

order file

		Date	Month	Year
1	Date of Receipt	19	07	2022
2	Date of Registration	20	07	2022
3	Decided on	24	08	2022
4	Duration of proceeding	35 days		
5	Delay, if any.	13 days		

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
B.E.S. & T. UNDERTAKING

(Constituted under section 42(5) of Electricity Act 2003)

Ground Floor, Multistoried Annex Building,
BEST's Colaba Depot
Colaba, Mumbai - 400 001
Telephone No. 22799528

Grievance No. B-461-2022 dtd. 20/07/2022

Rajesh Kumar
(applicant for new electric connection)

..... Complainant

V/S

B.E.S.&T. Undertaking/Licensee

..... Respondent

Present

Coram :

Chairman

Shri S.A. Quazi, Chairman

Members

1. Shrimati Anagha A. Achrekar indepenent Member.
2. Shri S.S. Bansode, Technical Member.

On behalf of the Complainant : Shri Tahir Khan

On behalf of the first Respondent : Shri A.R. Talegaonkar

Date of Hearing : 11/08/2022

Date of Order : 24/08/2022



(Milind Karanjkar)
Secretary
CGRF BEST

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Shri Tahir Khan

Judgment

1. The complaint was received on 19.07.2022 and registered on 20.07.2022 and thereafter the notice was sent to the Respondent to file their reply and documents and after the Respondent filed reply and documents, the matter was kept for hearing the parties on 03/08/2022. On that day, after hearing the parties partly, the forum found it expeditious to ask the parties to file sketch map of the site and some other documents. Hence directions were given accordingly and the matter was adjourned to 11.08.2022. Then on 11.08.2022, the hearing was continued and concluded. The matter was reserved for order. For these reasons delay of 13 days has occurred in deciding the case.
2. The complainant has grievance about delay being caused by the Respondent/licensee in deciding his application bearing No.485492 dtd.20.09.2021, submitted by him to the Respondent for new electric connection in the premises bearing Room No. 403, fourth floor, Vazir Mansion, 244 Narsi Natha Street, Mumbai- 400009.
3. The following facts can be said to be not in dispute between the parties :
 - a) The complainant had submitted his application bearing No.485492 dtd.20.09.2021 to the Respondent/licensee for new electric connection in the premises bearing Room No. 403, fourth floor, Vazir Mansion, 244 Narsi Natha Street, Mumbai- 400009.
 - b) In response to the said application of the complainant, the Respondent issued letter dtd. 30.09.2021, informing the complainant that in absence of certain documents, as listed in the letter, the Respondent was unable to process the said application. In the said letter the Respondent asked the complainant to submit those documents within 15 days from the date of this letter, failing which the application would stand cancelled without any further intimation to the complainant. The following documents were listed in the said letter :
 - i) Specific order from Competent Authority (of MHADA, Mumbai) about electric supply to the applied premises,
 - ii) Plan of building approved by EEBP (Executive Engineer Building Proposals of Municipal Corporation Greater Mumbai)
 - iii) C.C. (Commencement certificate),
 - iv) I.O.D. (Intimation of Disapproval)
 - v) O.C. (Occupation Certificate)
 - vi) N.O.C./LOR from planning Department
 - vii) NOC (No objection certificate) of CFO (Chief Fire Officer)
 - viii) NOC (No objection certificate) of PWD (Public Works Department)
 - c) The complainant had been pursuing the Respondent by letter dt.27.4.2022, 16.5.2022 and 19.5.2022 that he was not legally required to submit these documents. In response thereto, the Respondent has sent letter dt. 04.07.2022 informing the complainant that



(Mihind Karanjikar)
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the matter has been referred to the legal department of the Respondent for opinion and their opinion is awaited.

