tenant. The Applicant prays for the condonation of the inadvertent delay in filing this Appeal, invoking the principles of natural justice.


  
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**Merits of the Case and Factual and Legal Aspects: -**

- (iii) The Applicant is a small LT three phase Industrial Consumer and using the supply for manufacturing purpose i.e. manufacturing of plastic granules from 13.12.2002 as tabulated in Table 1. The sanctioned/Connected Load is only 10 HP (7.46 KW) with a Contract Demand of 8 KVA. It is to be noted that this connection is well below 27 HP and is eligible for the tariff applicable to the consumers under 27 HP (20 KW) Category as per the Tariff Order of the Commission in force. However, the MSEDCL officials have inspected the Applicant's meter on 27.06.2023 and submitted their report to the sub-division. Despite many requests, the copy of the inspection report was not provided to the Applicant. Surprisingly and shockingly, the MSEDCL issued a supplementary bill of Rs.4,89,860/- on 07.07.2023 for the retrospective period of April-2021 to Mar-2023 (24 months). The above plain recovery bill is absolutely wrong, illegal, baseless and contrary to the Tariff Order of the Commission.
- (iv) The Respondent installed a Whole Current meter, which was not a LTMD Meter. The meter was inspected by the said officials in a summer month, so may be the meter recorded the highest MD on that date due to summer. This does not mean that the Applicant was continuously exceeding the contract demand throughout the last two years prior to the date of inspection. Hence, the concept of exceeding contract demand throughout 24 months is absolutely wrong, illegal and baseless. There is no legal base to the recovery. How can any consumer exceed his contact demand continuously for 24 months irrespective of the weather condition. The recovery is completely illegal. Merely for the reason of exceeding the contract demand on the date of inspection (a single day), the MSEDCL cannot penalize the Applicant for a period of 24 months.
- (v) The Applicant referenced the Commission's Tariff Order dated 30.03.2020 in Case No. 322 of 2019, which came into effect on 01.04.2020. The relevant extract from the said order is cited below:

***“Penalty for exceeding Contract Demand:***

  
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*In case a consumer (availing Demand-based Tariff) exceeds his Contract Demand, he will be billed at the applicable Demand Charge rate for the Demand actually recorded, and also be charged an additional amount at the rate of 150% of the applicable Demand Charge (only for the Demand in excess of the Contract Demand).*

*In case a LT consumer with a sanction demand/ contract demand less than 20 kW records actual contract demand above 20 kW, he will be billed at the tariff applicable for the respective load slab approved by the Commission, in which recorded demand falls for that billing cycle only and also be charged an additional amount at the rate of 150% of the applicable charge for the Demand in excess of the Contract Demand.*

***Further Distribution licensee can enhance the Contract Demand of the consumer when the consumers exceed the Contract Demand on more than three occasions during a calendar year, irrespective whether the Consumer submits an application for the same or otherwise. However, before such revision of Contract Demand, Distribution Licensee must give 15 days' notice to such consumer. Also, the Consumer is liable to pay necessary charges as may be stipulated in the approved Schedule of Charges for the revised Contract Demand.***

*Under these circumstances, the consumer shall not be liable for any other action under Section 126 of the EA, 2003, since the penal additional Demand Charge provides for the penalty that the consumer is liable to pay for exceeding his Contract Demand. In case a consumer exceeds his Contract Demand on more than three occasions in a calendar year, the action to be taken would be governed by the provisions of the Supply Code Regulations.”*

- (vi) It is clearly instructed in the above circular that in case a consumer with a **sanctioned demand / contract demand less than 20 kW records actual contract demand above 20 kW**, the MSEDCL has to bill the consumer with the higher tariff

  
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above 20 KW only **after issuing a prior notice**. In the above circular, there is **no provision for levy of retrospective recovery in demand charges and energy charges for the period of last 2 years**. Further, the MSEDCL is entitled to change the tariff of consumer, if the consumer exceeds his Contract Demand **on more than three occasions** during a calendar year. For such change, **MSEDCL must give Prior 15 days' notice to the consumer before such change in tariff**. Regulation 7.6 of the Supply Code & SOP Regulations 2021 is reproduced below: -

