

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 6 OF 2022

In the matter of arrears on premises after permanent disconnection

Kamlesh Gurumukhdas Sitlaney (Occupier)..... Appellant
(Vijay Sitlaney – Consumer)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Respondent
Ulhasnagar II (MSEDCL)

Appearances:

Appellant : 1. Kamlesh Sitlaney
2. J. S. Rajput, Representative

Respondent: Pravin Chakole, Executive Engineer


Coram: Vandana Krishna (Retd. IAS)

Date of hearing : 5th April 2022

Date of Order : 22nd April 2022

ORDER

The Representation is filed on 28th January 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations


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2020) against the Order dated 11th January 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan Zone (the Forum).

2. The Forum, by its Order dated 11.01.2022 has rejected the grievance application in Case of K/N/210/2206/ of 2021-22.

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

- (i) The Appellant is owner and occupier of the premises at Plot No.438, Sheet No.14, near Karishma Society, Ulhasnagar-4. The electric connection (Consumer No.021514312360) is from 12.04.1991 for LT Industry with Contract Demand (CD) of 41 KVA and Sanctioned Load (SL) of 50 HP in the name of Vijay Sitlaney.
- (ii) The said connection was permanently disconnected in February 2014 as per Consumer Personal Ledger (CPL) which is kept on record. It clearly indicates that there were no outstanding dues.
- (iii) Thereafter, the Appellant applied online (Application ID 29667181) for 19 HP LT Industrial connection on 11.02.2021, and a firm quotation of Rs.13974/- was generated with Consumer No.021513892303. However, the Respondent denied processing further.
- (iv) According to the Respondent, a site inspection was carried out on 23.02.2018 wherein the meter was lying on the site. Hence, the Respondent claimed Rs.6,16,240/- from the Appellant. However, the Appellant is not responsible for illegal use of the power supply for the period from 01.02.2014 to 23.02.2018. The Respondent did not lodge police case for illegal use as per Section 135 of the Electricity Act, 2003 (the Act). If the connection was PD on record, then why the meter was


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kept on site? This is nothing but connivance of the tenant with the Respondent. Hence, the amount be recovered from the concerned officials of the Respondent. The Appellant has nothing to do with the meter on site and its accumulated reading.

- (v) The Appellant referred the order of Bhandup Forum dated 12.06.2018 in Case of Kantilal Maru V/s. MSEDCL. The Forum has directed to pay the arrears only for 6 months as per Regulation 10.5 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations 2005), and directed to reconnect the supply.
- (vi) Hence, the Appellant prays that the Respondent be directed to release the connection immediately in the name of the Appellant and compensation be given to him as per the SOP Regulations which are in force.


4. The Respondent has filed its reply dated 16.03.2022 which is stated in brief as under:-

- (i) The Appellant has applied for new service connection on 11.02.2021 for Industrial purpose at Plot No.438, Sheet No.14, near Karishma Society, Ulhasnagar- 421 004.
- (ii) Earlier, the Respondent had carried out spot inspection on 23.02.2018 on the same premises where it was observed that the meter (Secure Make 3X100/5A capacity, No.MSE27707, Reading-0241896 KWH) was found connected in the said premises. The MRI of above meter was downloaded and reading parameters found in order. The power supply of the premises was found live. There was non-use of supply at the time of inspection, however, there was progressive reading on the meter. Hence, it was necessary to issue the bill as per actual reading on the site.


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- (iii) After proper scrutiny of office record, it was observed that, the electric connection of the said premises was in the name of Vijay Sitlaney, who was LT Industrial Consumer (No.021514312360) from 12.04.1991 having SL of 50 HP and CD of 41 KVA. This Consumer No. 021514312360 was shown as permanently disconnected on record as per CPL from 01.02.2014, however, the meter was live on site. The meter reading as per CPL was 182718 KWH on 01.02.2014 and the meter reading during inspection on 23.02.2018 was 241896 KWH. Hence, a Provisional Bill of Rs.6,16,240/- for 59178 (241896-182718) units was issued to the Appellant on 20.03.2018. Subsequently, this bill was revised to Rs.7,29,980/-. This means that there are outstanding PD arrears of Rs.7,29,980/- on the same premises in the name of Shri. Vijay J. Sitlaney. The Respondent requested the Appellant to pay the outstanding arrears on the premises, however, the Appellant did not pay.
- (iv) Failure in payment of arrears, the Appellant's application for new connection in the same premises is rejected as per Regulation 12.5 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (Supply Code & SOP Regulations 2021). In view of this, the Appellant being the owner / occupier of the said premises is liable to pay the outstanding electricity dues.
- (v) The Respondent further submitted that, if the Appellant pays the outstanding PD dues in one stroke as applicable in 'Vilasrao Deshmukh PD Amnesty Scheme', then 100% Interest and DPC will be waived off, and 10% discount will be given on the principal amount.
- (vi) Hence, the Respondent prays that the Appellant be directed to pay the outstanding PD Arrears under 'Vilasrao Deshmukh PD Amnesty Scheme'.


