



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
Tel. / Telefax: 022-2659 2965

REPRESENTATION NO. 5 OF 2005

**In the matter of giving electric connection to
occupier of the premises without consent of the
owner of the premises.**

Smt. Divenderkaur Saini
65/1, Hindustan Chowk,
Malbar Hill Road,
Mulund (W), Mumbai 400 080.....

Appellant

Versus

Executive Engineer,
Maharashtra State Electricity Board,
Mulund (W), Mumbai.....

Respondents

Present:

1. Shri W. G. Gorde, Ombudsman
2. Shri S.N. Yadwad, Secretary
3. On behalf of the Appellant
Smt. Divenderkaur Saini
4. On behalf of the Respondent
Shri M.V Kapadne, Assistant Engineer

Date: 04th May, 2005

1. Mrs. Divenderkaur Saini, resident of Hindustan Chowk, Malbar Hill Road, Mulund (W), Mumbai 400 080 (hereafter called as Appellant) has filed a representation on 09th March, 2005 against the order of Consumer Grievance Redressal Forum, Bhandup rejecting her request seeking disconnection of electricity supply to the premises of Shri Pardeshi and Shri Rajput located at the same address. The representation is registered in this office at Serial No. 5 of 2005 and the matter was heard in this office on 3rd May, 2005. Brief details of the case are as under:

2. The Appellant is a general power of attorney holder in respect of the property at 65/1, Hindustan Chowk, Malbar Hill Road, Mulund (W), Mumbai 400 080 which was owned by her late mother, Smt. Premkaur Lamba. Part of the premises is given on leave and license to Shri Pardeshi and Shri Rajput. They are still the occupiers of the premises. Initially, they did not have electricity connections in their names but were using electricity through the meter owned by the landlady.
3. Shri Pardeshi requested the Respondent, M.S.E.B. on 17th June, 1996 to change electricity connection in his name. This was done by the Respondent on the basis of the documents submitted and the request from Shri Pardeshi. In the meantime, the Appellant brought to the notice of the Respondent that the documents and affidavit furnished by Shri Pardeshi were bogus. It was also informed to the Respondent that Smt. Lamba, the owner of the premises died on 7th September, 1994 while the affidavit submitted by Shri Pardeshi showing her signature of 26th April 1996 i.e. after her death. The Respondent accordingly issued notice to Shri Pardeshi in December 1997 asking him to explain this discrepancy. On verification, the Respondent, in February, 1998, cancelled the change of name of electricity connection granted in favour of Shri Pardeshi and restored the name of the original owner.
4. In the meantime, Shri Pardeshi and Shri Rajput had filed the suits in the Court of Small Causes at Bombay claiming tenancy rights of the premises they are occupying. The suits no. 1919 of 1997 and 1920 of 1997 were decreed by the Court on 7th August, 2002 in favour of Shri Pardeshi and Shri Rajput respectively, declaring them as legal tenants.
5. Shri Rajput subsequently applied to the Respondent, M.S.E.B. and furnished the necessary documents such as ration card, voter's card, etc for a separate connection in his name which was granted on 31 July, 2003, bearing the Consumer No. 9502282. Shri Pardeshi also applied for a separate connection and the Respondent granted the connection in August 2004.
6. The Appellant has stated her case as under:
On 21st April 2004, the Appellant wrote to the Respondent that she would be away from the premises for sometime and therefore requested to temporarily disconnect the electric supply until further notice from herself. The Respondent was also requested not to reconnect the above electric supply till she informs the Respondent. The Appellant states that the Respondent disconnected the electric supply as per her request on 24th April, 2004 and the meter was taken away without giving any receipt. She further states that the Respondent, without any consent from her, reinstalled the meter immediately on 25th April, 2004. The Appellant once again requested the Respondent to disconnect the same. She followed up her request with the Respondent again through her letter dated 10th May, 2004. It is alleged that the Respondent did not take any action on her request.

