

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 77 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. Chandrakant 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 (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) 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. 2036 of 2019-20 and the operative part of the order is as below: -

"2) Respondent Utility shall refund additional deposit Rs.30,000/- after confirming that no pending arrears in the building.

3) No Interest on refund."


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Secretary
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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 Chuharsingh A. Ailsinghani, however, it is Chuharsingh A. Ailsinghani. Late Chuharsingh A. Ailsinghani was a builder by profession who had developed Putali Apartment, Barrack No. 1584, Room No.1, Section 25, behind post office, 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 on 30.07.1993 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 28.11.2018. 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 at 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/-.
- (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


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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 he has developed Putali Apartment, Barrack No. 1584, Room No. 1, Section 25, behind post office, Ulhasnagar 4. Late Chuharsingh A. Ailsinghani had paid interest free Additional SD of Rs.30000/- dated 30.07.1993 (Receipt No. 0679387)
 - (ii) The Appellant has applied for refund of additional SD on 28.11.2018 which was paid by her husband on 30.07.1993.
 - (iii) The Respondent requested the Appellant to submit Original Receipt of additional SD, Cross cheque for payment, zerox of first page of passbook. The Appellant submitted zerox copy of receipt of Rs.30,000/-, 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.
 - (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


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that there are no pending arrears in the building and further there would not be any interest on the refund.

- (vi) After scrutiny it was observed that some live consumers are in arrears which are informed to the Appellant.
- (vii) 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 Respondent has informed the Appellant to submit the original additional deposit receipt and other details which were not submitted by her.
- (viii) The Appellant referred the case of Shri Balaram Chhabria. However, in this case, Mr. Chhabria submitted original additional deposit 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.
- (ix) In the instant case, the application of the Appellant was not processed as:
 - a. Appellant has not submitted original copy of additional deposit receipt of Rs.30000/-.
 - b. Legal heir certificate along with NOC of other heirs, if any, is not submitted by the Appellant.
- (x) The Respondent appeals to all such consumers to contact the Respondent with original deposit 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.
- (xi) In view of the above, the Respondent prays that the Representation of the Appellant be rejected.

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 in the year 1993. 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


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order, the Respondent has refunded additional SD to Shri Balaram Chhabria of Ulhasnagar. On the same terms and conditions, the Respondent to process her 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.10000/- 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.30000/-. 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 hearing, the Appellant submitted additional information by email dated 09.11.2020 of which the important issue, avoiding repetition, is captured. The Appellant mentions that the original copy of Receipt No.0679387 for additional SD amounting Rs.30000/- is provided to the Respondent. This is confirmed by the Respondent vide its letter dated 09.11.2020 in which it is confirmed that the Appellant has submitted the original receipt bearing No. 0679387 dated 30.07.1993 of Rs. 30,000/-towards additional SD, besides this, it has submitted copy of receipt of Rs.96,900/- bearing No. 0678681 dated 12.07.1993 towards SLC. However, the Appellant has not submitted the legal heir certificate with NOC from other legal heirs. The PD arrears against Consumer No. 021514366206/4 of Rs.1590/- with interest Rs.3721/- up to 26.10.2020 has been paid.

Analysis and Ruling

9. Heard the parties and perused the documents on record. 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 inviting applications


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for refund of additional SD by submitting suitable documents. While collecting the 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 unauthorised constructions and collection of additional SD. The Respondent has confirmed that the Appellant has submitted original receipt of additional SD of Rs.30,000/- bearing No. 0679387 dated 30.07.1993. However, the Appellant has not submitted legal heir certificate and NOC from other legal heirs.


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

- (a) The Respondent to refund amount towards additional SD without interest to the Appellant after satisfying itself about the veracity of the receipt submitted and 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) Arrears, if any, shall be adjusted against the amount of refund.
- (d) Other prayers are rejected as it does not fit into the SOP Regulation matrix.

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

12. 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

