

## BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

### REPRESENTATION NO. 121 OF 2022

In the matter of PD arrears.

Manish Prakash Shah .....Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Vasai (MSEDCL)..... Respondent

Appearances:

Appellant : Davinder Singh Sudan, Representative

Respondent : 1. Gajendra Gadekar, Executive Engineer, Vasai  
2. Anis Mirza, Addl. Executive Engineer, Vasai (East) Sub. Dn.  
3. V.M. Gokhale, UDC, Vasai (East) Sub. Dn.


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

Date of hearing : 11<sup>th</sup> November 2022 &  
13<sup>th</sup> February 2023.

Date of Order : 22<sup>nd</sup> February 2023.

### ORDER

This Representation was filed on 22<sup>nd</sup> August 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 main Order dated 23<sup>rd</sup> June 2022 passed by the Consumer Grievance Redressal Forum, MSEDCL, Vasai (the Forum).

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



2. The Forum, by its order dated 23.06.2022 dismissed the grievance application in Case No. 24 of 2022.

3. The Appellant has filed this representation against the order of the Forum. The e-hearing was held on 11.11.2022 through Video Conference. However, on the request of both the parties, a physical hearing was also held on 13.02.2023. Both parties were heard at length. For easy understanding, the Respondent's submissions are presented first.

4. The Respondent filed its written reply dated 01.11.2022 and 20.02.2023. The Respondent's written submission along with its arguments on 11.11.2022 through Video Conference and Physical hearing on 13.02.2023 are stated in brief as below: -

- (i) The Appellant is a LT consumer (No. 2153322751) from 04.05.2022 at Gala No. 13, Sana Industrial Estate Poman, Dongripada, Vasai. The connection is taken for commercial purpose.
- (ii) The Appellant is disputing the permanent disconnection arrears bill of the previous consumer, Ahmad Husain Khan, having Cons. No. 002150306381 at gala no.13. The original consumer has never disputed his bill amount of Rs.7,00,350/- which accumulated over the period from January 2017 to January 2018 by virtue of consumption done by the original consumer. The Appellant does not have any locus standi to make the application for bill revision, as he was not the original consumer. Hence, the grievance is not maintainable at the preliminary stage itself.
- (iii) Maintainability of the Grievance on the ground of limitation:-


The claim of the Appellant is time barred and beyond limitation period as per Regulation 7.9 of the CGRF & EO Regulations 2020 which provides

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

*(a) .....*

*(b) .....*

*(c) In cases where the Grievance has been submitted two (2) years after the date on which the cause of action has arisen;"*


  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



- (iv) The Appellant has filed the complaint in respect of the bill of PD Consumer which was made PD in March 2018. If the consumer was aggrieved with the billing of the PD connection, he should have raised the grievance within two years before the Forum i.e., by March 2020 as the cause of action arose in March 2018. However, the grievance was raised on 11.03.2022. Therefore, the grievance is time barred.
- (v) The Respondent cited the Judgement dated 21.08.2018 in Writ Petition No. 6859 of 2017 of Bombay High Court, Aurangabad Bench, in Case of MSEDCL V/s. Jawahar Shetkari Soot Girni Ltd. The High Court has discussed the previous orders of HPCL, and M/s. Shilpa Steel Pvt. Ltd. and held that the cause of action would mean the actual date of legal injury/grievance caused to the consumer, and the time limit of two years would start from there. The journey of grievance through IGRC should reach the Forum within a period of 2 years from the cause of action.
- (vi) The Respondent referred and relied on the order dated 16.08.2019 of the Electricity Ombudsman (Mumbai) in which it upheld the above view and dismissed the Rep. No. 68, 69 & 71 of 2019 in respect of G. M. Syntex. The Bombay High Court Nagpur Bench in its Judgment dated 08.01.2020 in the matter of W.P. No. 1588 of 2019 in Case of MSEDCL V/s. Mahamaya Agro Industries has upheld the above view and held that the limitation period to file a grievance before the Forum is two years from the date of cause of action.