4. The Complainant's case, as is mentioned in the grievance application/complaint and as submitted by his representative, in the course of the hearing before this forum, may be stated as under:
 - a) The building, in which the applied premises is situated, was vacated for repairing purposes and after repairing was completed some tenants took possession of some tenements therein in the year 2018 and applied for new meter. The Respondent has provided them meters in the year 2019. The complainant took possession of the applied premises/flat on the fourth floor of the building in the year 2021 and applied to the Respondent for giving meter to the premises/flat. However, the application of the complainant is not sanctioned due to some dispute between the land lord and the Municipal Corporation Greater Mumbai (MCGM) about some upper floors. The complainant has already informed through his letter dt. 27.4.2022 that he has no concern with the disputed upper floor-premises. He is settled in the premises located on 4th floor and already meters have been installed for premises situated in the neighbor of the complainant's premises on fourth floor.
 - b) It is submitted by the complainant that in the case of Femida Anees Ujjainwala the BEST Undertaking was refusing to give electric supply, stating that the structure of the applied premises was an unauthorized construction. So the matter was brought before the Consumer Grievance Redressal Forum (CGRF). In that the CGRF had directed the BEST Undertaking/Respondent to provide the electricity to the complainant of the case, but compensation was not awarded to the complainant for delay etc. In the appeal, the Ombudsman directed the Respondent to pay compensation of Rs. 3,100/-. The complainant has referred to the order of Hon'ble Bombay High Court in WP No. 561 of 2016 to in respect of the aforesaid point. He has produced a copy of the said order with the instant complaint.
 - c) According to the complainant, he has submitted all necessary documents about his occupancy, including property tax payment receipt and rent receipt etc. He has also informed to the Respondent that he is ready to give required bond stating that if any authority raises any objection in case of meter being given to the complainant, then the meter may be removed without any intimation to the complainant. However the Respondent is not giving electric supply to the complainant, though he is entitled to get it.
 - d) The complainant has, therefore, requested to direct the Respondent/BEST Undertaking to install electric meter and to provide the electricity to the premises of the complainant.
5. The Respondent/BEST Undertaking (Licensee) has filed its reply and has submitted that the instant grievance application is liable to be dismissed in view that the complainant




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has not produced the documents mentioned in the aforesaid letter dt. 30.09.2021 issued by the Respondent. The case of the Respondent as is submitted by it in its reply and as is submitted by it's representative in the course of hearing, may be summarized as under:

- a) As per the data available on the MCGM portal (Auto DCR), the original structure of the Vazir Mansion (also known as Laxmi Bhawan) was comprising of only ground plus 5 floors prior to starting of its repairing work. The copy of MHADA approved building repair plans uploaded on MCGM portal confirms the same and Respondent has produced it at page 91/C with their reply. The list of original inhabitant with their respective room numbers is also produced by the Respondent at page 93/C and this is taken from the portal of the MCGM. The NOC issued by the MBR and R Board to the original inhabitant of the original building for repair is also produced by the Respondent with their reply at page 95/C to 99/C. The Respondent has submitted that complainant Rajesh Kumar and his so called room No. 403 do not appear in that list of original inhabitant of the original building comprising ground plus 5 floors.
 - b) As per site inspection report dt.02.02.2021, the existing structure of the Vazir Mansion is Ground plus 11 floors and the Respondent has given supply of electricity in the building only up to 5th floor. The owner of the said building has carried out unauthorized construction of additional upper floors up to 9th floor and attic floor under the pretext of repair work. The MCGM has already issued notice dt. 28.4.2018 under section 354A of Mumbai Municipal Corporation Act 1888 to demolish the unauthorized construction. Respondent has also produced copy of this notice. According to the Respondent, the Hon'ble Bombay High Court has disposed W.P.No. 2273 of 2018 filed by the owner of Vazir Mansion against the MCGM and the Hon'ble High Court in its order dt. 22.01.2020 has observed that the Municipal Corporation shall forthwith proceed to demolish the unauthorized construction. The Respondent has also produced copy of this order at page 109/C to 110/C.
 - c) In view of the above submissions in the reply, the representative of the Respondent has submitted that the building is an unauthorized construction and there is an order of the Hon'ble High Court to demolish the same and it may not be lawful to entertain an application of the present complainant for electric supply of his premises. Moreover, in case of dues of electricity in future, the Respondent would not be able to recover by imposing creating charge thereof on the premises, as no charge of such dues can be imposes on an unauthorized premises.
 - d) For all the aforesaid circumstances, the representative of the Respondent has submitted that the instant grievance application is liable to be dismissed.
6. We have heard the parties. In view of the respective pleadings, submissions and the documents of the parties, following points arise for determination, on which we record our findings as under, for the reasons to follow :




