

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 91 of 2009

In the matter of
Petition of Shri Major General S. C. N. Jatar Retd. in regard to illegal occupation
of premises / completion certificate from Urban Local Body (ULB) and seeking
complete overhaul of system of allotment of domestic and commercial connections
with an amendment to MERC Regulations

Shri V. P. Raja, Chairman
Shri S. B. Kulkarni, Member
Shri V. L. Sonavane, Member

Shri Major General S. C. N. Jatar Retd

.....Petitioner

Versus

Maharashtra State Electricity Distribution Company Ltd
Through The Chief Engineer,
Pune Zone, Pune.

.....Respondent

ORDER

Date: March 5, 2010

Shri Major General S. C. N. Jatar Retd., (“the Petitioner”) submitted a Petition under affidavit before the Commission on 17.08.2009 under Section 86 of the Electricity Act, 2003 read with the Electricity Supply Code, seeking complete overhaul of the system of allotment of domestic and commercial / construction connections with an amendment to the MERC Regulations.



2. The Petitioner has prayed as follows:

“

15. *The Petitioner respectfully prays that the occupants of premises seeking electricity connection should submit occupation / completion certificates for proof of legal residence.*

16. *If ownership or payment of property tax is the only criterion, the Petitioner prays that the occupants should submit documents of ownership, e.g. valid PoA, succession certificate, 7/12 extract, property register entry, stamp duty payment, etc. to evidence their ownership of the property.*

17. *The Petitioner prays that MSEDCL should grant a connection after independent inquiries from legal, security and vigilance angles because MSEDCL bills are proof of residence unlike Municipal Property Tax bills. MSEDCL should not release connections based on payment of municipal property tax without verifying the ULB's system for tax assessment.*

18. *The Petitioner prays that MSEDCL should streamline the system of penalising citizens to deter them from illegal tapping. In the case under consideration, the period of illegal connection is incorrect.*

19. *The Petitioner prays for a complete overhaul of the system of allotment of domestic and commercial / construction connections with an amendment to MERC Rules to ensure that only those who are legally occupying / constructing structures get the benefit of power connections.*

20. *The Petitioner prays for an overhaul of the rules because current rules and lack of supervision gives a leeway to the MSEDCL staff and technical, security and other departments to indulge in irregular activities, depriving uninterrupted power supply to law-abiding citizens and causing loss to public money.”*

3. The Petitioner submitted that he is one of the sons of Late Lt Col Sir Nilkanth Shriram Jatar, who owned the property at S. No. 1426, Sadashiv Peth, Pune – 411 030. It is submitted that the present case pertains to Flats 302 and 303 in ‘B’ Building of Neel Sadan Apartments at S. No. 1426, Sadashiv Peth, Pune – 411 030. The present petition has been submitted to throw up larger issues, which are of public interest and the Petitioner apprehends that there are numerous such cases not only in PMC area but all over the State of Maharashtra. The Petitioner had requested the Commission not to consider the petition as being against any particular individual, but as a policy issue against the Maharashtra State Electricity Distribution Company Limited (“MSEDCL”).

4. It is submitted that the issues wholly relate to security, legal and vigilance matters arising out of the grant of electricity connection and not to the ownership of the premises to which MSEDCL has granted electricity connection.

5. The issue, as submitted by the Petitioner, is the grant of electricity connections to premises based only on payment of the assessed municipal property, without checking if the applicants concerned are in possession of occupation / completion certificates for the premises and that the premises are without 'stop work' and 'vacation' notices.

6. It has been submitted that granting electricity connections to unauthorized premises, some with police complaints for eviction, has grave security implications and raises the question of authenticity of the very basis for granting electricity connections. In such cases, it cannot be ruled out that external pressures, such as inducements or compulsions from socially undesirable elements and even terrorist groups to grant electricity connections are present in order to grant electricity connections to enable law-breakers to stay in illegal constructions.

