

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 101 OF 2023

In the matter of outstanding dues of PD Consumer and Disconnection

Prakash Bhimrao Baviskar..... Appellant
(Shivkamal Developers, Consumer No. 000316448143)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Panvel (U) (MSEDCL) Respondent

Appearances:

Appellant : Prakash Baviskar

Respondent: 1. Bele, Executive Engineer, Vashi Circle
2. Satish Sarode , Executive Engineer, Panvel (U)
3. M.V. Suryatal, Additional Executive Engineer, Kalamboli S/Dn.
4. S.S.Sandbhor, Dy. Manager, Panvel (U) Dn.
5. Rajiv Waman, Asst. Law Officer, Vashi Circle Office


Coram: Vandana Krishna [I.A.S.(Retd.)]

Date of hearing: 13th December 2023

Date of Order : 5th January 2024

ORDER

This Representation was filed on 5th October 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity


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Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 9th August 2023 passed by the Consumer Grievance Redressal Forum, Bhandup (the Forum) in Case No. 20 of 2022–23. The Forum dismissed the grievance application.

2. Aggrieved by the order of the Forum, the Appellant has filed this representation. The e-hearing was held on 13.12.2023 through video conference. Parties were heard at length. The Respondent filed its reply dated 11.12.2023. For easy understanding, the Respondent's submissions and arguments are stated first as below. The Electricity Ombudsman's observations and comments are recorded under 'Notes' in brackets where needed.

Prelude:

- (i) The Appellant (Prakash Bhimrao Baviskar & his wife Manisha Prakash Baviskar) was the Developer and Promoter in the name of "Bhawani Vikasak Pvt. Ltd." He developed a Residential Housing Complex under the banner of Bhawani Vikasak Pvt. Ltd. at Plot 71 A, Kamothe, Sector 22, Navi Mumbai 410 209. He availed power supply for construction of the said residential complex, having consumer (No. 028800946788) of MSEDCL under Kalamboli Subdivision from 09.12.2009 with sanctioned load of 9 KW. The connection was taken for construction purposes.
- (ii) The Appellant was billed for the year 2011 as below:


Table 1


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Month	Reading (Opening)	Reading (Closing)	Cons. (Units)	Billing Status	Remarks
Jan-11	2822	3164	342	Normal	
Feb-11	3164	3523	359	Normal	
Mar-11	3523	3819	296	Normal	
Apr-11	3819	4173	354	Normal	
May-11	4173	4622	449	Normal	
Jun-11	4622	6167	1545	Normal	
Jul-11	6167	7599	1432	Normal	
Aug-11	7599	7599	739	Inaccessible	Average billing
Sep-11	7599	7599	739	Inaccessible	
Oct-11	7599	7599	739	Inaccessible	
Nov-11	7599	19080 as on 09.11.2011	11481	Accumulated reading of 4 months as per final PD Reading	Bill amount of Rs.90,524.17 (Average 2870 p.m.)

- (iii) The L&T make meter (Sr.No.09491073) was on the site with reading as 19080 KWH on 09.11.2011. The same reading was reflected in the PD register.
- (iv) The Appellant did not pay the accumulated outstanding dues of Rs.90,524.17 which was metered consumption. The supply of the said connection was permanently disconnected in the month of Nov. 2011 for nonpayment of the above arrears after issuing the statutory disconnection notice. The arrears reached Rs. 91,285/- in April 2012. The Security Deposit (SD) of Rs.40,000/- of the Appellant was adjusted against the arrears amount, and the net amount of Rs.51,285/- remained outstanding as arrears after adjustment of SD amount.
- (v) The Appellant did not pay the above arrears in the stipulated period. When a review of PD cases was taken, it was found that the Appellant was in arrears. Hence, the Respondent sent a letter dated 11.12.2020 to the Appellant intimating the “Instalment Policy” and Special Concession available for Payment of balance PD amount as per Circular CE/B&R/Installment Policy/19409 dated 13.11.2020. But the Appellant did not avail of this facility.


