

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 92 OF 2021

In the matter of shifting of common meter cabin from the wall of the chawl

Soniya Arockiya Appellant

V/s.

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

Appearances:

Appellant : Soniya Arockiya

Respondent: 1. Mritunjay Kumar Jha, Dy. General Manager & Nodal Officer
2. Sarang Pande, AVP
3. Vinay Wadvalkar, General Manager
4. Sanjay Singh, General Manager


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

Date of hearing: 15th February 2022
& 12th April 2022

Date of Order : 28th April 2022

ORDER

This Representation is filed on 22nd December 2021 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 21st October 2021 passed by the Consumer Grievance Redressal Forum, AEML (the Forum).



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2. The Forum, by its order dated 21.10.2021 has rejected the relief claimed by the Appellant in grievance application in Case No. CGRF07009/2021 being non maintainable as the grievance agitated does not come under the definition of 'Grievance' as per Regulation 2.1 (e) of the CGRF & EO Regulations 2020.


3. Aggrieved by the order dated 21.10.2021 of the Forum, the Appellant has filed this Representation which is taken in brief as under: -

- (i) The Appellant is Residential Consumer (A/c.No.151565671) having meter No. 10067068 at Room No.17, Road No. 1, Maulana Chawl, Church Pakadi, Sahar Village, Andheri (East), Mumbai, for the past 26 years.
- (ii) There are two other Consumer accounts viz. 151114491 and 151572061 bearing Meter No. 86648720 and 8557595 respectively, owned by her mother Mrs. Mary Elavarasi Arockiya of which NOC for representation has been produced along with the appeal.
- (iii) There are 17 meters in the meter cabin of which three meters belong to the Appellant, as mentioned above, which was set up two decades ago. The condition of the wall is not good, and it is more damaged due to installation of meter cabin. The Appellant, solely, has been bearing the burden of repair and maintenance of the meter cabin on her own cost for past 20 years.
- (iv) The Respondent has failed to understand that repairing of the wall, which is 20 years old and at the verge of collapse, is necessary and for that shifting of meters is eminent. This issue has not been resolved by the Respondent. There is likely danger to the residents of the Appellant's premises in the event of not shifting the meters and collapse of wall.
- (v) After the Appellant filing her grievance with the Forum on 28.07.2021, the Respondent, to avoid consequences for shortcomings in their services, built a box around the meters on the wall, which was done after many hardships, and constant follow ups.


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- (vi) As per the Central Government Notification of consumer rules [G.S.R 818 (E)] at pt. no.5(15) which states that "*If the meters are installed outside the consumer premises, distribution licensee shall be responsible for safe custody of the meters.*"
- (vii) In order to remove the meters from her wall, the Appellant had to pursue all the meter owners to submit their requests for shifting of meters to a safer place. Even after the request was accepted by other meter owners, the Respondent showed its inadequacy in the quality, nature, and manner of performance. However, after manipulating the other meter owners and turning them hostile at the last moment, the Respondent did not shift the meter cabin.
- (viii) The condition of the wall is dilapidated, the wall should be built immediately before any disaster happens. The Appellant had ordered bricks and cement which is still lying outside the house which has cost her financially as well as mentally.
- (ix) There are various instances in which the Appellant has suffered from electric current flowing through the wet walls or metal portions keeping her life and her family member in constant danger. Ironically, the Respondent states that the risk of life will prevail till, the other slum dwellers accept to shift their meters which are not its responsibility in the first place.
- (x) The Respondent visited the site and cited danger to the life and property for which they gave notices for disconnection. The supply was disconnected for 6 days in the name of resolving the issue, which they ultimately failed to understand. Moreover, the Respondent is trying to create an enmity between the other slum dwellers stating that it was because of the Appellant that the meters are necessarily be shifted. The Appellant fulfilled all obligations as per law to assist the Respondent in their duties.
- (xi) The Appellant and her mother submitted Form 16.1 for shifting of their meters on 11.04.2021 however no work carried out by the Respondent till date. The Respondent is burdening the Appellant to provide space for 14 meters which is not her responsibility.



