

## BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

### REPRESENTATION NO. 130 OF 2022

In the matter of recovery of permanently disconnected consumer

Sai Homeopathic Medical College ..... Appellant

V/s.

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

Appearances:

Appellant : 1. Sudhir Mhatre, Chairman  
2. Vinay Vaze, Representative

Respondent : 1. Gajendra Gadekar, Executive Engineer, Vasai  
2. R.D. Kallukaran, Assistant Engineer, Wada


**Coram: Vandana Krishna (IAS- Retd.)**

Date of hearing : 11<sup>th</sup> November 2022

Date of Order : 18<sup>th</sup> November 2022

### ORDER

This Representation was filed on 24<sup>th</sup> August 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 23<sup>rd</sup> June 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Vasai (the Forum).


  
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2. The Forum, by its order dated 23.06.2022 has disposed of the grievance application in Case No. 18 of 2022. The Forum observed that the grievance is time barred as per Regulation 7.8 of CGRF & EO Regulations 2020.

3. The Appellant has filed this representation against the order of the Forum. The e-hearing was held on 11.11.2022 through Video Conference. Both parties were heard. The Appellant's written submission and arguments in brief are as below:


- (i) The Appellant is a Consumer (No.014710000850) from 01.11.1998, at Dugadphata, near Asnoli, Bhiwandi-Wada Road, Taluka Bhiwandi, Dist. Thane.
- (ii) This is an educational institute running a Homeopathic Medical College. This college is run by the current management from 2007. The said college premises was dormant during the period from the year 2000 to 2006. It was run by a different management prior to 2000 but, due to some unavoidable circumstances they were compelled to shut it down in the year 2000.
- (iii) When this management took over the charge, they needed electricity supply of sufficient load to cater to their requirements. Hence somewhere in Feb. 2007, they approached for a new electric connection.
- (iv) The Respondent carried out a survey of the premises in the year 2007. The Respondent found a single-phase live connection there bearing No. 014710000850 and advised to get it converted into 3 Phase with sufficient load, instead of getting a new connection. The Appellant agreed to their suggestion and applied for an extended load with 3 Phase power supply. Meanwhile the Respondent conducted a search for any past dues (if any) outstanding against the said premises and found 3 connections, including the above, in arrears and asked them to pay up the dues first, before sanctioning the enhancement load. Accordingly, the bills were issued to them, and they paid the said dues as under.

  
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Consumer No.	Bill Amount(Rs.)	Receipt Number & Date	Status
14710000850	6330	5398040 dtd.25/07/2007	Live
13550001246	44860	5398041 dtd.25/07/2007	PD
14710000841	7930	5398042 dtd.25/07/2007	PD


- (v) In short, the Respondent made very sure that the said premises was free of liability, and only then issued them the firm quotation (demand note) of Rs.5100/- for a 3 Phase connection bearing serial No. 43 dated 27.08.2007. After paying the same, the said load was released to them within 2-3 days around 30.08.2007. In other words, the Appellant is a practical user and in possession of the said connection only after 30.08.2007 after payment of previous dues.
- (vi) The Appellant was paying electricity bills regularly and punctually from 2007 onwards. In 2013, the Appellant observed that a debit supplementary bill amount of Rs.1,65,585/- was suddenly added in the bill of April 2013. This is the root cause of the grievance.
- Nature of Grievance:
- (vii) The Appellant approached the Respondent enquiring about the above-said cropped-up arrears, but local officials were unable to provide any details. Hence the Respondent allowed it to pay current bills, keeping the arrears aside. On 30.12.2013, surprisingly, the Respondent disconnected its power supply in the evening after closure of college hours.
- (viii) The Appellant raised a strong objection about it vide its letter dated 01.01.2014 with a request to furnish the details of the supplementary bill. However, the Respondent failed to provide any details, and allowed it to pay current bills. This practice is in vogue till today.
- (ix) From its first letter dated 01.01.2014, the Appellant has made an extensive correspondence with MSEDCL on the subject. But every time they pushed it under

  
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the carpet instead of giving details. Now suddenly the Respondent say that the recovery pertains to a different Consumer No. 013550001254 and has been added to the regular bill of Consumer No. 014710000850.