**Case on merit:**

- (vii) The Respondent put on record the details of electric connections at Sana Industrial Estate, Dongri Pada, Poman, Vasai (East ) in the name of Ahmad Husain M.H. Khan, the previous consumer. There was no specific demarcation of gala's built on the said premises. The numbers were given by the owner for his own convenience, and incorporated in the billing address as per A-1 Form of the consumer. The details are tabulated as below:-


  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



Sr.No	Gala No.	Con.No.	Date of Supply	Status (live/PD)	Name of Consumer	Remarks
1	11	002150306224	05.09.2009	live	Ahmad Husain Khan	Extended supply unauthorisely from Gala no 11 to Gala No 13 as per inspection dated 13.10.2021. Provisional Assessment of Rs. 40920/- was issued and paid 50 % amount and assessment is under appellate under appeal as per Section 127 of the Act.
2	12	002150306178	05.09.2009	PD (dt. 12.02.2019)	Ahmad Husain Khan	
3	13	002150306381	05.09.2009	PD dt. 20.02.2018, Meter No. 05791779 ( R 82474.49)	Ahmad Husain Khan was original consumer. Manish Shah has taken this property and is present consumer of MSEDCL from 04.05.2022	PD arrears of Rs. 7,00,350/- paid by the Appellant and he applied for a new connection.
4		002153322751	04.05.2022	New connection from 04.05.2022 and presently live		
5	17	002123343983	07.03.2018	live	Mohd.Naeem I Ali Siddiqui.	

The electric supply of Gala No.13 was originally given vide Consumer No. 002150306381, but inadvertently “Gala No.17” was mentioned in its energy bill by mistake. The supply of the said connection was permanently disconnected on 20.02.2018 for outstanding dues of Rs.7,00,350/- .

- (viii) On perusal of CPL of PD consumer No. 002150306381, it appears that the consumer was billed as per meter reading (No. 14019120) with progressive reading R 78991.3 KWh up to Dec 2016.
- (ix) The old meter was replaced by a new meter (No. 05791779) in the “Mass Meter Replacement Scheme” in January 2017. The new meter was specially designed for Automatic Meter Reading (AMR) through the Agency appointed for AMR work.
- (x) The meter replacement entry was delayed, and updated only in the month of November 2017, though the new meter was physically on site from January 2017 and the Gala was working in full swing. During the period of January 2017 to October 2017, the Appellant was mistakenly billed with zero unit. In other words, though a new meter was installed in January 2017, and it was taking readings, the system did not accept these readings because the new meter number was mistakenly not entered into the system. The bill was issued as per actual meter reading only in the month of January 2018. The new meter recorded


  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



82443 KWh for the period from January 2017 to January 2018 which was reflected correctly in the bill of January 2018. These recorded 82473 units are for 13 months, with monthly average of 6344 (=82473/13) units per month, which tallied with the previous record of the Appellant, wherein the Appellant has recorded maximum 12107 units in June 2016. The accumulated bill for 82474 units of Rs.7,54,139/- was thus issued in January 2018. However, the original consumer did not pay the same and the supply was permanently disconnected in February 2018.

- (xi) The Respondent inspected the premises on 13.10.2021. During inspection, it was observed that the supply of Con. No. 002150306224 was illegally extended to Gala No.13 for unauthorised use in the premises of the old PD connection (Con. No. 002150306381). Hence, action under Section 126 of the Act was initiated and a provisional bill of Rs.40,920/- was issued to the original consumer, Ahmad Husain M.H. Khan on 26.10.2021. This is separate from the PD bill of Rs.7 lakhs which is currently under dispute. An opportunity of hearing was given to him on 09.11.2021 and 22.11.2021. The final bill of Rs.40,920/- was issued on 22.11.2021. The original consumer filed an appeal under Section 127 of the Act before the Electrical Inspector by depositing 50% of this assessment amount on 09.12.2021. The case is still pending with the Electrical Inspector.
- (xii) The Appellant, the new owner of Gala No 13, made an application on 16.01.2022 for supply of electricity where there were PD arrears of Rs.7,00,350/- for the period from January 2017 to January 2018 with minor adjustments. He is duty bound to pay the arrears of the original consumer of Gala No. 13 as per Regulation 12.5 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021(Supply Code & SOP Regulations 2021) which is reproduced 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*