*7.6 The Distribution Licensee shall revise (increase or decrease) the Contract Demand / Sanctioned Load of the Consumer upon receipt of an application for the same from the Consumer:*


*Provided that in case Consumer exceeds its Contract Demand on Three (3) occasions in any Financial Year, then Distribution Licensee shall intimate such Consumer to apply for regularising its Contract Demand. In case Consumer refuses or fails to do so, Distribution Licensee shall revise its Contract Demand to the highest recorded Maximum Demand in that Financial Year in the immediate next ensuing bill:*

*Provided further that where such revision (increase or decrease) in Contract Demand/Sanctioned Load entails any works, the Distribution Licensee may recover expenses relating thereto in accordance with the principles specified in Regulation 4, based on the rates contained in the Schedule of Charges approved by the Commission under Regulation 19:*

*Provided further that any dispute with regard to the need for and extent of any such works pursuant to an application for revision (increase or decrease) in Contract Demand / Sanctioned Load shall be determined in accordance with the procedure set out in the Grievance Redressal Regulations.*

(vii) The aforementioned circular does not include any provision for retrospective recovery of demand charges or energy charges for the previous two years. Furthermore, the Respondent itself has the right to alter the consumer's tariff if the contract demand is exceeded more than three times within a calendar year. It is the duty of MSEDCL to provide a 15-day notice before implementing such a tariff change. However, MSEDCL did not issue the required notice to the consumer until the inspection date, i.e., 27/06/2023.

(viii) In view of the above, the Applicant prays that the Respondent be directed

  
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- (i) to grant interim relief / stay order against the disconnection of supply till disposal of this case.
- (ii) to quash and set aside the supplementary recovery bill of Rs. 4,89,860/- issued by the MSEDCL on 07.07.2023 for the period of two years from April 2021 to March 2024 along with the entire interest and DPC levied thereon.


### **Analysis and Ruling**

4. Heard both the parties and perused the documents on record. The Applicant is an industrial consumer from 13/12/2002. The details of the Applicant's connection are stated in Table 1.

5. The Applicant contended that the delay of filing the original representation be condoned as mentioned in para 3 (iii). The Applicant pointed out that the Respondent had issued a supplementary bill of Rs.4,89,860/- for 1,32,676 units towards tariff difference from LT-V A to LT-V B on 07/07/2023 for the period from April 2021 to March 2023 (24 months) which is illegal as the Respondent did not issue any notice for exceeding contract demand.

6. The Respondent contended that the Applicant consumed electricity with an average of 5418 and 5353 units per month for the 2 years' period of 2021-22 & 2022-23 respectively (apparently about 30 KW load) for which retrospective recovery was done. The Applicant was enjoying unsanctioned additional load which falls under LT- V B (20 to 50 KW) tariff category but paying lower tariff rate of 0 to 20 KW. This is nothing but unauthorized use of electricity for gaining undue benefit.

7. When the load of a consumer is sanctioned in Contract Demand in KVA of more than 20 KW load, and if the consumer exceeds sanctioned KVA of Contract Demand, a penalty is levied only for the exceeded kVA MD. In this situation, the tariff code of the consumer remains the same, and only a penalty is levied for exceeded kVA. In the instant case, the Applicant had a sanctioned load of 10 HP (7.46 KW) with concessional tariff of 0 to 20 KW with only fixed

  
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charges, and not for Contract Demand in KVA. When the Applicant exceeded 20 KW load, he should be billed for more than 20 KW tariff slab (not for concessional tariff slab), as the Applicant was using higher load (more than sanctioned load) and exceeding the 20 KW threshold. In this case, it was observed that 27.34 kVA MD (about 25 KW at 0.9 PF) was recorded in the meter. This clearly means that the Applicant exceeded 20 KW load. Additionally, the inability to retrieve data from the Meter Reading Instrument (MRI) due to a communication error raised serious concern about the availability of retrospective records. The communication port of the meter was not working which was also questionable and raised a doubt about possible tampering of communication port. The consumption pattern clearly established that the Applicant had consumed electricity more than 20 KW as charted in Table 2.

