

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 54,55,56,57,58,59,60, 61 and 62 of 2024

In the matter of disconnection of electric supply

Md. Zafar Mashooq Ali Ansari (Rep.No.54 to 62 of 2024) . . . . .Appellant  
(Service No. 13013505912)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Thane (MSEDCL).....Respondent No.1

Torrent Power Limited (TPL), Distribution Franchisee, Bhiwandi .....Respondent No. 2

Sr. No.	Rep. No.	Name of Consumer	Service No.
1	54	Ansari Kulsum Yunus	13013344714
2	55	Shaikh Gulam Habib Mastan	13013419781
3	57	Sayyed Mazhar Ali Akbar Ali	13013500902
4	58	Guber Ahamed Nazir Mhamed	13010681311
5	59	Shaikh Gulzar Naeb-E-Rasool	13013500724
6	60	Ansari Nadeem Ahd.Sageer Ahd.	13013507516
7	61	Shaikh Gulzar Nayab Rasul	13013364235
8	62	Gulzar Naib Rasool Shaikh	13015089622

.....Respondent No. 3


Appearances:

Appellant : 1. Mashooq Zafar Ansari  
2. Iftikhar Ahmed Momin, Representative

Respondent 1: Ajay N. Bhasaketre, Addl. Ex. Engineer, Thane Urban Circle,  
MSEDCL

Respondent 2: Sameer Desai, Manager, TPL

Respondent 3: 1. Shaikh Gulam Habib Mastan  
2. Nadeem Rasool, Representative

  
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**Coram: Vandana Krishna [IAS (Retd.)]**

Date of hearing: 31<sup>st</sup> May 2024


Date of Order: 11<sup>th</sup> June 2024

### **ORDER**

These Representations were filed on 19.01.2024 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 19<sup>th</sup> October 2023 in Case of 85/2023-24 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum). The Forum by its order dismissed the grievance, and observed that the grievance is time barred as per Regulation 7.8 & 7.9 CGRF & EO Regulations 2020.

2. Aggrieved by the order of the Forum, the Appellant has filed these 9 representations. The physical hearing was held on 31<sup>st</sup> May 2024. The Appellant and Respondent No. 2 TPL were physically present. The Respondent No. 1 MSEDCL and Respondent No. 3 joined through video conferencing. All the parties were heard at length. The Appellant's submissions and arguments are as below:

- (i) The Appellant purchased a plot measuring about 3000 sq. feet **under a registered Sale Deed on 12.05.2008** from its predecessor in title Mr. Mohd. Faiyyaz Mohd. Qasamand and others having property nos. 543/0, 543/A, 543/B/1, at Nagaon-2 Bhiwandi. This is a property under the 'pagdi' system, in which previous tenants were already staying. Then the Appellant became the owner/Landlord of this immovable property. There are 9 unauthorized/illegal rooms in a chawl on this property which have been declared as dilapidated and illegal by Bhiwandi Nizampur City Municipal Corporation.
- (ii) The Appellant alleged that the tenants / occupiers of these rooms applied for electric connections on the strength of fraudulent documents like bogus municipal tax receipts, which have been illegally sanctioned and the Respondent released electric connections

  
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for these rooms without No Objection Certificates from the landlord as tabulated below:

Table


1:

Sr. No.	Service No.	Date of Connection	Name of Consumer	Address	Remarks of the Appellant
1	13013344714	24.09.2008	Ansari Kulsum Yunus	543, R.No.24, Nagaon Road, Gulzar Nagar, Bhiwandi	
2	13013419781	23.12.2008	Shaikh Gulam Habib Mastan	341 Gala No.1, Raees Manz, Shanti Nagar Road, Gaibi Nagar, Bhiwandi	The connection was sanctioned at property No. 341, however, illegally connected to this room.
3	13013505912	21.04.2009	Jafar Mashooque Ali Ansari	25, Raisan Manzil, Gulzar Nagar, Shanti Nagar Road, Bhiwandi	Settlement was done and change of name was effected in Appellant's name in Feb./Mar. 2024.
4	13013500902	14.04.2009	Sayyed Mazhar Ali Akbar Ali	543/5, Raisen Manzil, Gulzar Nagar, Shanti Nagar Road, Bhiwandi	
5	13010681311	12.07.1988	Guber Ahamed Nazir Mhamed	543/A Nagaon – 2, Gulzar Nagar, Bhiwandi	The settlement was done, however, TPL is not transferring the connection in his name because of alleged arrears of about Rs. 50,000/-.
6	13013500724	04.04.2009	Shaikh Gulzar Naeb-E-Rasool	543/8 Raisen Manzil, Gulzar Nagar, Shanti Nagar Road, Bhiwandi	
7	13013507516	22.04.2009	Ansari Nadeem Ahd.Sageer Ahd.	543 Raisan Manzil, Gulzar Nagar, Gaibi Nagar Road, Bhiwandi	
8	13013364235	06.09.2008	Shaikh Gulzar Nayab Rasul	543, R.No.2, Raisan Manzil, Shanti Nagar Road, Gaibi Nagar, I/F Anand Cine, Bhiwandi	
9	13015089622	11.04.2023	Gulzar Naib Rasool Shaikh	H. No. 543, Gala.02, Nr.Dtc., Gulzar Nagar, Shanti Nagar, Bhiwandi	

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- (iii) **The Appellant filed a suit against these defaulter tenants in the court of the C.J. (J.D.) Bhiwandi for eviction & possession, recovery of rent and perpetual injunction in the year 2019. The court case is going on.**
- (iv) The Appellant wrote various letters dated 20.03.2023, 15.04.2023, 19.05.2023 and 13.07.2023 to the Distribution Franchisee, TPL for disconnection of these illegal connections. TPL did not take any action till that date. TPL failed to give any proof of official documents on which basis the electricity meter connections were given.
- (v) The Appellant has lodged a complaint at Shanti Nagar Police Station, Bhiwandi on 24.04.2023 against the occupiers and Respondent TPL for releasing illegal connections on the basis of forged documents. The police has not taken any action to date.
- (vi) The Appellant by his letter dated 17.05.2023 made a complaint to the Respondent's Chief Engineer, Bhandup Urban Zone of illegal connections on the said property and requested for disconnection, however, they did not take any action.
- (vii) Some of these rooms were converted into shops without any permission from the Landlord. There is unauthorized use as well as pilferage of energy, however, the TPL is not taking any action against them. The TPL is acting in collusion with these unauthorized occupiers.
- (viii) The Appellant filed a grievance application with the Forum on 06.09.2023 for disconnection of these illegal connections. The Forum, by its order dated 19.10.2023 dismissed the grievance application. The Forum failed to understand the basic issue.
- (ix) Service No. 13013505912 (Sr. No. 3 of Table 1) is in possession of the Appellant-Landlord after change of name about four months ago. A settlement was made between the Appellant & Guber Ahamed Nazir Mohamed [Service No. 13010681311(Sr. No. 5 of Table 1)], however, TPL is not transferring the connection in his name because of alleged arrears of about Rs. 50,000/-.
- (x) The Appellant argued that the Appellant will not be responsible for outstanding dues of these connections in future.
- (xi) In view of the above, the Appellant prays that the Respondent be directed
- a) to issue documents and proof for releasing these 9 connections.


  
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- b) to disconnect permanently the meters for 9 service numbers.
  - c) to compensate for mental torture and agony.
- (xii) The Appellant also prays for action against the Respondent No. 2 TPL for illegally releasing meter connections and involvement with the occupiers.

