

**BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)**

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

**REPRESENTATION NO. 68 OF 2022**

(REVIEW OF THE ORDER IN  
REPRESENTATION NO.06 OF 2022)

In the matter of arrears on premises after permanent disconnection

Kamlesh Gurumukhdas Sitlaney (Occupier).....Applicant  
(Vijay Sitlaney – Consumer)

V/s.

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

Appearances:

Applicant : 1. Kamlesh Sitlaney  
2. J.S. Rajput, Representative

Respondent : Pravin Chakole, Executive Engineer, Ulhasnagar II


**Coram: Vandana Krishna (Retd. IAS)**

Date of hearing : 19<sup>th</sup> July 2022

Date of Order : 26<sup>th</sup> July 2022

**ORDER**

This Review Application is filed on 24.05.2022 under Regulation 22.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against for review of the Order dated 22<sup>nd</sup> April 2022 in Representation No. 06 of 2022 passed by the Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai




2. The Electricity Ombudsman, Mumbai, by its order dated 22.04.2022 has rejected the Representation No.06 of 2022. It was observed that the unbilled consumption was for the period from February 2014 to February 2018. The Appellant approached the Forum on 31.03.2022 after four years from the cause of action which is time barred as per the CGRF Regulations 2020. Due to failure in payment of arrears, the Appellant's application for new connection in the same premises was rejected as per Regulation 12.5 of the Supply Code & SOP Regulations, 2021

3. The Applicant filed this review application against the order of the Electricity Ombudsman (Mumbai). The hearing was held on 19.07.2022 where the Applicant and his representative were physically present whereas the Respondent attended the hearing through video conferencing. The Applicant's written submission and arguments in brief is stated as below:-

- (i) The Applicant is owner and occupier of the premises at Plot No.438, Sheet No.14, near Karishma Society, Ulhasnagar-4.
- (ii) The electric connection (Consumer No.021514312360) is from 12.04.1991 for LT Industry with Contract Demand (CD) of 41 KVA and Sanctioned Load (SL) of 50 HP in the name of Vijay Sitlani, brother of the Applicant. The said connection was permanently disconnected in February 2014 as per Consumer Personal Ledger (CPL). It clearly indicates that there were no outstanding dues.
- (iii) The Respondent issued bill of Rs.6,16,240/- for 59178 units to the Appellant on 20.03.2018. Subsequently, this bill was revised to Rs.7,29,980/- and shown outstanding PD arrears.
- (iv) These PD arrears are illegal. There is no record of consumption for 49 months for the period from Feb.2014 to Feb.2018. It is necessary to examine this supplementary bill in view of Section 56 (2) of the Electricity Act, 2003(the Act) which is reproduced below:

*“(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been*

  
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*shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”*

The Section 56(2) permits recovery of 24 months only. However, the recovery was done for 49 months. Hence, it is necessary to restrict recovery for 24 months. In support of this argument, the Applicant cited the Judgment dated 10.07.2013 of Bombay High Court, Nagpur Bench in Writ Petition No. 1650 of 2012 for limitation period of 24 months.

- (v) The bill was not generated on month to month basis. The Respondent cannot generate bill of 49 months due to limitation period of 24 months.
- (vi) In view of the above, the Review Applicant prays that the review be admitted and supplementary bill of Rs. 7,29,980/- be revised accordingly.

4. The Respondent filed its reply by its letter dated 06.07.2022. The hearing was held on 19.07.2022. Both the parties heard. The Respondent's written submission and arguments in brief is stated as below:-

- (i) The Applicant has applied for a new service connection on 11.02.2021 for Industrial purpose. However, there are PD Arrears outstanding on the same premises. Previously, the Respondent had carried out spot inspection on 23.02.2018 on the same premises, where it was observed that the meter (Secure Make 3X100/5A capacity, No. MSE27707, Reading-0241896 KWH) was found connected in the said premises. The electric connection of the said premises was in the name of Vijay Sitlany, who was LT Industrial Consumer (No.021514312360) from 12.04.1991. The MRI of the above meter was downloaded, and the reading parameters found in order. The power supply of the premises was found live; however, the consumer was PD on record as per CPL from 01.02.2014. However, the meter was live on site. Hence, a Provisional Bill of Rs.6,16,240/- for 59178 (241896-182718) units was issued to the Applicant on 20.03.2018. Subsequently, this bill was revised to Rs.7,29,980/-. There are outstanding PD arrears of Rs.7,29,980/- on the same premises in the name of Shri. Vijay J. Sitlany. The Respondent requested the

  
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Applicant to pay the outstanding arrears on the premises, however, the Applicant did not pay.

