

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 60 OF 2022

In the matter of new connection and theft of energy

Raziya Abdul Sattar Memon Appellant

V/s.

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

Appearances:

Appellant : Dilawar Mohammed Attar, Representative

Respondent :1. Mritunjay Kumar Jha, Nodal Officer
2. Avinash A Patil, G.M.
3. Khulesha Patil, Dy. G.M.

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

Date of hearing : 9th June 2022

Date of Order : 16th June 2022

ORDER

This Representation is filed on 2nd May 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 30th March 2022 passed by the Consumer Grievance Redressal Forum, AEML (the Forum).


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



2. The Forum, by its order dated 30.03.2022 has disposed of the Grievance Application No. 003017/2022 with direction as below:

“ 2. The Applicant/ Complainant shall file a fresh application along with relevant documents pertaining to ownership/occupancy of premises for which electricity supply is sought and photo ID proof. The Applicant/ Complainant shall fulfil all other commercial formalities as required for grant of electric connection.

3. The Respondent/Utility to consider & grant electricity connection upon receipt of complete application, relevant documents, and fulfillment of commercial formalities.”

3. Aggrieved by the order of the Forum, the Appellant filed this representation stating in brief as under:

(i) The Appellant is residing at Room No. 4, Chawl No. 57, Shafi Mohammed Chawl, Qureshi Nagar, Kurla (East), Mumbai 400 070 since the last 30 years. The Appellant applied for a new residential electric connection on 16.01.2022 through online portal for 0.18 KW load with all statutory documents like ration card, Aadhaar card, pan card etc. However, the Respondent did not sanction the electric connection till date with reasons best known to them.

(ii) The earlier electric connection (Consumer Account No.: 100459261) was in the name of her father, Abdul Sattar A Saqur who expired in the year 2008. The connection was existing from the last about 30 years. It was disconnected. The Respondent did not sanction the electric connection under one pretext or other. Further the Respondent, by its letter dated 05.02.2022, by their vague and ambiguous wording, informed her which is quoted as below:

“ 1. Please submit fresh readable, clear and appropriate documents

2. Statutory Compliance required

3. Dispute Internal/ External

4. Structure : Temporary /Incomplete

5. MCGM L-Ward notice dated 24/05/2021

6. Substation requirement in building due to network loading constraint

7. The installation wiring should be completed

8. Payment: Arrears to be cleared


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



We will treat your application as cancelled unless advised to the contrary within fifteen days from date hereof due to reasons mentioned above."

- (iii) The Appellant by her letter dated 21.02.2022 has clarified all the facts and circumstances. Even then, the Respondent did not sanction the electric connection.
 - (iv) The Appellant filed a grievance application in the Forum on 11.03.2022. It was surprised to note that the Respondent raided another premises for theft of electricity on 14.03.2022 which was not belonging to her. However, the Panchnama was made on Appellant's name, address and bogus signature of her. The Respondent issued a final assessment bill dated 15.03.2022 towards theft of electricity of Rs. 43,400/- without giving any opportunity to the Appellant. The copy of Panchnama and final demand notice is put on record.
 - (v) The Appellant brought this fact to the notice of the Forum, however the Forum did not mention the fact in its order. The Forum, by its order dated 30.03.2022 has disposed of the Grievance Application with direction to file a fresh application and fulfil all other commercial formalities as required for grant of electric connection.
 - (vi) The Appellant has completed all formalities for new connection by submitting the required documents by running from pillar to post. The Respondent is not ready to sanction electric connection after the order of the Forum on one pretext or other.
 - (vii) The Appellant prays that the Respondent be directed to sanction electric connection with immediate effect.
4. The Respondent filed its reply dated 18.05.2022 by email stating in brief as under: -
- (i) The Appellant has filed present Representation being not satisfied / aggrieved by Order dated 30.03.2022 passed by the Forum inter-alia related to new electricity connection under the name of Ms. Raziya Memon Sattar Memon for the premises


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



situated at, Room. No. 4, Shafi Mohd Building No. 57, Near Jamat Khana, Haji Karamat Ali Road, Kurla (East) -Qureshi Nagar, Mumbai – 400070.