3. The Respondent No.1 MSEDCL and the Respondent No. 2 TPL filed their written replies dated 03.04.2024 and 29.03.2024 respectively. Their submissions and arguments are as below:


- (i) The electricity distribution and billing in Bhiwandi was handed over to Torrent Power Limited from 26.01.2007 up to 02.01.2017 as the Distribution Franchisee which was extended for further 10 years.
- (ii) It is submitted that eight (8) out of nine (9) services are old, of more than 15 years. The Service No. 13015089622 at Sr. No. 9 of Table 1 is a new connection in place of the PD connection. The Appellant had objected to releasing this new connection in place of the PD connection in the year 2023.
- (iii) The above connections were released in the year 1988 (Sr.No.5), 2008 and 2009 for the occupants of the said chawl. The Appellant raised his grievance for disconnection of these connections after a period of more than 17 years, thus his grievance is time barred as per Regulation 7.8 of the MERC Supply Code Regulation 2021. He should have approached the Forum at the time of the release of the said connections, but instead he filed his grievance after a period of 15 / 17 years, which is beyond limitation. On this basis, the Forum has rejected the grievance on 19.10.2023.
- (iv) The Respondent stated that there is some property dispute (civil dispute) between the settled occupiers /tenants and the Appellant. The Utility is not concerned with this property dispute. The occupiers had given the required documents as per Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 (Supply Code Regulations 2005) at the time of sanction of these electric connections. The Respondent is duty bound to release

  
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connections to occupiers/tenants as a basic fundamental need, as per the Electricity Act, 2003.

- (v) As per Regulation 7.4 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations 2021, only a registered consumer can apply to terminate supply, after giving notice of thirty (30) days to the utility along with relevant documents and applicable charges. The connections charted in **Table 1** were released in the name of a registered consumer as per Section 43 of the Electricity Act 2003. Out of nine (9) connections, seven (7) are live , one (1) is Temporarily Disconnected and one (1) is Permanently Disconnected. Unless the original consumer applies to the Licensee for Permanent Disconnection, the Licensee cannot disconnect the supply.
- (vi) The Respondent relied upon the Judgment dated 11.02.2011 rendered by the Larger Bench of Calcutta High Court in Case of Abhimanyu Muzumdar V/s The Superintending Engineering & Ors. [WP no. 423 of 2010, reported in AIR 2011 Calcutta 64] wherein it is held that a person who is in settled possession of a property, whether lawfully or not, is entitled to apply for and receive electricity supply until they are evicted through due process of law. The Electricity Act does not provide for deciding any dispute between the landlord and the occupier. The Bombay High Court in W.P. No. 2602/2010 Narendra Vs MSEDCL held that it shall be lawful for the authority to grant such essential supply without insisting on the production of a no objection certificate from the landlord of a tenant. The utility has no business to check the veracity of the ownership, as held by the Kerala High Court in W.P 186/2023 (Rasheeda Vs KSEB & Ors.).
- (vii) The Appellant filed a grievance application in the Forum on 06.09.2023. In his complaint he mentioned that Service No. 13013505912 was in the name of Mr. Bagban Mhd. Yusuf Mhd. Yuqub and demanded Permanent Disconnection. However, after the order was passed by the Forum on 19.10.2023, the Appellant applied for Name Change against the above Service no. 13013505912 on

  
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08.02.2024. Accordingly, the said connection was changed to the name of the Appellant, **Md. Zafar Mashooq Ali Ansari after receiving necessary proof of ownership / occupancy with relevant documents and applicable charges.**

(viii) The Respondents (No. 1 & 2) submit that the allegations and contention of the Appellant are without sufficient grounds. The grounds of appeal are not tenable at law, hence the Representation needs to be dismissed.

