

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 76 OF 2020

In the matter of refund of Additional Security Deposit

Smt. Daya Chubarsingh Ailsinghani Appellant
(Widow of Late Chubarsingh A. Ailsinghani)

V/s.

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

Appearances: -

For Appellant : Deepak P. Nirgude, Representative

For Respondent: 1. Ashok P. Sawant, Executive Engineer, Ulhasnagar II
2. Chndrakant Sapkal, Deputy Manager

Coram: Deepak Lad


Date of Hearing : 4th November 2020

Date of Order : 25th November 2020

ORDER

This Representation is filed on 6th October 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Appellant Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the order dated 10th August 2020 passed by the Consumer Grievance Redressal Forum, MSEDCL, Kalyan Zone (the Forum).

2. The Forum, by its order dated 10.08.2020 has partly allowed the grievance application in Case No. 2037 of 2019-20 and the operative part of the order is as below: -



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Secretary
Electricity Ombudsman Mumbai



- “2) Respondent Utility shall refund additional deposit Rs.30,000/- after confirming that no pending arrears in the building.
3) No interest on refund.”

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

- (i) The Appellant filed the representation as wife of Late Chubarsingh A. Ailsinghani, however, it is Chuharsingh A. Ailsinghani. Late Chuharsingh A. Ailsinghani was a builder by profession who had developed Satguru Apartment, Barrack No. 1626, Room 1, Section 26, Ulhasnagar 4.
- (ii) The Builder Association, Ulhasnagar had filed a Court case in Ulhasnagar Court in the matter of electric connections in Developed/Constructed Buildings in Ulhasnagar. As per Court Order in the year 1992, the Developers of that area to pay an additional Security Deposit (SD) of Rs.30,000/- to the Respondent (then MSEB), to release the electric connections.
- (iii) Pursuant to the Court Order, Late Chuharsingh A. Ailsinghani had paid additional SD of Rs.30,000/- to the Respondent.
- (iv) Late Chuharsingh A. Ailsinghani expired on 10.07.2002. The Appellant being wife of Late Chuharsingh A. Ailsinghani, the nearest Legal Heir, has applied for refund of SD on 03.10.2018. She visited the office of the Respondent for follow up. However, the Respondent did not refund the Additional SD.
- (v) The Appellant filed a grievance application with the Internal Grievance Redressal Cell (IGRC) on 20.01.2020. The IGRC vide its order dated 16.03.2020 has rejected the grievance. The IGRC failed to understand the basic grievance of the Appellant and rejected the grievance for non-submission of proper documents such as valid Indemnity Bond in case of loss of receipt and Legal Heir Certificate.
- (vi) The Appellant referred the Respondent`s Circular dated 12.10.2017, in the matter of refund of SLC, ORC and meter cost to consumers. It was quoted in point 3 as
“3. In case of loss of original money receipt the indemnity bond with applicable stamp duty shall be submitted by the consumer.....”
- (vii) In another similar case of Balaram C. Chhabria Ulhasnagar 4, the Respondent refunded additional SD of Rs.30,000/-.



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- (viii) The Appellant approached the Forum on 20.03.2020. The Forum, by its order dated 10.08.2020 has directed to refund additional deposit Rs.30,000/- after confirming that there are no pending arrears in the building and further there would not be any interest on the refund.
- (ix) The Forum failed to pay the interest, compensation as per the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period of Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations 2014) and additional compensation towards cost.
- (x) Hence, the Appellant prays that:
- (a) To pay interest on Additional SD of Rs.30,000/-.
 - (b) The additional compensation be granted from the respective date of applications as per SOP Regulations 2014.
 - (c) To take strict action against the officials of the MSEDCL for negligence of duty.
 - (d) To pay Rs.10,000/- cost towards financial loss, litigation cost and mental harassment.