Preliminary Submissions: -

- (ii) At the outset, the Respondent repudiates the entire allegations as made by the Appellant as the same is unfounded.
- (iii) The Respondent submits that Section 43 of the Electricity Act, 2003 (the Act) casts obligation on the Distribution Licensee to provide electric connection to the owner or occupier of any premises only in such conditions when the Appellant submits the application complete in all respects. The Explanation enunciated for subsection 1 of section 43 the Act reads as under:

“[Explanation. - For the purposes of this sub- section, “application” means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances].”

In the instant case the application is not complete in all respects as required by the Respondent. Specifically, payment of theft assessment amount is pending.

- (iv) The Authorized officer of the Respondent from vigilance department along with his team conducted a site inspection on 14.03.2022. During inspection it was observed that there was no electric meter for the premises, and electricity was found in use by direct supply. Further, it was observed that, in addition to premises on the ground floor of the building, the Appellant was occupying premises on the first floor in the same building. The vigilance team took some photographs during the inspection. The act of the Appellant constitutes an offense of theft of electricity as provided under Section 135 of the Act. During inspection, Ms. Raziya Abdul Sattar was present at site, and the vigilance office explained the irregularity found to her. The loss assessed for theft of electricity is 3166 units for an amount of Rs.44029.80 on earlier PDC CA Number: 100459261 under the name of Abdul Sattar A. Saqur. The copy of site inspection report dated 14.03.2022 and photographs is kept on record.
- (v) It is submitted that the Regulation 7.9 of the CGRF & EO Regulations 2020 provides for the circumstances where the Forum shall reject the Grievance. One of the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



provisions for rejection provided under the Regulation is for the cases which fall under Sections 126, 127, 135 to 139, 152, and 161 of the Act.

In the instant case, all other issues related to documents and other formalities have been sorted out, except the payment of theft assessment amount of Rs.44,029.80. There is no sufficient cause to file this representation by the Appellant and therefore in accordance with the Regulation 19.25 (b) of the CGRF & EO Regulations 2020, the present Representation is liable to be rejected.

Submissions of the Respondent:

- (vi) The premises of the Appellant is situated in the Qureshi Nagar Area. In this area multiple unauthorised RCC multi-storey structures are coming up by demolishing the old chawl structures. These permanent structures are constructed without legal compliances. The structures are adjacent to each other without any space in-between and also no space at ground floor. The abrupt construction and transforming from chawl to permanent RCC structures has resulted into high load requirement in the said area. It is pertinent to mention that before construction of any RCC multi-storey structure, the residents/ developers are neither approaching the Respondent with their proposed load, nor they are making arrangement of space for substation. The existing network is overloaded & hence additional substations need to be installed to cater to the existing and upcoming unauthorized structure load. However, no substation space is being allotted by the residents / landlords despite rigorous follow up since many years.
- (vii) The modus operandi in the area is that post completion of the construction work of the structure, the residents apply for a new connection. However, for such applications, substation space, arrears of old structure, proper documentation etc. are sought, the same are not being fulfilled by the applicants. Therefore, such applications, are cancelled due to non-compliance from applicant side.
- (viii) It is submitted that the Respondent is regularly and rigorously following up with developers / builders / residents / MCGM / Local Corporators / Trustees etc., of Qureshi Nagar area for substation space requirement. However, the Respondent is yet to receive any substation space, majorly due to private land ownership.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (ix) On 16.01.2022 the Appellant applied through online portal for a new connection under residential category for 0.18 KW load. In support of her application, the Appellant submitted documents mentioned herein below. The Respondent scrutinized the documents, and its observation is mentioned in the table below:

Sr. No.	Documents	Particulars	Remarks
1	Aadhaar Card	Raziya Abdul Sattar Memon	Appellant
		Memon Raziya Haji Sattar Abdul Shakur	
2	Ration Card	Haji Abdul Sattar Abdul Shakur Memon Shafivali Mohd chawl, 58/4, Kurla	Building number differs in application V/s ration card
3	Death certificate	Memon Abdul Sattar	Claiming to be father of Appellant
		Fatima Abdul Sattar Thara	Reason for submission is unknown
4	Earlier final electricity bill	Abdul Sattar A Saqur 57, Safi Mohed chawl, kasaiwada Kurla	Meter removed in Feb. 2019
5	Test report	0.14 kW	Load differs in application (0.18kW) V/s Test report (0.14kW)

- (x) Pursuant to the Forum's order, on 08.04.2022, the Appellant applied an online application for a new connection along with supporting documents. There was mismatch (error) in the spelling of Appellant's name on application form and the document submitted by her. Subsequently, in response to the Respondent's letter, the Appellant vide her letter dated 21.04.2022 clarified that there was an error in application form.
- (xi) Pursuant to the clarification submitted by the Appellant, the only commercial formality which is required to be fulfilled by her is to pay the theft assessment charges to enable the Respondent to accede to her request for a new electric connection. The Respondent during their meeting with representatives of the Appellant have explained and requested them to clear the theft assessment amount, to proceed with


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



the application for the new connection, but the Appellant /representative is reluctant to do so.

- (xii) Subsequent thereto, the Respondent addressed a letter dated 02.05.2022 to the Appellant calling upon her to pay the assessment charges, and attempted to deliver the said letter by hand to the Appellant. However, it was utterly surprising that the Appellant refused to accept the same, by stating that her representative Mr. Dilawar Attar has advised her not to accept any letter. In addition to the attempt of hand delivery of the letter, the Respondent also sent the said letter by Speed Post; however same was also returned with a remark “NO SUCH PERSON IN THE ADDRESS”. Pursuant thereto on 12.05.2022, the Respondent once again attempted to hand deliver the letter dated 02.05.2022 to the Appellant; however, she again refused to accept the same. Therefore, the said letter was pasted on a conspicuous portion of her premises.
- (xiii) It is submitted that the Respondent is ready to process the application for new connection submitted by the Appellant, provided she pays the theft assessment amount of Rs. 44,029.80.
- (xiv) The Respondent submits that, the Forum has passed the order after careful consideration of the entire facts, documents on records, details and submissions made by the parties. There is no infirmity in the impugned order, therefore it is humbly submitted that the order passed by the Forum does not warrant any interference.
- (xv) The Respondent denies all allegations levelled against the various personnel of the Respondent as the same are false, unfounded and without any substance.
- (xvi) The prayer of the Appellant be denied in toto.
- (xvii) The Respondent craves leave of this Hon’ble Authority to submit further pleadings if the circumstances so arise, and to rely upon the additional documents, video graphs as and when required. Under the circumstances, the present Representation is untenable in law and on facts and hence ought to be dismissed with exemplary costs.

5. The e-hearing was held on 09.06.2022 through video conference where both the Appellant and the Respondent argued in line with their written submissions. The Appellant argued that she applied for a new residential electric connection on 16.01.2022. However, the Respondent did not sanction the electric connection till date. The Appellant has submitted the


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



necessary documents as per order of the Forum. The Appellant argued that **the Respondent raided another premises for theft of electricity on 14.03.2022 which was not belonging to her.** However, the Panchnama was made in the Appellant's name, address, and bogus signature of her. The Respondent issued final assessment bill towards theft of electricity of Rs. 43,400/- without giving any opportunity to express herself. The alleged bill should be kept aside or at least instalments should be given, and it should be treated as deposit, as the theft did not occur in her premises. In view of above, the Appellant prays that the Respondent be directed to sanction electric connection with immediate effect.

