

ગુજરાત વિદ્યુત નિયંત્રક આયોગ  
વિદ્યુત લોકપાલ, ગુજરાત રાજ્ય,  
પોલીટેકનીક કમ્પાઉન્ડ, બેરેક નં.૩, આંબાવાડી,  
અમદાવાદ-૩૮૦૦૧૫

સમક્ષ

કેસ નં.૦૭/૨૦૧૯

અરજદાર: શ્રી મિતુલ એસ. નાવડીયા  
૩૧૦, સિલ્વર એમ્પાયર બિલ્ડીંગ, ઉત્રાણ પાવર હાઉસ સામે, વી.આઈ.પી.સર્કલ  
ઉત્રાણ, સુરત-૩૯૪૧૦૫

રજૂઆત કરનાર: શ્રી મિતુલ એસ. નાવડીયા

વિરૂધ્ધ

સામાવાળા : મેનેજર  
ટોરેન્ટ પાવર લિમિટેડ  
ટોરેન્ટ હાઉસ, સ્ટેશન રોડ, સુરત-૩૯૫૦૦૩.

રજૂઆત કરનાર: Shri Praful Thakkar, Vice President(Legal), TPL, Ahmedabad  
Shri Randall Williams, AM, TPL, Ahmedabad  
Mrs. Sristi Patel, AM(Legal), TPL, Ahmedabad

::: રજૂઆત :::

- ૧.૦. અરજદારે, ટોરેન્ટ પાવર લિમિટેડ, સુરતના ગ્રાહક ફરિયાદ નિવારણ ફોરમની ફરિયાદ નં.૧૮/૨૦૧૮-૧૯ અન્વયે અપાયેલ હુકમ ક્રમાંક ૧૦૬૪૩ તા. ૨૮.૦૧.૨૦૧૯ થી નારાજ થઈ અત્રે રજૂઆત કરેલ છે. જે રજૂઆતને આ કચેરીના કેસ રજીસ્ટરે દાખલ કરી કેસ નં.૦૭/૨૦૧૯ થી નોંધેલ છે. આ કેસની સુનવણી તા.૨૬.૦૨.૨૦૧૯ ના રોજ રાખવામાં આવેલ જેમાં અરજદાર હાજર રહી શકે તેમ ન હોઈ બીજી મુદતની માંગણી કરેલ. સદર કેસની અન્ય સુનવણી તા.૦૫.૦૩.૨૦૧૯ તથા તા.૨૬.૦૩.૨૦૧૯ ના રોજ રાખવામાં આવેલ.
- ૨.૦. સુનવણી દરમ્યાન અરજદારે નીચે મુજબ રજૂઆત કરી.
- ૨.૧. અરજદાર, પ્લોટ નં.૨૪૬, પંડોલ રોડ, ઈન્ડ. સર્વિસ સોસાયટી, વેડરોડ, કતારગામ, સુરત ખાતે મિલકત ધરાવે છે. સદર મિલકતમાં સામાવાળા દ્વારા અરજદારને કોઈ પણ જાતની જાણ કર્યા વિના કે પૂર્વ મંજૂરી લીધા વિના, ૭૦' x ૧૦' માપ ધરાવતી જુદી જુદી સાત બી.બી.સી.પેટી (MSP) ગેરકાયદેસર રીતે ઉભી કરવામાં આવેલ છે. અરજદારે જણાવેલ કે સદર પ્રકારનો પ્રશ્ન