- (x) The Respondent did not provide any details of the duration of the said recovery, proof like photo of actual reading of the meter or spot verification report i.e., about periodical growth of arrears, and CPL report in support of the recovery amount.
- (xi) The same situation of the Appellant paying current bills and fighting against the recovery amount without any success or proper details continued till February 2022.
- (xii) The Respondent again disconnected its supply on 26.02.2022 and refused to reconnect it unless the Appellant pay the entire accumulated dues of Rs.3,33,320/- (initial amount with piled up interest). This time, the Respondent also refused to accept the current bill from the Appellant. Left with no other option, the Appellant approached the Forum on 28.02.2022 for an interim order. The Forum issued an interim order on 28.02.2022 to reconnect the supply by accepting 50% of the arrears amount i.e., Rs. 1,66,660/-. The Appellant paid the same and supply was restored.
- (xiii) The Forum, by its order dated 23.06.2022 has rejected the grievance application. The Forum failed to understand the basic issue that the arrears are fictitious and time barred. The recovery amount was added to the bill in the month of April 2013, but the disconnection was done on 26.02.2022. The subject matter was always live from the Appellant's side via constant correspondence with the Respondent and the Respondent was allowing to pay current bills regularly, till they could provide the Appellant with any remedy or take any legitimate action regarding the matter, which as a consumer, the Appellant was positively expecting. Hence there is no question of Regulation 7.8 coming into play as **the Appellant approached the Forum on 28.02.2022 for a cause of action (i.e. disconnection) that occurred on 26.02.2022**. Hence, being a case filed well within the time limit before the Forum, it was maintainable.

  
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- (xiv) The Respondent had already recovered the arrears of the PD connections from the Appellant before sanctioning supply. If there was any other amount left to be paid, then why they did not recover it from the Appellant then only? The Appellant got the electric connection only after paying all the bills (dues) in the past; hence the Appellant is not liable to pay any further amount.
- (xv) The Appellant referred to Section 56(2) of the Electricity Act, 2003 (the Act). In this case, if the recovery pertains to a PD connection, then it must be pertaining to the period prior to the year 2000. The Appellant started the college in the year 2007 and the recovery amount was added in its bill in the year 2013, that too without any proof and explanation. It means that for 13 or more years; the arrears amount was not shown in the regular bills. The Respondent also did not demand the so-called recovery amount from them in 2007. It means that the sum was not shown as recoverable anywhere for 13 or more long years, which is certainly more than 2 years' bar. Hence stands bad in law.
- (xvi) The Appellant referred to the order of the Maharashtra Electricity Regulatory Commission (the Commission) in Case No. 199 of 2014 in support of its grievance which is not time barred by limitation in the circumstances.
- (xvii) The Appellant cited the Judgement of the Supreme Court of 1979 - 4 SCC 176 in Case of Madras Port Trust V/s Himanshu International) that public authorities ought not to take a technical plea of limitation to defeat the legitimate claims of citizens. The relevant para of the Judgement is quoted below:

*“2. We do not think that this is a fit case where we should proceed to determine whether the claim of the respondent was barred by Section 110 of the Madras Order\_Case No 199 of 2014 Page 14 Port Trust Act (11 of 1905). The plea of limitation based on this section is one which the court always looks upon with disfavor and it is unfortunate that a public authority like a Port Trust should, in all morality and justice, take up such a plea to defeat a just claim of the citizen it is high time that Governments and Public authorities adopt the practice of not relying upon technical pleas for the purpose of defeating legitimate claims of citizen and do what is fair and just to the citizens. Of course, if a Government or a Public Authority takes up a technical plea, the Court has to decide it and if the plea is well founded, it has to be upheld by the court, but what we feel is that such a plea should not ordinarily be taken up by a government or a public*

  
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*authority, unless of course the claim is not well founded and by reason of delay in filing it, the evidence for the purpose of resisting such a claim has become unavailable. Here, it is obvious that the claim of the respondent was a just claim....”*

- (xviii) In view of the above, the Appellant prays that the Respondent be directed to quash the said recovery amount along with undue interest and DPC from ensuing bill and bring the matter to justice once and for all.


