

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 201 OF 2022

In the matter of release of new connection

Shri Sunil Suresh DevrukhkarAppellant

V/s.

Adani Electricity Mumbai Limited (AEML).....Respondent

Appearances:

Appellant : 1. Sunil Devrukhkar
2. Parvatibai Tadkal

Respondent : 1. Mritunjay Jha, Dy. General Manager & Nodal Officer
2. Sandeep Waghmode, General Manager

Coram: Vandana Krishna (IAS- Retd.)


Date of hearing: 17th January 2023

Date of Order : 8th February 2023

ORDER

This Representation was filed on 28th December 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 31st October 2022 passed by the Consumer Grievance Redressal Forum, AEML (the Forum).


2. The Forum, by its order dated 31st October 2022 has rejected the grievance application No. 10016 /2022-23.


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Secretary
Electricity Ombudsman Mumbai



3. Aggrieved by the order of the Forum, the Appellant filed this representation. The e-hearing was held on 17th January 2023 through Video Conference. Both the parties were heard at length. The Appellant's written submission and arguments in brief are stated as below: -


- (i) The Appellant is a resident of Hanuman Chawl No. 6, P. L. Lokhande Marg, Chembur, Mumbai 400 089. The Appellant is a Slum Dweller and facing non availability of basic amenities of electricity supply. The Appellant is residing at the said address for the last many years.
- (ii) The Appellant made an application on 17.12.2021 for a new electricity connection; however, no action was taken by the Respondent. Hence, the Appellant re-submitted a new application on 10.02.2022; however, no connection has been sanctioned till date. This is injustice to the Appellant. Electricity is a basic amenity, and he is being deprived of it.
- (iii) The said chawl has two-meter boxes, each containing 15-20 electric meters. However, the Respondent insists on providing a No Objection Certificate (NOC) from the Deputy Superintendent of Salt of Government of India. The Respondent is unnecessarily harassing the Appellant, stating that they have stopped releasing new connections from the year 2020, whereas in fact, the Respondent have given new connections in those meter boxes even in the year 2022. The Appellant has kept on record a list of electricity connections released in that area.
- (iv) The Appellant also states that the service cable has already been laid but the supply is not released.
- (v) The Municipal Corporation of Greater Mumbai (MCGM) also have laid tiles in the area and water supply connections are also given by them. Then why are electricity connections not released in the area, being basic amenities?
- (vi) The Appellant filed a grievance application before the Forum on 13.10.2021. The Forum, by its order dated 31.10.2022 rejected the grievance. The Forum did not understand that electricity is a basic need for livelihood of Slum Dwellers.
- (vii) In view of the above, the Appellant prays that the Respondent be directed to sanction and release the new electricity connection.


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4. The Respondent by its e-mail dated 13th January 2023 submitted its written reply. The hearing was held on 17.01.2023. The written submission along with its arguments are stated in brief as below: -


- (i) The Appellant has filed the present Representation, being aggrieved by the Order dated 31.10.2022 of the Forum, related to grant of new electricity connection under LT-I (b) residential category at Hanuman Chawl No.6, P.L. Lokhande Marg, Chembur, Mumbai 400089.
- (ii) Vide letter dated 27.01.2017, the Deputy Superintendent of Salt – Trombay of Govt. of India raised an objection for granting electricity connection to huts /structures situated on Survey No.320 (pt) Chembur. It was informed to the Respondent that the said land matter is sub-judice before Bombay High Court vide Suit No. 1562 of 1978, and there is a status quo order of the Hon'ble Court. It was further requested that, without concurrence of the Competent Authority of the Salt Department, Government of India, not to grant electricity connections. A copy of the letter dated 27.01.2017 of Deputy Superintendent of Salt, Trombay is kept on record.
- (iii) Subsequently, another letter dated 05.08.2021 was received from the Deputy Superintendent of Salt, Trombay with the same request. The Respondent sent a reply dated 16.08.2021 stating therein its obligation to provide electricity supply to the owner or occupier of the premises. A copy of the letter dated 16.08.2021 of the Respondent is kept on record.
- (iv) Thereafter, the Respondent again received letters dated 29.09.2021 and 16.12.2021 from the Office of the Deputy Superintendent of Salt, Trombay with the same request, and more recently on 21.12.2022 requesting the Respondent not to undertake any activity on the land bearing Survey No. 320 (pt) at Chembur.
- (v) On 14th Dec 2021, the Appellant submitted an application for a new electricity connection. Apart from the Appellant, other people have also submitted applications for electricity connections for their respective hutments situated in the same area. Accordingly, the personnel of the Respondent carried out a site visit when it was observed that these hutments are encroachments situated on salt land,


