

**FARAD CONTINUATION SHEET No.**  
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**WRIT PETITION NO. 6619/2019**

(MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED, WARDHA **VERSUS**  
MOHAN PUNDLIKRAO MANMODE & ANOTHER)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri S.V. Purohit, counsel for petitioner.  
Shri P.R. Puri, counsel for respondent no.1.

**CORAM : A.S. CHANDURKAR, J.**

**DATE : OCTOBER 11, 2019.**

The challenge raised in the present writ petition is to the order dated 30.04.2019 passed by the Consumer Grievance Redressal Forum by which the grievance as raised by the respondent no.1 has been allowed and the petitioner has been directed to refund the amount paid by the respondent no.1 towards the expenditure that has been borne by him in installing the line connecting electricity to his plot.

The respondent no.1 herein had moved an application in the matter for grant of electrification to his layout. After considering the requirement of the respondent no.1, the petitioner on 09.06.2017 was pleased to sanction the same. That sanction was under the Dedicated Distribution Facility (DDF). The respondent no.1 was called upon to therefore deposit the amount of Rs.14,36,724/- being the amount of expenses to be incurred for installing the requisite facility. The respondent no.1 accordingly deposited that amount. The petitioner accordingly gave respondent no.1 the requisite connection. Thereafter on 13.12.2018, the respondent no.1 approached the Internal Grievance Redressal Cell and claimed refund of the infrastructure cost that were incurred by

him. The said Grievance Cell rejected his claim on 18.02.2019 by observing that said claim was not justified. Being aggrieved, the respondent no.1 raised a grievance before the Consumer Grievances Redressal Forum. The said Forum by its order dated 30.04.2019 held that there was no Dedicated Distribution Facility provided to the respondent no.1 and therefore the petitioner was not entitled to recover those expenses from him. It therefore directed refund of that amount alongwith interest. Being aggrieved, the said order has been challenged in the present writ petition.

Shri S.V. Purohit, learned counsel for the petitioner submitted that the Forum committed an error in allowing the grievance raised by the respondent no.1. Referring to the provisions of Clause 2(9) of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other Conditions of Supply) Regulations, 2005, it was submitted that the facilities provided to the respondent no.1 were in accordance thereto. The supply given was exclusively for the use of the respondent no.1 and it could not be said that the respondent no.1 alone was not entitled to such exclusive facility. He having agreed to bear the infrastructure cost and also not to claim any refund, the respondent no.1 was estopped from raising a grievance in that regard. According to him, the Forum was not justified in relying upon the observations as made by this Court in its judgment dated 30.04.2019 in **Writ Petition No.468 of 2018** [*Maharashtra State Electricity Distribution Company Limited (MSEDCL), Nagpur Versus M/s Darpan Multi Polypack (India) Private Limited, Nagpur & Another*]. The facts of that case were clearly distinguishable. He therefore submitted that without considering the relevant facts and ignoring the conduct of the respondent no.1, the impugned order had been passed.

Shri P.R. Puri, learned counsel for the respondent no.1 supported the impugned order. According to him, there was no material on record to indicate that the petitioner had provided Dedicated Distribution Facility to the respondent no.1. Referring to the sketch thereby indicating the manner in which the supply was provided to the respondent no.1, it was submitted that the same was from 11KW Borgaon Feeder. Thus by tapping the line in question, that supply had been provided to the respondent no.1. The observations made in the decision in *M/s Darpan Multi Polypack (India) Private Limited* (supra) were clearly applicable. He also referred to the observations made by the Maharashtra State Regulatory Commission in that regard. He therefore submitted that there was no reason to interfere with the impugned order.

I have heard the learned counsel for the parties and I have perused the documents on record. It is not in dispute that pursuant to the request made by the respondent no.1, he was provided with an estimate for electrification of the layout in question. The amount of Rs.14,36,724/- was directed to be deposited towards those expenses. While according to the respondent no.1 there was no Dedicated Distribution Facility provided to the said layout, it is the case of the petitioner that such facility was infact provided. Under Clause 2(g) of the said Regulations, Dedicated Distribution Facility means a facility which forms part of the distribution system of the licensee which is clearly and solely dedicated to supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises. This provision was the subject matter of interpretation by the Maharashtra Electricity Regulatory Commission and it was observed that a mere extension or tapping of the existing low tension or high tension line could not be treated as Dedicated Distribution Facility.

The Dedicated Distribution Facility would mean a separate distribution feeder or line emanating from a transformer or a sub-station or a switching station that has been laid exclusively for giving supply to a consumer or a group of consumers. It has been further observed that if a consumer does not seek Dedicated Distribution Facility, the licensee has to develop its own infrastructure to give such electricity supply. In the present case, there is no material to indicate that such Dedicated Distribution Facility was provided to the respondent no.1. On the contrary, it is seen that there was a tapping of line from the existing 11KW Borgaon Feeder which in turn was receiving supply from 33KW Borgaon sub-station. This aspect is substantiated by the sketch prepared by the Assistant Engineer of the petitioner itself.

It is thus found that the Forum was justified in relying upon the observations made in *M/s Darpan Multi Polypack (India) Private Limited, Nagpur & Another* (supra). Moreover, in the light of the decision of the Hon'ble Supreme Court in *Chandu Khamaru Versus Nayan Malik & Others* [**Civil Appeal No.7572 of 2011** (Arising out of S.L.P. (C) No.15332 of 2008)], it was the responsibility of the distribution licensee to make necessary arrangements to develop its own infrastructure to give electric supply in terms of Section 43 of the Electricity Act, 2003. The conclusion recorded by the Grievance Cell does not deserve to be interfered with. In that view of the matter, the challenge to the impugned order fails.

The Writ Petition is thus dismissed with no order as to costs.

**JUDGE**