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- (vi) The Respondent again sent a letter dated 24.09.2021 to the Appellant for payment of the above-said arrears amount. However, the Appellant neglected to pay the same.
- (vii) A Special PD Recovery Drive was arranged as per directions of higher authorities vide letter dated 09.02.2022. The Appellant was found in arrears of Rs.51,285/- up to Feb.2022. *[Note: The Respondent has not clarified whether interest was waived.]*
- (viii) The Respondent filed a case in the Lok Adalat in the year 2020 for recovery of PD arrears of Bhawani Vikasak (I) Pvt. Ltd. It tried for amicable settlement for recovery of PD arrears at the pre-litigation stage. However, the Appellant did not respond. The Respondent filed a case in the Lok Adalat again in 2022. The Lok Adalat issued a notice on 24.02.2022 and kept the hearing on 12.03.2022. However, the Appellant did not reciprocate positively, and hence there was no Settlement.

Efforts for Recovery of PD Arrears:

- (ix) In the year 2022, the Respondent has traced another live connection in the name of the Appellant in CBD Belapur Section, having Consumer No. 000316448143 (in the name of Mrs. Manisha Prakash Baviskar & Mr. Prakash B. Baviskar) at Office No. 411, Plot No. 66, Sector-11, CBD Belapur. This firm is named as 'Shivkamal Developers' by the same Appellant. During the hearing he clarified that different projects are implemented by him under different names, depending on who is the financial partner.
- (x) Since the Appellant did not pay the arrears of Consumer No. 028800946788, he was served a notice in March 2022 informing him about transfer of these dues to his other above-mentioned live connection having Consumer No. 000316448143. This transfer of dues is initiated as per MSEDCL guidelines dated 06.07.2013 which is reproduced as under: -

"Point No 4: In premises of any PD consumer in arrears, if there is other live connection of same PD consumer or of his legal successor found, then entire PD arrears with interest & DPC should be diverted on such live connection.


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Point No 6: If any PD consumer in arrears is having any live electricity connection in same or other subdivision, division, circle or zone, then the entire PD arrears with interest and DPC should be diverted on said live connection of same."

(xi) The details of both the connections are tabulated below:


Table 2

Name on the bill	Consumer No.	Address on the bill	Sanctioned load (KW)	Date of Supply	Date of Disconnection of supply.	Net PD Arrears (Rs.)	Director	Firm
Bhawani Vikasak (I) Pvt. Ltd.	028800946788	Plot 71 A, Kamothe, Sector 22, Navi Mumbai	9	09.12.2009	09.11.2011	51285/-	Manisha Prakash & Prakash Bhimrao Baviskar	Bhawani Vikasak (I) Pvt. Ltd.
Manisha P & Prakash B Baviskar	000316448143	Office No.411 Plot No 66, Sector 11, CBD, Navi Mumbai	5	01.06.2005	Live	NA	Manisha Prakash & Prakash Bhimrao Baviskar	Shivkamal Developers

(xii) The Assistant Engineer, CBD Section issued a letter to the Appellant dated 05.03.2022 and instructed him to clear the balance arrears of Consumer No. 028800946788, the connection, which was in Kamothe, and further intimated that MSEDCL can disconnect his connection No. 000316448143 in CBD for non-payment of arrears of the Consumer No. 028800946788.

(xiii) The Addl. Town Planning Officer (BP), Navi Mumbai & Khopta, CIDCO by its letter dated 07.07.2011 issued Occupancy Certificate for the said residential building, addressed to "M/s. Bhawani Vikasak (I) Pvt. Ltd., M.D./Director Shri Prakash Bhimrao Baviskar, Shankar Sheela Complex, Shop No. 23 & 24, Sector 8, Airoli, Navi Mumbai." Thereafter, individual connections were released in stages to the flat owners.

(xiv) The Appellant requested to provide the details of arrears on 24.02.2022. Accordingly, the details have been provided to him by letter dated 07.03.2022. The supply of the Appellant was disconnected jointly by CBD Team & Kamothe Team on 14.03.2022, which was



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reconnected immediately after payment of the arrears of Rs.51,285/- by the Appellant on the same day.

- (xv) As per Regulations 12.5 of the Supply Code Regulations, 2021,
"Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased Appellant 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."
- (xvi) The Section 56 (1) of the Electricity Act, 2003, which reads as follows:
*"(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:
Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -
(a) an amount equal to the sum claimed from him, or
(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,
whichever is less, pending disposal of any dispute between him and the licensee."*

This provision demonstrates that the Distribution Licensee is entitled to transfer unpaid arrears in respect of the applicant's disconnected meter on to his other live connection, and also that the licensee is entitled to cut off the electricity supply of his second live connection if he does not pay the unpaid arrears amount, provided that the licensee serves the applicant


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with a fifteen clear days' notice before actual disconnection. This provision lays down the procedure for disconnection of supply for nonpayment of charges of electricity.