7. Upon asking to the Respondent as to why the electricity connection disconnected on Appellant's request, was again reconnected without her consent as alleged by the Appellant, no satisfactory explanation was given by the Respondent. He could not even clarify whether the disconnection was made at the behest of owner of the premises or user of the meter. He could not explain the rules for connection and disconnection in this behalf. The meter belonged to the owner and once it was removed and disconnected at her request, logically the Respondent should not reconnect it without her knowledge, permission or consent. The Respondent's representative was very casual in his approach and lacked clarity and did not have any proper explanation for this.
8. The Appellant objected to granting new electricity connections to both the tenants and requested the Respondent to disconnect the electricity connections since she had not given any consent. The Respondent did not disconnect the connections and therefore the Appellant approached the Consumer Grievance Redressal Forum, Bhandup to seek redress in the matter. The Forum heard the Complainant and the Respondent and observed that both Shri Rajput and Shri Pardeshi are legal tenants of the premises and have fulfilled all the terms and conditions of the utility for getting electricity connections. The application of the Appellant (the Complainant in the Forum) was dismissed by the Forum.
9. The Appellant vide her representation has sought the orders of this office to disconnect electricity connections granted to Shri Rajput and Shri Pardeshi. The Appellant argued that being the owner of the property, her consent should be insisted before granting electricity connections to any tenants. The point was also made that she has her emotions attached with the premises and it is necessary to develop mutual relations between landlord and tenants. Landlord's consent is a must for utility services like electricity. The Appellant also argued during the hearing that Shri Rajput and Shri Pardeshi are trying to grab her property and also harass her.
10. On going through the written and oral submissions made by the Appellant and the Respondent, it is seen that there is a continuing dispute between the Appellant, landlady and the tenants about tenancy rights and other issues. The matter of tenancy rights was raised by the tenants in the Court of Small Causes and was decreed on 7th August, 2002 declaring both of them as legal tenants. However, no separate electricity connections were granted in their names until July 2003 and August 2004. Therefore, action of the Respondent in disconnecting the electricity supply on the request of the owner in April 2004 appears to be in order. However, the act of reconnection immediately thereafter without the written request or consent from the owner had no basis, since the electricity connection and meters stood in the name of the Appellant and there was no business for the Respondent to act for reconnection at the behest of the tenants.

11. As regards the objection of the Appellant in granting electricity connections in the name of the tenants, the issue needs to be examined strictly in accordance with the provisions contained in the Electricity Act 2003 and the Regulations thereunder. Section 43 (1) of the Act reads as under:

“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.”

Second proviso of Regulation 4.1 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 reads as under:

“Provided further that for consumers falling under the domestic tariff category, a copy of any one of the following documents, namely (i) ration card; (ii) photo-pass; (iii) voter’s card; (iv) passport; (v) documents pertaining to occupation of premises, may be required at the time of processing of the application.”

Similarly, Condition No. 2(b) of the Maharashtra State Electricity Board, Conditions and Miscellaneous Charges for Supply of Electrical Energy stipulated as under:

“The consumer shall produce documentary evidence to show that he is the lawful owner, or occupier of the premises in respect of requisitions for supply to such premises.”

The above provisions in the Act, Regulation, and the Conditions of Supply of Electrical Energy makes it amply clear that the application for electricity can be made by the owner of the premises or the occupier of the premises. The Regulation does specify the documents required to be submitted for getting electricity connection. It includes ration card, photo pass, voter’s card, passport and the documents pertaining to occupation of premises. It does not require the owner’s consent. As such, the argument of the Appellant that owner’s consent must be obtained, does not hold any ground. Other issues raised by the Appellant like attempt to grab the premises, harassment by the tenants, etc are beyond the scope of our consideration under the Regulations.

ORDER

In view of the submissions made by the Appellant and the Respondent, it becomes clear that the action of Respondent in granting electricity connections to Shri Rajput and Shri Pardeshi, tenants of the Appellant, is in accordance with the provisions contained in the Electricity Act 2003 and Regulations thereunder. It is also in consonance with the Respondent’s Conditions of Supply of Electrical Energy. The Order of the Forum is in accordance with the relevant provisions in force. Therefore, it is not necessary to interfere with the Forum’s Order. The Appellant’s representation is therefore rejected.

The deliberations in this case brought out certain facts in respect of actions and inactions on the part of the Respondent. The Respondent’s representative was not at all clear in his submission and the arguments during the hearing. He was not aware of the relevant provisions and was very casual in his approach. He could not explain the Respondent’s action of disconnection and subsequent

reconnection of the electricity connection to the tenant's premises in April 2004. It was also not clarified why the Respondent issued instructions in December 2003 to disconnect electricity connection to Shri Rajput's premises although it was legally granted in July 2003. Lack of clarity and casual approach of the officer of the Respondent should be viewed seriously as it has impact on the quality of services delivered by the Respondent to the consumers. Action should be taken against the official and compliance reported within one month.

Sd/
(W.G.Gorde)
Ombudsman
4/5/2005

Sd/
(S.N.Yadwad)
Secretary,
Ombudsman, MERC