- (ii) In view of this, the Applicant being the owner / occupier of the said premises, is liable to pay the outstanding electricity dues.
- (iii) The Applicant did not submit power of attorney for filing this review application, as Vijay Sitlani is the original consumer of the Respondent. Hence, the review is not maintainable.
- (iv) The Case law submitted by the Applicant of Judgment dated 10.07.2013 of Bombay High Court, Nagpur Bench in Writ Petition No. 1650 of 2012, is not applicable in this case.
- (v) The Applicant has failed to show any error on the face of record. As such the present review is not maintainable considering the provision of Regulation 22 of the CGRF & EO Regulations 2020. The Hon`ble Electricity Ombudsman (Mumbai) has already passed a reasoned order, therefore, the Respondent prays that the Review Application be rejected.

### **Analysis and Ruling:**

5. Heard the parties and perused the documents on record. The Appellant is occupier of the premises at Plot No.438, Sheet No.14, near Karishma Society, Ulhasnagar-4. The electric connection having Consumer No.021514312360 was in the name of his brother Vijay Sitlani from 12.04.1991 with SL of 50 HP.

6. It is the case of the Applicant that his Tenant has used three phase power supply for industrial purpose. The Electric connection was permanently disconnected on record; however, meter was live on site, on which accumulated consumption was observed, and the Respondent billed for 59178 units for Rs.7,29,980/- for the period from 01.02.2014 to 23.02.2018 as per spot inspection dated 23.02.2018, and data downloaded through meter by the Respondent. The Applicant requested for a new connection of 19 HP LT Industrial connection on 11.02.2021.

  
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7. Due to failure in payment of arrears, the Appellant's application for a new connection in the same premises was rejected by the Respondent as per Regulation 12.5 of the Supply Code & SOP Regulations 2021 which is quoted as below: -

*"12.5 Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased Consumer 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." ..... Emphasis added.*

8. The Applicant approached the grievance before the Forum on 31.03.2022. The Regulation 7.8 of CGRF & EO Regulations 2020 clearly stated that


*"The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen."*

The billing of unbilled consumption was done by the Respondent in February 2018. Hence, the Section 56(2) of the Act does not apply at this stage. The ratio of Judgement dated 10.07.2013 of Bombay High Court, Nagpur Bench in Writ Petition No. 1650 of 2012 is not applicable in the instant case.

9. The scope of the Review is limited. The mistake on the face of record in the order need not necessarily be searched through a microscope, it should be clearly visible at the first glance. This principle has been stipulated in many judicial pronouncements of the Constitutional Courts which are quoted below: -

KamleshVarma v/s Mayawati and Ors reported in 2013 AIR (SC) 3301, the Supreme Court has held as under: -

*"8) This Court has repeatedly held in various judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient."*

  
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10. The original order of which the review has been sought is a speaking and reasoned one, and all issues have been appropriately appreciated in the Analysis and Ruling part of the said order. On perusal of this Review Application, the Applicant has not brought anything new which he was not aware of during the original proceeding, nor did he point out any error on the face of the record in the impugned order.

11. Provision with respect to review of order is given in Regulation 22 of the CGRF & EO Regulations 2020 which is quoted below: -

*“22 Review of Order of Electricity Ombudsman*

*22.1 Any person aggrieved by an order of the Electricity Ombudsman, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the Electricity Ombudsman, under the following circumstances:*

*a) Where no appeal has been preferred;*

*(b) on account of some mistake or error apparent from the face of the record;*

*(c) upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed.*

*22.2 An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record.*

*22.3 The review application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.*

*22.4 When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application.*

*Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.”*


12. In view of the above, I am of the opinion that the Review Applicant has not brought out any mistake or error apparent on the face of the record; nor any discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed as per Regulation 22 of the CGRF & EO Regulations 2020.

13. Therefore, the Review Application is rejected and disposed of accordingly.

Sd/-

(Vandana Krishna)

Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