- અરજદાર સમક્ષ જ ઉદ્ભવેલ હોય તેમ જણાય છે. અરજદારે બી.બી.સી.પેટી (MSP) નો નકશો રજૂ કર્યો.
- ૨.૨. સામાવાળાના વકીલ દ્વારા જણાવવામાં આવેલ છે કે બધી જ બી.બી.સી. પેટી (મિનિ સેક્શન પીલર) કાયદેસર છે, પરંતુ તે તદ્દન ખોટી વાત છે. અરજદારે માંગેલ RTI માહિતી મુજબ સુરત મહાનગર પાલિકાએ પણ સદર બાબત નકારેલ છે, જે અંગે સુરત મ્યુનિસિપલ કોર્પોરેશનના પત્રની નકલ અરજદારે રજૂ કરેલ.
- ૨.૩. અરજદારે સદર બાબતે અનેક વખત લેખિત, મૌખિક તથા ટેલિફોનિક રજૂઆત સામાવાળા વીજ કંપનીને કરેલ હોવા છતાં, સામાવાળા વીજ કંપની અયોગ્ય વર્તન કરીને અરજદારની મજબૂરીનો લાભ લઈને ચેનકેન પ્રકારે અરજદારને હેરાન કરતા આવેલ છે.
- ૨.૪. બી.બી.સી. પેટી (MSP) હટાવવાની વાત કરવામાં આવતાં સામાવાળા વીજ કંપની દ્વારા તેને નકારી કાઢવામાં આવેલ છે, તેમજ ત્યારબાદ મોટી રકમના અંદાજપત્ર અરજદારને પાઠવવામાં આવેલ છે. બી.બી.સી. પેટી (MSP) સ્થળફેર કરવા માટે સામાવાળા દ્વારા અરજદારને તા.૦૮.૦૬.૨૦૧૮ ના રોજ રૂ.૩૪,૬૯૬/- નું અંદાજપત્ર પાઠવવામાં આવેલ છે.
- ૨.૫. અરજદારે સદર MSP શિફ્ટ કરવા તથા સામાવાળા દ્વારા પાઠવવામાં આવેલ અંદાજપત્રને રદ કરી, સદર બાબતે યોગ્ય તપાસ કરી, માહિતી મેળવી, અરજદારને યોગ્ય ન્યાય આપવા વિનંતી કરી.

**3.0.** Respondent has represented the case as under.

- 3.1. Taking the preliminary objection, it is submitted that present Appellant does not fall within the definition of a complainant as per Clause 1.5(c) and 1.5(d) of GERC Regulations, 2011. The subject matter of grievance does not relate specifically to his own service connection and is an attempt to violate the basic principles of law by filing matters wherein he has no locus standi.

Additionally, Appellant has suppressed material facts in CGRF as well as in the office of Hon'ble Ombudsman. Appellant had applied for service connection for industrial purpose, but he has commenced commercial activity.

Furthermore, the previous consumer had applied for connection in the year 1991 and thirteen electric distribution sub-stations of which Pandol Industrial Estate No. 2 distribution sub-station was commissioned on 18.09.1989. So it is very evident that he applied for connection after installation of BBC's and no grievance in relation to the BBC's were made till 16.12.2017.

It is also important to note that Appellant does not seem to be an affected party as the BBC's that are installed are placed around premises of different shops, such as Maakrupa Medical store, Chamunda store etc., and there is nothing placed on record to prove that Appellant is the owner of those shops.

3.2. Respondent has submitted facts of the matter along with other legal submission as under:

- (a) Appellant is a consumer of the Respondent and is supplied with electricity (3-phase) for industrial purpose at Plot No.246 at Pandol Industrial Estate vide Service No.500263570.
- (b) on 04.12.2017, a registered sale deed was executed between the heirs of Mr. Jayantilal Bhagwanji (previous consumer) and Appellant for the above mentioned premises. Respondent has submitted copy of Index.
- (c) On 16.12.2017, Appellant wrote a letter to Respondent requesting for shifting of Bus Bar Chambers which have been installed near his shop/place of business. He also mentioned that he is willing to pay the shifting expenses. The description of the BBCs in the aforesaid mentioned letter is as under:
  - (A) T4P4D2/3019/38 (New No. 30/1141)
  - (B) T2P2D2/3019/21 (New No. 30/0349)
  - (C) T3P2D08/30/1240.

Respondent has submitted a copy of the above mentioned letter.

- (d) On 25.12.2017, Respondent replied to letter dated 16.12.2017 and requested Appellant to meet the concerned officials of the estimates department personally, but he never appeared before the Respondent for necessary discussion. Respondent has submitted a copy of the above mentioned letter.
- (e) On 04.06.2018, Appellant, irrespective of the fact that at that point of time, was not yet a registered consumer, still filled in preprinted complaint letter of the Respondent reiterating the demand of shifting the aforesaid BBCs.

- (f) On 05.06.2018, Respondent had received the above mentioned letter. In pursuance to the letter, Respondent had referred the complaint to the relevant department for necessary action. Accordingly, survey of location was conducted and technical parameter was studied and it was concluded that out of three BBCs, two could be shifted and the other BBC could only be tilted in its position to become perpendicularly placed.
- (g) On 08.06.2018, Respondent had served estimate amounting to Rs. 34969/- for shifting aforesaid three BBCs.

