

BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
MADHYA GUJARAT VIJ CO LIMITED
CORPORATE OFFICE, 2ND FLOOR SP VIDYUT BHAVAN,
RACECOURSE, VADODARA 390 007

Subject	Consumer Grievances Complaint No.MG-III-46-09.10
Complainant	M/s. Excel Electric Company, DI Patel estate, Bajwa, Vadodara.
Respondent	Shri R D Chandel, DE Koyali s/dn MGVCL.
Date of hearing	30.12.2009

QUORUM	NAME
Chairman	Shri S A Pota, MGVCL
Member	Shri K R Shah, MGVCL
Independent Member	Dr R C Desai, Vadodara

This complaint dated 01.12.09 is directed against the delay in releasing new 3 phase electric connection.

Today on 30.12.2009, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Shri Prakash Dave, President, appeared on behalf of M/s. Excel Electric Company, whereas Shri R D Chandel, DE Koyali, appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard.

The facts of the case are as follows:

The complainant had applied for a new electric connection by registering a formal application along with registration fees on 17.11.2009. On account of the dispute between the owner of the premises and the lease Excel Electric company pending in the court and procedure of verification of necessary documents including the unregistered lease agreement with the landlord, there was a delay in releasing the new connection. There is a legal wrangle pending in the court against the complainant for vacation of the premises filed by the landlord. Aggrieved by the procedural delay he approached this Forum with a complaint dated 12.10.09 against delay in releasing the connection. He was called to appear before this Forum on 23.11.09. The complainant withdrew the petition on an assurance from Chief Engineer to release the connection as soon as possible. But under the presumption that the connection might not be released soon for some unforeseen reasons, he filed another complaint before this Forum on 1.12.09 seeking prompt release of electric connection. In the meantime, he also filed civil suit No.1306 of 2009 in the Hon'ble court of Vadodara Sr Civil Judge in Dec 2009 seeking direction to MGVCL to release the new electric connection. He was called to appear before this Forum today.

Shri Prakash Dave who appeared as President of the complainant company contended that though he started the procedure for availing the new

connection in Nov-2009 and inspite of clear assurance from the person of no less than the rank of a Chief Engineer, the new connection is not released yet. He is suffering financial loss due to delay in his business venture and he prayed for early release of connection. He also submitted that the legal suit pending in the court for the premises was between himself and landlord and that MGVCL was not the party concerned with it.

The Respondent Shri R D Chandel, DE of MGVCL contended that the delay in release of connection after his application dated 17.11.09 was due to verification of documents and consultation with authorities within MGVCL. However, after the assurance from the Chief Engineer for release of the new connection when his office was working on procedures for releasing the new connection, the complainant filed a civil suit No.1306 of 2009 in the Hon'ble court of Vadodara Senior Civil Judge in Dec 09 seeking direction to MGVCL to release the new connection.

The Forum Members present at the hearing considered contention of both the parties and perused the records. The complainant was assured of releasing the new connection as soon as possible just before the hearing on 23.11.2009 and he had withdrawn the complaint. The complainant should have waited patiently for the response of MGVCL for providing the new connection for some time. But out of panic due to some unforeseen reasons, the complainant has filed another complaint dated 1.12.09 before this Forum and he has also filed a legal suit against MGVCL in Dec-09. The Forum members were to consider his complaint today for prompt release of new connection but they are handicapped to deal with this matter which has been taken to arena of judicial court by the complainant.

As per GERC Notification No.4 of 2004, Chapter-III Clause 7(q), the Consumer Grievances Redressal Forum is restrained from hearing cases pending simultaneously in judicial court for the same matter. For the perusal of all concerned, the aforesaid regulation clause is cited hereunder:

GERC Notification No.4 of 2004, Chapter-III [Clause 7(q)]:

(q) the consumer shall not be entitled to approach the Forum in the following cases:

- i) in cases where proceedings in respect of the same matter and between the same complainant and the licensee, are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has been passed by any such court, tribunal, arbitrator or authority; and
- ii) in cases which fall made the sections 126, 127 135 to 139, 152 and 161 of the Act.

In view of the above regulation, this Forum expresses its inability to hear this complaint, the matter of which is simultaneously pending in the judicial court.

ORDER

The Forum express its inability to respond to this complaint, the matter of which is pending in the judicial court.

(K R Shah)
Member

(Dr R C Desai)
Independent Member

(S A Pota)
Chairman

PS :

If the complainant is not satisfied with the order of this Forum, the complainant may approach the Ombudsman, Gujarat Electricity Regulatory Commission, 1st floor, Neptune Tower, OPP: Nehru Bridge, Ashram Road, Ahmedabad 380 009 in accordance with Chapter-5, Clause No.13 of GERC Notification No.4 of 2005.

Procedure to make representations before Ombudsman***

1. Representation should be in writing duly signed by the complainant with his name and address.
2. Representation should be supported with affidavit.
3. True copy of order of Forum and original complaint made before Forum should be attached. Enclosed documents should be certified copies of the original documents.
4. The representation before Ombudsman should be submitted within 30 days from the date of order of Forum.
5. Copy of representation should be submitted at the office of Ombudsman. Copy of representation should be submitted to all respondents.
6. If the complainant is required to pay any amount according to the order of Forum, one-third of such amount should be deposited by complainant and proofs should be attached along with the representation.
7. The matter should not be pending before the competent Forum or any other court, tribunal, arbitrator or any other authority.
8. All representations should be with a sufficient cause, reasonable diligence causing the consumer prima facie loss and damages / inconvenience.
9. Representation may be submitted in English or Gujarati language

*** <http://www.gercin.org/docs/Cosumer%20Grievances/Procedure/Procedure.pdf>