7. It is submitted that, no rule of MSEDCL can supercede the 'vacation' or 'stop-work' notices from the Urban Local Body ("ULB") i.e., Pune Municipal Corporation ("PMC"), or its complaints to the police or the non-issue of occupation / completion certificates from the ULB.

8. It is submitted that the issue to be resolved by the Commission here is w.r.t. to the Flats B-302 and B-303 which do not have completion or occupation certificates, and that the PMC had issued 'stop-work' or eviction notices along with police complaints. The Petitioner has submitted that MSEDCL has granted electricity connection after the release of the 'stop-work' notice dated 17.08.2007, and that the construction work was in progress only when MSEDCL gave electricity connection to the flats.

9. The Petitioner has submitted that, as per Section 126 of the Electricity Act, 2003 ("EA 2003"), assessed bill should be issued as per the construction tariff. Even then, MSEDCL is said to have approved a residential connection. He has also submitted that MSEDCL has recovered electricity charges for the 12 months back period under Section 126 of EA 2003 although the period is ascertainable.

10. It is submitted that mere payment of property tax does not confer ownership title on a person and even if it does, that is not an adequate ground for release of an electricity connection. Also, MSEDCL is submitted not to have any mechanism to ensure that those who are granted electricity connection based only on a one-time production of property tax payment receipt, continue to pay property taxes thereafter to sustain the grant of the electricity connection. As a result of all this, the occupants are able to stay illegally and use other municipal services solely because they have an electricity connection.

11. In response to the letter from the Commission dated 12th October, 2009, the Petitioner has submitted his response on 26th October, 2009 stating that the prayers sought are with respect to the grievances of consumers regarding compliances of the Supply Code by the licensee, i.e. MSEDCL. He has also submitted that under Section 86 of the EA 2003, the Commission has been conferred with specific function to specify and enforce the standards with respect to the quality, continuity and reliability of services by the licensee, the EA 2003 and the Supply Code is with the basic object of protecting the interests of the consumer.

12. The Commission vide Notice dated 11th January, 2010, fixed a hearing in the matter on 28th January, 2010.

13. MSEDCL submitted its reply in the above matter on 27th January, 2010, submitting that the Petitioner may be advised to approach the CGRF, Pune since some of the issues raised by him are within the purview of the CGRF.

14. On the hearing held on 27th January, 2010, the Petitioner submitted that the licensee must reject the application for supply as the provisions of the EA 2003 are not followed in many cases. The Petitioner has referred to various provisions of the EA 2003 *inter alia* Section 56(1)(b), the Supply Code and the Bombay Provincial Municipal Corporation Act, 1949. He has submitted that there is a need to look into the Supply Code in a greater detail. He submitted that since he has no personal grievance, and therefore, there is no question of going to the CGRF.

15. Having heard the Petitioner and MSEDCL, the Commission is of the view that the present petition cannot be rejected on the basis that the Petitioner ought to seek redressal of his grievances before the consumer grievance redressal forum. This is because the present petition raises issues of larger public and consumer interest. The *locus standi* of the petitioner has thus not been questioned. Under the “Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005” (“Electricity Supply Code”), Regulation 4.1 provides as follows:-

“4.1 The applicant shall provide the following information / particulars / documents to the Distribution Licensee while making an application for supply or for additional load, shifting of service, extension of service or restoration of supply:

(i) applicant’s name and, whether or not the applicant is the owner of the premises for which supply of electricity is being applied for;

(ii) address of premises for which supply of electricity is being applied for and billing address, if different from such premises for supply;

(iii) where applicant is not the owner of the premises, name of owner of premises;

(iv) purpose of usage of electricity and load applied for each such usage;

(v) whether the application is for a new connection, shifting of service, additional load, extension of service, change of name or restoration (where the disconnection was for a period of less than six months);

(vi) name, address, licence number, contact telephone number and e-mail ID (if available) of Licensed Electrical Contractor who will certify the wiring works pertaining to the premises;

(vii) additional documents as may be required from the applicant under any statute for the time being in force:

Provided that the application form shall provide a list of (a) all major purposes of usage and (b) all such documents along with a reference to specific provision of the statute(s) under which they are required by the Distribution Licensee from the applicant at the time of giving supply of electricity to the premises:

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;

(viii) additional details that may be provided by the applicant, at his option, to facilitate the supply of electricity or consumer service by the Distribution Licensee;

(ix) fee for processing the application or receipt thereof, based on the schedule of charges approved by the Commission under Regulation 18.