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai




*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.”*

- (xiii) In view of the above Regulation, the Appellant was asked to clear the PD arrears, which was paid by the Appellant on 19.02.2022 without any protest. The new electric connection with Con.No.002153322751 at Gala No. 13 was released on 4<sup>th</sup> May 2022 for Commercial purpose, having sanctioned load of 19.5 KW.
- (xiv) The Appellant in the present case has actually filed a grievance in respect of the earlier Con. No. 002150306381 which did not stand in his name, and supply of Con. No. 002150306381 was made PD on 20.02.2018. The Appellant has no authority to file a grievance relating to the original consumer.
- (xv) Apart from this, the present grievance is time barred as already pleaded. The cause of action arose on 20.02.2018 when the original consumer was permanently disconnected and he was billed with arrears of Rs. 7 lakhs. The period of two years for raising the grievance before the Forum expires on 20.02.2020 as per Regulation 7.8 of the CGRF & EO Regulations 2020. However, the Appellant actually approached the Forum on 11.03.2022 after more than 4 years which is time barred.
- (xvi) The Forum, by its order dated 23.06.2022 has addressed and considered all issues and rightly disposed of the grievance which is time barred.
- (xvii) The Respondent did not charge any interest on PD arrears of Rs. 7,00,350/- from 20.02.2018 till date, in the interest of resolving the grievance.
- (xviii) In the circumstances, the original consumer's grievance does not stand on merit also, and the Respondent prays that the Representation of the Appellant be rejected.

5. The Appellant's written submission and arguments in brief are as below: -


- (i) The Appellant is a LT commercial consumer (No.002153322751) from 02.03.2022 at Gala No.13, Sana Industrial Estate Poman, Dongripada, Vasai. The said premises

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



(four Galas) were purchased from the Landlord of Sana Industrial Estate in the year 2021. At present, the Appellant is the owner of Gala No. 10, 11, 12 & 13, of Sana Industrial Estate, Dongripada.

- (ii) There were only 3 electric meters for 4 Galas. The Gala No. 13 was given on rent by the then Owner. The Respondent carried out a spot inspection of these Galas on 25.10.2021. The Respondent imposed penalty billing under Section 126 of the Electricity Act, 2003 (the Act) for unauthorised extension of supply from Gala No. 11 to Gala No. 13 which had earlier been made PD. The Respondent issued a provisional assessment bill of Rs.40,920/- for the alleged unauthorized use of electricity. The matter is under appeal before the Electrical Inspector.
- (iii) The Appellant made an application for a new electric connection (no. 38018542) on 16.01.2022 at Gala No. 13. The Appellant visited Kohli section several times for approval of the new connection, but the section officer did not respond. Afterwards the Respondent's Sectional Engineer of Kohli Section informed that there are outstanding dues of PD arrears of Rs.7,00,350/- for Gala No. 13 which has to be paid immediately. Only after that will the process of giving a new connection be started. The Appellant made the payment of Rs.7,00,350/- under protest. The Appellant's electric supply was released on 02.03.2022 with cons. No. 002153322751 after fulfilling various mandatory requirements, like payment of Firm Quotation, Test Report, etc.
- (iv) The Appellant approached the Forum on 11.03.2022 for solving his grievance of revising the amount of PD arrears of the PD Consumer.
- (v) The Appellant pointed out various irregularities observed in the CPL of the previous Cons. No. 002150306381 of gala no. 13 as below:-
  - a) As per the CPL record, in the month of Aug. 2017, for gala no. 13, Meter No. 014019120, consumption is recorded as nil, but the demand recorded is 166 KVA. How can this be possible? If the said load is recorded in a block period of 30 minutes, then 84 units of consumption should be recorded in the meter. Demand charges of Rs.1,83,610/-, and penalty of Rs.17085/- for exceeding demand charges has been debited in Aug 2017. It is necessary to be corrected and withdrawn in the bill.

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



b) In the month of Sept. 2017, consumption is recorded as nil, but the demand recorded is 268 KVA. How can it be possible, if the said load is recorded in a block period of 30 minutes, then 84 units of consumption is to be recorded in the meter. Demand charges of Rs. 29,580/- & penalty of Rs. 43095/- for exceeding demand charges has been debited in September 2017. It is necessary to be corrected and withdraw the bill.

c) As per CPL records, from the month of January 2017 till October 2017 for Meter No. 014019120, even a single unit consumption has not been recorded. The Appellant wants to know the reason for this. This may be because the said premises was not fully utilized from the end of the month of Dec 2016.