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- (xii) The Respondent sent disconnection notices on 10.06.2021 for revamping/rewiring of the meters but it did not give a thought of shifting 14 meters from her wall to a desired location.
- (xiii) There are complaint letters from Mr. Pramod Nalawade and Mr. Pradeep Pushwal (residing in the same vicinity) to the Electricity Ombudsman, the Commissioner of Police, Mumbai Division, and the Senior Police Inspector of Sahar Airport Police Station regarding non-cooperation of 14 meter owners.
- (xiv) The Forum, by its order dated 21.10.2021 has rejected the relief claimed by the Appellant in grievance application. The Forum failed to understand the real problem about hazardous condition of the wall and the negligent act of the Respondent officials which is not only a violation of her right as guaranteed under Article 21 of Constitution but also an offence. The Forum failed to see how the area where the cabin is refurbished is prone to flooding as the revamped cabin is not waterproof and is a danger to life and property. The Forum failed to understand that the Appellant did not give permission for installing their meters on her wall/ property.
- (xv) The Forum also mentioned that the 'shifting of meters' is not considered as "Grievance". However, as per the Central Government Notification of consumer rules the Electricity (Rights of Consumers) Rules, 2020 at Pt. No.4(1) (a) which states that

"4. Release of new connection and modification in existing connection. - (1) The distribution licensee shall prominently display on its website and on the notice board in all its offices, the following; namely:- (a) detailed procedure for grant of new connection, temporary connection, shifting of meter or, service line, change of consumer category, enhancement of load, reduction of load or change in name, transfer of ownership and shifting of premises etc".

So, if the distribution licensee has to mention the procedure of shifting the meter, then it should also be considered under grievance as per the Electricity (Rights of Consumers) Rules, 2020.


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(xvi) The Appellant prays in the instant Representation that the Respondent be directed:

- a) To shift the other 14 meters to their respective consumer's wall.
- b) To take permission as per the owners of respective meters.
- c) To pay compensation of Rs.15,00,000/- towards the non-permission for installing the meters on her property wall, and also for mental harassment caused due to their inadequacy in service.

4. The Respondent has filed its reply dated 29.01.2022 which in brief is as below: -


- (i) The Appellant has filed the present Representation being aggrieved by the order dated 21.10.2021 passed by the Forum, inter-alia related to removal of 3 (three) meters at a location shown by her and to remove other 14 (fourteen) meters of other consumers from the Appellant's wall.
- (ii) The Respondent craves leave to project certain "Preliminary Submission" in the following paragraphs, for canvassing the legal and correct context, necessary for proper adjudication by this Hon'ble Authority.

Preliminary Submissions: -

At the outset, the Respondent repudiates entire allegations as made by the Appellant as the same is unfounded and nothing shall be deemed to be admitted unless same is specifically admitted hereunder.

- (iii) That the grievance regarding shifting of meter is not covered under the definition of 'Grievance' in Section 2.1 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman), Regulations 2006(CGRF & EO Regulations 2006), the Regulations which is superseded by current CGRF & EO Regulations 2020, and the definition of grievance is defined under 2.1 (e) of CGRF & EO Regulations 2020 which is reproduced as below:-

"Grievance" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance, which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to Standards of Performance of


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Distribution Licensees as specified by the Commission and includes inter alia Grievances in respect of non-compliance of any Order of the Commission or any action to be taken in pursuance thereof, which are within the jurisdiction of the Forum or Electricity Ombudsman, as the case may be;”

It is submitted that, the grievance filed by the Appellant, is in respect of shifting of meters which is not covered under the definition of ‘Grievance’ as defined in Section 2.1 (e) of CGRF & EO Regulations 2020. Therefore, on this ground only the present Representation is liable to be disposed of being not tenable. In support of the aforesaid contention, the Respondent crave leave to inter alia refer to and rely upon the order passed by this Hon’ble Authority in Representation No.65 of 2019 Machindra Motiram Bhadange V/s. Maharashtra State Electricity Distribution Company Ltd. on record.