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Secretary
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Sr. No.	Points for determination	Findings
1.	Whether the Respondent is entitled to ask the complainant to produce the documents at sr. No. (i), and (vi) to (viii) as described in clause (b) of para 3 herein and as mentioned in the letter dt. 30.09.2021, of the Respondent, to decide as to whether the complainant is entitled to get the electric supply to his premises situated on the fourth floor of the building namely "Vazir Mansion" ?	In affirmative.
2.	Whether the Respondent is entitled to ask the complainant to produce the documents at sr. No. (ii), to (v) as described in clause (b) of para 3 herein and as mentioned in the letter dt. 30.09.2021, of the Respondent, to decide as to whether the complainant is entitled to get the electric supply to his premises situated on the fourth floor of the building namely "Vazir Mansion" ?	In negative.
3.	Whether the delay in deciding complainant's application for electric connection is due to any inaction on the part of the Respondent and whether complainant is entitled for compensation for the alleged delay?	In negative.
4.	What directions are required to be given to the Respondent to dispose of the instant grievance application/complaint?	It will have to be directed by this forum that the Respondent shall not insist the complainant to produce the documents, except the documents at sr. No. (i), and (vi) to (viii) as described in clause (b) of para (3) herein and as mentioned at sr. No. (i), and (vi) to (viii) in the letter dt. 30.09.2021, of the Respondent, to decide as to whether the complainant is entitled to get the electric supply to his premises situated on the fourth floor of the building namely "Vazir Mansion." Accordingly, with these directions the instant grievance



(Signature)
 (Milind Karanjkar)
 Secretary
 CGRF, BSE

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		application is being disposed of as is indicated in the operative order being passed herein below.
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7. We record reasons for aforesaid findings, on the above points for determination, as under :

- a) We have noted the contentions of the parties as mentioned by them in their pleadings as well as in their oral submissions. We have also perused the documents submitted by the parties on record in the course of hearing. We have also noted the admitted facts in Para-3 herein earlier.
- b) It appears from the pleadings and documents of referred to and relied upon by the parties that originally the building called Vazir Mansion, 244 Narsi Natha Street, Mumbai- 400009, was comprising of ground plus 5th floor only. The tenements in the building were under occupation of different occupiers/tenants. The building required repairs and hence on the request of tenants/occupiers and landlord, the Architect firm M/s Supreme Consultant applied to the Chief Engineer of MHADA (Maharashtra Housing and Area development Authority) Mumbai for their sanction and no objection for the repairs. On 23.09.2016 a letter was addressed by the Deputy Chief Engineer of MHADA to the said architect firm M/s Supreme Consultant stating the applied sanction and the no objection certificate has been granted by MHADA for the repairs of the building on the terms and conditions mentioned in the NOC and sanction Letter dt. 23.09.2016. The Respondent has produced copies of the sanction letter and NOC with its reply filed in this proceeding before this forum at pages from 95/C to 99/C. The terms and conditions mentioned in the sanction letter and the NOC include that the repairs should be in accordance with the plans sanctioned by the Municipal Corporation Greater Mumbai (MCGM). The Respondent has also produced copy of proposed plan of the repairs of the ground plus 5 floors of the said building at page 91/C with its reply. It has also produced copy of the list of the occupiers/tenants of the tenements situated at the ground plus 5 floors of the said building, with its reply filed in this proceeding before this forum at pages from 93/C. It appears that these documents of repairing plan and list of tenants/occupiers were submitted by the architect to the authority of MHADA while applying for their sanction and NOC for repairing of the said building and these documents were considered by MHADA for granting sanction and NOC. The floorwise details of numbers of the tenements and names of their occupiers in the said building, as per the said list is as under:



(Signature)
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 Secretary
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Sr.No.	Shop and room No.	User	Names of Tenants
GROUND FLOOR			
1	1	Non- resi.	Mr. Akramal Najibul Sarkar
2	2	Non- resi.	Mr. Jagdish Mavji Rambhiya
3	2-B	Non- resi.	Kiran Mavji Rambhiya
FIRST FLOOR			
4	3	Non- resi.	Mr. Mazlum Muslim Ansari
5	4	Non- resi.	Mr. Muddin Muslim Ansari
6	4-A	Non- resi.	Mr. Usman Ansari
SECOND FLOOR			
7	5	Non- resi.	Smt. Kalavati V.Parmar
8	6-A	Non- resi.	Mr. Mumtaz Namuddin Ansari
9	6-B	Non- resi.	Mr. Mumtaz Namuddin Ansari
THIRD FLOOR			
10	7	Residential	Smt. L.H.Dave
11	8	Residential	Smt. L.H.Dave
12	9	Residential	Mr. Akramal Najibul Sarkar
13	10	Residential	Mr. Mangal E. Dhonde
14	11	Residential	Mr. R.L. Mahtre
FOURTH FLOOR			
15	12	Residential	Mr. Madan K. Redij
16	13	Residential	Mr. Krishna D. Reddi
17	14	Residential	Mr. Arvind K. Maskar
18	15	Residential	Mr. Savita A. Maskar
FIFTH FLOOR			
19	16	Residential	Mr. Akramal Najibul Sarkar

- c) Thus from the aforesaid documents it appears that in the years 2016 before the repairing work was started in the said building it was comprising of ground plus five floors and total tenements were 19 on all the then existing ground plus five floors and on the fourth floor there were four tenements bearing Room No.12, 13, 14, and 15. It also appears that before starting of the repairing work, the aforesaid four tenements, bearing Room No. 12 to 15, were respectively under the occupation of 1) Mr. Madan K. Redij, 2) Mr. Krishna D. Reddi, 3) Mr. Arvind K. Maskar and 4) Mr. Savita A. Maskar, as named in the aforesaid list of occupiers. It also appears that all the aforesaid tenements were provided electric connections separately and individually in the respective names of the occupiers of the aforesaid 19 tenements, as named in the aforesaid list of occupiers, prior to the starting of the repairing work.
- d) In the aforesaid back ground, it appears that the complainant has submitted an application bearing No.485492 dtd.20.09.2021 to the Respondent/BEST Undertaking for



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Secretary
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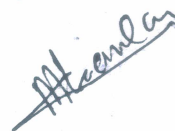
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new electric connection in the premises describing it as Room bearing No. 403, situated at fourth floor, Vazir Mansion, 244 Narsi Natha Street, Mumbai- 400009. Admittedly the Respondent issued letter dtd. 30.09.2021, informing the complainant that in absence of certain documents, as listed in the letter, the Respondent was unable to process the said application. In the said letter the Respondent asked the complainant to submit those documents within 15 days from the date of this letter, failing which the application would stand cancelled without any further intimation to the complainant. The following documents were listed in the said letter:

- i) Specific order from Competent Authority (of MHADA, Mumbai) about electric supply to the applied premises,
 - ii) Plan of building approved by EEBP (Executive Engineer Building Proposal of Municipal Corporation Greater Mumbai)
 - iii) C.C. (Commencement certificate),
 - iv) I.O.D. (Intimation of Disapproval)
 - v) O.C. (Occupation Certificate)
 - vi) N.O.C./LOR from planning Department
 - vii) NOC (No objection certificate) of CFO (Chief Fire Officer)
 - viii) NOC (No objection certificate) of PWD (Public Works Department)
- e) We have examined the aforesaid submissions of the parties in the aforesaid facts of the case. We find that case of the Respondent is that it is entitled to see before sanctioning electric connection to the complainant it is entitled to see whether the applied premises is an authorized structure or not and to see whether it violates directions of law and the authorities and under statute. The complainant's submissions are that under the Electricity Act and MERC Regulations framed there under it is not within the authority of the Respondent to ask the complainant to produce the aforesaid documents as mentioned in its letter dt. 30.9.2021. It is submitted by the representative of the complainant that Respondent is only entitled to require the complainant to give under taking in case the connection is found in contravention of any law or direction of any legal authority, the complainant would not have any objection if supply is disconnected consequent to such violation and complainant is ready to submit such undertaking or bond to the Respondent.
- f) We are unable to agree with the submissions of the complainant that the Respondent is not entitled to see and ascertain that the structure/premises for which new electric connection is requested to be given, is legal and authorizes and fulfills all the prevailing norms of security. At least when there is direction of the Hon'ble High court in the case of W.P.No. 2273 of 2018 vide the order dt. 22.01.2020, it is duty of the Respondent to ascertain that the premises of the complainant is not an unauthorized structure and it fulfills all the norms of the security, before giving electric connection. From the copy of order dt. 22.01.2020 of the Hon'ble Bombay High Court in W.P.No. 2273 of 2018, as produced by the Respondent with its reply at page 109/C to 110/C in the instant proceeding, it appears that the said writ petition was filed by one Dilip




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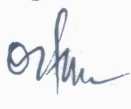


Babulal Shah against the MCGM and others alleging that under the guise of repairing work of Vazir Mansion unauthorized construction was carried. In the said case, the Hon'ble Bombay High Court in its order dt. 22.01.2020 has directed that the Municipal Corporation shall forthwith proceed to demolish the unauthorized construction in respect of the said building. The representative of the complainant has submitted that these directions of the Hon'ble High court are only with respect to the floors above the fifth floor and not regarding the fourth floor of the said building, where the applied premises/tenement of the complainant is situated. It may be noted that the complainant has not produced copy of writ petition of any other document in support of this submissions. Therefore Respondent is entitled to ask the complainant to produce the documents to ascertain and verify that the above directions of the Hon'ble High court are not applicable to the tenement of the complainant.

- g) The complainant has relied upon copy of order dt. 20.7.2018 passed by this forum (presided over by the then Learned Chairman Shri V.G. Indrale) in the case bearing No. S.D.355-2018, (Smt. Femida Anees Ujjainwala V/s BEST Undertaking) In that case it was held by the forum that in view of the provisions of Regulation 4 of MERC (Electricity Supply Code and Other Conditions of Supply) of 2005, occupier is entitled for electric connection if he /she produced any one of the documents listed in the said regulation 4 and one of those documents is rent receipt and thus on production of rent receipt the occupancy and be assumed to provide electric supply. The complainant has also relied upon order dt. 20.10.2018, passed by the Hon'ble Ombudsman in the Reference No. 208 of 2018, which was filed being aggrieved by the said order dt. 20.7.2018 about refusal of relief to grant compensation for delay in giving connection. The Hon'ble Ombudsman has held that in the facts of the aforesaid case of Femida Anees Ujjainwala v/s BEST Undertaking that despite production of rent receipt the BEST Undertaking delayed the connection, the complainant was entitled for compensation from the BEST Undertaking and accordingly direction to pay compensation of Rs. 3,100/- under the SOP Regulations 2014 framed by the MERC under section 43 of The Electricity Act, 2003. We find that these orders are not helpful to the complainant in contending that the Respondent should ignore the aforesaid directions given by the Hon'ble Bombay High Court to the MCGM regarding ascertaining the unauthorized construction and to demolish the unauthorized construction in the said building , wherein the applied premises of the complainant also exists. Similarly, the copy of order dt. 08.04.2011, passed by this forum (presided over by the then Learned Chairman Shri V.G. Indrale) in the case bearing No. S-B-114-2011, (Mr. Munna Kudia V/s BEST Undertaking). In that case the Respondent licensee had asked the complainant to produce inspection extract papers verified from the BMC Authority for proving the authenticity of the premises for which the electric connection was applied. It was held by the forum that during the pendency of hearing the complainant had produced before the forum the said inspection extract in respect of the premises located on the terrace floor i.e. 6th floor and it was admitted by the Respondent licensee that it had provided electricity to the premises upto 5th floor. In view of such facts the forum directed to the licensee to provide electric supply to the premises of the complainant situated on 6th floor of the building involved in that case. Thus in that case also after production of some documents in the proceeding




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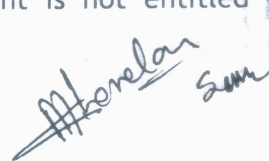




before the forum, the authorization about construction of premises was ascertained and then direction was given by the forum to supply electricity to the premises of the complainant. Hence this order does help the complainant in contending that the Respondent is not entitled to ascertain the authorization of construction of the applied premises.

- h) Similarly, the decision of the Hon'ble Division bench of the Hon'ble Bombay High court dt. 08.12.2016 in the case of "Ismail Musabhai Bilakhiya v/s General Manager and another (W.P. No. 561 of 2016) is not applicable to the facts of the instant case. In that case the licensee had not decided the application for electric supply and the same had been kept pending on the ground that the MCGM had invited its attention to the order dt. 11.09.2014 passed by the Hon'ble single bench of the Hon'ble Bombay High court in Civil Application No. 3802 of 2012 in First Appeal No. 1599 of 2013. The Hon'ble Division held in its order dt. 08.12.2016 that "On plain reading of the said order, we are of the view that the same does not come in the way of the first Respondent considering the Applications made by the Petitioners for grant of electricity connection." With these observations the Hon'ble division bench directed the Respondents of that case to decide the applications for electric connection and not reject the same on the basis of the order dt. 11.09.2014 passed by the Hon'ble single bench of the Hon'ble Bombay High court in Civil Application No. 3802 of 2012 in First Appeal No. 1599 of 2013. From the copy of the the decision of the Hon'ble Division bench of the Hon'ble Bombay High court dt. 08.12.2016 in the case of "Ismail Musabhai Bilakhiya v/s General Manager and another (W.P. No. 561 of 2016), as is produced by the complainant it is not seen that in the said case there were directions of the Hon'ble High court to demolish unauthorized construction of the building in which applied premises is situated. In the instant case it appears that the Hon'ble High Court has directed the MCGM to demolish unauthorized construction in respect of the building in which the applied premises is situated on the fourth floor of it. Therefore, the Respondent will have to ascertain whether these directions are applicable to the applied premises and to do so it can ask the complainant to produce documents which will rule out applicability of the above directions of the Hon'ble High Court. In view of such peculiar facts of the instant case, the above decision of Hon'ble Division Bench is distinguishable. Hence it is not applicable to the facts of the instant case to be helpful to the case of the complainant.
- i) The complainant has produced copy of Circular dt. 18.10.2016 issued by the Industry Energy and Labour Department of Govt. of Maharashtra. In that circular directions have given to all the licensees to provide electricity on production of occupancy of residential premises as mentioned in clause 4 of MERC (Electricity Supply Code and Other Conditions of Supply) of 2005 and it has further been directed that if applicant produces his/her photo identity card and valid proof of his occupancy about applied premises if there is no legal bar to provide electric connection, then electric supply should be given by the licensees. Even as per this circular licensee is entitled to ascertain whether there is any legal bar in respect of giving electric connection. Therefore also it cannot be said that the Respondent is not entitled to ascertain




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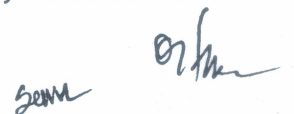


whether the applied premises falls within the category of unauthorized construction about which the directions have been given by the Hon'ble Bombay High Court in its aforesaid order dt. 22.01.2020 in W.P.No. 2273 of 2018.

- j) The other documents produced and relied upon by the complainant in contending that the applied premises is authorized construction and therefore the Respondent is not entitled to ascertain whether the applied premises falls within the category of unauthorized construction about which the directions have been given by the Hon'ble Bombay High Court in its aforesaid order dt. 22.01.2020 in W.P.No. 2273 of 2018. All these documents are pertaining either to other persons or other premises. There is specific reference of the complainant or his premises in these documents, which are mostly issued by Municipal Corporation about assessment etc. Hence, they are not relevant to the issues involved in the instant case in respect of the applied premises.
- k) Having observed as above, we hold that the Respondent is entitled to ascertain whether the applied premises falls within the category of unauthorized construction about which the directions have been given by the Hon'ble Bombay High Court in its aforesaid order dt. 22.01.2020 in W.P.No. 2273 of 2018, to the MCGM for demolition. Now the question, whether for this purpose all the seven documents, as described in clause (b) of para 3 herein and as mentioned in the letter dt. 30.09.2021, of the Respondent, are necessary to be produced by the complainant. It may be noted that the building in question was comprising of ground plus five floors. The sanction letter and NOC dt. 23.09.2016 was addressed by the Deputy Chief Engineer of MHADA to the said architect firm M/s Supreme Consultant stating the applied sanction and the no objection certificate has been granted by MHADA for the repairs of the building on the terms and conditions mentioned in the NOC and sanction Letter dt. 23.09.2016. The Respondent has produced copies of the sanction letter and NOC with its reply filed in this proceeding before this forum at pages from 95/C to 99/C. The terms and conditions mentioned in the sanction letter and the NOC include that the repairs should be in accordance with the plans sanctioned by the Municipal Corporation Greater Mumbai (MCGM). The Respondent has also produced copy of proposed plan of the repairs of the ground plus 5 floors of the said building at page 91/C with its reply. Taking into consideration these circumstances and also that there were already ground plus five floors in the building and the applied premises of the complainant is said to be situated at fourth floor, the documents at sr.No. (i) and (vi) to (viii) as described in clause (b) of para 3 herein and as mentioned in the letter dt. 30.09.2021, of the Respondent, appear to be essential for ascertaining whether the premises in question situated at fourth floor is also affected by aforesaid the order dt. 22.01.2020 in W.P.No. 2273 of 2018, passed by the Hon'ble Bombay Court and whether by virtue of it there is any legal bar for giving electric connection to the premises. The document at Sr. No. (i) is described as "specific order from Competent Authority (of MHADA Mumbai) about electric supply to the applied premises,". It is essential because MHADA appears to have granted sanction and NOC for repairs of ground plus five floors of the building already existed. The documents at Sr. No. (vi) to (viii) are respectively described as




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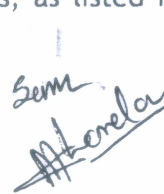


Anand

"NOC/LOR from Planning Department," "NOC (No objection certificate) of CFO (Chief Fire Officer)" and "NOC (No Objection Certificate) of CFO (Chief Fire Officer)" The Respondent has also to see that safety and convenience of all concerned are required to be secured before electric supply is connected. Therefore if such documents are asked to be produced after completion of repair works then it cannot be said to be a violation any provision of law and prevailing practices to be observed which giving electric connections. No doubt during the course of hearing it has been conceded by the Respondent's representative on some premises from ground floor to fifth floor already connections have been given after repairs having been done. But, it appears that they were given either before the aforesaid directions were given by the Hon'ble High Court in its order dt. 22.01.2020 passed in W.P.No. 2273 of 2018 or before these directions were brought to the notice of the Respondent. Therefore, it is not necessary that because others have been given electric connection as above, the Respondent is not entitled to ask the complainant to produce the documents, which are necessary to ascertain as to whether the premises of the complainant is affected or not affected by the directions given by the Hon'ble High Court in its order dt. 22.01.2020 passed in W.P.No. 2273 of 2018. Hence, we have recorded affirmative findings on point No.1.

- l) With regard to the documents at sr. No. (ii) Plan of building approved by EEBP (Executive Engineer Building Proposals of Municipal Corporation Greater Mumbai) (iii) C.C. (Commencement certificate), (iv) I.O.D. (Intimation of Disapproval) and (v) OC (Occupation Certificate), as described in clause (b) of para 3 herein and as mentioned in the letter dt. 30.09.2021, of the Respondent, we hold that they do not appear to be essential for ascertaining whether the premises in question situated at fourth floor is also affected by aforesaid order dt. 22.01.2020 in W.P.No. 2273 of 2018, passed by the Hon'ble Bombay Court and by virtue of it there is any legal bar for giving electric connection to the premises. The reason for such conclusion about these documents is that such documents are relevant when there is new construction of any structure. As the building from ground floor to fifth floor already existed and prima facie it was taken for repair work, these documents are not relevant to ascertain the authorization of repair works of these floors. Therefore, we hold the demand made by the Respondent in their letter dt. 30.09.2021 is unjust and hence we hold that the Respondent is not entitled to ask the complainant to produce these documents. Hence we have recorded negative findings on point No. 2.
- m) As far as request made by the complainant in the present complaint/ grievance application about giving direction to the Respondent to pay compensation for delay in deciding his application for electric connection, is concerned, it may be noted that the complainant had submitted his application bearing No.485492 dtd.20.09.2021 to the Respondent/licensee for new electric connection. It is not disputed that the Respondent sent letter dt. 30.09.2021 to the complainant requiring him to produce the documents mentioned at sr. (i) to (viii) in clause (b) of para 3 herein and as mentioned in the letter dt. 30.09.2021, of the Respondent. In the said letter the Respondent had also informed the complainant that in absence of certain documents, as listed in the