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and in the past the Salt Department has already carried out demolition activity in this area. The personnel of the Respondent also met the Deputy Superintendent of Salt, Trombay at his office and discussed the issue in detail. However, the Officer was reluctant to provide their NOC or consent to allow the Respondent to grant electricity connections. The Salt Officer informed the Respondent that their department had previously conducted demolition activity and stated that they have proof of the demolition activity with photographs. **The Officer also informed the Respondent that this land is a part of mangroves.** Hence this land falls under restricted area under the Costal Regulated Zone. Further it was decided to conduct a joint site visit.


- (vi) Accordingly, a joint site visit was conducted on the very next day i.e., on 17.12.2021 along with Mr. P.D. Bane, MTS, Salt Dept. During the site visit Mr. Bane showed the boundary area where demolition of structures was already done from time to time, and urged the personnel of the Respondent not to provide electric connections to those temporary unauthorized structures which were situated on the site.
- (vii) Since the premises of the Appellant is situated in the same area/ on the same land, the Respondent, vide letters dated 16.12.2021 and 08.03.2022, informed the Appellant to provide NOC from the Office of the Deputy Superintendent of Salt, Trombay.
- (viii) The Respondent would like to mention that for the purpose of conserving and protecting the coastal areas and marine waters, the Costal Regulation Zone (CRZ) has been classified. CRZ -I areas are environmentally most critical, and are further classified as CRZ-IA which includes ecologically sensitive areas. Its geomorphological features play a critical role in maintaining the integrity of the coast which includes mangroves, salt marshes etc.
- (ix) The Respondent further refers to and relies upon the Public Interest Litigation (PIL) No.87 of 2006 filed by Bombay Environmental Action Group and Another v/s. the State of Maharashtra and Others, concerning the issue of destruction of mangroves in the entire State of Maharashtra. The Hon'ble High Court passed a detailed interim order on 06.10.2006 and directed that "No development permission


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whatsoever shall be issued by any authority in the State of Maharashtra in respect of any area under mangroves. The Hon'ble High Court in its judgment dated 17.09.2018 directed that,

- a. No development permission whatsoever shall be issued by any authority in the State of Maharashtra in respect of any area under mangroves. All authorities including the Planning Authorities shall note that all mangroves' lands irrespective of its area will fall in CRZ-I as per both the CRZ notifications of 1991 and 2011.
 - b. The State Government shall ensure that criminal law is set in motion against all those who commit offenses punishable under section 15 of the said Act of 1986 as observed in the Judgment.
- (x) The Respondent submits that, to obtain electricity connection, the Appellant must submit a NOC from the Salt department and other authorities to enable the Respondent to accede to his request.
- (xi) Under the provision of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 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. Regulation 24 related to Standards of Performance of Distribution Licensee 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.”*
- (xii) The Forum has passed the Order after careful consideration of the entire facts, documents on records, details and submissions made by the parties and there is no infirmity in the impugned order. Therefore, the order passed by the Forum does not warrant any interference. Under the circumstances, the present Representation is untenable and ought to be dismissed.



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5. During the hearing, the Respondent was directed to submit whether any other connections have been released recently along with NOC, as alleged by the Appellant.

6. The Respondent has submitted the information sought during the hearing by email dated 31st January 2023 which is stated in brief as below:

- (i) The Appellant has annexed a list of some consumers which have allegedly been given connections. However, this list of consumers was not a part of the original grievance filed by the Appellant before the Forum, and therefore, at this stage, the Appellant may kindly not be allowed to file or rely on the list of other consumers.
- (ii) The circumstances and facts of each connection are different and not comparable with the existing case. The Respondent has verified the details of all consumers whose names are on the list, and conducted a site visit to bring the factual position before this Hon'ble Authority. A GIS sketch has been prepared to show the exact site conditions. These huts are not demolished by the Salt Department. However, towards the right side of the boundary line, demolition activity was carried out by the Salt department, and the Appellant's connection squarely falls under the demolition part where the hutment/s do not have electricity connection/s. The GIS sketch map of Salt Department of the concerned Nagewadi area in Chembur is also submitted where the premises of the Appellant is located.
- (iii) The personnel of the Respondent have taken photographs of the premises of the Appellant/s. On bare perusal of the photographs of the premises, it is apparent that the structure is temporary and is made of tin and tarpaulin.
- (iv) The Salt Department has raised an objection for grant of electricity connection to huts /structures situated on Survey No.320 (pt) Chembur. It was informed to the Respondent that the said land matter is sub-judice before Bombay High Court vide Suit No.1562 of 1978, and that there is a status quo order of the Hon'ble Court. Further, they have also carried out demolition activity in this area. Under the circumstances, the present Representation is untenable and hence ought to be dismissed.


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Analysis and Ruling

7. We have heard the parties and perused the documents on record. The Appellant is a resident of Hanuman Chawl No. 6, P. L. Lokhande Marg, Chembur, Mumbai 400 089. The Appellant is a Slum Dweller. The Appellant made an application on 10.02.2022 to the Respondent for a new electric connection; however, no connection has been sanctioned till date. The Respondent is unnecessarily harassing the Appellant, stating that they have stopped releasing new connections from the year 2020, whereas in fact, the Respondent has given new connections in the same area even in the year 2022. The service cable has already been laid down, but the supply is not released. The Municipal Corporation of Greater Mumbai (MCGM) also have laid paver block / tiles in the area, and water supply connections are also given to Hanuman Chawl. It is now a well settled proposition of law that electricity is a basic amenity, of which a person cannot be deprived.

8. On the other hand, the Respondent contended that the Deputy Superintendent of Salt – Trombay, Govt. of India by its letters dated 27.01.2017 and 21.12.2022 has raised objections for granting electricity connections to huts /structures situated on Survey No.320 (pt) Chembur. The said land matter is sub-judice before Hon'ble Bombay High Court vide Suit No. 1562 of 1978 and there is a status quo order. Without concurrence of the Competent Authority of Salt Department, Government of India, it is not possible to grant electricity connections on the Survey No.320 (pt) Chembur. The Appellant's hut structure is situated on this very land and he has not submitted No Objection Certificate from Dy. Superintendent of Salt, Trombay. Hence, his electricity connection cannot be sanctioned.

9. The Respondent, in knowledge of the status quo order on the said land, corresponded with the Dy. Superintendent of Salt, Trombay by its letter dated 16.08.2021, stating that electricity is one of the basic amenities, and AEML being the distribution licensee is obligated under the provisions of the Electricity Act, 2003 to sanction the electricity connections. It is clear that the Respondent never denied electric connection per se to the Appellant, but only subjected it to the submission of No Objection Certificate from Dy. Superintendent of Salt,


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Trombay, as the hut is located on Govt land (Salt Dept.). The premises i.e., hut of the Appellant was demolished earlier also, but later it was erected again.


10. The Officer of the Salt Department informed the Utility (Respondent) that the Department had already initiated demolition activity previously which is photographed. The said plot also partly consists of mangroves, thus falling under CRZ-1 land. Coastal Regulation Zone (CRZ) is classified for the purpose of conserving and protecting the coastal areas and marine waters. Areas falling under CRZ-1 are environmentally most critical and are further classified as CRZ-IA which includes ecologically sensitive areas, whose geomorphological features play a critical role in maintaining the integrity of the coast, which includes mangroves, salt marshes etc. We have examined the maps and photographs provided by the Respondent which indicate that the location of the Appellant's structure is very close to the mangrove area, and also seems to fall in the area where demolition was carried out by the Government authority.

11. Considering the above circumstances, it is clear that the Appellant's structure falls in the Coastal Regulation Zone area under the ownership of Salt Department, Government of India, which is near mangroves. The said land matter is sub-judice before Bombay High Court vide Suit No. 1562 of 1978, and is subject to the status quo order of the Hon'ble Bombay High Court. Thus, no developments, including new electricity connections, are allowed on this land.

12. The Forum in its order dated 31.10.2022 has elaborated the reasons for not sanctioning the electric connection to the Appellant with proper reasoning. Hence it is not necessary to interfere with the order of the Forum.

13. In view of these facts and circumstances, the relief sought by the Appellant cannot be entertained, and therefore the grievance is accordingly disposed of.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