4. The Respondent filed its written reply dated 17.10.2022. Its written submission along with its arguments on 11.11.2022 is stated in brief as below: -

- (i) The Appellant is a Consumer (No.014710000850) from 01.11.1998, at Dugadphata, near Asnoli, Bhiwandi-Wada Road, Taluka Bhiwandi, Dist. Thane.
- (ii) The Testing Team of the Respondent inspected the Appellant’s premises on 29.03.2013 under “PD Consumer Inspection Scheme”. During inspection, it was found that Consumer No. 013550001254 has arrears of Rs.1,69,304/- and this consumer was PD in May 2003. The consumer was given electric supply on 12.01.1991 with the name “Homeopathic Medical College”. The power supply at this premises is currently given under the name of Homoeopathic Medical College having Consumer No. 014710000850. **Both the consumers i.e. the PD consumer and the current consumer have the same name and address.** Therefore, according to the report given by the Testing Team, **the arrears amount of Rs. 1,69,304.63/- of permanently disconnected Con. No. 013550001254 was transferred on to the live consumer having Con. No. 014710000850 in April 2013.**
- (iii) The Respondent argued that by its letter dated 12.05.2016, it has informed details of the case to the Appellant. The main points highlighted in this letter are below:

  
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- Assistant Engineer, Wada Subdivision already informed Shri Sudhir Mhatre, Managing Trustee by his letter dated 30.09.2004 about the outstanding dues and requested to pay the same.
  - Janseva Mandal Trust is running “Sai Homeopathic Medical College”. Though the trustees of Janseva Mandal Trust changed in the year 2007, however, the Trust remained the same. The Respondent (Asstt. Engineer) had personal discussions with the trustees, and they showed willingness to pay the liability of outstanding dues. Considering the in depth discussions, the Respondent revised the PD Consumer No. 013550001254 bill of 2003 as below:
    - Lock Credit of Rs. 5,123/- was given
    - Adjustment of Rs. 42,172.68 towards bill revision
    - Adjustment of Rs. 6,101.65 was given towards interest.
    - No interest was levied from May 2003 to April 2013 on the outstanding bill.
    - The net revised bill of Rs. 1,69,344/- of PD Consumer No. 013550001254 was added to the live Consumer No. 014710000850 in April 2013 bill, having the same address, same name and same ownership.
    - It was also clarified that Regulation 10.5 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations 2005) is not applicable, as the Appellant is the legal representative / successor-in-law or the new owner / occupier of the premises. In such a situation, the dues can be recoverable by the Distribution Licensee from such legal representatives or successors-in-law or new owner / occupier of the premises.
- (iv) A letter dated 12.05.2016 was sent to the Appellant on email namely [sbmhatre@gmail.com](mailto:sbmhatre@gmail.com) as per remarks on the office copy of the letter.
- (v) The Appellant filed its grievance application in the Internal Grievance Redressal Cell on 17.05.2016. The Respondent submitted its reply to IGRC on 16.09.2016.

  
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No further record is available in the Respondent's office regarding decision of IGRC.

- (vi) The Respondent again clarified all these details of the case vide its letter dated 18.12.2018. Thus, the Appellant was fully aware of the PD Consumer No. 013550001254 with arrears amount of Rs.1.69 lakhs.
- (vii) The Respondent served 15 days' disconnection notice vide its letter dated 15.01.2019, however, the supply was not disconnected being an educational institution.
- (viii) The Respondent again clarified all these details of the case vide its letter dated 12.03.2020. Despite these repeated letters and notices of disconnection, the Appellant neither paid the dues nor approached the Forum within 2 years from April 2013.
- (ix) The supply of the Appellant was finally disconnected on 26.02.2022 evening when the classrooms were closed, after giving proper notice from time to time and Assistant Engineer's personal visit on 24.02.2022.
- (x) The Appellant approached the Forum on 28.02.2022 for an interim order. The Forum issued an interim order on 28.02.2022 directing to reconnect the supply by accepting 50% of the arrears amount i.e., Rs. 1,66,660/-. The Appellant paid the same and supply was restored. The balance outstanding amount of Rs. 1,37,720/- was paid on 28.03.2022.
- (xi) The Forum, by its order dated 23.06.2022 has rightly rejected the grievance application.
- (xii) In view of above, the Respondent requested to reject the Representation of the Appellant.

### **Analysis and Ruling**

5. Heard the parties and perused the documents on record. The Appellant is a Consumer (No. 014710000850) from 01.11.1998, at Dugadphata, near Asnoli, Bhiwandi-Wada Road, Taluka Bhiwandi, Dist. Thane. This is an educational institution running a Homeopathic

  
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Medical College. This college is run by the present management from 2007. The said college premises was temporarily closed from 2000 to 2006. Prior to 2000, it was run by a different management.