4. The Respondent filed its reply by letter dated 27.10.2020 stating in brief as under: -

- (i) The Appellant is wife of Late Chuharsingh A. Ailsinghani who was a Developer, and has developed Satguru Apartment, Barrack No. 1626, Room 1, Section 26, Ulhasnagar 4.
- (ii) The Appellant has applied for refund of additional SD on 05.10.2018 which was claimed to be paid by him on dated 09.07.1997. On this receipt it was written as Service Line Charges (SLC). Therefore, the Respondent informed the Appellant to submit the required documents.
- (iii) The Respondent requested the Appellant to submit Original Receipt of additional SD, Cross cheque for payment, xerox of first page of passbook. The Appellant submitted copy of 'SLC' receipt of Rs.30,000/- but it was not for SD. She also submitted copy of cancelled cheque, first page of passbook, death certificate of late Chuharsingh A. Ailsinghani, and indemnity bond. This indemnity bond was not executed on a stamp paper.


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- (iv) The Appellant filed grievance application with the IGRC on 20.01.2020. The IGRC vide its order dated 16.03.2020 has rejected the grievance for non-submission of proper documents.
- (v) The Appellant approached the Forum on 20.03.2020. The Forum, by its order dated 10.08.2020 has directed to refund additional deposit Rs.30,000/- after confirming that there are no pending arrears in the building and further there would not be any interest on the refund. After scrutiny it was observed that some live consumers are in arrears which are informed to the Appellant.
- (vi) These are the past period cases in which it is difficult to verify the authenticity of the Appellant's application. Therefore, the Respondent has decided to follow the similar procedure in both the cases of the Appellant. The Appellant has submitted the receipt of SLC instead of additional SD. Therefore, the Respondent has informed the Appellant to submit the original additional SD receipt and other details which was not submitted by the consumer.
- (vii) The Appellant referred the case of Shri Balaram Chhabria. However, in this case, Mr. Chhabria submitted original additional SD receipt of Rs.30,000/- and after clearance of live and PD arrears, the balance amount was refunded to the consumer. The interest on additional SD of Rs.30000/-was not given to Shri Balaram Chhabria Therefore, it cannot be applied to the instant case of the Appellant.
- (viii) In the instant case, the application of the Appellant was not processed as:
- Appellant has not submitted original copy of additional SD receipt of Rs.30000/- however, the Appellant has submitted copy of SLC receipt.
 - Legal heir certificate along with NOC of other heirs, if any, is not submitted by the Appellant.
- (ix) The Respondent appeals to all such consumers to contact the Respondent with copy of original SD receipt for refund of deposit. From the above facts and findings, the Appellant has not submitted required documents and so from the Respondent side there is no delay.
- (x) In view of the above, the Respondent prays that the Representation of the Appellant be rejected.


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5. Due to Covid-19 epidemic, the hearing was scheduled on e-platform and hence the instant representation was heard on 04.11.2020 on e-platform through Video Conferencing.


6. The Appellant has reiterated as per written submission. The Appellant argued that the additional SD of Rs.30,000/- was paid, however, the Respondent has made receipt of SLC. The additional SD was paid as per Court Order dated 02.02.1992 in R.S. No. 455 of 1992-93 in Case of Builder Association of Ulhasnagar V/s MSEB. The order is not on record of the Appellant, however considering this order, the Respondent has refunded additional SD to Shri Balaram Chhabria of Ulhasnagar. On the same terms and conditions, the Respondent to process the Appellant's case. The Forum has directed to refund the same, however, it did not give compensation as per SOP Regulations 2014. Hence, the Appellant prays to pay interest on additional SD of Rs.30,000/-, to pay additional compensation from the respective date of application as per SOP Regulations 2014 and to pay Rs.10,000/- cost towards financial loss, litigation cost and mental harassment.

7. The Respondent argued that the application of the Appellant was not processed as the Appellant has not submitted copy of original receipt of additional SD of Rs.30,000/- however, the Appellant has submitted copy of SLC. The Appellant did not submit the legal heir certificate along with NOC from other legal heirs. The Respondent has given public notice in the newspaper 'Navakal' on 04.12.2018 for the eligible consumers for refund of additional SD as per Court Order dated 02.02.1992 in R.S. No. 455 of 1992-93 within the time mentioned in the public notice.

8. Pursuant to the hearing, the Appellant submitted additional information by email dated 09.11.2020 of which the important issue, avoiding repetition, are captured. In the said email the Appellant states that the original receipt of additional SD is found and the same is submitted to the Respondent. This receipt is bearing No.1889977 of Rs.30,000/-. This was demanded by the Respondent (then MSEB) vide its letter dated EE/ULH-II/Tech/3546 dated 09.07.1997.

