

**BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)**

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

REPRESENTATION NO. 215 OF 2019

In the matter of reconnection of supply

Hussain H.Ramodiya.....

Appellant

V/s.

Brihanmumbai Electric Supply & Transport Undertaking ..... Respondent No.1  
(BEST Undertaking)

Asian Stores & Restaurant..... Respondent No. 2  
(Smt. Parin Rustom Amooyan)

Appearances

For Appellant : 1. Afshin H. Ramodiya  
2. Mitesh Modi, Representative

For Respondent No. 1 : 1.U.G. Karekar, Ag.Supt., G/S Ward  
2. V.K.Sontakke, Deputy Engineer


For Respondent No. 2 : John Barboza, Representative

**Coram: Mr. Deepak Lad**

Date of Order: 27<sup>th</sup> April 2020

ORDER

This Representation is filed on 6<sup>th</sup> December 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 10<sup>th</sup>

  
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October 2019 passed by the Consumer Grievance Redressal Forum, BEST Undertaking(the Forum).

2. The Forum, by its order dated 10<sup>th</sup> October 2019 has allowed the Grievance No. N-GS-389-20419. The Forum directed as below:-

*“1.1 The Respondent no.1 is hereby directed to give electric supply within 15 days from the date of receipt of this order, after due compliance if any i.e. partnership deed of Asian Restaurant and Stores & test report.”*

3. Aggrieved by the order of the Forum dated 10.10.2019, the Appellant has filed this representation stating in brief as below: -

- (i) The Appellant is a landlord of Ramodiya Mansion No.1, 257, Annie Basant Road, Worli, Mumbai.
- (ii) The Respondent No.2, Asian Stores and Restaurant, Shop Nos. 1 to 4(Asian Stores) was a tenant at ground floor of the said property. Previously, there were two electric connections in its name having A/c No.726-463-075 and A/c No. 726-463-077 which were removed on 11.04.2011 and 12.01.2012 respectively for non-payment of electricity dues.
- (iii) Smt. Parin Rustom Amooyan, Partner,Asian Stores, Respondent No.2 applied for reconnection / new connection on 19.03.2019 with Respondent No.1. This application was not supported with No Objection Certificate (NOC) from the Owner-Landlord / Appellant. The Appellant has already taken objection for release of connection vide his letter dated 02.03.2019 which is acknowledged on 05.03.2019as the case is sub judice in Small Causes Court, Mumbai for non-payment of dues of rent/maintenance under R.A.E. Suit No. 743/1173 of 2012 which is filed by the Appellant against Respondent No.2.
- (iv) The Respondent No.1 has rightly asked Respondent No. 2 to submit latest rent receipts along with NOC of Landlord or Interim Court Order for sanction of electric connection. But, the Respondent No.2 failed to submit the same. Hence,


  
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the Respondent No.1 by its letter dated 13.08.2019 has refused to sanction new connection/ reconnection.

- (v) The Respondent No. 2 filed its application in Internal Grievance Redressal Cell (IGRC). The IGRC, by its letter dated 13.08.2019 has rejected the new connection rightly.
- (vi) The Appellant approached the Forum on 21.08.2019. The Forum, by its order dated 10.10.2019 has allowed the new connection. The Forum failed to understand the basic issues which are highlighted as below:-

- a. The Respondent No. 2 has intimated online to MCGM as nature of business as eating house on the said premises. The receipt is electronically generated as intimation receipt of business by MCGM. This is just an acknowledgement of the application and not proof of existence of business and the place of business as mentioned in the intimation application. However, factually there is no such business started on the said premises, if physically verified. The Forum ignored the basic main point.
- b. The Respondent No. 2 applied for electric connection after lapse of nine years. The property is in an abandoned/ without any activity /in a ramshackle shut down and vacant condition without any electricity. The Appellant's intimation letter dated 05.03.2019 was on record that the Respondent No. 2 is defaulter and cannot be considered as lawful tenant. The fact is ignored by the Forum.
- c. In the order, it was taken as evidence that the Respondent No. 2 has deposited the rent in the Court as the Landlord refused to accept it. This is not correct. The Respondent No. 2 has never deposited any rent in the Court. It is surprising to understand as to how, the Forum has relied on oral statement.
- d. The Respondent No. 1 has rightly rejected the application for new connection by giving justified reason of rent receipt and NOC from the Landlord. Instead of appreciating the action of the Respondent No. 1, the

  
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Forum criticized it for no application of mind. The Forum has taken prejudice stand.

- e. In acknowledgement receipt, 8 male workers are working, but there is no list of workers and salary paid to these workers. This is nothing but a fraudulent statement. The Forum ignored this fact.
- f. The Partnership deed is not a proof of occupancy of the said premises as in this case, there is dispute between Appellant, being Landlord and the Respondent No. 2 and same is filed in Small Causes Court, Mumbai.

(vii) Considering all these factual positions, the Appellant prays that the Respondent No. 1 be directed to disconnect the supply of the Respondent No. 2 if the meter is installed and supply is released.