The estimate was prepared strictly in line with provision laid in Regulation 8.2(F) of Chapter-8 of Notification No.9 of 2005.

**F. CHARGES FOR MISCELLANEOUS WORK**

*The charges payable in advance for any work which the supplier may undertake for the consumer and which is not included in the foregoing schedule shall be at the actual cost of labour and materials plus 15% to cover overhead charges. Estimates will be submitted when necessary. The charges payable in advance for any work which the supplier may undertake on behalf of the consumer as an agency work, shall be the actual cost of labour and materials plus 15% to cover overhead charges. The estimates will be submitted accordingly.*

- (h) Upon service of estimate, Respondent had received a letter dated 18.07.2018 from Appellant (who was still not a consumer of the Respondent) which described a total of 7 BBCs around his plot and further demanded for removal of the unnecessary BBCs surrounding his plot since it is obstructing his right of way. There arises no violation of his right of way as his premise was constructed after installation of the aforesaid BBCs.
- (i) On 21.07.2018, Respondent had replied to his letter dated 18.07.2018 stating that the estimate has already been provided to the previous consumer for shifting work on 08.06.2018 but due to non-payment from his side, the work could not be done.

- (j) Respondent had again received a letter dated 04.08.2018 from Appellant (who was not yet the registered consumer of the Respondent) demanding shifting of above mentioned BBCs. Appellant had claimed that BBCs are hazardous to the public safety and health and hence needs to be removed at once. Appellant further made allegation that Respondent in spite of repeated reminders has not bothered to remove BBCs. Appellant also presumptory made statements with regard to ultra-violet rays and different vibrations emitting from high voltage line that may affect mental state of health as well as may cause myocardial infarction. It is worthwhile to note that for the allegations, Appellant has not able to substantiate any of his claims nor produced any study of the same.
- (k) Respondent referred the aforesaid letter to Advocate Shri T.M.Desai for reply. The Advocate of the Respondent company has responded to Appellant vide his letter dated 17.09.2018.
- (l) Appellant, vide his letter dated 18.09.2018, reverted to the Advocate Shri T.M.Desai demanding the clarification on his relationship with the Respondent company. In the said letter Appellant has further stated that the Advocate has not served the reply on the letter-pad of Respondent company. It is stated that Respondent company is not bound to clarify and justify the relationship with Advocate Shri T.M.Desai. During the same time span, Appellant had made multiple trips to the office of Respondent, for seeking amicable solution. Respondent, in spite of display of sheer aggression by the Appellant maintained calm and tried its level best to work out a solution. Respondent had clearly stated that only three BBCs could be shifted while rest will have to stay as it is due to technical constraints. Respondent had also made clear of three BBCs for which solution can be brought out, two BBC namely T4P4D2/3019/38 and T3F2D8/38/1240 could be shifted from its regular position, whereas the

third BBC, namely T2P2D2/3019/21 again due to technical constraint could not be shifted, however the direction of the BBC can be changed by ninety degrees i.e. in the perpendicular position. Respondent empathizes with the Appellant and decided to waive of expenses other than the labour cost, therefore bringing down the estimated cost. Appellant, vide his letter dated 15.10.2018, consented for bearing cost of labour charge. Based on the written consent of Appellant, Respondent had served the bill amounting to Rs. 11673.74 on 26.10.2018. (copy submitted by Respondent).

- (m) On 26.10.2018, Appellant replied for name change of Service No.500263570 from the previous consumer to the Appellant's name.
- (n) On 30.10.2018, Appellant had approached GERC pertaining to his grievance. He had also applied to RTI Authority of Surat Municipal Corporation, requesting to provide information as to how many BBCs have been permitted by Surat Municipal Corporation to be installed in the area of his industrial estate. Appellant has failed to produce anything on record to show that the shops allegedly being obstructed by the above mentioned BBCs were approved by SMC or not.
- (o) Appellant had filed his complaint with CGRF on 19.12.2018. CGRF has ordered in favour of Respondent on the following grounds and directions:
  - (I) Respondent company has complete right to decide regarding its network. The complainant cannot dictate as to which BBCs are useful and which BBCs are not.
  - (II) Complainant is not able to substantiate his allegation that BBCs were installed outside his premises in order to harass him in particular.

