

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 42 OF 2025

In the matter of refund of arrears paid in respect of Permanently Disconnected Consumer

Tushar Gajanan Sultanpure Appellant
(Con. No. 253030002216)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Jaysingpur Respondent
(MSEDCL)

Appearances:

Appellant : Deepak Bagevadikar, Representative
Respondent : 1. Vijaykumar Aadke, Executive Engineer, Jaysingpur Dn.
2. Rohitage Patil, Asst. Accountant, Deolali


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 29th August 2025

Date of Order : 5th September 2025

ORDER

This Representation was registered on 11th June 2025 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 21st April 2025 in Case No. 19 of 2025 passed by the Consumer Grievance Redressal Forum, Kolhapur (the Forum). The Forum by its order rejected the grievance, holding that MSEDCL is legally empowered, under Regulation 12.5 of the MERC (Supply Code and SOP) Regulations, 2021, to recover the outstanding dues pertaining to Consumer No. 253030008486,


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registered in the name of Shri Datta Poultry Farm, from the same premises even after permanent disconnection in the year 2011.

2. Preamble

- (a) Shri Vasant Gopal Pachhapurkar, Proprietor of Shri Datta Poultry Farm, along with his family members, was the owner of Plot bearing Survey No. 261 and part of Survey No. 262 situated at Kondigre Village. He sold the said property to Shri Gajanan Sadashiv Sultanpure for a consideration amount of Rs.13,00,000/- on 5th July 2011. The property transferred under the Sale Deed comprised of:-
- (i) Deteriorated Kitchen, Toilet & Bathroom, Cement Patre.
 - (ii) Old Godown;
 - (iii) Three dilapidated Poultry Sheds;
 - (iv) Patra-shed Rooms for labourers.
 - (v) Four electricity connections of MSEB;
 - (vi) Water Tanks and allied structures.
- (b) The seller declared that the property was free from all encumbrances. He further stated that all Government taxes, electricity charges, and other statutory dues up to 31st March 2011 had been duly paid. It was also agreed that in case of any future liabilities pertaining to the said period, Shri Vasant Pachhapurkar would remain responsible for payment thereof.
- (c) The Sale Deed was duly registered on 5th July 2011 with the Sub-Registrar, Shirol, Government of Maharashtra, under Registration No. 3566/2011.
- (d) However, there were some outstanding electricity dues amounting to Rs.46009/- in the name of Shri Datta Poultry Farm, the details of which are tabulated as below:

Table 1:


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Details of PD Consumers						
Name of Original Consumer	Consumer No.	Date of PD	Total Outstanding Dues (Rs.) at the time of PD	Interest (Rs.)	DPC (Rs.)	Amount after PD Amnesty Scheme (Relief of 10 % on Principal Amount & Waiver of Interest & DPC)
Shri Datta Poultry Farm	253030008486	10.09.2011	46,009	18,282	342	Rs. 24,650
Note: (1)PD : Permanent disconnection (2) DPC: Delayed Payment Charges (3) Appellant paid Rs. 24,650/- on 30.12.2024 under protest.						

[It is noted that this connection, though in the name of Shri Datta Poultry Farm, was made PD 2 months after the sale transaction.]

3. Aggrieved by the order of the Forum, the Appellant has filed this Representation. An e-hearing was held on 29th August 2025 through video conference where both the parties were heard at length. The Respondent's submissions dated 12.08.2025 and arguments are as below.


[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]

- (i) The Appellant, Tushar Gajanan Sultanpure (son of Shri Gajanan Sultanpure), applied for a new electricity connection in 2012, after purchasing the property in July 2011. The details of the present connection are tabulated below.

Table 2:

Name of New Consumer	Consumer No.	Address on Bill	Sanct. Load /Contract Demand (KVA)	Date of Supply	Purpose	Tariff Category
Tushar Gajanan Sultanpure	253030002216	H. No.587 , CTS No. 262& 263	160.01 HP/ 128 KVA	06.11.2012	Textile	LT VA II Industrial

At the time of application, the Appellant executed an affidavit / undertaking on Rs. 100/- stamp paper with regard to payment of any prior dues discovered subsequently. *[Note: MSEDCL has not explained why the new connection was sanctioned and released on 06.11.2012 even though there were previous arrears on the date of PD, i.e. 10.09.2011.]* The new connection (Consumer No. 253030002216) was sanctioned and released on 06.11.2012 after completion of statutory requirements, including payment of service connection charges, security


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deposit, and submission of test report. Load extensions were sanctioned later as per his applications, and released from time to time as per requirement.

- (ii) The Respondent's Corporate Office, vide Circular No. P.COM/Accts./19021 dated 06.07.2013, issued guidelines regarding recovery of arrears from Permanently Disconnected (PD) consumers. The relevant provisions of the said circular are:

"3) The field Officer should periodically verify the premises of PD consumers having arrears (on record).