- (iv) It is submitted that the Appellant has concealed the material facts with malafide intention, the present representation is frivolous and vexatious. With an intention to mislead this Hon’ble Authority, the Appellant has not mentioned even an iota of attempts and the efforts taken by the Forum and the Personnel of AEML and the entire representation is premised on the vague, unfounded, incorrect, and misleading facts.

The Regulation 19.25 of the CGRF & EO Regulations, 2020 provides as under:

“The Electricity Ombudsman may reject the representation at any stage, if it appears to him that the representation is:

(e) In the case of Grievances, which are:


(i) frivolous, vexatious, malafide;

(ii) without any sufficient cause; or

(iii) where there is no prima facie loss or damage or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers: ...” (Emphasis Added)


Submissions of the Respondent:

That the following pointed submissions are imperative for the proper adjudication of the captioned Representation, and the same may be read in conjunction with the foregoing preliminary submissions, wherever the context so requires.


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- (v) The Respondent has filed detailed reply to the grievance along with annexures, additions submissions before the Forum.
- (vi) That the Appellant is registered consumer of Respondent vide electricity connection CA No. 151565671 under Residential LT- I (B) category installed at A – 16, Maulana Chawl, Church Pakhadi Road No,1, Vile Parle (East), Mumbai 400099.
- (vii) Since beginning the electric meter of the Appellant is installed in the meter cabin on the wall of Mrs. Mary Arockiya Dass. In addition to meter of the Appellant there are 16 nos. of other meters installed in the said meter cabin. It is pertinent to mention that in chawl area due to space constraints and narrow streets and considering the safety issue, the electricity connection to room/s is provided by installing the meter in the common meter cabin provided by the occupants.
- (viii) On 27.01.2021 the Respondent received request of re-board wiring from the 14 consumers excluding the Appellant and Mrs. Arockiya Dass (mother of the complainant). Accordingly, the Respondent visited the site on 01.02.2021 to verify the site and status of meter cabin.
- (ix) On very next day i.e., 02.02.2021 the Appellant submitted a letter to the Division office of the Respondent that she wants to shift the 14 meters from the existing meter cabin and raised apprehension of short circuit or electric fault; Submerge of meter cabin due to water deluge, inferior condition of wall, on which presently meter cabin is installed.
- (x) Based on observation during the site visit, the Respondent issued notice to Appellant and all consumers inter alia intimating them that their connection is liable to be disconnected as the meter board wiring is in dangerous condition and requested them to immediately approach the Respondent's Division Office for advice for remedial action, failing which the electricity connection shall be liable to be disconnected without further intimation. Further, it was communicated to the Appellant that as per the available records, in last two years, Respondent have never received any complaint related to short circuit in meter cabin or water deluge and or disconnected the supply to the said meter cabin for the said reasons. However,


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considering the present condition of meter cabin, entire board wiring is required to for the safety purposes.


- (xi) The Appellant was doing follow up with the Respondent for removal of the meters, however she neither submitted the consent of other consumers with identified location for meter shifting nor she was co-operating for revamping and reboard wiring. Moreover, she sent legal notice/s to fourteen Consumers and the Respondent through her lawyer, Advocate Krishnan Iyer on 06.03.2021 to shift / remove all other fourteen meters from said meter cabin. The Appellant made repeated complaint via email and letters to Respondent and Police station through her lawyer and herself on shifting of other fourteen meters.
- (xii) In response of the complaints and legal notices, each and every time the Respondent showed its willingness to shift the meter cabin to a suitable alternate location provided, the Appellant / other consumers arrange consent of all meter holders for shifting of said meter cabin and make formal application and to provide suitable location to shift all meters. However, the Appellant failed to provide formal application with consent of all consumer and alternate location for shifting of entire meters installed in the said meter cabin.
- (xiii) It is submitted that, as submitted by the other consumers and also observed by the personnel of the Respondent that there is no alternate space to accommodate total fourteen meters, therefore as a special case the Respondent during discussion in presence of the police officer on 12.03.2021 and informed the consumers that if they wish to relocate the meter cabin , the Respondent is ready to shift seven meters to the space as shown by them and keep rest of the meter at its present location, however the Appellant is reluctant to accept the same and insisting to remove the entire meter cabin. The local Police, Sr. Inspector and Local Politician also intervened to explain and make her understand the practical difficulty of safety and space constraints however all efforts went futile.
- (xiv) The Appellant vide her email date 31.05.2021 wrote to Municipal Commissioner of MCGM and raised safety issue so vide email dated 08.06.2021 MCGM requested Respondent to look into the matter. Since there was no resolution and


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consensus were coming out, therefore the Respondent was constrained to disconnect the supply on 10.06.2021.