Provided that the Distribution Licensee may, at its discretion, give supply by scrutinizing alternative documents provided by the applicant."

{Emphasis added}

It may be noticed from the above that while making an application for supply consumers falling under the domestic tariff category must submit 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, as may be required at the time of processing of the application. While this should address the concerns of the Petitioner, on the other hand, the Commission is of the view that demanding that occupants of premises seeking electricity connection should submit occupation / completion certificates for proof of legal residence, would be impractical and unreasonable for the simple reason that tenants would not have these documents. The term "Occupier" in the Supply Code Regulations has been defined to mean the person in occupation of the premises where energy is used or is proposed to be used. Also, persons move into the premises much

before occupation / completion certificates are received. It takes time for occupation / completion certificates to be received but at the same time electricity connection cannot be denied. However, documents of ownership, e.g. valid PoA, succession certificate, 7/12 extract, property register entry, to evidence ownership of the premises should be asked for from the owner without making it a condition precedent for giving supply to the occupant.

16. As regards the prayer seeking independent inquiries from legal, security and vigilance angles, this would really be in the province of police and other security forces. This is not an appropriate prayer under the Electricity Act, 2003, and hence rejected.

17. As regards the prayer that MSEDCL should streamline the system of penalising citizens to deter them from illegal tapping, the period of illegal connection being incorrect, etc, the Commission is of the view that the Electricity Supply Code contains measures to control theft. However, the Commission is already in the process of reviewing the Electricity Supply Code, wherein in terms of the Electricity (Removal of Difficulties) order, 2005, dated 8th June, 2005, the following would be reviewed as may be necessary, viz:-

- (i) method of assessment of the electricity charges payable in case of theft of electricity pending adjudication by the appropriate court;
- (ii) disconnection of supply of electricity and removing the meter, electric line, electric plant and other apparatus in case of theft or unauthorized use of electricity; and
- (iii) measures to prevent diversion of electricity, theft or unauthorized use of electricity or tampering, distress or damage to electrical plant, electric lines or meter.

The above provisions in the Electricity Supply Code shall be without prejudice to other rights of the licensee under the Act or any other applicable laws to recover the sum due and to protect the assets and interests of the licensee.

Also, the machinery to deal with such matters pertaining to unauthorised use of electricity and theft are specifically provided under Sections 126, 127, 135 to 141, provision of Special Courts under Sections 153 to 157 of the EA 2003, wherein the Commission would not have jurisdiction to entertain specific cases.

18. As regards the prayer seeking appropriate revision / amendments to the regulations, the Commission is already in the process of reviewing the Electricity Supply Code. Once, the Commission publishes the draft revised / amended version the Petitioner will have the opportunity to submit his suggestions and objections.

19. As regards the allegation that the current regulatory framework and lack of supervision gives a leeway to the MSEDCL staff and technical, security and other departments to indulge in irregular activities, depriving uninterrupted power supply to law-abiding citizens and causing loss to public money, this prayer cannot be taken up in a general manner without submission of proof. If the Petitioner is aggrieved and has any grievance within the meaning of the “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006”, the Petitioner may approach the machinery specified thereunder. In other cases, the Petitioner may approach the Commission if it is able to satisfy that he has a case under the Electricity Act, 2003 and within the jurisdiction vested on the Commission thereunder.

With the above, the present petition stands disposed of.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC