



## BEFORE THE OMBUDSMAN

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

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051  
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### **REPRESENTATION NO.23 OF 2005**

#### **In the matter of Sanction of New 3 Phase L.T. Connection**

M/s. Pooja Textiles, Bhiwandi..... Appellant

Versus

Maharashtra State Electricity Distribution Co.Ltd.,  
Bhiwandi..... Respondent

Present:

1. Shri W.G. Gorde, Ombudsman
2. Shri S.N. Yadwad, Secretary

On behalf of the Appellant:

1. Shri Pravin Thakkar
2. Shri M.M. Akhtar

On behalf of the Respondent:

1. Shri M.M. Qureshi
2. Shri S.M. Chinchwadkar
3. Shri S.B. Lipare
4. Shri R.K. Vatsalya

**Date: 19th September, 2005**

Pooja Textiles (Prop. Shri Pravin Thakkar) situated at shop No. 2, Kalyan Road, Bhiwandi, District Thane, has filed the representation in this office on 14<sup>th</sup> July, 2005. The representation is directed against the order of the Consumer Grievance Redressal Forum, Bhandup, issued on 28<sup>th</sup> June, 2005. The Forum has observed in the order that the industrial consumer, M/s. Pooja Textiles, who has made an application for new connection, should be sanctioned only after augmentation of supply network wherever necessary. M/s. Pooja Textiles (hereinafter called as Appellant) being aggrieved with the said order, has sought conditional sanction of a new connection through the representation. The Appellant has stated his case as under:

2. The Appellant has applied for a new 3-phase L.T. connection of 10 H.P. to the Executive Engineer, on 22<sup>nd</sup> March, 2005. The Executive Engineer, M.S.E.D.C.L.

(hereinafter referred as Respondent) has not, so far, sanctioned the said connection on the ground that feeders and sub stations in Bhiwandi area are over loaded and no more connections can be released at present, till the augmentation of the distribution network. Not satisfied with the stand taken by the Respondent, the Appellant approached the Consumer Grievance Redressal Forum, Bhandup.

3. There were applications from five more prospective consumers to the Forum seeking redress on the same issue. The Forum clubbed all the cases together and heard the matter. The cases were disposed off by the common order of the Forum on 28<sup>th</sup> June, 2005. The Forum has appreciated the argument of the Respondent that the distribution system is not ready as yet and therefore industrial consumers who have made applications for new connections or for additional load, should be sanctioned only after the augmentation of the supply and distribution network.

4. The Appellant states that there are no orders for stoppage of granting new connections or for additional power from the Government or from the M.S.E.D.C.L. and that it is the local office of the M.S.E.D.C.L., Bhandup, who is not sanctioning the load. It is alleged that the Respondent has sanctioned new connections under Out Right Contribution scheme to the H.T. Consumers.

5. The Appellant further states that the Respondent has not taken any effective steps for the last two years to increase the capacity of sub stations at Padgha, Temghar, and Bhiwandi. He has further alleged that the new connections are not given in Bhiwandi circle due to its low collection of revenue. He also mentioned that load shedding in Bhiwandi area, is not due to shortage of power but it might be due to an intention to harass the consumers of Bhiwandi.

6. The Chief Engineer, M.S.E.D.C.L., on behalf of the Respondent, deposed before the Forum that the distribution system is over loaded. Installed capacity is 500 MVA while the demand is 650 MVA rendering shortage of 150 MVA. New EHV sub stations of 250 MVA are proposed to meet the shortfall and to take up the new demand. The feeders other than the dedicated feeders are over loaded while there is some capacity available on the feeders like MIDC and for HT consumers. Likewise, there is also some capacity available for residential consumers in Bhiwandi. However, L.T. industrial power connections are not released due to over loading of all transformers. The Respondent further states that augmentation of the EHV sub stations will take 2<sup>1/2</sup> to 3 years. Therefore, it is not possible for the utility to consider applications for new and additional load.

7. The Respondent filed its reply vide letter dated 17<sup>th</sup> August, 2005. The details of feeders in Bhiwandi area are given in the reply and are on the same lines as deposed by the Chief Engineer, M.S.E.D.C.L. before the Forum. It says that there are 5 EHV sub stations with a total installed capacity of 500 MVA. The requirement of the area being 650 MVA., there is a shortage of around 150 MVA. It further says that out of 39 EHV feeders, some are express feeders for drinking water schemes, MIDC areas which are totally dedicated feeders for emergency services of society. Some feeders like MIDC and HT consumers are still under loaded and can give supply to consumers on HT side. The Respondent reiterated its stand, earlier taken before the Forum that since EHV sub stations are not commissioned and

augmented, the time limit prescribed in the Standard of Performance for giving electricity supply is not applicable. At present, sanction and release of 3 phase connections are stopped and only single-phase connections are considered.

8. The matter was heard on 18<sup>th</sup> August, 2005. The Appellant argued that his application for a new 10 HP connection is pending with the Respondent since 22<sup>nd</sup> March, 2005. It is alleged that the Respondent is applying dual policy while considering the applications. It claims that reasons put forward regarding overload of system is not convincing as the new connections under ORC scheme are being given. Therefore, the reason of shortage of power, advanced by the Respondent is not correct. The Appellant requested during the hearing that in view of the present shortage of power as claimed by the Respondent, his application should be sanctioned conditionally and power should be actually released after the augmentation of sub station if required. The Appellant suggested that the details of the new connections sanctioned and released by the Respondent after March, 2005 should be called to demonstrate the actual situation.

9. On query to the Respondent, it was stated that no new L.T. Connections were given after March, 2005. He was not aware as to how many connections of HT side were given during the period and from which feeders. The Respondent was also not clear about the feeder on which the Appellant's location is situated. In view of this, the Respondent was directed to furnish within 3 to 4 days, details of the new connections, sanctioned and released after March, 2005, in both the HT and LT categories, especially from the feeders from which the present application is to be considered.

10. During the hearing, the Respondent was advised to confirm whether the Appellant's unit is located on 22 kV MIDC feeder and if so, the reasons for not sanctioning electricity connection in his favour. The Respondent was also directed to state whether any connections have been granted to other applicants in preference to the present Respondent during the relevant period. Accordingly, the Respondent filed two letters, one on 22<sup>nd</sup> August, 2005 and the other one on 25<sup>th</sup> August, 2005. It is clear from the letters that the Appellant is located on the MIDC feeder and that the sanction of L.T. connection has been stopped from 15<sup>th</sup> March, 2005 onwards. The letter dated 22<sup>nd</sup> August, 2005, however, mentions that in all, 13 H.T. connections are granted to various applicants of which, three are located on 22 kV MIDC feeder. The submissions, however, did not clarify as to why the Appellant could not be given connection on L.T. supply when the other connections, on H.T., are being issued.

11 In view of the above, the matter was again heard on 8<sup>th</sup> September, 2005. The Respondent, during the hearing made additional submissions including the order of Maharashtra Electricity Regulatory Commission dated 23<sup>rd</sup> January, 2004 in support of its say, copy of which was given to the Appellant. According to the Respondent, power availability in and around Bhiwandi, at present is 595 MVA as against the demand of 675 MVA. This is some what in variance with the earlier submission made by the Respondent. The Respondent made a point that there is sizeable illegal extension of load in the area and the energy loss in the circle is very high. This has led to deferment of release of new service to individual power loom consumers till the power availability position improves. The Respondent says that the L.T. consumers are asked to form a group and apply for H.T.

connection. Almost all the meters installed in the power loom premises are reported faulty. The consumers are in the habit of increasing their load after release of connection and do not follow the rules, regulations, circulars and directives. They are not in the habit of paying their bills, which lead to increasing arrears. Looking at the circumstances in Bhiwandi, the Respondent prays for direction to the power loom consumers to form a group and then avail supply (on H.T.) till the power supply position improves.

12. The Appellant objected to the explanation put forth by the Respondent during the hearing and stated that the reference and orders now submitted by the Respondent relate to the issue of theft of energy and method of tackling the situation. It does not speak of any restriction on releasing new connections to the L.T. consumers.

13. The Respondent cited the order of the Commission in case no. 36 of 2002 of January 23, 2004 in support of not giving individual L.T. connection and insisting on application in a group for H.T. connection. He was not able to clarify as to how the order cited above would enable them to restrict sanction and release of new connections to L.T. consumers. On query, the Respondent conceded that there are no orders either from the Commission or from the Head Office of the Respondent, i.e. Maharashtra State Electricity Distribution Co. Ltd. to stop sanction of new connections on L.T. side. The decision to restrict / stop new L.T. 3 phase connections was their own at the local circle level. The Respondent conceded that they did not take this stand before the Forum.

14. On going through the submissions of both parties, the following issues arise in this case for consideration:

- a) Assuming but not holding, that there is a requirement of augmentation of distribution mains or commissioning of a new sub station whether the time limits prescribed for granting connections in the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period of giving supply and determination of Compensation) Regulation, 2005, are applicable or not.
- b) Whether in this case, there is a requirement of augmentation of distribution mains or commissioning of a new sub station as claimed by the Respondent.