9. The Respondent vide its letter dated 09.11.2020 also informed that

- (a) The Appellant submitted the original receipt of SLC bearing Receipt No.1889977 dated 09.07.1997 of Rs. 30,000/-.


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- (b) The Appellant did not submit the original receipt of Additional SD.
- (c) The Appellant has not submitted the legal heir certificate with NOC from other legal heirs.

Analysis and Ruling

10. Heard the parties and perused the documents on record. Late Chuharsingh A. Ailsinghani has developed Satguru Apartment, Barrack No. 1626, Room 1, Section 26, Ulhasnagar 4. The Builder Association, Ulhasnagar has filed court case in Ulhasnagar Court in the matter of electric connections in Developed/Constructed Buildings in Ulhasnagar. As per the Court Order of 1992, it has directed the Developer of that area to pay an additional SD of Rs. 30,000/- to the Respondent (then MSEB) so that the connections can be released. Accordingly, he has paid additional SD of Rs. 30,000/-. The Appellant, wife of Late Chuharsingh A. Ailsinghani, the nearest Legal Heir, has applied for refund of additional SD on 03.10.2018.

11. According to the Respondent, the Appellant has for the first time applied for refund of additional SD on 05.10.2018 but she has not submitted original additional SD receipt of Rs.30000/-. Instead, she submitted original receipt of SLC amount paid. There are live arrears in the said building. The Appellant did not submit the legal heir certificate along with NOC of other legal heirs. The Indemnity Bond submitted by the Appellant is incomplete.

12. The sum and substance of the entire case is that the connections were not being released to unauthorised structures. Pursuant to a legal case then filed by the Builders Association, the Court issued some order in the year 1993 directing then MSEB to collect Rs.30,000/- towards additional SD for releasing connections. Surprisingly, the Order of the Court is not at all produced by either party, however, it is an admitted proposition by both the parties. Even the Respondent, now MSEDCL, the successor company of the then MSEB, issued public notice in newspaper on 04.12.2018 inviting applications for refund of additional SD by submitting suitable documents. While collecting the additional SD, then MSEB, while issuing letters to individual builders have clearly mentioned that they should pay additional SD as per the Court Order and that deposit will be interest free. Therefore, there is no question of interest component being paid on such refund of additional SD because there is a direct nexus between


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unauthorised constructions and collection of additional SD. The Appellant has not complied with the appropriate documentation which would have enabled the Respondent to release the additional SD. It has submitted Receipt No. 1889977 dated 09.07.1997 of SLC amounting to Rs.30,000/- and not that of additional SD. Unless the required documents are submitted and conditions such as payment of arrears, etc. are fulfilled, it would be improper to direct the Respondent to refund the amount of additional SD. As could be seen from the submission of the Respondent that the receipt which the Appellant claims to be that of additional SD is in fact for SLC. The receipt has to be read on its face value and the contents therein. Therefore, unless the documentary proof of the additional SD then paid is submitted, it will not be proper to refund the amount towards it. Therefore, refund cannot be made on the basis of the SLC receipt submitted by the Appellant. Hence, it is necessary to modify the order of the Forum accordingly.


13. In view of the above, I pass the following order:

- (a) The Respondent to refund amount towards additional SD without interest only if the Appellant submits specific receipt of additional SD and that too after adjustment of arrears, if any. The Respondent should satisfy itself about the veracity of the receipt submitted and process the refund as per its inhouse procedures laid down there for.
- (b) The Appellant to submit legal heir certificate with NOC from other legal heirs in favour of the Appellant.
- (c) Other prayers are rejected as it does not fit into the SOP Regulation matrix.
- (d) The order of the Forum stands modified to the extent above.

14. Compliance to be submitted by the Respondent within two months from the date of issue of this order.

15. There could be possibility of similar cases being raised by the stakeholders pursuant to the newspaper advertisement issued by the Respondent. The Respondent, therefore, may decide such cases on the above lines to avoid unnecessary litigation.

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


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