Note: The Respondent explained that the zero billing during this period was a mistake, explained in para 4 (x).

d) The difference of 2601 units of Meter No. 014019120 was debited in November 2017. As per records obtained by virtue of CPL, the Meter No. 014019120 was not faulty. Due to low utilization of the premises, the consumption pattern was down. So, the Appellant wants to know why the meter (No. 014019120) was replaced in January 2017 by a new meter.


Note: The Respondent explained this in para 4 (ix). The meter was replaced in a mass replacement drive.

e) Who took the reading of 82474.49 KWh of meter no. 05791779 and on what date? When was the meter no. 05791779 removed and consumption of 82474.49 units bill was generated?

Note: This was explained by the Respondent in its reply. The reading was taken under AMR in January 2018, and the bill was generated in January 2018.

f) What was the last date (grace period) for paying the bill of units 82474.49?

g) As per CPL, the PD arrears was fictitious and needs to be revised. The Appellant got the CPL under RTI, and studied it, when he found many mistakes in it.

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai






- (vi) The Appellant requested the Forum to direct the Respondent to give clear details about the dues charged from the Appellant in the name of getting power supply. The Respondent did not give any clarification regarding the PD arrears, hence some rectification is required in the PD arrears. The Appellant was ready to pay as per the rules and revised PD arrears. However, the Respondent neither revised the PD arrears bill nor clarified its demand of PD arrears. The Appellant paid this PD arrears amount under protest.
- (vii) The Forum, by its order dated 23.06.2022 dismissed the grievance application being time barred, and not on merit. The Forum failed to understand the basic issue that the PD arrears need to be revised as per factual condition.
- (viii) In view of the above, the Appellant prays that the Respondent be directed to revise the alleged PD arrears of Rs.7,00,350/- which was paid under protest and to refund the same to the Appellant or adjust in the future bills of the Appellant.

### **Analysis and Ruling**

6. Heard the parties and perused the documents on record. The Appellant (Manish Prakash Shah) made an application for a new electric connection on 16.01.2022 for Gala No. 13, Sana Industrial Estate Poman, Dongripada, Vasai. There were outstanding dues of Rs.7,00,350/- for the period from January 2017 to January 2018 on Gala No. 13 of the previous PD Consumer “Ahmad Husain Khan” having Cons. No. 002150306381. The Appellant made the payment of Rs.7,00,350/- apparently under protest. The Appellant’s electric connection under the new Consumer No. 002153322751 was released on 02.03.2022 at Gala No. 13.

7. The Appellant contended that there are serious mistakes in the bills of the original consumer “Ahmad Husain Khan” under Cons. No. 002150306381, as per his study of Consumer Personal Ledger which resulted in outstanding dues of Rs. 7,00,350/-. The various alleged irregularities in the billing are highlighted at Para 5 (v) of this order. The Respondent has explained these points, which mostly relate to the issue of mistaken zero billing, because the details of the new meter were not entered into the system till November 2017.

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai




8. The Respondent contended that the outstanding dues of Rs.7,00,350/- of the original consumer “Ahmad Husain Khan”, Cons. No. 002150306381 were totally correct. On perusal of the CPL of the PD consumer No.002150306381, it appears that the original consumer was billed as per meter reading (Meter No.14019120) with progressive reading R 78991.3 KWH up to Dec 2016. The old meter was replaced by a new meter (No. 05791779) under a Mass Meter Replacement Scheme in January 2017. The new meter was compatible for Automatic Meter Reading through an Agency especially appointed for this purpose. However, this meter replacement was not fed in the system immediately, but was done in the month of Nov. 2017, though the new meter was working on the site from January 2017 and the industrial unit was working in full swing. So the bills as per the new meter readings could not be issued till December 2017. Zero bills were generated due to this technical reason. The bill was issued as per actual meter reading only in the month of January 2018. The new meter recorded 82473 KWh for the period from January 2017 to January 2018, and it was reflected correctly in the bill of January 2018. The recorded 82473 units are for 13 months, with a monthly average of 6344(=82473/13) units per month, which is commensurate with the previous record of the Appellant, wherein the Appellant has recorded a maximum of 12107 units in June 2016. Hence, the billing of the original consumer is correct, and the grievance regarding the billing does not stand on merit. The original consumer was billed Rs. 7 lakhs for this consumption of 82473 units in the bill of January 2018. He did not pay this amount, so the connection was made PD in March 2018. The Appellant came into the picture much later only in 2021 when he purchased the gala no. 13, along with its liabilities which are automatically carried forward.