In order to decide the above issues, it would be necessary to examine the provisions contained in Section 43 of the Electricity Act, 2003 and the Regulations framed under the Act.

15. Section 43 of the Electricity Act 2003 reads as under:

***Section 43: Duty to Supply on Request.***

*(1) "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:*

*PROVIDED that where such supply requires extension of distribution mains, or commissioning of new sub stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or **within such period as may be specified by the Appropriate Commission:***

*PROVIDED FURTHER that -----of default."*

16. Section 43 of the Electricity Act, 2003 stipulates that every distribution licensee shall, on an application by the owner or the occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application. This time limit may be extended by the Commission provided such supply requires extension of distribution mains or commissioning of new sub station.

17. The Commission has already published the Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensee, Period for giving supply and Determination of Compensation) Regulations, 2005 specifying time limits for giving supply in such situation.

**Regulation 4.6:** provides as under:-

*“Where the supply of electricity to a premises requires commissioning of a new sub-station forming part of the distribution system, the Distribution Licensee shall give supply to such premises within one year from the date of receipt of complete application in accordance with the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005.”*

18. It is clear from the provision under Section 43 of the Act that the distribution licensee is required to give supply of electricity within one month after receipt of the application. However, where supply of electricity to premises requires extension of distribution mains or commissioning of a new sub station, the distribution licensee has to give supply immediately after such extension or within such period as may be specified by the Appropriate Commission. The Forum has taken the view that unless and until the distribution system is commissioned, parameters prescribed in the Standard of Performance cannot be implemented. The Forum has apparently not taken cognizance of the provision under Regulation 4.6 above, stipulating time limit for giving electricity connection in such a situation. Therefore, the view taken by the Forum is not in accordance with the Regulation 4.6 quoted above.

19. It becomes clear from the above that the reasons furnished by the Respondent for not sanctioning the connection to the Appellant before the Forum are different from those now quoted during the hearing. It is also evident that the feeder on which the applicant is located is still under loaded. There is no reason why the Appellant cannot be given L.T. supply from this feeder. The reasons cited by the Respondent are not in consonance with the provisions of Section 43 of the Electricity Act, 2003 read with the Regulations thereunder. The Commission in its order dated 3<sup>rd</sup> August, 2005 in the case no. 5 of 2005 has observed as under:

*21(f) “As regards the grant of new connection at a time of shortfall in supply, the Commission is of the view that M.S.E.D.C.L. cannot refuse new connections on this ground alone with considering the statutory provisions. Moreover, the problem of shortage is expected to prevail for quite sometime to come, and it would be untenable to bind MSEB against granting new connections until the supply-demand gap is eliminated. Further, obviously, the new consumers enter the system on the condition of sharing shortages”.*

In the present case, the arguments of the Respondent regarding overloading of the feeder and requirement of augmentation of sub station for not providing supply to the Appellant are not well founded, and therefore, cannot be accepted.

20. In view of above position, observations of the Forum based on the Respondent's submissions that the system is over loaded, does not appear to be in order so far as it relates to the present case. The Respondent would not be justified in refusing to provide electricity supply to the Appellant and more so, on the grounds submitted during the hearing. The Respondent is obviously free to take suitable action against those consumers who do not follow the provisions of the Act and Regulations. The refusal to provide supply to the Appellant will not be in the spirit of and in consonance with the provisions of the Act and the Regulations.

### **ORDER**

1. It is observed that the Appellant is located on the 22 kV MIDC feeder and that the augmentation of this feeder is not required to provide supply to the Appellant.
2. The observations made by the Forum based on the Respondent's submission that the industrial consumer who has made applications for new connection or for additional load, should be sanctioned only after the augmentation of supply network, is not in accordance with the Regulations published by the Maharashtra Electricity Regulatory Commission, as clarified in paragraph 18 above. Therefore, the order of the Forum in this behalf, is set aside.
3. The Respondent is directed to expeditiously decide the application of the Appellant in accordance with the provisions of the Electricity Act, 2003 and the Maharashtra Electricity Regulation Commission (Standards of Performance of Distribution Licensees, Period of giving Supply and determination of Compensation) Regulations, 2005 and the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply), Regulations, 2005.
4. Compliance of the order should be reported within a period of 2 months from this day.

Sd/  
(W. G. GORDE)  
Ombudsman

Sd/  
(S. N. YADWAD)  
Secretary