4. The Respondent No. 3, the tenants/consumers filed their common written reply on 29.05.2024. Their submissions and arguments are as below:

(i) The Respondent No. 3 are the tenants having either residential rooms or shop / galas in the said chawl for the last more than 15 years. The details of their electric connections are tabulated in Table 1. The status of the consumers as tenants is admitted even by the Appellant, as the **Appellant has himself addressed notices of eviction and even filed a suit for eviction, under provisions of Maharashtra Rent Control Act. Even the tenants have filed Civil Misc. Applications under Section 8 of Maharashtra Rent Control Act, for fixation of standard rent, against the Appellant. Individual suits are filed against the respective tenants in Bhiwandi Court.**

(ii) Being tenants, they are protected under the provisions of Maharashtra Rent Control Act. Such tenants are entitled to enjoy all basic essential supplies, viz. electricity and water supply. Such a mandatory provision is made under Section 29 of the Maharashtra Rent Control Act. Even an "NOC" of the landlord/owner is not required for supplying such essential services. Tenants are entitled to supply of such essential services as a right of the citizen. Any disruption of such an essential supply by the landlord /owner is made a punishable offence. As per Section 43(1) of the Act, the distribution licensee is liable and duty bound to supply electricity within one month of an application demanding the same. The words used in the section are "owner or occupier". Thus, electricity supply has to be provided even to an occupier /tenant. The tenants, being lawful occupants of their respective premises, lawfully applied for electricity connections way back around 2008, and they were so supplied by the respondent-company upon following all due

  
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procedure and verifications. The tenants themselves are the consumers, and also they have been regularly paying electricity consumption charges. The Appellant-landlord after a passage of more than 15 years has filed false and baseless grievance against them. At the outset such a grievance is time barred and beyond limitation of 2 years.

- (iii) The Appellant has made false and baseless allegations of tenants having filed forged documents for obtaining electricity connections, and also that the said chawl has been labelled as "in dilapidated condition". The tenants have not filed any bogus or forged documents. In fact, there were no reasons or need for tenants to file forged documents, as they are entitled to electricity supply by right.
- (iv) As regards the said chawl being in a dilapidated condition, the tenants had got it structurally audited, and had obtained repair permission from the local Municipal Corporation. Upon obtaining such permission, had got the said chawl repaired. The Tenants have also filed Regular Civil Suit of R.C.S. No. 707/18, and the Civil Court has granted protection to the said chawl against any kind of demolition. This protection order is in existence even till date. Thus, the said chawl is not in a dilapidated condition. The structural auditor has certified that the said chawl has been repaired and is in perfectly habitable condition.
- (v) At present, the tenants are paying the rent in the Civil Court, Bhiwandi.
- (vi) The appeal filed, being frivolous and false, is required to be dismissed with costs.

### **Analysis and Ruling**

5. Heard the parties and perused the documents on record. The details of the tenants / consumers with the dates of connection are captured in Table 1.

6. The Appellant contended that he purchased the said plot **under a registered Sale Deed on 12.05.2008** and became the owner/Landlord of this property. There are 9 unauthorized/illegal rooms in this chawl which have been declared as dilapidated and illegal by Bhiwandi Nizampur City Municipal Corporation. The occupiers of these rooms applied for

  
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electric connections on the strength of fraudulent documents like bogus municipal tax receipts. The connections have been illegally sanctioned without No Objection Certificates from the landlord.

7. The Respondent 1 and 2 contended that these connections were released in the year 1988 (Sr.No.5), 2008 and 2009 for the occupants in the said chawl which is quite a long time back i.e. more than 17 years ago, hence the grievance is time barred as per Regulation 7.8 of the MERC Supply Code Regulation 2021. The said connections were released as per the procedure prescribed in the Supply Code Regulations, 2005. The Respondent 1 and 2 are duty bound to provide electricity supply, which is a fundamental need as per Section 43 of the Act. No third party, i.e. the landlord / owner can raise any grievance for disconnection of electricity connections of tenants. There is also an ongoing property dispute (civil dispute) between the settled occupiers /tenants and the Appellant. The Respondent Utility is not concerned with these property disputes.