- (xv) Soon after the disconnection of supply, on 13.06.2021 other fourteen Consumers coordinated for revamping of meter cabin in the presence of local police and the Respondent completed reboard wiring and electricity supply got restored on 15.06.2021. The condition of the meter cabin is in safe condition. Some of the photos of meter cabin before and after the revamping of meter cabin are on record.
- (xvi) Pursuant to completion of revamping works on 15.06.2021, the Appellant submitted an application for shifting of 3 meters and removal of other 14 meters from the wall. In this regard, it is humbly submitted that the premises of the Appellant is situated in chawl. It is pertinent to mention that in chawl area due to space constraints and narrow streets and considering the safety issue, the electricity connection to room/s is provided by installing the meter in the common meter cabin provided by the occupants. It is submitted that if all the consumers desire to relocate the existing meter cabin to any alternative location, then they must apply with consensus of all and provide appropriate space for shifting of meter cabin and further fulfil the formalities. In the present case, it is pertinent to mention that the meter cabin is situated on the wall of Mrs. Mary Arockiya Dass as provided by the consumers at the time of the processing of application for new connection and the meter cabin is in safe conditions.
- (xvii) From the facts mentioned herein above, it is clear that Appellant is having some issues/ differences with other residents of the same chawl. Earlier she was following up for the removal of meter cabin, which is from safety and technical point of view not feasible unless the new suitable space is provided by them.
- (xviii) It is humbly submitted that vide its Minutes/ Order dated 30.08.2021, the Forum inter alia granted opportunity to conduct meeting with all the concerned to shift to a place acceptable to all concerned. It was directed to the Appellant that she shall make a written request to Chawl Society Head with a copy marked to the Respondent.



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A portion of the minutes/ order dated 30.08.2021 is reproduced herewith which reads as under:


“..... The complainant / applicant shall make a written request to the Chawl Society Head, where she resides, for cooperating and attending the joint meeting in this regard with a copy marked to the Respondent / Utility (AEML) within three (3) days from the receipt of the copy of the minutes. Upon receipt of the copy of the letter from Applicant / Complainant, the representative/ s of the Respondent / Utility (AEML) within two (2) days, will approach the concerned parties/ members of chawl and fix up a day/time of a meeting in a view to explore the possibility of shifting of meters as requested by the Complainant.....” (emphasis added)

- (xix) The Respondent most humbly submits that despite the Minutes/ Order, the Appellant miserably failed to comply with the aforesaid directions of the Forum, as did not mark and or shared the copies letter with the Respondent as directed in the minutes / order dated 30.08.2021. It is further submitted that except a notice dated 03.09.2021 addressed to officer of the Respondent with subject line as “*Subject: Notice to attend the meeting on 08/09/2021 at 11:00 PM-12:00 PM in the abovementioned vicinity.*”, the Respondent did not receive any copy of communication which the Appellant had either with the Chawl Society Heads and or with the consumers whose meters are installed in the impugned meter cabin. Since the Respondents did not receive any intimation / copies of letter addressed to Head of Chawl and or the consumer by the Appellant, so in view of the date of meeting informed by the Appellant through the notice addressed to the officer of the Respondent, the Respondent of its own proactively addressed letters to all the consumers on 07.09.2021 with a request to attend the meeting on 08.09.2021. During meeting as confirmed with members, the Appellant did not forward any letter to members of Society for the aforesaid meeting. Out of other 14 members, only 4-5 members were present for the meeting as most of the members had gone to their native places. During meeting it was observed that except the 6 members, no one is ready to accommodate remaining 11 meters. The team of Respondent discussed and asked Appellant that whether she is ready to retain remaining 11 meters. On which, she clearly denied and stated that she does not want any other meter on her wall than meters belonging to her.