- (xvii) Also, in a similar matter, MSEDCL relies on the Order dated 31.05.2021 passed by the Electricity Ombudsman in Case No.2 of 2021 which clearly interprets Section 56(1), and 56(2) of the Act and Regulation 10.5 of the Supply Code Regulations 2005, thereby empowering the licensee for transfer of dues. The Hon'ble Electricity Ombudsman has held as under.

"13. I noted that Electricity Ombudsman, Mumbai in its order dated 16.12.2008 in Representation No. 78 of 2008 has examined similar issue and discussed in it the various provisions of the Act and Regulations. In this order, Electricity Ombudsman has referred the Judgment in Case of L. Vijayalakshmi Vs. Asstt. Engineer, Maintenance & Operation, T.N. Electricity Board ATR 2004 NOC 276 (Madras) in which it has been held that:

"Electricity Board has power to disconnect electric service connection when there is a default in payment of consumption charges relating to any one of the service connections by the Consumer. The disconnection of the electric supply, therefore, held not illegal." In the same order, it has been noted that the same view is taken by Hon'ble Madhya Pradesh State Consumer Disputes Redressal Commission, Bhopal in case of M.P. Electricity Board Vs. Akhtyar Bi reported in II (2005) CPJ 221.

14. Based on this, Respondent MSEDCL has issued guidelines dated 06.07.2013 to its officers in which it is clearly stated that: - "Point No 4: In premises of any PD consumer in arrears, if there' is other live connection of same PD consumer or of his legal successor found, then entire PD arrears with interest & DPC should be diverted on such live connection. Point No 6: If any PD consumer in arrears is having any live electricity connection in same or other subdivision, division, circle 'or zone, then the entire PD arrears with interest and DPC should be diverted on said live connection of same PD consumer."
15. Moreover, the electricity dues where they are statutory in character under the Act and as per the terms and conditions of supply, cannot be waived in view of the provisions of Section 56 of the Electricity Act, 2003 and cannot partake the character of dues of purely contractual nature. I, therefore, do not find


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anything unreasonable in a provision enabling the distribution licensee, to disconnect electricity supply if dues are not paid, or where the electricity supply has already been disconnected for non-payment, insist upon clearance of arrears from the other connection of the Appellant. I, therefore, have no doubt in declaring that the Appellant (owner) is under legal obligation to pay the electricity dues of one of his permanently disconnected connection if the same are transferred to his other live electricity connection.”

(xviii) The Appellant filed his grievance application in the Forum on 24.05.2023. The Forum by its order dated 09.08.2023 dismissed the grievance application. The Forum has already considered and addressed all issues and passed a reasoned order. Therefore, it is necessary to uphold the Forum’s order. In view of the above submissions, the Respondent prays that the representation of the Appellant be rejected.

3. The Appellant’s written submissions and arguments are as below: -


- (i) The Appellant is a builder / developer, mainly M/s. Baviskar Group consisting of three verticals i.e., Bhawani Vikasak Pvt. Ltd., Shri Nimuli Developers, & Shivkamal Developer.
- (ii) The Appellant (Manisha Prakash Baviskar & Prakash Bhimrao Baviskar) have the electricity connections (in the subject matter) in their names as tabulated in Table 2 earlier.
- (iii) The Appellant as a promoter and developer in the name of Bhawani Vikasak Pvt. Ltd. had developed a residential project in Kamothe. He had taken a connection bearing consumer No. 028800946788 under Kamothe division having sanctioned load of 9 KW from 09.12.2009 to 09.11.2011 at Plot 71 A, Kamothe, Sector 22, Navi Mumbai for construction purposes.
- (iv) The Respondent MSEDCL sent an excessive bill of Rs.90,524/- in the month of Nov. 2011. The Appellant protested against this excessive bill and requested to revise the said bill with average consumption. The supply of the said connection was permanently disconnected in the month of Nov. 2011 for non-payment of arrears amounting to


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Rs.90,524/-. The Security Deposit (SD) of Rs.40,000/- of the Appellant was adjusted against the arrears amount. Net arrears of Rs.51,285/- were outstanding after adjustment of SD amount.

