

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 40 OF 2020

In the matter of power supply interruption

Ramzan Abdul Sattar Shaikh. .... Appellant

V/s.

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

## Appearances

For Appellant : None

For Respondent : 1. Mritunjay Jha, DGM & Nodal Officer  
2. Shirish V. Ranade, Addl. Vice President

**Coram: Deepak Lad**

Date of Hearing: 16<sup>th</sup> July 2020

Date of Order : 5<sup>th</sup> August 2020

## ORDER

This Representation is filed on 27<sup>th</sup> February 2020 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 9<sup>th</sup> January 2020 passed by the Consumer Grievance Redressal Forum, Adani Electricity Mumbai Ltd. (AEML).

2. The Forum vide its order dated 09.01.2020 has dismissed the grievance in Case No. 13/2019.

3. Aggrieved by the order of the Forum dated 09.01.2020, the Appellant has filed this representation stating in brief as under: -

  
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- (i) The Appellant is a residential consumer (Connection No. 152296402) having Meter No. 8801965 at Room No. 125, Ahilyabai Holkar Chawl, Annabau Sathe Nagar, Mankhurd, opposite PMGP Colony, Mumbai.
- (ii) The Appellant suffered from heavy power supply interruptions. The power supply of the Appellant was not rectified / restored from 14.07.2019 to 21.09.2019 for about 70 days. The Appellant was without power in spite of complaints and follow up made to the Respondent.
- (iii) The Appellant filed complaint before the Internal Grievance Redressal Cell (IGRC) on 07.08.2019. As per normal procedure, IGRC should direct to restore the supply however, the hearing was scheduled on 24.09.2019 after the restoration of power supply on 21.09.2020.
- (iv) The submission of the Respondent was totally false as the entry / remarks in the job card are not correct. The job card indicated that public objected to excavation when the Respondent went for restoration of supply. Moreover, the remark that the meter cabin of the Appellant was locked is also incorrect. The meter cabin of the Appellant is never locked as it houses only one single phase meter. The meter cabin is of fibre box without any locking arrangement. The Appellant has submitted photocopy for record. The Respondent reported that the police protection has taken from Local Police Station, however, there is no such request to local police authority for police protection as per information gathered from police authority under Right to Information (RTI) Act. No police protection was given by the police authority. It clearly established that fabricated information was submitted by the Respondent.
- (v) The IGRC by its minutes dated 30.10.2019 has disposed of the grievance as the supply is restored.
- (vi) The Appellant approached the Forum on 15.11.2019 for compensation of Rs. 1000/- per day for the off-supply period. The Forum vide its order dated 09.01.2020 has dismissed the grievance. The Forum did not understand the basic issue.
- (vii) Total interruption period is for about 70 days from 14.07.2019 to 21.09.2019.
- (viii) The Meter Reading Instrument (MRI) Data shows date of 11.10.2019 at 11.56 hrs. It is not correct.
- (ix) The electricity supply is necessary for human being. The Appellant suffered illness due to no power supply and mental harassment.

  
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- (x) The Appellant prays that the Respondent be directed
- To pay compensation as per Regulation Section 43(3) of Maharashtra Electricity Regulatory Commission (the Commission) of Rs. 1000/- per day for 70 days for the period from 14.07.2019 to 21.09.2019 when there was no power supply.
  - To take action against the Staff and Nodal officer for off supply and false reply.

4. The Respondent, by its letter dated 25.06.2020 filed its reply stating in brief as below :-

- The Appellant is a residential consumer (Connection No. 152296402) having Meter No. 8801965 at Room No. 125, Ahilyabai Holkar Chawl, Annabau Sathe Nagar, Mankhurd, opposite PMGP Colony, Mumbai.
- The Appellant has filed present Representation against order dated 09.01.2020 passed by the Forum in grievance No. 13 of 2019 inter-alia related to power failure and voltage fluctuation and seeking compensation of Rs. 1000/- per day as per Commission's Regulations and action against the personnel of Respondent.
- The Respondent repeats and reiterates the contents of reply along with supportive documents filed by it before the Forum. The detailed facts of this case is as below:-
  - The Appellant filed complaint on 14.07.2019 at 21:36 hrs. for no power supply. The same is registered vide Complaint No. 720100719. There were many such complaints from other consumers due to heavy rain. All these complaints were tried to be attended by the Respondent immediately. However, due to weather constraints and other safety issues which were beyond the control of the Respondent, the supply could not be restored on the same day. However, the Respondent promptly attended to the fault / complaint and the supply of the Appellant was restored on very next day i.e. on 15.07.2019 at about 17.30 hrs.
  - Despite the availability of supply in the premises of the Appellant, he lodged a power failure complaint again by submitting an application at Enquiry Counter of the Respondent at Tilak Nagar Office on 16.07.2019. However, the downloaded data of the meter installed at the premises of the Appellant clearly shows otherwise. The supply was available up to the point of supply since restoration on 15.07.2019.
  - Subsequent thereto, on 04.08.2019, the Appellant again lodged a 'No power supply' complaint. Accordingly, the Respondent deputed its personnel to visit the