4) In the premises of any PD consumer in arrears, if there is other live connection of the same PD consumer or of his legal successor found, then entire PD arrears with interest & DPC should be diverted on such live connection.

5) In premises of any PD consumer in arrears, if there is any live connection of any other person found, who is not legal successor of P.D. consumer, then the last six months arrears (before TD) of such PD consumer should be diverted on said live connection as per Reg. no. 10.5 of MERC (ESC&OCS) Regulations 2005.

6) If any PD consumer in arrears is having any live electricity connection in same or other sub-division, division, circle or zone, then the entire PD arrears with interest and DPC should be diverted on said live connection of same PD consumer."

From time to time, the Respondent conducts PD Drives to inspect such premises and ensure recovery.


- (iii) In one such PD Drive conducted in Jaysinghpur Division during June 2024, it was observed that the Appellant had taken over the property earlier held by Shri Vasant Gopal Pachhapurkar, Proprietor of Shri Datta Poultry Farm. An outstanding amount of Rs. 46,009/- was found unpaid against Consumer No. 253030008486, registered in the name of Shri Datta Poultry Farm, which had been permanently disconnected on 10.09.2011. [Note: It is unfortunate that the Respondent took as long as 13 years to realize the PD arrears.]



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- (iv) Consequently, the Respondent issued a legal notice in the name of Shri Datta Poultry Farm on 22.08.2024, directing payment of the outstanding dues of Rs. 46,009/-. The notice referred to the judgment of the Hon'ble Supreme Court dated 19.05.2023 in Civil Appeal No. 2109-2110 of 2004 (K. C. Ninan v. Kerala State Electricity Board & Ors.), and warned that in default, the existing supply would be disconnected.
- (v) Further, the Respondent issued a circular dated 29.08.2024 introducing the "Mahavitaran Abhay Yojna 2024" for PD HT/LT consumers, effective from 01.09.2024 to 30.09.2024 (later extended to 31.12.2024), also with reference to the aforesaid Supreme Court judgment. Under this scheme, consumers had the opportunity to make a one-time payment, with total waiver of interest and DPC, besides a 10% reduction in the principal amount.
- (vi) The Appellant, by letter dated 27.12.2024, contended that the old connection of Shri Datta Poultry Farm had been permanently disconnected on 10.09.2011 and that, under Section 56(2) of the Electricity Act, 2003, the claim was time-barred. However, under threat of disconnection of his existing supply, the Appellant, under protest, paid Rs. 24,650/- on 30.12.2024 by availing benefit under "Mahavitaran Abhay Yojna 2024".
- (vii) The Respondent submitted that the Appellant has misinterpreted the applicability of Section 56(2) of the Electricity Act, 2003. The said provision is intended to apply in cases of *live* consumers and not to *permanently disconnected (PD)* consumers. Electricity is a valuable and costly commodity, and any person who has consumed it is bound to pay the corresponding charges. Such liability constitutes a statutory burden attached to the premises. In this context, Regulation 12.5 of the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (Supply Code & SoP Regulations, 2021) clearly provides that:

"Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of the premises, as the case may be, shall be a


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charge on the premises transmitted to the legal representatives/ successors-in-law or to the transferee/ new owner/ occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee.”


In the present case, the connection (Consumer No. 253030008486) was permanently disconnected on 10.09.2011 as shown in Table 1. However, the Appellant had already acquired ownership of the premises by virtue of a registered Sale Deed dated 05.07.2011 with the Sub-Registrar, Shirol, Government of Maharashtra. Therefore, it is evident that the Appellant was aware of the outstanding P.D. dues at the time of, or soon after, the purchase, and the Respondent is lawfully entitled to recover the same under Regulation 12.5 of the Supply Code & SoP Regulations 2021.

- (viii) The Respondent further submitted that, in addition to Regulation 12.5, it is also legally empowered under **Regulation 16.9.3** of the Supply Code & SoP Regulations 2021, which expressly provides that:

“In case of premises which are permanently disconnected or demolished for reconstruction, the liability of the arrears, if any, shall be passed on to the owners/occupiers of such premises.”

Accordingly, even where the supply stands permanently disconnected, the liability of outstanding arrears remains attached to the premises and is recoverable from the transferee/new owner or occupier.

- (ix) The Respondent also relies on the judgment of the Hon’ble Supreme Court dated 19.05.2023 in K. C. Ninan v. Kerala State Electricity Board & Ors. to substantiate its stand.
- (x) The Appellant lodged a grievance before the Forum on 03.03.2025. By order dated 21.04.2025, the Forum rejected the grievance, holding that the Respondent was legally empowered, under Regulation 12.5 of the MERC (Supply Code & SOP) Regulations, 2021, to recover the outstanding dues of Consumer No. 253030008486 (Shri Datta Poultry Farm) from the Appellant’s live connection at the same premises, even after PD in 2011, i.e.13 years ago.