8. The original order of the Electricity Ombudsman (Mumbai), dated 27th December 2024 in Representation No. 138 of 2024, did not condone the delay, as detailed in Para 4, which is quoted below:

*4.....The Appellant requested to waive the delay of 4 months for filing this representation considering the medical issue of the Tenant. We note that it was the Appellant-Owner who had approached the Forum on 20/09/2023, and not the Tenant. Thus, the Appellant- Owner had the opportunity to approach this Authority, however, he did not do so within the time limit of 60 days, and has now approached after 6 months. The Applicant-Owner also did not bother to remain present at the hearing in the Forum. The citation referred by the Appellant is not applicable in this case. Hence, the delay in filing the representation is not condoned.*

The admissibility hearing for the original representation was held on 11th December 2024. After an extensive hearing of both parties, the delay was not condoned for the reasons stated in the aforementioned paragraph. The justification provided for the waiver of delay is not accepted at this stage. The present review application is nothing but a mere repetition of the original representation. The citation referred by the Applicant is not applicable in this case and hence, the review application is non-maintainable.

  
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9. However, in the interest of natural justice, we would like to briefly record our observations on the issues raised by the Applicant as below. If the Applicant was continuously exceeding his sanctioned demand, the Respondent was duty bound to issue a notice, for exceeding load more than 20 KW, and simultaneously bill on higher tariff. However, in this case the Respondent failed to issue a notice. This was deficiency in service. Nevertheless, this does not mean that the Applicant is authorised to use the unauthorised load of the higher tariff slab of [20 KW and above] at the concessional lower slab tariff of [0 to 20 KW] continuously for a long period of time. Hence the Applicant has also not come with clean hands before this authority.

10. The provisions with respect to review of orders passed by the undersigned is given in Regulation 22 of the CGRF & EO Regulations 2020. The relevant provision is quoted below:

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*“22 Review of Order of Electricity Ombudsman*


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

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

*22.2 An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record.*

*22.3 The review application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.*

*22.4 When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application: Provided that no application shall be rejected unless the Applicant has been given an opportunity of being heard.*

  
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*22.5 When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.”*


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

12. Looking at the CPL of the 2 years' recovery period shown in Table 2, we find that there is less consumption in 2 specific months, i.e. April 2021 (3128 units) and Jan. 2023 (1045 units), which may come within [0 to 20 KW] tariff category, compared to the consumption of other months in that period which comes to over 4000 units. In the interest of natural justice, the Respondent is advised to study the detailed monthly consumption pattern of the Applicant in the 2 years recovery period and to give some benefit of tariff category for those two months of lower consumption.

13. In addition, in view of the fact that the Respondent did not issue a notice regarding the unauthorized load exceeding 20 KW (recorded 27 KVA CD) for the retrospective period from April 2021 to March 2023, it is advised that for this period, the sanctioned contract demand should be considered as 27 KVA. The penalty portion, if any, in KVA billing calculations for exceeding 20 KW/27 KVA should be withdrawn, and only plain recovery of tariff difference from LT-V A (0 to 20 KW) to LT V B (20 to 50 KW) with 27 KVA CD should be recalculated (as a part of settlement of this specific case) excluding the above months of April 2021 (3128 units) and Jan. 2023 (1045 units) of less consumption.

14. The Review Application of the Applicant is principally rejected. However, the Respondent is directed

- a) to withdraw the interest and delayed payment charges if levied from the original order till the date of this review order.

  
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- b) Compliance to be submitted within two months from the date of issue of this order.
- c) Other prayers of the Applicant are rejected.
- d) All other terms of the original order remain the same.

15. The representation of the Applicant is disposed of accordingly.

16. The secretariat of this office is directed to refund the amount of Rs.25,000/- taken as deposit to the Respondent to adjust in the Applicant's ensuing bill.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
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Secretary  
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