4. The Respondent No.1, BEST Undertaking has filed its reply dated 23.12.2019 stating in brief as below: -

- (i) The Appellant is property-owner of Ramodiya Mansion No.1, 257, Annie Basant Road, Worli, Mumbai.
- (ii) Initially, there were two meters installed for consumer's premises, one for shop No. 1,2 & 3 under A/c No.726-463-075 with Consumer name Asian Stores & Restaurant and another for shop No.4 under A/c No. 726-463-077 with Consumer name Asian Stores. These meters were removed on 12.01.2012 and 11.04.2011 respectively for non-payment of electricity bills.
- (iii) Smt. Parin Rustom Amooyan submitted Application No.398132 dated 19.03.2019 for reconnection of electric supply for her commercial premises i.e. Shop Nos. 1 to 4, Asian Stores & Restaurant, Ground Floor of the said Ramodiya Mansion along with old rent receipts and ID proof.
- (iv) As per practice directions under Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005(Supply Code Regulations, for new connection (in this case lapsed reconnection), Respondent No.2, Asian Stores has to submit only three documents viz.1) Identity Proof, 2) Premises Ownership/Occupancy Proof and 3) Test Report of Installation.


  
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- (v) As the Respondent No.2 had not submitted latest rent receipts as premises occupancy proof, the application was auto cancelled on account of non-compliance and hence meter was not installed.
- (vi) Also, prior to the receipt of application for reconnection from Respondent No.2, Smt. Parin Rustom Amooyan (Partner of Asian Stores), Appellant, Shri Hussain H. Ramodiya landlord of the said premises, had submitted letter on 05.03.2019 and requested them not to sanction connection for electric meter as there is a suit filed by them for dispute of tenancy and other issues in Small Causes Court ( R.A.E. Suit No. 743/1173 of 2012).
- (vii) Subsequently, Respondent No.2 approached the Internal Grievance Redressal Cell (IGRC) on 01.08.2019.It was informed to the Respondent No.2 to submit the latest rent receipt and NOC from Landlord or interim court order for installation of meter for their premises. As the Respondent No.2 failed to submit the above mentioned documents the meter was not installed.
- (viii) Respondent No.2 approached before the Forum on 24.09.2019.The Forum by its order dated 10.10.2019,directed BEST Undertaking to give electric supply to the Respondent No.2 after due compliance if any, i.e. partnership deed of Asian Restaurant & Stores and test report.
- (ix) As per the order of the Forum, Respondent No.2 has submitted copy of the “Deed of Partnership” dated 08.03.2004,Intimation Receipt of Shop & Establishment License dated 13.07.2019and test report of applied load. Further, Respondent No.2 had made payment against service connection fee, security deposit and outstanding dues of earlier consumer accounts. Meter no. M193061 was installed for Shop No.1, 2, 3& 4 on 24.10.2019 vide ID 425521.
- (x) In view of the facts, Hon’ble Ombudsman is requested to pass suitable order.

5. The Respondent No. 2, the Asian Stores has filed its reply by email on 24.12.2019 stating as under: -

- (i) The Respondent No. 2 is fully satisfied with the order of the Forum dated 10.10.2020. The Respondent No. 1 has installed the meter on 24.10.2019.The

  
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electricity and water are essential commodities which are required in day to day life.


- (ii) The Respondent No. 2 has requested the Appellant to inform the outstanding amount of the rent so that it can be paid but till date, the Appellant did not inform the dues of the rent.
- (iii) It is, therefore, prayed that application filed on basis of misleading the fact by the Appellant should be rejected.

6. During the hearing on 21.01.2020, both the Appellant and the Respondents have argued in line with their written submissions. The Appellant argued that Shop No. 1 to 4 is closed since about 9 years and the Respondent No. 2 is not carrying any business of the said property. The Respondent No.2 is willfully neglecting to pay the monthly rent and it is in arrears of rent. The Respondent No. 2 is defaulter and hence cannot be considered legal tenant or occupier at present. The R.A.E. Suit No. 743/1173 of 2012 is pending in Small Cause Court, Mumbai for non-payment of dues of rent/maintenance against Respondent No.2. The Court vide order dated 07.12.2018 in Miscellaneous Appeal (M.A.) No. 208 of 2015 in the said case has directed that

*“4. The defendants /respondents, their servants, agents and any one on their behalf are hereby temporarily restrained from assigning or transferring or inducting any third party in and/or parting with possession of the suit premises i.e. Shop Nos. 1 to 4, situated on Ground Floor of the building known as “Ramodiya Mansion No. 1”, 257,Dr. Annie Basant Road, Worli, Mumbai-400 025 or any part or portion thereof and from recovering or receiving any amount for the above acts in any manner till the disposal of the suit.”*

7. The Appellant argued that the documentation signed by Smt. Parin Rustom Amooyan has no authority to represent on behalf of total 9 Partners. The electric connection signed by only one or two partners, is nothing but creating third party. The Appellant prays that the Respondent No. 1 be directed to disconnect the electric supply immediately of the Respondent No. 2.