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(xi) In view of the above, the Respondent prays that the present representation be rejected.

4. The Appellant's submissions and arguments are stated as below:

- (i) The Appellant's family purchased the said property situated at Survey No. 261 and part of Survey No. 262, Kondigre Village from Shri Vasant Gopal Pachhapurkar, Proprietor of Shri Datta Poultry Farm,. The Sale Deed was duly registered on 05.07.2011 before the Sub-Registrar, Shirol, Government of Maharashtra (Registration No. 3566/2011).
- (ii) On 22.08.2024, the Respondent's Assistant Law Officer issued a notice demanding payment of Rs. 46,009/- being the alleged arrears of the erstwhile consumer, Shri Datta Poultry Farm (Consumer No. 253030008486), whose supply was permanently disconnected in September 2011. The Appellant was shocked to receive such a demand after nearly 13 years, which is unsustainable in law. The recovery of such arrears is clearly barred by limitation under Section 56(2) of the Electricity Act, 2003, which prescribes a maximum recovery period of two years unless the amount is continuously shown as arrears.
- (iii) The Gram Sevak, acting as Secretary of the Gram Panchayat, has certified that the said land contained a dilapidated godown that had been unused for over 20 years. Only thereafter was the land purchased by the Appellant's family. This further establishes that the alleged arrears are fictitious in nature.
- (iv) If the alleged arrears of Rs. 46,009/- truly existed, the same ought to have been recovered from Shri Vasant Gopal Pachhapurkar, the original consumer/landholder, up to 2011. The Respondent failed to take such action at the relevant time.
- (v) A fresh electricity connection (Consumer No. 253030002216) was released to the Appellant on 06.11.2012. The Appellant has continued to occupy and use the premises for more than 14 years. During this period, the load was enhanced at least on two occasions, yet the Respondent never raised any issue regarding past arrears.


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- (vi) A similar notice dated 05.08.2021 demanding arrears in respect of Consumer No. 170015890790 was also issued. Such recovery too is hopelessly barred by Section 56(2) of the Electricity Act, 2003, which provides:


“Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

- (vii) The Appellant was never informed about any alleged arrears either at the time of obtaining the new connection or during subsequent load enhancements. The record shows that the last bill of the erstwhile consumer (Shri Datta Poultry Farm) was paid on 23.03.2006, and no payment was made thereafter, confirming that there was no active consumption from March 2006 onwards. Thus, the claim is fictitious and stale.
- (viii) Under threat of disconnection, the Appellant was compelled to pay Rs. 24,650/- under protest under the PD Amnesty Scheme (2024), which allowed relief of 10% on principal and waiver of interest and DPC.
- (ix) Considering the overall facts, the alleged arrears are fictitious in nature, and in any event, recovery is barred under Section 56(2) of the Electricity Act, 2003.
- (x) In light of the foregoing, the Appellant prays that the Respondent be directed to refund Rs. 24,650/- recovered under protest in respect of Consumer No. 253030008486 (Shri Datta Poultry Farm), as the same is not legally recoverable.

Analysis and Ruling: -

5. Heard the parties and perused the record. The Appellant and his family own land bearing Survey No. 261 and part of Survey No. 262, Kondigre Village. Earlier supply details are reflected in Table 1.


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6. The Respondent contended that while applying for supply, the Appellant executed an affidavit on Rs.100/- stamp paper, undertaking to pay any prior dues if discovered later. A new connection (Consumer No. 253030002216) was released on 06.11.2012 after compliance with statutory formalities, and load extensions were sanctioned thereafter. During a PD Drive in June 2024, it was found that the Appellant had acquired the premises earlier occupied by Shri Datta Poultry Farm (Consumer No. 253030008486), which stood permanently disconnected on 10.09.2011 with arrears of Rs. 46,009/-. A notice dated 22.08.2024 was issued demanding payment, citing the Supreme Court's judgment in *K.C. Ninan v. Kerala SEB* (Civil Appeal No. 2109–2110 of 2004, decided 19.05.2023). Subsequently, the Respondent launched Mahavitaran Abhay Yojna 2024 for PD consumers, effective from 01.09.2024, referring to the same ruling. It was contended that Section 56(2) applies only to live consumers, not PD consumers, and that arrears remain a statutory burden on the premises. Reliance was placed on Regulations 12.5 and 16.9.3 of the Supply Code & SoP Regulations, 2021, which permit recovery of arrears from owners/occupiers of permanently disconnected premises.