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5. The hearing was held on 05.04.2022. The Appellant and his representative were physically present whereas the Respondent attended the hearing through video conferencing. The Appellant argued in line with his written submission. The Appellant stated that he is owner and occupier of the premises at Plot No.438, Sheet No.14, near Karishma Society, Ulhasnagar-4. The electric connection (Consumer No.021514312360) for LT Industry, which is in the name of Appellant's brother, Vijay Sitlaney was permanently disconnected on 01.02.2014 as per CPL. The arrears amounting to Rs.30,320/- was paid by cheque. No outstanding arrears were there at the time of disconnection. Thereafter, the Appellant applied online (Application ID 29667181) for 19 HP LT Industrial connection on 11.02.2021, and a firm quotation of Rs.13974/- was generated with Consumer No.021513892303. However, the Respondent denied processing further. According to the Respondent, a site inspection was carried out on 23.02.2018 wherein the meter was lying on the site and was in use. Hence, the Respondent claimed supplementary bill of Rs.6,16,240/- from the Appellant. The Appellant has nothing to do with the meter on site and its accumulated reading.


6. The Appellant further argued that the electricity connection was in the name of Vijay Sitlaney who is the brother of the Appellant. The Appellant explained that their father had distributed his various properties amongst his sons, and the said premises came to the Appellant. The Appellant claimed that though the connection was not in the name of his tenant, the actual physical bill was being received by his tenant in the premises, and that the Appellant was not aware of the actual amount of bills. The Appellant argued that he was asking the tenant for electricity bills, however, the tenant did not show him the electricity bills.


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7. The Appellant also stated that in the year 2018, his tenant vacated the premises along with most of his machinery, leaving only the scrap machinery behind. At that time, for almost 3 days continuously, the Appellant was asking for the electricity bills, but the tenant did not give him. Thereafter, the Appellant went to the office of the Respondent and at that time, he got to know that the connection status was PD for the last 4 years. The Appellant raised doubt of manipulation between his tenant and one of the officers of the Respondent namely Shailendra Gajbe. In other words, the Appellant alleged that even though actual electricity consumption was going on from 2014 to 2018, and the unit was functioning, the Respondent and the Appellant's tenant manipulated the records by showing the connection as PD, so that the tenant did not have to pay any electricity bills. The Appellant says that he is not responsible for illegal use of the power supply by his tenant for the period from 01.02.2014 to 23.02.2018. If the connection was PD on record, then why the meter was kept on site? This is nothing but connivance of the tenant with the Respondent. Hence, the amount be recovered from the concerned officials of the Respondent.

8. The Respondent argued in line with its written submission that the connection was made PD in the year 2014 due to arrears not being paid. However, the meter could not be removed or checked because it was under lock and key inside the premises and not accessible to the Respondent. The Respondent had carried out spot inspection on 23.02.2018 on the same premises where it was observed that the meter was found connected in the said premises. The MRI of above meter was downloaded and reading parameters found in order. The power supply of the premises was found live. Hence, a Provisional Bill of Rs.6,16,240/- for 59178 (241896-182718) units was issued to the Appellant on 20.03.2018. Subsequently, this bill was revised to Rs.7,29,980/-. Because of failure in payment of arrears, the Appellant's application for new connection in the same premises is


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rejected as per Regulation 12.5 of the Supply Code & SOP Regulations 2021. In view of above, the Appellant, being the owner / occupier of the said premises, is liable to pay the outstanding electricity dues.


9. The Respondent also raised the issue of authorisation of consumer Vijay Sitlaney and whether the Appellant is authorised by the consumer, Vijay Sitlaney for filing this representation. The actual connection is in the name of Vijay Sitlaney but the Appellant is Kamlesh Sitlaney, so his status is not clear.

10. During hearing, the Respondent was directed as follows:

- To submit comments on the agreement between the Appellant and his tenant, and letter dated 20.07.2018 from the Respondent to the Appellant's tenant requesting to pay the amount of Rs.6,16,240/-.
- To give reply on the doubt of the Appellant regarding the alleged collusion between the tenant and the concerned officer of the Respondent.
- CPL of 2013 and 2014 be given for verification of consumption pattern.

11. The Appellant was also directed to share the videos of 2018, recording the site visit and meter reading.

12. The Respondent vide its letter dated 13.04.2022 has submitted the information as per direction. The Leave & Licence Agreement was made on 01.01.2010 between Appellant and his tenant, M/s.Jai Fashions through its Proprietor Shri. Rohit Ashok Gupta for the period of February 2010 to January 2013, and the same was extended for the period of February 2013 to January 2016. These agreements were not registered as per Rent Act but, it was just a notarized agreement, and it has least value in Court of Law. However, the electrical connection was in the name of Shri. Vijay G. Sitlaney for the said property and not in the name of the Appellant.