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- (xx) It is humbly submitted that Appellant did not make 14-meter holders/ consumers as party to the grievance and hence the present case is affected by the non- joinder of necessary party and the present Representation is liable to be rejected. However, In the interest of the consumers, two attempts of exploring the possibility of shifting meters were made by Respondent by visiting the site during the pendency of grievance before the Forum. However, at all times the non-cooperation and lack of consensus by and between the Appellant and other consumers was seen and observed.
- (xxi) It is submitted that the Appellant has submitted reference numbers of complaint filed with Respondent allegedly for electricity short circuit and electricity passing through metal portion of the house. The contention of the Appellant is false and unfounded, in fact, all complaint numbers are related to Commercial orders pertaining to Recovery, Billing and top management complaint raised by the Appellant via email. Hereto annexed as Annexure - "D" is screen shot of SAP module.
- (xxii) 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 and 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.
- (xxiii) The Respondent deny all allegations levelled against the various personnel of the Respondent as the same are false, unfounded and without any substance.
- (xxiv) The prayer of the Appellant is denied in toto. In fact, if the Appellant wish to shift the existing position of the meter cabin, then in such scenario she should in consonance with the consumers approach the Respondent by filing application and fulfilling the other formalities and provide a suitable space for the shifting of all meters in the meter cabin.
- (xxv) The Respondent humbly submits that, the Respondent craves leave of this Hon'ble Authority to submit further Pleadings if the circumstances so arise and rely upon the additional documents as and when required.


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(xxvi) Under the circumstances, the present Representation is untenable in law and on facts and hence ought to be dismissed with exemplary costs.

5. The hearing was held on 15.02.2022 on e-platform through video conferencing due to Covid-19 pandemic. A second hearing was held on 12.04.2022 The Appellant argued in line with her written submission. She submitted that 17 electricity meters exist on the wall, amongst them, 3 meters are of the Appellant and her family. The wall, which is in a dilapidated condition, needs to be repaired and hence, for safety of her & her family, her tenants, and other people in the vicinity, she followed up the matter with the Respondent in the month of January 2021 with a request to shift the meters. She also pointed out that the angle joint is broken, and an angle support is needed to be given. She also stated that repair work of her house is to be done, hence, shifting of meters is very necessary.

6. The Respondent also argued that 17 electric meters are installed in the meter cabin, which is fixed on the said wall, out of which 3 meters are of the Appellant and her mother. It is pertinent to mention that the space for the meter cabin was given by the owner of the chawl for all rooms of the chawl. Due to space constraints and narrow streets and considering the safety issue, the electricity connection to room/s is provided by installing the meter in the common meter cabin provided by the occupants. The Respondent stated that due to space constraint in the vicinity, it was not possible for it to shift the meters. Hence, requested that if the Appellant has any solution which is feasible, the Respondent is willing to go for it.

7. During the hearing, in order to settle the grievance amicably between the Appellant and the Respondent, direction was given to the Appellant to submit her plan to repair her wall, the tentative time frame for the repair to be done, and to suggest an alternative site to the Respondent for the meters to be relocated temporarily during the process of repair within 10 /15 days with a copy to this office.


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8. However, instead of finalising her plan, the Appellant did not submit her plan and was waiting for the Minutes of the Meeting of the hearing conducted on 15.02.2022 in this office, as could be seen from her email dated 21.02.2022. Subsequently, a letter dated 24.02.2022 was emailed to her as well as the Respondent regarding the directions given as above.

9. It is observed from the Appellant's email to the Respondent dated 28.02.2022 that she has requested for a time of about 2.5 months to rebuild her house from ground level and to shift the meters for this period to an alternative location as identified by her. She has identified three alternative locations. She mentions this period as a 'Temporary Period'. From the reply by email dated 09.03.2022 of the Respondent, it is seen that none of the three alternative locations are suitable from the safety point of view.