9. In the instant Representation, the Appellant does not have any locus standi to make an application for bill revision on behalf of the original consumer. The original consumer was Ahmad Husain Khan for cons. no. 002150306381. Thus, the present grievance is not maintainable apart from being time barred.

10. The following two issues are framed as under: -

- A. Whether the grievance before the Forum was barred by limitation?
- B. Whether the grievance is maintainable before this Authority?

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai




The cause of action arose on 20.02.2018 when the original consumer was permanently disconnected due to unpaid arrears of Rs.7 lakhs as reflected in the bill of January 2018. The period of two years for raising the grievance before the Forum expires on 20.02.2020 as per Regulation 6.6 of the CGRF & EO Regulations 2006 which was in force then. However, the original consumer never approached the grievance redressal mechanism for revision of his PD arrears but sold the premises in the year 2021. It is not known if the buyer (Appellant) was aware of the PD arrears or if he was deliberately kept in the dark by the previous consumer. Even assuming that he was kept in the dark by the earlier consumer, and that he was thus cheated, nevertheless under the law he is still liable and responsible to clear the PD dues of his predecessor if he wants a new electric connection.

It is possible that there are many such cases where the purchasers are not aware about the previous liabilities or pending dues of the PD consumers. We suggest that MSEDCL should consider displaying this information on its website, i.e., their PD consumers along with the amount of their PD arrears. This will ensure transparency and ease of business for the purchasers, and will also incentivize the PD consumers to clear their arrears before selling their property.

The Appellant applied for a new connection on 16.01.2022, and was told to pay the PD arrears of Rs.7 lakhs to get the new connection. The Appellant, who is not the original consumer, approached the Forum on 11.03.2022 after 4 years for revision of the PD amount of the original consumer. As per Regulation 7.8 of the CGRF & EO Regulations 2020, 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. Hence, the issue A is answered in the affirmative.

Even the judgments of the Bombay High Court, Nagpur Bench in W.P. No. 1650 of 2012 dated 10<sup>th</sup> July 2013, and Bombay High Court, Bench at Aurangabad judgment in W.P. No. 6859, 6860, 6861 and 6862 of 2017 dated 21.08.2018 have explicitly upheld the provision under Regulation 6.6 of the CGRF & EO Regulations 2005( at present Regulation 7.8 of CGRF & EO Regulations 2020). In view of these judgments, Regulation 6.6/7.8 remains valid and untouched. In a recent judgment, the Hon. Supreme Court in Civil Appeal No. 2960 of 2019

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai



dated 13.03.2019 laid down that the plaint can be rejected if the suit is clearly barred by limitation.


Therefore, this provision of Regulation 6.6/7.8 is a settled position in law. I, therefore, do not find it necessary to delve into the other citations referred by the Appellant, because if Regulation 6.6 is ignored, then the entire pyramid of grievance redressal mechanism will collapse, and the field will be open to all to contest the claim irrespective of the period elapsed from the cause of action. The provision of Regulation 6.6 will be frustrated and there will be complete chaos.

Now let us examine the grievance from the point of maintainability i.e., issue B. The Appellant, in the instant representation, approached the Forum on 11.03.2022 for revision of the PD amount of the original consumer, "Ahmad Husain Khan". The Appellant purchased the property from the original consumer in the year 2021. At the time of application of the new electricity connection, the Appellant was obligated to pay the PD arrears prevailing on the premises for release of a new connection in his name.

The Appellant does not have the authority to make a complaint about the consumption of the previous consumer, hence does not have locus standi to file a grievance regarding revision of PD arrears of the original consumer. The answer to issue B is in the negative. Hence, the instant representation is not maintainable.

11. In view of the above, the instant Representation is rejected and disposed of accordingly.

Sd/-  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