6. The Respondent argued that the Appellant had applied for new electricity connection on 16.01.2022 along with relevant documents. On scrutinising, it was observed that these documents were incomplete and not readable, which was pointed to the Appellant by letter dated 05.02.2022. The vigilance department of the Respondent along with its team conducted a site inspection on 14.03.2022. The earlier structure was G + 1, but it was converted illegally into a multi-storied structure. Subsequently BMC demolished the upper illegal floors, leaving only G+1, where the Appellant is currently staying. During inspection it was observed that there was no electric meter for the premises, but electricity was found in use on direct supply i.e. by stealing electricity. A video is submitted where it can be clearly seen that the Appellant is staying in the raided premises, and herself indirectly admits to stealing electricity. This act of the Appellant constitutes an offense of theft of electricity as provided under Section 135 of the Act. During inspection, Ms. Raziya Abdul Sattar was present at site, and the vigilance officer explained the irregularity found to her. The loss assessed for theft of electricity is 3166 Units for an amount of Rs.44,029.80 on earlier PDC CA Number: 100459261 under the name of Abdul Sattar A Saqur. Various photographs and videos are kept on record.

7. The Appellant has complied with all the statutory documents for a new connection; however, the assessment bill issued under Section 135 of the Act has not been paid. Pilferage of energy was found on the Appellant's premises. The documents submitted pertain to the same premises. The Appellant is trying to confuse the Hon'ble Authority by falsely saying that the Respondent raided some other premises. The attached video also shows that there is a glowing


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



light bulb in the premises behind the Appellant when she is talking. In view of the above, the Respondent prays to dismiss the representation.

Analysis and Ruling

8. Heard the parties and perused the documents on record. The Appellant has applied for a new connection on 16.01.2022 through online portal for 0.18 KW load with all statutory documents for Room No. 4, Chawl No. 57, Shafi Mohammed Chawl, Qureshi Nagar, Kurla (East), Mumbai. Initially, there was electric connection in the same premises under the name of Abdul Sattar Saqur having A/c. No. 100459261. The connection was permanently disconnected for non-payment of outstanding dues of Rs. 15,503/-in the year 2019. The Appellant paid the same on 04.01.2022.

9. The Respondent contended that the Vigilance Team inspected the premises on 14.03.2022. During inspection, it was found that there was a direct supply by stealing electricity in the premises of the Appellant. Hence, it assessed the Appellant under Section 135 of the Electricity Act, 2003 towards theft of electricity for 3166 Units for an amount of Rs.44,029.80. However, the Appellant reiterated that the inspection was done on different premises and has nothing to do with the Appellant's premises. The Respondent stated that the premises is not different; it was the same premises. Thus, there is conflicting claim between the Appellant and the Respondent as regards the theft of electricity.

10. However, disputes relating to alleged 'theft of electricity' under Section 135 of the Act do not come within the purview of this Grievance Redressal Mechanism as per the Regulation 7.9(b) of the CGRF & EO Regulations 2020 which is reproduced below:

"7 Procedure for Submission and Acceptance of Grievance

The Forum shall reject the Grievance at any stage under the following circumstances:

- (a)
- (b) **In cases, which fall under Sections 126, 127, 135 to 139, 152, and 161 of the Act;**
- (c)
- (d)
- (e)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Provided that no Grievance shall be rejected unless the Complainant has been given an opportunity of being heard. The Representation is disposed of accordingly. (Emphasis added)

This is also held in the Judgment of the Hon'ble Supreme Court, in the U.P. Power Corporation versus Anis Ahmad [2013 (9) SCALE 334] that a complaint against the assessment made by the assessing officer under Section 126 or against the offence committed under Section 135 or 140 of the Electricity Act, 2003 is not maintainable before the Consumer Forum. It is also held in the said case of U.P. Power Corporation that the act of indulging in unauthorized use of electricity by a person neither has any relationship with the unfair trade practices or restrictive trade practices.

11. In view of the above, the direction is given as below:

- a) The prayer of revision of assessment bill / giving instalments for payment of assessment bill issued towards theft of energy under Section 135 of the Act is rejected.
- b) If the Appellant pays the assessment bill issued by the Respondent under Section 135 of the Act, the Respondent is directed to release the new connection within one month after payment of statutory charges of new connection.
- c) The Respondent is at liberty to approach the Electricity Ombudsman in case of any difficulty while releasing the supply, once the above direction is complied with.
- d) The Respondent to submit Compliance Report within two months from date of issue of the order.

12. The Representation is disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