8. The Respondent No. 3 contended that they are the tenants staying in the said chawl for the last more than 15 years. Tenants are lawful occupiers and are thus entitled for supply of essential services. As per Section 43(1) of the Act, the distribution licensee is liable and duty bound to supply electricity. The Tenants have filed Regular Civil Suit of R.C.S. No. 707/18 against any kind of demolition. At present, the tenants are paying the rent in the Civil Court, Bhiwandi.

We find merit in the stand of the Respondents. There is no dispute regarding the fact that the Respondent tenants have been in settled occupation of the premises, whether legal or not, and hence are entitled to get electric supply without conferring any legal rights.

9. It is necessary to refer to the concerned regulations of the Commission for clarifying the regulatory stand in cases where lawsuits are pending in the Civil Court. **In this case, the Schedule B declaration is wrongly submitted by the Appellant, and he has not mentioned the facts about lawsuits going on.**

  
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10. The Section 2(15), of the Electricity Act, 2003 defines a Consumer as below:

*(15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;*

11. The Regulation 2.1 (c), (d) and (e) of the CGRF & EO Regulations 2020 defines a Complainant, Complaint & Grievance as below: -

*(c) "Complainant" means any Consumer as defined in Section 2 (15) of the Act and includes prospective Consumer, who files the Complaint or Grievance or Representation against the Distribution Licensee;*

*(d) "Complaint" means a submission made by a consumer expressing dissatisfaction with the electricity supply service provided by the Distribution Licensee;*


*(e) "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 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;*

➤ *"19.22 The Electricity Ombudsman shall entertain a representation only if all the following conditions are satisfied:*

*(a) .....*

*(g) The representation by the Complainant, in respect of the same Grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has not already been passed by any such court, tribunal, arbitrator or authority; .....*

*.....*

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

- (a) *frivolous, vexatious, malafide;*  
(b) *without any sufficient cause;*  
(c) *there is no prima facie loss or damage or inconvenience caused to the Complainant:*

*Provided that the decision of the Electricity Ombudsman in this regard shall be final and binding on the consumer and the Distribution Licensee: Provided further that no representation shall be rejected in respect of sub-clauses (a), (b), and (c) unless the Complainant has been given an opportunity of being heard.*

- *Schedule B : REPRESENTATION BEFORE ELECTRICITY OMBUDSMAN*


.....  
**13. DECLARATION**

*(a) I/ We, the consumer /s herein declare that: (i) the information furnished herein above is true and correct; and (ii) I/ We have not concealed or misrepresented any fact stated in hereinabove and the documents submitted herewith. ....*

.....  
**(d) The subject matter of the present representation has not been decided by any competent authority/court/arbitrator, and is not pending before any such authority / court / arbitrator.**

In view of the above definitions, the Complaint/Grievance of the Appellant does not constitute a complaint/ grievance as per the CGRF & EO Regulations 2020. The Appellant did not raise any complaint /grievance regarding his own connection (Service No. 13013505912), but has requested for the disconnection of supply of other consumers as tabulated in Table 1.

In the judgment dated 11<sup>th</sup> February 2011 rendered by the Larger Bench of our High Court in WP No.423 of 2010 with other Writ Petitions (Abhimanyu Mazumdar v. The Superintending Engineer and another)(AIR 2011 Cal 64) it has been held as under:-


  
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*"Since all the lands in these Islands belong to the Union of India, the latter is not required to file a civil suit for eviction of a trespasser and the trespassers can be evicted by taking recourse to the Regulation of 1966. However, so long such a trespasser in settled possession is not so evicted, he should be entitled to get electricity with the aid of Section 43 of the Electricity Act on compliance of the terms of supply as provided under law. It is needless to mention that the enjoyment of such electricity will not confer any right or equity in favour of the trespasser in occupation to defeat the title of the lawful owner."*

12. Considering all the above facts, we confirm that the Appellant does not have any locus standi to file this representation. The Forum has given a reasoned order. There is, therefore, no reason to interfere in the order of the Forum, and the Representation of the Appellant is rejected and disposed of.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