- (v) The Appellant by his letter dated 25.01.2012 made a detailed complaint of the above high bill. The Appellant has given the detailed consumption pattern for the year 2011 which is already tabulated in **Table 1** of Para 2 (ii). **The Respondent had wrongly taken the reading and/or the meter wrongly recorded this reading of 19080 due to abnormal functioning. The Appellant requested to revise the same based on the previous average pattern from July 2010 to July 2011.** [The Jr. Engineer has clarified that “as per final reading of the meter the bill is issued, hence you are requested to pay as early as possible the temp. connection bill]. This is the root cause of this grievance. The Respondent did not reply to this letter. The meter was never tested. The Appellant met the Respondent many times to revise the abnormal bill, however the Respondent did not respond.
- (vi) The Appellant attended the “Lok Adalat” in the year 2020 for PD arrears recovery of Rs.51,285/-. During the hearing the “Lok Adalat Team” directed the Respondent to take appropriate action in the matter, however, the Respondent did not take any action. [Note: The Appellant has not clarified exactly what appropriate action was directed to be taken.] The Respondent filed the case in Lok Adalat again in 2022. During the hearing on 12.03.2022, the Appellant requested to provide details of the reading as well as the Test Report of the meter. However, the Respondent failed to do so. Hence, there was no resolution of the dispute.
- (vii) The Appellant by its letter dated 24.02.2022 and 07.03.2022 again requested to revise the bill on average basis, considering consumption from July 2010 to June 2011. The Appellant also requested not to disconnect the supply of the Consumer No. 000316448143 in the name of Manisha Prakash Baviskar & Prakash B Baviskar, **as both are different entities**. The Respondent illegally disconnected the supply of Shop No. 1 & Shop No. 2


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of the Kamothe residential complex, as the supply of these shops was in the name of the Appellant (Bhawani Vikasak (I) Pvt. Ltd.). The Appellant had sold these shops to other parties. The connection was reconnected after two days. The Respondent started harassing the Appellant for payment.

- (viii) The Assistant Engineer, CBD Section issued a letter to the Appellant on 05.03.2022 and threatened illegal disconnection of the supply of CBD office (Cons. 000316448143), in consultation with Gautam Suryavanshi, Jr. Engr, Kamothe Section, Kalamboli Sub-Division.
- (ix) The Appellant conveyed to Gautam Suryavanshi, J.E. and Asst. Engineer CBD Belapur that, considering the fact of separate legal identities of the two connections, not to disconnect the electricity connection of the Appellant's office at CBD Belapur, Navi Mumbai.
- (x) The supply of CBD office (Cons. No. 000316448143) of the Appellant was illegally disconnected by Gautam Suyavanshi, Jr. Engr, Kamothe Section on 24.03.2022 by taking the law in his own hand. This is totally illegal. The Appellant was forced to pay the outstanding amount of Rs. 51,285/- on 24.03.2022 and had to beg for reconnection. The supply was reconnected after two to three days.

Submissions


- (i) The Appellant had filed a complaint before the Internal Grievance Redressal Cell (IGRC), Vashi Division on 14/09/2022, against Mr. Gautam Suryavanshi, J.E. Kamothe section, for illegally disconnecting the electricity connection of his office situated at CBD Belapur Navi Mumbai. It is pertinent to note that there are no dues pending against meter No. 000316448143 in the Appellant's office at CBD Belapur, Navi Mumbai.
- (ii) Despite having knowledge of the above legal facts, Mr. Gautam Suryavanshi, J.E. along with other unauthorized employees of MSEDCL in Belapur Division entered the society premises and illegally disconnected the electricity connection of the Appellant's office at


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CBD Belapur, Navi Mumbai.


- (iii) However, the Internal Grievance Redressal Cell (IGRC), Vashi Division failed to understand the legal position, and gave a clean chit to Mr. Gautam Suryavanshi, J.E. and supported his illegal and wrong actions and issued the decision dated 18/04/2023.
- (iv) MSEDCL, being an instrument of the state, is required to act reasonably. The conclusion and decision made by IGRC is arbitrary and unreasonable. The actions of IGRC were in breach of principles of natural justice, as I did not get any opportunity to present the Appellant's case.
- (v) Being aggrieved by the illegal, arbitrary, and unilateral interpretation of the facts and the decision of IGRC, the Appellant filed a grievance application in the Forum on 24.05.2023. The Forum, by its order dated 09.08.2023 has dismissed the grievance application. **The Forum failed to understand the basic issue that there are two separate connections in separate names and consumer numbers, i.e., Cons. No. 000316448143 is in the name of Mr. Prakash Baviskar, and the construction Cons. No. 028800946788 was in the name of M/s Bhawani Vikasak (I) Pvt. Ltd.**
- (vi) **The Forum in its order, has observed that the Occupancy Certificate was issued in favor of M/s. Bhawani Vikasak (I) Pvt. Ltd. However, the meter connections for the Appellant's office at CBD Belapur and the connection at Kamothe for M/s. Bhawani Vikasak (I) Pvt. Ltd. are two separate connections and not related to each other. Prakash Baviskar (individual) and M/s. Bhawani Vikasak (I) Pvt. Ltd. are two separate legal entities. Hence, the arrears of the PD connection should not have been transferred to the Appellant's office at CBD Belapur. It is a settled law that a Company and its directors / stakeholders are separate entities.**
- (vii) The Appellant referred to the judgement dated 22.08.2022 in Writ Petition (L) No. 2121 of 2022 in Case of Mukesh D. Ramani V/s State of Maharashtra & others. The High Court observed that