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13. The Respondent issued a letter dated 20.07.2018 to Shri. Rohit Ashok Gupta, Tenant of the Appellant. It is to state that the Appellant approached the Respondent after receiving the supplementary bill of Rs.6,16,240/- and requested to issue letter to tenant Shri. Rohit Ashok Gupta to help for recovery of outstanding PD bill from the tenant. That is why the letter was issued to tenant by Add. Executive Engineer of the Respondent on 20.07.2018 for recovery of arrears, enclosing legitimate copy to original consumer Shri. Vijay G. Sitlaney. Regarding alleged collusion between the tenant and the concerned officer of the Respondent, there is no documentary evidence available. The CPL for the year 2013 and 2014 is kept on record.

14. The Appellant has also sent recorded video of 2018; however, the videos could not be opened due to some technical reason.

Analysis and Ruling

15. Heard the parties and perused the documents on record. The Appellant is occupier of the premises at Plot No.438, Sheet No.14, near Karishma Society, Ulhasnagar-4. The electric connection having Consumer No.021514312360 was in the name of his brother Vijay Sitlaney from 12.04.1991 with SL of 50 HP. The Appellant contended that this property is allotted by his father to him though the connection was in his brother's name. The Appellant entered into a Leave & Licence Agreement with his tenant, Shri. Rohit Ashok Gupta, Jai Fashions, for the period of February 2010 to January 2013 and further for the period of February 2013 to January 2016. These agreements were not registered as per the Maharashtra Rent Control Act however, it was notarized of Rs.100/- Stamp Paper. It is also seen that this agreement was not extended beyond January 2016, even



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though the tenant allegedly continued to use the premises till February 2018. Thus, there is no written agreement as to who will pay the electricity bills after January 2016, and it can be argued that legally, by default, the bills would have to be paid by the owner / occupier, in the absence of tenancy agreement.

16. The Respondent had carried out spot inspection of the premises on 23.02.2018. The power supply of the Appellant was live and the meter (Secure Make No.MSE27707)) was found connected. The Progressive Reading was found meter as 0241896 KWH. The MRI of the meter was downloaded. Hence, the Respondent has issued a Provisional Bill of Rs.6,16,240/- for 59178 (241896-182718) units on 20.03.2018. Subsequently, this bill was finally revised to Rs.7,29,980/-. There are outstanding PD arrears of Rs.7.29,980/-.

17. The fact is that as an occupier, the Appellant is expected to receive electricity bills either physically or digitally. The connection is not in the name of the tenant. There is no need for the Appellant to depend on his tenant to show the bills when he, himself, can easily view the bills digitally. It is the Appellant's responsibility to keep track of the bills, being the occupier. He cannot argue that he was not aware of the bills, and the tenant was misguiding him about the bills for four years. If the electricity was disconnected for four years and no electricity bills were being issued to the Appellant, it is not understood how the Appellant was not aware of the facts and did not keep track of this fact. During the arguments, the Appellant mentioned that the tenant misguiding him by saying that he has been paying electricity bills regularly, thus, the Appellant says that he was unaware about the PD status. This seems to be a total failure on the part of the Appellant to keep track of the electricity bills which are supposed to come in his name or in the name of his brother. Online facility is available to obtain the bills digitally. It is not clear


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why the Appellant did not avail this basic facility for four years and kept on believing the tenant that he is paying the electricity bills.

18. Due to failure in payment of arrears, the Appellant's application for new connection in the same premises is rejected by the Respondent as per Regulation 12.5 of the Supply Code & SOP Regulations 2021 which is quoted as 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." Emphasis added.

19. It was the responsibility of the Appellant to approach the Respondent when he was not receiving any bill for the period from the year 2014 to 2018, but he claims that he blindly believed the tenant that the tenant was paying the bills regularly. The Appellant was mum and did not take any initiative to take duplicate bills or otherwise enquire with the Respondent about the status of the connection.

20. In view of the apparent collusion between the tenant, Shri. Rohit Ashok Gupta, Jai Fashions and the Respondent's officer, Shri Shailendra Gajbe, the Respondent is directed to conduct an internal inquiry against the concerned officer to determine whether there was, in fact, such a collusion to falsely show the PD status of the connection so that the payment of the electricity bills could be avoided for four years. At the same time, if indeed, there was such a collusion, then it is a case of cheating by the tenant, Shri. Rohit Ashok Gupta, Jai Fashions to avoid payment of due electricity charges and to deliberately pass on the burden of payment to the landlord, Kamlesh Sitlaney. In such a situation, the Appellant is free to file civil / criminal suit against the tenant in the appropriate Court of Law


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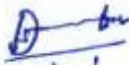
for cheating him, avoiding payment of electricity bills for four years, and falsely manipulating the connection status as PD.

21. In view of above, it is not necessary to interfere in the Forum's order and hence, the Representation is rejected and disposed of accordingly.

22. The secretariat of this office is directed to refund Rs.25000/- deposited by the Appellant immediately.

23. The secretariat of this office is directed to send copy of this order to the Superintending Engineer, Kalyan – II for appropriate and necessary action.

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



(Dilip Dumbre)
Secretary

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