

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO.155 OF 2019

In the matter of new electricity connection

Rahul Haresh Tendulkar Appellant

V/s

Adani Electricity Mumbai Ltd. (AEML) Respondent

Appearances

For Appellant : Khemchand Rajbhar, Representative

For Respondent : 1. Mritunjay Kumar Jha, Deputy General Manager & Nodal Officer
2. Aparna Jadhav, Asst. Vice President
3. Rajesh Nerulkar, Asst. Vice President

Coram: Deepak Lad

Date of Order: 1st November 2019

ORDER

This Representation is filed on 19th August 2019 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (*CGRF Regulations*) against the Order dated 24th June 2019 passed by the Consumer Grievance Redressal Forum, Adani Electricity Mumbai Limited (AEML) (*the Forum*).

2. The Forum, by its order dated 24th June 2019 has dismissed the grievance application in Case 02 of 2019. The Forum, in its order at para 5 observed as under:

“5. Thus, in view of the observations of the Hon’ble High Court in the case mentioned above, the area where the structure of the Applicant / Complainant is situated comes within CRZ-I area and although it is in the private land it can be treated as a ‘Private Forest’ in view of Clause (f) of Section 2 and Section 3 of Private Forest Act, 1980. If this is so, we are of the opinion that there is some substance in the contention of the representatives of the Utility / Respondent that they are unable to provide the electric supply to the premise of the Applicant / Complainant as it falls under area i.e. CRZ-I zone.”

3. Not satisfied with the Order of the Forum dated 24th June 2019, the Appellant has filed this representation stating as under: -

- (i) The Appellant is residing at room No.5, Property S. No. 302, H. No. 2, CTS No.7, Azad Nagar, Kanderpada Cross Road, behind Kanderpada Bus Depot, Dahisar- West, Mumbai 400068 which was constructed many years back. The structure is chawl type.
- (ii) It has applied for new electric connection with all documents in February 2018 which was accepted and registered by the Respondent.
- (iii) The Respondent is liable to release the connection within one month as per the provisions of the Electricity Act, 2003 (the Act) and regulations made thereunder.
- (iv) The Respondent issued letter dated 03.03.2018 asking the Appellant to submit permission / approval of Maharashtra Coastal Zone Management Authority (MCZMA) along with Indemnity Bond. Accordingly, letter from MCZMA was submitted to the Respondent. It again issued a letter on 05.07.2018 asking the Appellant to submit approval of MCZMA. The Appellant was again served a letter on 29.09.2018 that the Respondent has sought clarification from MCZMA which has permitted laying of cable however it informed that no construction is permissible within 50 metres of mangrove buffer zone area. The Respondent wanted the Appellant to clarify whether the structure comes within 50 metres of mangrove buffer zone.
- (v) Since the premises is quite old, permission of MCZMA is not necessary. The Respondent has already constructed a substation at Blue Paradise Housing Society many years back which is 20 metres away from the premises where supply is now requested for.
- (vi) The judgment of the Hon’ble High Court in PIL 87 of 2006 does not apply in the instant case. The cable can be laid without destroying the mangroves.

- (vii) Further, as per the notification dated 18.10.2016 of the Ministry Energy & Labour Department, the Government of Maharashtra, the occupant who requires the electricity connection for residential purpose, the Distribution Licensee has to provide electric supply without NOC from Landlord, Govt./Semi Govt. Department etc. However, the Respondent has not taken cognizance of the notification.
- (viii) The Respondent has released many connections in the same area violating the rules and regulations which it is asking the Appellant to comply in the instant case.
- (ix) The Respondent be directed to release the connection immediately and to pay compensation of Rs.1000/- per day from the date of registering of the application till the installation of the meter.

4. The Respondent in its letter dated 13.09.2019 submitted as below:

- (i) The Appellant has filed the present representation against the order passed by the Forum on 24.06.2019 in respect of grievance related to new electric connection under Residential category for the premises situated at Room No.5, Property S. No. 302, H. No. 2, CTS No.7, Azad Nagar, Kanderpada Cross Road, Behind Kanderpada Bus Depot, Dahisar (East), Mumbai 400068.
- (ii) The allegation for not providing new electric connection is wrong, incorrect, baseless and hence it is denied in toto.
- (iii) The Appellant had applied for new electric connection for his aforesaid premise on 08.03.2018; accordingly, site visit was conducted on 09.03.2018. Upon site verification and perusal of document it was observed that the premise of the Appellant is affected by the Coastal Regulation Zone (CRZ) / Mangroves area. Pursuant thereto the Respondent requested the Appellant to submit the permission from MCZMA, the Ministry of Environment and Forest for laying cable to proceed further.
- (iv) The Respondent has also approached the Member Secretary of MCZMA vide its letter dated 15.05.2018, inter alia seeking their advice on releasing the electric supply to the Complainant/ Applicant.
- (v) In view of the prevalent law with respect to Environment, CRZ and the judgment passed by Hon'ble High Court in PIL 87 of 2006, the Respondent through its letter dated 29.09.2018 requested the Appellant to share the approved plan of its structure and to

confirm and clarify as to whether his structure falls within 50 metre from mangrove buffer zone as per Coastal Zone Management Plan (CZMP) or otherwise. However, the Appellant did not submit the same.

- (vi) Under Regulation 4.10 of Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensee, Period of Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations), it has been clarified that distribution licensee shall not be held responsible for any delay in giving supply on account of problems relating to statutory clearance. The said Regulation reads as under:

“The distribution licensee shall not be held responsible for the delay, if any, in giving supply on account of problems related to statutory clearances, right of way, acquisition of land or the delay in consumer’s obligation which is beyond the reasonable control of the Distribution Licensee.”

There is no delay on part of the Respondent, in any way whatsoever as alleged by the Appellant and hence the demand of the penalty and / or compensation as claimed does not arise, same is baseless without any substance and do not sustain.

- (vii) The Respondent has not released any electricity connections in the aforesaid area as claimed by the Appellant.
- (viii) In view of the aforesaid submission and facts, the Respondent prayed that the representation of the Appellant be rejected.

5. The hearing was held on 24.09.2019. Both the parties argued in line with their written submissions. The Appellant argued that all necessary documents are submitted to the Respondent, but it has not released the connection. It also argued that the Respondent is asking one permission or the other in a piecemeal manner. This has unnecessarily put the Appellant in a very uncomfortable situation and is required to run from pillar to post.

6. The Respondent argued that the premises of the Appellant apparently falls within 50 metres from the mangrove buffer zone as per CZMP. Release of connection without appropriate approval from the competent authority is viewed very seriously by the respective authorities and may invite criminal action against the Respondent. Therefore, it has become necessary to get the approval from the competent

authority for laying cables and release of connection. There is no question of any harassment to the Appellant as release of connection would provide revenue stream to the Respondent.

Analysis and Ruling


7. Heard both the parties, perused the documents on record and examined the order of the Forum. The Appellant alleged that the Respondent has released some connections in the area. Moreover, in his opinion his premise does not fall in the mangroves buffer zone and therefore, there is no need of NOC from the competent authorities. The Respondent should therefore release the connection immediately. On the contrary, the Respondent argued that if the connection is released to the Appellant then it will be in contravention of the judgment in PIL 87 of 2006 of Hon'ble Bombay High Court and moreover, there is possibility of legal action against it by the Forest department. The responsibility of submission of NOC falls in the domain of the Appellant in absence of which connection cannot be released.

8. I observed that the Respondent in its effort to release connection to the Appellant has written a letter on 17.10.2019 to the Divisional Forest Officer, Mumbai Mangroves Conservation Unit, Kurla (East), Mumbai requesting it to issue necessary NOC. I am convinced that assessment either by the Appellant or the Respondent as to whether premises fall within 50 metres or otherwise will be of no help as NOC from the competent authority will only serve the purpose.

9. In view of this, I therefore, direct the Respondent to release the connection if NOC as requested by it is issued by the competent authority while the other things are as per the requirements under rules and regulation. The Appellant is at liberty to follow up with the Divisional Forest Officer, Mumbai Mangroves Conservation Unit, if he so desires.

10. The representation is disposed of accordingly.

(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