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“As noted earlier it is settled law that liability for duty of the company cannot be fastened upon the Directors of the company unless there is statutory provision to that effect. Since the BST Act did not contain any provision to the effect making the Directors liable for the dues of the company, no amount is recoverable under the BST Act from the Directors of the company for the dues recoverable from the Company.”

- (viii) **IGRC and the Forum are biased to accommodate the employees of MSEDCL and have passed the orders beyond the law. The conduct of the Forum and IGRC shows that they are safeguarding the interest of their department at the cost of justice to the consumers.**
- (ix) The delay in passing the judgment by CGRF is only by reason of granting unnecessary time to the Respondent for collating documents, to facilitate the Respondent. The hearing was concluded without giving an opportunity to the Appellant to counter the say/documents filed by the Respondent. This is a gross violation of the principle of natural justice.
- (x) Considering the aforesaid facts and circumstances, the Appellant prays :
- a. to set aside the order dated 09.08.2023 issued by the Forum.
 - b. stringent legal action be taken against said Mr. Gautam Suryavanshi, J.E. Kamothe Section and other employees who accompanied him while disconnecting the electricity at the Appellant office, and they may be suspended for their illegal action.
 - c. to grant an amount of Rs. 5,00,00,000/-, (Rupees Five Crore) as compensation and damages against the defamation and injury to the Appellant’s goodwill and reputation caused by Mr. Gautam Suryavanshi, J.E. Kamothe Section and his team members.


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- d. The expenses incurred for re-connection of the meter be given to the Appellant.
- e. Appropriated damages be given for the mental trauma caused to the Appellant.
- f. Any other relief as the Ombudsman may deem fit.

Analysis and Ruling

4. Heard the parties and perused the documents on record. The Appellant was the Developer and Promoter in the name of “Bhawani Vikasak Pvt. Ltd.” He developed a Residential Housing Complex at Kamothe for which he had taken power supply for construction purpose having consumer (No. 028800946788) of MSEDCL under Kalamboli Subdivision from 09.12.2009. The details of the connection are tabulated in Table 2.

5. The Appellant was billed for the above connection for the year 2011 as tabulated in Table 1 of Para 2. We note that from August to October 2011, when the construction phase of the project was nearing completion; and the flats were being handed over to the society members, suddenly the meter became inaccessible, and meter readings could not be taken. During this period (when readings were not being taken of construction meter), new connections were released to the individual society members from August 2011 to October 2011. At this time, the Respondent released more than 100 connections without recovering the arrears of the Connection No. 028800946788. These facts lead to a suspicion that the meter might have been deliberately made inaccessible while consumption increased during the final ‘handing over’ phase.

6. The Appellant contended that the Respondent suddenly billed for abnormal consumption of 11481 units for Rs.90,524.17 in Nov. 2011, that the meter was defective, and that the Respondent failed to revise the bill as per average consumption of previous 12 months. On the other hand, the Respondent contended that this accumulated consumption of 11481 units was the genuine and actual recorded consumption for the past 4 months, and the System has already given credit for average billing in the month of Aug to Oct. 2011. The Reading recorded in the meter (19080


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KWH) was as per the actual use of the Appellant. The same reading was also available on other documents like PD Report Register. There is no reason to record a wrong reading in the PD Report.

7. We find that the recorded consumption of 4 months (Aug. to Nov.2011) i.e., 11481 units, comes to an average of 2870 units p.m. during the period when individual connections were being released to the society members. It is quite possible and likely that this would be higher compared to the consumption pattern of the previous 12 months. It is commonly seen that some individual flat owners unauthorizedly extend the electricity connection temporarily from the construction meter till their individual connections are released. This leads to a sudden spurt in consumption of the construction meter.