6. The Appellant contended that the Respondent carried out a survey of the premises in the year 2007 as per application for enhancement of load from single phase to three phase on Consumer No. 014710000850. The Respondent also advised to pay outstanding dues of PD consumers (No. 13550001246 and No. 14710000841) on the same campus. At this point of time, the Respondent did not point out the arrears on account of the PD Consumer No. 013550001254.

7. The Appellant paid the outstanding dues of only 2 PD connections and enhanced the load on Consumer No. 014710000850 in the year 2007.

8. The Respondent added outstanding dues of a different Consumer No. 013550001254 in the regular bill of Consumer No. 014710000850 in April 2013. According to the Appellant, this act of the Respondent does not stand legal as per Section 56(2) of the Act and the Regulations of the Commission in force.

9. The Respondent contended that, the record shows that the then Assistant Engineer, Wada Subdivision had indeed informed Dr. Sudhir Mhatre, Managing Trustee by its letter dated 30.09.2004 about the outstanding dues of Consumer No. 013550001254. Admittedly, these dues were not brought to the notice of the management in 2007. Had this been done at the proper time, the management would have paid these dues in time and the grievance would not have arisen. There is a clear incompetence on the part of the Respondent in this regard. The Respondent revised the outstanding dues by withdrawing fictitious billing, interest etc. The net revised bill of Rs.1,69,344/- of PD Consumer No. 013550001254 was added to the Live Consumer No. 014710000850 in April 2013, having the same address, same name, and same ownership.

  
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10. It will be useful to refer to Regulation 10.5 of the Supply Code Regulations 2005 to decide on the Appellant's liability in respect of the arrears pertaining to its old connection. This issue was raised by the Appellant during the hearing. The Regulation 10.5 is reproduced as below:

*“10.5 Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remain 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:*

*Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.”*

A close reading of the above Regulation shows that it deals with charge for electricity due to the Distribution Licensee which remains unpaid by an erstwhile owner / occupier of the premises. It clearly provides that such charge shall be a charge on the premises transmitted to the legal representative or successor in law. The Regulation provides that such charge is recoverable from the legal representative or successor in law.

In the instant case, there is no change in the consumer which continues to be the Homeopathic Medical College. The Appellant held the earlier connections in its own name. However, 2000 to 2006 was the dormant period for the Appellant as the college was closed. Later, in the year 2007, the college was reopened and the Appellant applied for extension of load. In view of the facts and circumstances observed above, the Appellant is liable to pay the arrears against its earlier connections. The Respondent revised the outstanding dues by withdrawing interest etc., and the net revised bill of Rs.1,69,344/- of PD Consumer No. 013550001254 was added to the Live Consumer No. 014710000850, having the same address, same name, and same ownership. No doubt these dues should have been pointed out right in 2007; instead they were pointed out only in 2013. To this extent, the Respondent has shown poor management and undue delay in taking action.

  
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11. 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 as below:

**“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 crystal clear from the above provision that the Respondent is entitled to recover arrears from the Appellant even beyond 2 years, or for a period more than 2 years, which are shown as outstanding on the same premises.**

12. The Respondent finally disconnected the connection on 26.02.2022 evening after closure of classrooms in the institution. Immediately, the Appellant filed a grievance for interim order before the Forum on 28.02.2022.

13. Actually, such a grievance could have been filed right in 2013 when the arrears were first pointed out and billed; however, the Appellant did not do so. The Appellant argued that it kept the issue live through regular correspondence but that the Respondent did not reply or give any explanation for the arrears. However, the record shows that the Respondent replied with explanation repeatedly during 2016, 2018 and 2020, and also repeatedly served disconnection notices. The Forum ordered the Respondent to recover 50% of the outstanding dues. Regulation 7.8 of the CGRF Regulations 2022 mandates that 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

  
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arisen. In this case, we hold that the cause of action happened in April 2013 when the accumulated dues of Rs.1.69 lakhs were first pointed out. Therefore, in the final order, the Forum rejected the Appellant's grievance being time barred. The various arguments pointed out by the Appellant do not hold much ground. Appellant's representation against the Forum's order, is therefore liable to be and is hereby rejected. The case does not stand on merit also.

14. The Secretariat of this office is directed to refund the amount of Rs.25000 taken as deposit to the Appellant by adjustment in his account with the Respondent.

15. The Representation is disposed of in terms of this order.

Sd/-  
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Electricity Ombudsman (Mumbai)



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