

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REVIEW APPLICATION NO. 1 OF 2020

IN

REVIEW OF ORDER IN REPRESENTATION NO.166 OF 2019

In the matter of Change of Name

Pratapsingh Haribhau Sawant..... Applicant
(Original Appellant)

V/s.

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

Narendra Haribhau Sawant..... Respondent No. 2

Appearances

For Applicant : 1. Pratapsingh H. Sawant
2. Sagar Pratap Sawant, Representative

For Respondent No. 1 : 1. P. V. Sutar. AAM
2. N. N. Sonawane, AE
3. Rahul B. Kabir, AAO

For Respondent No. 2 : 1. Narendra H. Sawant
2. Davinder Singh, Representative

Coram: Mr. Deepak Lad

Date of Order: 3rd February 2020

ORDER

This Review Application is filed on 30th December 2019 under Regulation 19 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) for review of the Order dated 29th November 2019 passed in Representation No.166 of 2019.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



2. The representation was disposed of by order dated 29.11.2019.
3. The Applicant (original Appellant) has filed this application for review of order dated 29.11.2019 passed in Representation No.166 of 2019. His submission in brief is as below: -
- (i) The order in Representation No. 166 of 2019 was received by him on 07.12.2019. His plea is rejected as per Regulation 17.10 (d) of the CGRF Regulations contained in paragraphs 10 to 12 of the impugned order.
 - (ii) Rejection of his representation would lead to litigations in appropriate Court of Law which may be financially difficult as well as it will put him in physical and mental stress which he cannot bear being a senior citizen.
 - (iii) The Electricity Ombudsman has rejected by citing in paragraphs 10 to 14 that the matter is regarding the disputed premises which is pending in the Civil Court and the Civil Court is the appropriate authority for adjudication of such property cases. Similarly, the Appellant had also submitted before the Forum that this matter being under trial in the Civil Court, the Forum cannot decide this case as per Regulation 6.7 (d) of the CGRF Regulations but still the Forum has given order to change the name on the electric bill. Hence, the order of the Forum dated 08.07.2019 is one sided, beyond rules, incorrect and wrong. Even the Electricity Ombudsman has not mentioned about the order of the Forum being correct or incorrect despite mentioning in paragraph 13 of the impugned order that the matter is sub judice through Civil Suit No.1160 of 2019 for property dispute and further there are complaints and counter complaints, the Forum could have well avoided to decide the matter on merits.
 - (iv) The Respondent No.2, Narendra Sawant, at the time of change of name from Ananda Keshav Jagtap, has not submitted the NOC of the successors of the original tenant nor of the landlord to the Respondent No.1, to the Forum nor to the Electricity Ombudsman in spite of asking him on various occasions.
 - (v) The successors of Ananda Keshav Jagtap vide their letter dated 28.09.2018 to the Respondent No.1 have never given the custody of the said premises or their NOC to Respondent No.2, Narendra Sawant. In fact, they agree to have given to the Applicant (Appellant) Pratapsingh Sawant.


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- (vi) In view of the above, the Electricity Ombudsman ought to have dismissed / cancelled the Forum's order dated 08.07.2018 as per Regulation 17.15 (c) of the CGRF Regulations. The Electricity Ombudsman ought to have given the order to restore the name on the electricity bill which was there before filing the case with the Civil Court i.e. 26.04.2019 and until the Civil Court gives the decision.
- (vii) The above mistakes and faults in the original representation came to the knowledge of the Applicant later, hence, prays to consider the above points for review of the impugned order.

4. The Respondent No.1 in its submission on 21.01.2020 has stated that the change of name was done in the name of Applicant (Pratapsingh Sawant) on the basis of required documents submitted. The site inspection of the premises, Room No. 67B, was carried out on 27.03.2019. The said premises was opened by the Respondent No.2 and presently no one is staying there. This premises is under family dispute in Civil Court. The name was transferred again in the name of Respondent No.2 as per the order of the Forum dated 08.07.2019.

5. The Respondent No.2 has not submitted any written statement.

6. During the hearing on 23.01.2020, the Applicant argued that despite the matter being in the Civil Court, the Forum has still given the order on merit and which the Electricity Ombudsman has not modified or cancelled the order of the Forum. This is injustice to the Applicant and its consequences are to be suffered by the Applicant only. The Respondent No.2 is beneficiary as the Electricity Ombudsman has taken the shelter of Regulation No.17.10 (d) of the CGRF Regulations. Hence, the Applicant prayed that the review be allowed, and the case be decided on merit.

7. During hearing, the Respondent No.1 argued that it has only implemented the Forum's order. As a matter of fact, it does not agree with the finding of the Forum.

8. The Respondent No.2 argued in the hearing that the Forum has rightly decided the order and it has nothing more to add except reiterating its say he was having key of the premises and he, himself, opened the premises when the Respondent No.1 visited for inspection.


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Electricity Ombudsman Mumbai



Analysis & Ruling

9. Heard all the parties and perused the documents on record. This application has been filed by the Applicant under Regulation 19 of the CGRF Regulations which provides as below:-

“19.1 Any person aggrieved by an order of the Electricity Ombudsman, may, 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 or on account of some mistake or error apparent from the face of the record, may apply for a review of such order, within thirty (30) days of the date of the order, as the case may be, to the Electricity Ombudsman.

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

19.3 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.

19.4 When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.”

10. In this Review Application, the Applicant has raised the issues which he has already raised in the original hearing in Representation No. 166 of 2019. He also argued that when the case was heard at Forum, he has specifically submitted that the Forum should not decide the case in view of the litigations but the Forum neglecting his argument, issued the order. Further, this Authority has not set aside the order of the Forum instead, it has decided the case on the ground that the case requires consideration of elaborate documentary and oral evidence and the appropriate court would be proper to decide the case. This will lead to filing of litigations and will further add to his financial burden.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



11. After having heard the arguments and perusing the documents on record that the Applicant has not come up with new issues which were not known to him at the time of hearing in the original Representation No. 166 of 2019. The undersigned while deciding the original representation has expressly recorded in the order at paragraph 13 as below:-

“I am at pains to note that the matter being adjudged through the Civil Suit (No. 1160 of 2019) for property dispute which is admitted in Civil Court on 02.05.2019 and further there are complaints and counter-complaints, the Forum could have well avoided to decide the matter on merit.”

12. Exactly, the above view has been taken by the undersigned while deciding the case which is recorded at paragraph 14 of the order. In view of the above, I am of the opinion that the Applicant has failed to point out any error apparent on the face of the record nor it has come up with any new fact which was not known to him at the time of deciding his Representation No.166 of 2019.

13. In view of the above, the review application is rejected and disposed of accordingly.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