8. The L&T make meter (Sr.No.09491073) was on the site showing the reading as 19080 KWH on 09.11.2011. The same reading was reflected in the PD register. There is no reason to disbelieve the final reading, and there is no evidence of any false recording or faulty meter. **If the Appellant wanted to complain against this meter reading and high bill, he had an opportunity to approach the Grievance Redressal mechanism within two years from the date of cause of action i.e., on or before December 2013, as the alleged high bill of Rs Rs.90,524/-was received in the month of Dec. 2011.** However, the Appellant was silent on this issue. Hence, at this juncture, the Appellant's grievance of high bill is time barred and beyond limitation as per Regulation 6.6 / 7.8 of CGRF and EO Regulations, 2006 / 2020, which provides that the Forum shall not admit any grievance unless it is filed within 2 years from the date on which the cause of action arose. Therefore, the claim of the Appellant of the alleged high bill is not maintainable at this stage. The said Regulation 6.6 of the CGRF Regulations 2006 is quoted below:

"The Forum shall not admit any Grievance unless it is filed within two years from the date on which the cause of action has arisen."


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The Respondent has already adjusted Rs. 40,000/- security deposit in the outstanding bill, and the net amount of Rs.51,285/- remained outstanding as arrears after adjustment of SD amount.

9. We note that the Electricity Ombudsman, Mumbai in its order dated 16.12.2008 in Representation No. 78 of 2008 had examined a similar issue and had discussed various provisions of the Act and Regulations. In this order, the Electricity Ombudsman referred to the Judgment in Case of L. Vijayalakshmi Vs. Asstt. Engineer, Maintenance & Operation, T.N. Electricity Board ATR 2004 NOC 276 (Madras) in which it has been held that:


*“Electricity Board has power to disconnect electric service connection when there is a default in payment of consumption charges relating to **any one** of the service connections by the Consumer. The disconnection of the electric supply, therefore, held not illegal.”*

In the same order, it has been noted that the same view is taken by Hon’ble Madhya Pradesh State Consumer Disputes Redressal Commission, Bhopal in the case of M.P. Electricity Board Vs. Akhtyar Bi reported in II (2005) CPJ 221. 14. Based on this, Respondent MSEDCL has issued guidelines dated 06.07.2013 to its officers in which it is clearly stated that: -

"Point No 4: In premises of any PD consumer in arrears, if there' is other live connection of same PD consumer or of his legal successor found, then entire PD arrears with interest & DPC should be diverted on such live connection.

Point No 6: If any PD consumer in arrears is having any live electricity connection in same or other subdivision, division, circle 'or zone, then the entire PD arrears with interest and DPC should be diverted on said live connection of same PD consumer."

10. The Appellant has taken a stand that the two connections are those of two separate legal entities, hence the arrears of one cannot be passed on to the other. We find this argument to be


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specious and deceptive. One connection was in the personal name of the Appellant, while the other connection was in the name of his firm 'Bhawani Vikasak (I) Pvt. Ltd.' whose M.D. / Director was the Appellant himself. He is admittedly the prime promoter and builder / developer of this entity. It is the primary responsibility of the Chief Promoter/ Director of Bhawani Vikasak (I)Pvt. Ltd. to clear the dues of this entity. The Appellant failed to do so. This is the basic reason for shifting the arrears on to the second connection which was in his name and his wife's.

11. At the same time, we note that the Respondent has taken action to disconnect the supply of Appellant's CBD office in a hurry. The Respondent is advised to attempt an amicable settlement in such cases through discussion. Transfer of arrears from one premises to another is a sensitive issue and it is necessary to handle it very carefully considering various legal angles.

12. The ratio of the judgment dated 22.08.2022 in Writ Petition (L) No. 2121 of 2022 in the Case of Mukesh D. Ramani V/s State of Maharashtra & others is not applicable in this case, as the Appellant is the Chief Promoter, and the Firm is dissolved. He cannot be excused from the liability of the Firm as concerns its electricity dues. In the present case, a temporary electricity connection was taken for construction, which should have been made PD only after clearing all dues and without leaving any unpaid dues / arrears since they are the statutory charges to be compulsorily paid by that person or his successor.

13. We do not find any merit in the representation of the Appellant; at the same time it is time barred. The present Representation is rejected and disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
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