  
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site to rectify the fault, if any. At the site, it is found by the Respondent that there was a fault in the underground cable laid for providing power supply to the meter cabin of the Appellant. The Respondent initiated to carry out the required works of excavation to physically locate the fault in the underground cable. However, the large number of residents of the area gathered and raised strong physical obstruction at site and did not allow its personnel to carry out any excavation works. The Respondent was forced to leave the site. The copy of Job Card of the Respondent dated 04.08.2019 was put on record.

- d. Thereafter, the Respondent made several attempts to locate, rectify and restore the supply of the Appellant however, the works could not be carried out due to strong obstruction at site. It is pertinent to mention that the Respondent also tried to obtain police support and protection to carry out the works, however due to pre-occupied commitments / Festival Bandobast and subsequent Law & Order duties, the police protection was not provided to the Respondent. Thereafter, on 20.09.2019, the Respondent attempted to carry out the works in the presence of police personnel, however again the residents raised strong obstructions. Finally, on 21.09.2019, the work was completed under police protection.
- e. The Appellant, himself has submitted and admitted that Annabhau Sathe Nagar area is a theft prone area, and the miscreants are involved in damaging the network of the Respondent. The Respondent humbly submits that this Hon'ble Forum ceases to have any jurisdiction to entertain issues related to theft of electricity. Nevertheless, without prejudice to the rights of the Respondent, the Respondent has taken many measures to control the theft of electricity in its area of distribution by upgrading the system as well as taking appropriate action under the provisions of law against the miscreants by lodging First Information Report at police station.
- f. The Respondent would like to put it before this Hon'ble Electricity Ombudsman that being a theft prone area there are multiple number of abnormalities reported almost every day, however without any discrimination the Respondent deutes its personnel to rectify the abnormalities within the timeframe as provided under the provisions of law and regulations. The Respondent put on record a list of the workmen gang deputed by the Respondent in the Annabhau Sathe Nagar area to

  
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rectify the reported abnormalities. The Respondent humbly submits that in the present case the Respondent attempted several times to find, locate and repair the fault in underground cable, however the work could not be completed only due to resistance / physical obstruction at site by the local residents which was not possible without police protection. The availability of police personnel for Respondent activities suffered due to their pre-occupied commitments / Festival Bandobast. Therefore, availability of supply to the Appellant premise suffered due to reasons beyond control of the Respondent not due to any inaction as alleged.

- g. The Respondent humbly submits and reiterates that delay, if any, in physically locating fault in underground cable and / or restoration of electric supply of the Appellant was neither intentional nor deliberate, but due to uncontrollable factors including resistance / physical obstruction at site by the local residents and unavailability of police protection for Respondent to undertake the restoration job. The electric supply of the Appellant remained isolated / disconnected as it could not be restored from alternate source for safety reasons to avoid any untoward incident.
- (iv) The Respondent denies that there is any Regulation 43 (3) framed by the Commission providing for compensation of Rs. 1000/- per day as claimed by the Appellant. In fact, Section 43 of the Electricity Act, 2003 (the Act), is related to New Electric Connection on request of owner or occupier of any premises. It is therefore the claim for compensation of the Appellant is liable to be dismissed on this ground.
- (v) 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 do not warrants any interference.
- (vi) The Appellant cannot be allowed to raise any issue directly before this Hon'ble Authority which was not part of pleadings before the IGRC and not the prayer in the Forum.
- (vii) The Respondent deny entire allegations against it and further submits that there is no substance in the claim of compensation as prayed for.

  
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(viii) In view of the above-mentioned facts and circumstances, the Respondent prays that the Representation of the Appellant be dismissed.

5. The representation was filed on 27.02.2020. However, hearing could not be scheduled due to onset of Covid-19 epidemic. Since then the conditions were not conducive for conducting the usual hearings through physical presence. After receipt of the reply from the Respondent, the hearing is scheduled on e-platform on 16.07.2020 due notice of which was sent. As a matter of routine practice, both the Appellant and the Respondent were telephonically contacted for giving them the schedule of hearing. However, the Appellant requested to postpone the hearing till the environment becomes conducive for holding it through physical presence. However, the secretariat of this office clarified the Appellant that in view of the uncertainties due to Covid-19 epidemic, it will not be possible to schedule the hearing through physical presence and the same will be conducted on e-platform as notified. The secretariat of this office as a matter of courtesy informed the Appellant that it has been decided to go ahead with the hearing on e-platform on 16.07.2020 which he may join as the representation cannot be kept pending indefinitely as this being a quasi-judicial Forum.