The reply of the Respondent is reproduced below:

"You have suggested following three locations to shift the existing meter cabin.


- 1. On the Stone Compound wall to the front right side of your premises,*
- 2. On the Stone Compound wall to the front left side of your premises; and*
- 3. On the Stone Compound wall at the entrance of the chawl (Near the main bridge)*

We have verified the aforesaid 3 locations / space suggested by you and found that these all locations are away from the existing meter cabin and to supply electricity to the premises of the existing consumers, all outgoing wires will be hanging position and thus it is not safe from the safety point of view.

We suggest that understanding the site constrain and requirement for house repairing, you may carry out phase wise repairing of premises. We can shift meter cabin on temporary basis the other side of wall on your house (left side of existing meter cabin), till the remaining portion of wall is repaired, and thereafter the meter cabin will be shifted to the original position."

10. Thus, the current position is that the Respondent has suggested that the Appellant carries out phase wise repairs of her house. However, this is not acceptable to the Appellant. Unfortunately, despite the hearings conducted by this office, no amicable solution has been found to this issue. It is not possible for this office to issue any specific directions for shifting of meters in a situation where hanging wires can pose a danger to passers-by.

11. This matter was already heard before the previous Electricity Ombudsman. After the new Electricity Ombudsman took over the charge, the matter was again held for rehearing on


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12.04.2022 on e-platform through video conferencing. The Appellant argued her case once more reiterating that the wall is so damaged that it has chances to fall during the monsoon season. She further stated that she needs a minimum of 2.5 months to build her house from the ground level. But in the current situation, the risk of hanging wires will be there for at least 2½ months. If any mishap occurs in this period, the issue may arise as to who is responsible for it.

12. Further, even after the repairs are carried out, the Respondent has clarified that the meters will again have to be shifted back to the same current location. Thus, in the long term, the dispute will remain unresolved. The Appellant seems determined not to allow to retain the meters on her outer wall. From the developments of the case, the intention of the Appellant seems to be to prevent the meters from coming back on her outer wall under any circumstances. The dispute is technical rather than legal in nature, as it involves the issue of identifying a safe and acceptable location for shifting the meters.

Analysis and Ruling

13. Heard the parties and perused the documents on record. The main intention of the Appellant is to shift the common meter cabin from her wall and either install the individual meters on the respective members' walls or to some other alternative location. She further stated that she needs the period of two and a half months to repair her house from the ground level. However, even after these repairs are carried out, she did not convey her willingness to place the meters back in their original location. Also, the Respondent is not willing to transfer the meters to her suggested location for two and a half months from the safety point of view. Therefore, this issue is not getting resolved.

14. A valid grievance before the Electricity Ombudsman (Mumbai) relates to complaints about billing, interruptions in power supply, voltage of power supply and similar issues. But in this case, the dispute relates to location and shifting of meters. It is also seen that the meters have been located in their current position for the last 20 years without any issue being raised by anyone. It is only recently, after some residents requested for rewiring the existing meter


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cabin in its current location, that the dispute has arisen between the 17 or so residents regarding the location of the meters. This involves a safety issue which is beyond the purview of the Electricity Ombudsman. Also, the dispute seems to have arisen mainly because the Appellant does not want the meters of other residents on her wall, even though they have been located there for the last 20 years or so. The location of the common meter cabin / point of supply was decided at that time by the then chawl owners and the Respondent. Still the Electricity Ombudsman(Mumbai) has made efforts to settle the case in the interest of both the parties. However, the case could not be settled due to the reasons mentioned above.

15. The same issue was also discussed in Rep. No. 65 of 2019 in case of Machhindra Motiram Bhandange V/s. MSEDCL Bhandup, and it was held that this grievance regarding shifting of meter cabin does not come under the purview of the definition of 'Grievance' provided in CGRF & EO Regulations 2020 and hence, was rejected by order dated 07.05.2019 being not maintainable.

16. In view of above, the Representation of the Appellant is not maintainable in terms of the Regulatory provisions referred above. The Representation is disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
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