8. The Respondent No. 1 argued that the Respondent No.2 has given Partnership Deed and the test report and on the strength of which the connection was released.

  
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9. The Respondent No. 2 argued that Asian Stores is a legal tenant of the Appellant. The Appellant is not accepting monthly rent due to ill intension in the mind. The Respondent No. 2 is occupier and as per Regulations of the Maharashtra Electricity Regulatory Commission (the Commission), the Respondent No. 2 is entitled to get the electricity connection. There is no intension to create third party however there is loss to the Company and it is business firm for as per partnership deed. The order of the Forum is speaking and it is not necessary to interfere with the order of the Forum. The Respondent No. 2 prays that the Representation of the Appellant be rejected.

### **Analysis and Ruling**

10. Heard all the parties and perused the documents on record. I noted following important points: -

- (i) The application of electric supply dated 19.03.2019 is signed by Smt. Parin Rustom Amooyan and Smt. Simin Baharam Amooyan as Partners of the Asian Stores.
- (ii) Hussain Hasam Ramodiya is the Appellant and the persons namely (i) Asian Stores (ii) Smt. Parin Rustom Amooyan (iii) Shahzad Rustom Amooyan (iv) Daryoush Shapoor Khavarian (v) Minoochen Shapoor Khavarian (vi) Banafshah Shhook Izadiyair (vii) Mrs. Simin Beharam Amooyan (viii) Mr. Sohrab Baharam Amooyan (ix) Kamran Baharam Amooyan , are the Respondents in the R.A.E. Suit No. 743/1173 of 2012, of Small Cause Court, Mumbai.
- (iii) The representative of Respondent No. 2, John Barboza has not given any concrete information regarding Directors of the Asian Stores. He sought time of one month to submit resolution of Partners authorising Smt.Parin Rustom Amooyan and Smt. SiminBaharamAmooyan Directors to perform and sign for the purpose of getting new electric connection at the premises.
- (iv) Considering the Interim Order of the Court dated 10.12.2018 in M.A. No. 208 of 2015, the defendants /respondents, their servants, agents and any one on their behalf are temporarily restrained from assigning or transferring or inducting any third party in and/or parting with possession of the suit premises i.e. Shop

  
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
Nos. 1 to 4, or any part or portion thereof and from recovering or receiving any amount for the above acts in any manner till the disposal of the suit.

- (v) The Respondent No. 2 has intimated online to MCGM as nature of business as eating house on the said premises. The receipt is electronically generated as intimation receipt of business to MCGM. The Sr. No. 6 of the receipt mentioned as

*“ 6. This is just an acknowledgement of the intimation application and not a proof of existence of business and the place of business as mention in intimation application. It shall be the responsibility of the employer to obtain the entire prior and post permission, permit, licenses mandatory for the conduct of the said business and for the place of business from the concerned authority.”*

- (vi) The Respondent No. 2 is entitled to get the connection as there was connection in the same name and the new electric connection was also requested in the same name. The present occupancy of the Respondent No. 2 is not disputed by the Appellant. Only issue remained of authority the Directors who signed the documents.
- (vii) The earlier connections were disconnected way back in 2011 and 2012. Therefore, there is no question of reconnection of the same as the period of six months is over after disconnection. This is a case of new connection and therefore needs to be treated as such and required documents needs to be submitted.
- (viii) The occupancy of Respondent No. 2 has not been expressly or otherwise denied by the Appellant.

11. Keeping this history in mind, it is noted that the previous connections were at the same premises which were disconnected for nonpayment of arrears. After a lapse of approximately of 8/9 years, the Respondent No. 1 applied for new connection. The application for new connection is processed subject to submission of required documents as per Regulation. The Forum has ordered to release the connection within 15 days subject to submission of partnership deed. It needs to be checked as to whether the said partnership deed is legally correct or otherwise because the Respondent No.2 is staking the claim on the premises as bonafide occupier. The Appellant has argued that the oral submission of

  
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Respondent No. 2 at the Forum that it has depositing the rent in the Court is totally incorrect. In view of the above, I am of the opinion that certain issues need to be examined by the Respondent No. 1 though the connection has been released by it pursuant to the directions of the Forum. I, therefore, pass the following order:

- (a) Respondent No. 1 to examine the legality of partnership deed submitted by Respondent No. 2 vis-à-vis M.A. in 208 of 2015 in order in R.A.E. Suit No. 743/1173 of 2012.
- (b) Resolution of proper authorisation in favour of the person seeking electric connection.
- (c) The Respondent No. 1 is directed to examine the above two issues within three months from the date of issue of this order.
- (d) If Respondent No.1 finds above two issues in order, then the connection shall stand continued as ordered by the Forum else it shall be disconnected by giving 15 days' notice.
- (e) The order of the Forum stands revised to the above extent.

12. The representation is disposed of accordingly.

Sd/  
(Deepak Lad)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