6. The Appellant did not participate in the e-hearing on 16.07.2020. The Respondent argued that the Appellant lodged the complaint on 14.07.2019 at 21.36 hrs. and it tried to restore the supply on 14.07.2019 however, due to inclement weather, restoration took place on 15.07.2019 around 17.30 hrs. Therefore, the first restoration took place within 20 hours. The Appellant's power supply is tapped from the other cabin where meters of other residents of the slum lane is fixed. When there was power supply failure on the next instance, rectification took a lot of time due to objections of the residents of the area for excavation to rectify the cable fault. The Respondent argued that on many occasions, help of the police from the Police Chowky in the area is sought when such objections are raised by the residents. The Appellant himself was present while excavating and his help was also taken to resolve the issue as he may be knowing the objectors.

7. The Respondent was directed to submit supportive information in view of the unusual off supply period. The Respondent vide email dated 28.07.2020 submitted the same which is broadly as below: -

  
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a. Total Nos. of Complaints received between 14.07.2019 to 16.07.2019.

Sr. No.	Date	Count of Complaints
1	14.07.2019	450
2	15.07.2019	481
Grand Total		931

b. Nos. of Complaint received after No Power Supply Complaint lodged by the Appellant

Sr. No.	Date	Count of Complaints after 21:30 hrs.
1	14.07.2019	86

A. Types of complaint received

Type of Complaint	Date		Grand Total
	14.07.2019	15.07.2019	
Address Not Found	1		1
Billing Issues	4	7	11
Board Wiring in Dangerous Condition	1		1
Common Area Complaint	294	310	604
Common Service Fault	1	1	2
Customer Installation Faulty	4	5	9
Cut-out Abnormality	2	1	3
Fuse Blown	25	34	59
HT Outage		1	1
Lt Main Line Cable Fault	4		4
Lt Outage	7	9	16
Lt Service Termination	3	6	9
MCB Abnormality	5	5	10
Meter Burnt	2	1	3
Old Fault	2	4	6
Pillar Tripper	44	30	74
Service Fault	7	10	17
Supply Disconnected for Non-Payment		1	1
Supply Disconnected for Safety		2	2
Supply Found Ok on Site	12	17	29
Supply Ok on Phone	15	22	37
Tab Abnormality	1	1	2
To Be Check by DL	2	3	5
Unknown Cable Burning/Damaged		1	1
Wire Repaired	14	10	24
Grand Total	450	481	931

  
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B. Time taken to rectify / attend the complaints. Time band of fault restoration on 14<sup>th</sup> and 15<sup>th</sup> July 2019 as below:-

	Date	Type of Cable Fault			Grand Total
		Main Line Cable Fault	Service Termination	Service Fault	
	14-Jul 2019	4	3	7	14
Restoration Time Band	3.0-4.0 hrs	2	1	5	8
	4.0-8.0 hrs	1		1	2
	Above 12.0 hrs	1	2	1	4
	15-Jul 2019		6	10	16
Restoration Time Band	0.5 hrs			1	1
	3.0-4.0 hrs		3	5	8
	4.0-8.0 hrs		3	2	5
	Above 12.0 hrs			2	2
	Grand Total	4	9	17	30

(ix) Meter data download establishes that electric supply was live during 15 July to 25 July 2019. Subsequent there to, from intervening night of 25 and 26 July 2019 till 31.08.2019 there was intermittent electric supply was live due to fault. Same can be established from the meter download data. Data of entire period from 13<sup>th</sup> July 2019 to 21.09.2019 is kept for record which was downloaded from the meter of the Appellant on 11.10.2019 at 11.42 hrs. In view of the above facts and circumstances, the Respondent prays that the Representation of the Appellant be dismissed.

### **Analysis and Ruling**

8. Hearing was held on 16.07.2020 through e-platform. The Respondent was present for the hearing however, the Appellant was absent. I perused the documents on record and gone through the off-supply complaints of the Appellant and efforts taken by the Respondent to restore the supply of the Appellant.

9. Considering all these aspects, the Forum vide its order dated 09.01.2020 in reasoning part has observed as follows:

“4. The Nodal Officer drew the attention of the Forum to the Section 4.10 of Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period of Giving Supply and Determination of Compensation) Regulations, 2014 which says,

  
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*'The Distribution Licensee shall not be held responsible for the delay, if any, in giving supply on account of problems relating to statutory clearances, right of way, acquisition of land or the delay in consumer's obligation which is beyond the reasonable control of the Distribution Licensee.'*