7. The Appellant contended that the land was purchased under a registered Sale Deed dated 05.07.2011 from Shri Vasant Gopal Pachhapurkar (Proprietor, Shri Datta Poultry Farm). A demand after nearly 13 years is barred by limitation under Section 56(2) of the Electricity Act, 2003. The Gram Sevak certified that the premises had only a dilapidated godown for 20 years prior to purchase, showing no active electricity use. The Appellant obtained a new connection on 06.11.2012 and has used it for over 13 years with load extensions, during which no arrears were ever raised. The last bill of the erstwhile consumer was paid on 23.03.2006, confirming that the claim of arrears is stale and fictitious. Under threat of disconnection, Rs. 24,650/- was paid under protest in December 2024 under the PD Amnesty Scheme. The Appellant prayed for refund.

8. Considering the various submissions of the parties, the following Issue is framed for determination of the case.

Issue: Whether MSEDCL is legally entitled to recover arrears of a permanently disconnected consumer (No. 253030008486) after nearly 13 years from the Appellant?


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The Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 came in force from 25.02.2021. The regulations relating to old outstanding dues of permanent connection (PD cases) is reproduced below:

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


16. Billing


*16.9.2. No sum due from any Consumer shall be recoverable after the period of Two (2) years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied as per Section 56 (2) of the Act **except for permanently disconnected Consumer.***

*16.9.3. In case of premises which are permanently disconnected or demolished for reconstruction, the liability of the arrears, if any, shall be passed on to the owners / occupiers..... **(Emphasis added)***

It is clear from the above provision that the Respondent is entitled to recover arrears even beyond 2 years, in the case of a PD consumer. The electricity dues, where they are statutory in character under the Electricity Act, 2003 and as per the terms and conditions of supply, cannot be waived of in view of the provisions of the Act itself, more specifically Section 56 of the Electricity Act, 2003. The period of limitation under Section 56(2) is applicable to the sum due under **Section 56 for live consumers and not PD consumers.**

Hon'ble Supreme Court by its Judgement dated 19th May 2023 in Civil Appeal No 2109 2110 of 2004 in Case of K C Ninan V/s Kerala State Electricity Board & Ors., has concluded regarding the recovery of PD arrears as below:



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“ I. Conclusions

328. The conclusions are summarised below:

- a. The duty to supply electricity under Section 43 of the 2003 Act is not absolute, and is subject to the such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity;*
- b.*
- c.*
- d. A condition of supply enacted under Section 49 of the 1948 Act requiring the new owner of the premises to clear the electricity arrears of the previous owner as a precondition to availing electricity supply will have a statutory character;*
- e. The scope of the regulatory powers of the State Commission under Section 50 of the 2003 Act is wide enough to stipulate conditions for recovery of electricity arrears of previous owners from new or subsequent owners;*
- f. The Electricity Supply Code providing for recoupment of electricity dues of a previous consumer from a new owner have a reasonable nexus with the objects of the 2003 Act;*
- g.*
- h. The power to initiate recovery proceedings by filing a suit against the defaulting consumer is independent of the power to disconnect electrical supply as a means of recovery under Section 56 of the 2003 Act;*
- i. The implication of the expression “as is where is” basis is that every intending bidder is put on notice that the seller does not undertake responsibility in respect of the property offered for sale with regard to any liability for the payment of dues, like service charges, electricity dues for power connection, and taxes of the local authorities;*
- j. In the exercise of the jurisdiction under Article 142 of the Constitution, the Electric Utilities have been directed in the facts of cases before us to waive the outstanding interest accrued on the principal dues from the date of application for supply of*


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electricity by the auction purchasers. 329. Pending applications, if any, shall stand disposed.”


The Appellant obtained a new electricity connection on 06.11.2012. At the time of application, he executed an affidavit on Rs.100/- stamp paper, undertaking to bear any prior dues subsequently discovered. This undertaking continues to bind him and his successors. The Appellant did not secure a No Objection Certificate (or ‘No arrears’) from MSEDCL at the time of purchase; he chose to rely that there were no previous arrears on assurances from Shri Vasant Gopal Pachhapurkar, proprietor of Shri Datta Poultry Farm. By purchasing the property, the Appellant stepped into the shoes of the previous owner and became liable for any subsisting statutory dues attached to the premises. The responsibility for such dues may (as between themselves) lie with either Shri Pachhapurkar or the Appellant, but as far as MSEDCL is concerned, its right to recover PD arrears is preserved under Regulation 12.5 of the Supply Code & SoP Regulations, 2021, reinforced by the Hon’ble Supreme Court’s judgment dated 19.05.2023 in *K.C. Ninan v. Kerala State Electricity Board & Ors.* Accordingly, Issue No. 1 is answered in the **AFFIRMATIVE**.

9. The Forum’s order is reasoned and justified. No interference is required. The Appellant’s representation is rejected.

10. The Secretariat of this office is directed to refund the amount of Rs.12,500/- taken as deposit to the Respondent for adjustment in live consumer.

11. The Representation is disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


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