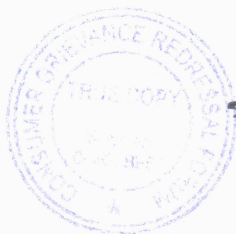




 (Milind Karanjkar)
 Secretary
 CGRF BEST




 

letter, the Respondent was unable to process the said application. In the said letter, the Respondent asked the complainant to submit those documents within 15 days from the date of this letter, failing which the application would stand cancelled without any further intimation to the complainant. In view of these contents of the letter dt.30.09.2021 issued by the Respondent, the application cannot be said to be pending any more before the Respondent as within 15 days of this letter the complainant was to produce the documents and on his failure to do so the application automatically stood disposed of. No doubt subsequently complainant had been pursuing the Respondent by letters dt.27.4.2022, 16.5.2022 and 19.5.2022 that he was not legally required to submit these documents and in response thereto, the Respondent sent letter dt. 04.07.2022 informing the complainant that the matter had been referred to the legal department of the Respondent for opinion and their opinion was awaited. However, this does not mean that the Respondent has delayed the decision on the application. The Respondent in its letter dt. 30.9.2021 itself had informed that if documents are not produced, the application shall stand disposed off. The complainant has referred to the order dt. dt. 20.10.2018, passed by the Hon'ble Ombudsman in the Reference No. 208 of 2018 (Femida Anees Ujjainwala v/s BEST Undertaking), which was filed being aggrieved by the order passed by CGRF refusing of to grant compensation for delay in giving connection. The Hon'ble Ombudsman has held that in the facts of the aforesaid case of that despite production of rent receipt the BEST Undertaking delayed the connection, the complainant was entitled for compensation from the BEST Undertaking and accordingly direction to pay compensation of Rs. 3,100/- under the SOP Regulations 2014 framed by the MERC under section 43 of The Electricity Act, 2003. In the said case it was observed by the Hon'ble Ombudsman that Practice direction issued by the MERC under the Supply Code Regulation 2005, on 20th April 2015 provides that licensee shall endeavor to release connection within 15 days from the date of application, else licensee shall be liable to pay compensation at the rate of Rs. 100/- per week of the period of the delay. In the instant case, we find that the licensee is not liable to pay any compensation firstly for the reason that application was dealt with by it on tenth day of submission of the application, by sending the letter 30.9.2021 stating that if documents are produced within 15 days, the application shall stand disposed off. As we have held that some of the documents asked to be produced are required for deciding the entitlement of the complainant, it cannot be said that by asking to produce the documents, the Respondent has caused any harassment to the complainant, as alleged by the complainant. In view of these circumstances, we hold that the Respondent is not liable to pay any compensation to the complainant. Accordingly, we have recorded negative findings on point No. 3.

- n) In view of the affirmative findings on point No. (1) and negative findings on point No. (2) and (3), we hold that the instant grievance application will have to be partly allowed, as is being indicated in the operative order being passed here in below. Accordingly, we have answered the point (3) and in the aforesaid terms the present complaint/ grievance application is being disposed of by this forum, as is being indicated in the operative order being passed here in below. Hence, we pass the following order.




(Milind Karanjkar)
Secretary
CGRDC

Order

- 1) The instant grievance application No.B-461-2022 dtd.19/07/2022 is partly allowed and disposed off in the following terms:
 - a) The Respondent / Licensee/Undertaking is directed to withdraw it's demand asking the complainant to produce the documents mentioned at Sr. No. (ii) Plan of building approved by EEBP (Executive Engineer Building Proposals of Municipal Corporation Greater Mumbai) (iii) C.C. (Commencement certificate), (iv) I.O.D. (Intimation of Disapproval) and (v) OC (Occupation Certificate), as described in clause (b) of para 3 herein and as mentioned in the letter dt. 30.09.2021, of the Respondent.
 - b) If the complainant complies with the requirement about production of documents at sr. (i) and (vi) to (viii) mentioned in the letter dt. 30.09.2021 and as described in clause (b) of para 3 herein, the Respondent shall deal with the application of the complainant in accordance with law.
 - c) Rest of the prayers made by the complainant stand **refused**.
- 2) Copies of this order be given to all the concerned parties.

S.S.
Shri. S.S Bansode
(Member)

Anagha A. Achrekar
Smt. Anagha A. Achrekar
(Member)

S.A. Quazi
Shri S.A. Quazi
(Chairman)



Milind Karanjkar
(Milind Karanjkar)
Secretary
CGRF BEST