5. *Relying on the above, the Nodal officer submitted that delay if any cause for restoration of electric supply is neither intentional nor deliberate but due to uncontrollable factors including the physical obstruction at site. After evaluating the facts of the case, this Forum is of the opinion that in view of the documentary evidence produced by the Respondents, the power supply was restored on the next i.e. 15/07/2019. There was no intentional delay. Moreover, the grounds raised in the reply as well as canvassed before us by the Nodal officer would clearly support the case of the Respondent that there was no intentional delay caused by restoration of electric supply. If this is so, then the Complainant is not entitled to claim damages / penalty. Moreover, the other reliefs which are asked by the Complainant can not be entertained by Forum as they are beyond the purview and scope of the Forum."*

10. The Appellant prays for grant of compensation as per Regulation Section 43(3) of Maharashtra Electricity Regulatory Commission (the Commission) of Rs. 1000/- per day for 70 days for the period from 14.07.2019 to 21.09.2019 when there was no power supply. However, there is no Regulation Section 43 (3), on the contrary, it is Section 43 (3) of the Electricity Act, 2003

*"Section 43. (Duty to supply on request): ---*

*(1) I[Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:*

*(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1) :*

*Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.*

*(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default."*  
*(Emphasis added)*

The plain reading of the above Section indicates that it is applicable in case of release of new connection and not for restoration of power supply in case of interruption in a already existing electricity connection. Therefore, there is no question of grant of compensation under this Section.

11. It is an admitted position that power supply interruption occurred on 14.07.2019 was restored on 15.07.2019 within a roughly span of 20 hours. The meter download data shows that electric supply was live during 15 July to 25 July 2019. Subsequent there to, from intervening

  
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night of 25 and 26 July 2019 till 31.08.2019 there was intermittent electric supply. Though this supply was intermittent, it was not healthy as could be seen from the values of the voltage. This could be on account of some fault in the underground cable. Another instance of major interruption period is from 01.09.2019 to 21.09.2019. The Respondent in its submission and argument said that the excavation was strongly objected to by the residents in the area due to which it was unable to attend the cable fault. It is also brought on record that the Respondent sought help of the Appellant in resolving the matter so that the cable fault could be attended. Finally, in the presence of police, cable fault was attended, and supply was restored on 21.09.2019.

12. The Respondent argued that the situation was not within its control and therefore it cannot be held liable for delay in restoration of supply. If this argument is assumed to be true, then it will lead to a situation that the consumer can be kept in dark for indefinite period if there are objections from the certain section of the society. I am of the opinion that the Respondent does not seem to have acted diligently in handling the issue. By no stretch of imagination, consumer in a city like Mumbai can be kept in dark for a period of almost 21 days only on the ground that there was an opposition from the nearby residents for excavation. It could have escalated the matter to the appropriate authority and resolved the issue. Section 163 and 164 of the Act and The Works of the Licensees Rules 2006 sufficiently strengthens the hands of the distribution licensee in resolving the issues which arose in the instant representation. It cannot be a mute spectator to the events prohibiting it to discharge its official duties as envisaged under its license and therefore under the Act and the Rules.

13. I also noted that the Respondent acted diligently in attending 'no power supply' complaint dated 14.07.2019 of the Appellant and restored the supply on 15.07.2019. The period of interruption in this occurrence is about 20 hours. This delay is on account of inclement weather and other similar cases received by it. Therefore, I do not have any reason to believe that the delay in restoration of major 'no power supply' period in case of the Appellant was deliberate, intentional and to harass the Appellant. I agree with the Respondent that due to festival season, the police personnel are not easily available for providing protection in cases like the instant one. However, it could have well lodged FIR in the police station against the residents who opposed the excavation to fix the underground cable fault. In future, the Respondent should try to correct

  
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its line of action particularly when it is vested with powers under Section 163 and 164 of the Act, and The Works of the Licensees Rules 2006. In all probabilities, it cannot be a silent spectator.

14. I am surprised that the Respondent made a weird submission that the undersigned does not have any jurisdiction on dealing with theft cases. While the statement is partly true, the Respondent should have understood the context of the case where there is no issue of theft per se. Only because the premises of the Appellant is in a theft prone area, does not deprive the undersigned from exercising its jurisdiction in the matter at hand. Therefore, it is expected that in future, the Respondent will act diligently while making any submissions.

15. I am at pains to record in this order that the learned Forum has grossly erred in not even mentioning the period of interruption in September 2019. It simply considered interruption on 14.07.2019 which was restored on 15.07.2019.

16. In view of the above, there do not exist any case for grant of compensation to the Appellant as the complaint was resolved only in the presence of the police authority which substantiates the submission of the Respondent that there was severe objection for excavation from the residents in the area which was beyond the control of the Respondent. Therefore, the provision of Regulation 4.10 of the SOP Regulations, 2014 does not attract and hence no compensation is payable.

17. The Representation is disposed of accordingly.

18. The secretariat of this office is directed to send copy of the order to the Managing Director and Chief Executive Officer of AEML for appropriate necessary action to avoid recurrence of such events in future.

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

  
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