(III) Respondent company is bound to recover the expenditure pertaining to shifting as prescribed in Regulation 8.2 Sub-Clause-F of Notification No.9 of 2005. Complainant is bound to comply with the regulation.

(p) Being aggrieved and dissatisfied with the order of CGRF, Appellant has filed the present appeal.

3.3. Respondent has submitted parawise reply as under:

(1) The contents of the Para-1 of Appellant are denied. The allegation of the Appeal that installations of BBCs were done without seeking any prior permission is baseless. The previous consumer had applied for connection in the year 1991 and 13 No. of electric Distribution sub-station of which Pandol Industrial Estate No.2 distribution sub-station was commissioned on 18.09.1989. So it is very evident that he applied for connection after installation of BBCs and no grievance in relation to BBCs were made till 16.12.2017. Hence, for the period of 26 years, there was implied permission granted by the previous consumer.

3.4. Respondent company holds electricity distribution license under which it has duty to supply electricity to its consumer in the area defined in the terms and conditions of the License. It is submitted that Pandol Industrial Estate in which the said plot No.246 is situated is an Industrial Estate. Respondent company had commissioned total 13 No. of Electric distribution sub-station of which Pandol Industrial Estate No.2 distribution sub-station was commissioned on 18.09.1989. The said distribution sub-station comprises of 4 distribution transformer of varied capacities to cater the demand of Pandol Industrial Estate.

The details of the said distribution sub-station are as under:

Transformer	Transformer capacity(KVA)	No. of service	Total SL (KW)
T1	800	80	750.06
T2	630	71	598.44
T3	630	50	517.91
T4	800	51	491.17
Grand Total	2860	252	2357.59

- 3.5. It is stated that aforesaid distribution sub-station distributes electricity to its customers through 38 BBCs of which current seven BBCs are in dispute. This Distribution sub-station distributes electricity of 2357.59 KW (2.3 MW) in total command area of 1.90 Sq.KM. Thus it can be readily construed that how much importance this distribution sub-station holds for Respondent company. Respondent has laid cables through the distributors. These cable are further connected through intricate network interconnected BBCs. All these cables are laid on the public road and have not encroached upon land or plot of any of its consumers.
- 3.6. The contents of Para-2 of appeal of Appellant are denied as the allegation that Surat Municipal Corporation has not given any permission for installation of BBCs as mentioned in their reply dated 03.11.2018 to Appellant's application to RTI Authority. SMC has stated that no separate permission is given to Respondent company for commissioning the BBC. It may at this juncture be clarified that BBC is a part and partial of cable laying activity. In fact it is a part of the electric line. BBC cannot be separate from the cable lines. Therefore, Respondent company stands by the statement made by Advocate Shri T.M.Desai in his reply dated 17.09.2018.
- 3.7. The contents of Para-3 of appeal of Appellant are denied. Respondent company had waived all expenses except the labour charges, reducing the amount of estimated cost to Rs.11,673.74 from Rs. 34,696/-. In fact, Appellant had also consented regarding the same which is enclosed by Appellant in his Appeal memo. It is surprising that

Appellant being an Advocate is peddling lies in order to gain sympathy of the Ombudsman. Appellant has consented for the reduced bill but has now backtracked. Respondent company serves estimation for not only BBC shifting but also for distribution sub-station shifting, cable line shifting etc. However, at this juncture it must be clarified that shifting can only be executed if it is technically feasible. Therefore, Respondent has every right to refuse shifting of all BBCs which is part of this dispute.

It is claimed that action of Respondent has caused great inconvenience to the Appellant, however to the contrary Respondent was well within his right to take legal recourse, however Respondent had not initiated such actions out of good faith.

- 3.8. Appellant has been repeatedly stating the same thing but in different manner. Respondent is ready to shift as stated above. Respondent has clarified in the reply to CGRF, it never holds any prejudice against any of its consumers. All the consumers of Respondent are on an equal footing. Respondent has certain technical constraints because of which it cannot simply decommission and remove BBCs in dispute. Respondent begs to reply on the following data to substantiate its contention.

Plot No.	Land Mark	1 <sup>st</sup> MSP	Length (SS to 1 <sup>st</sup> MSP)	2 <sup>nd</sup> MSP	Length (1 <sup>st</sup> MSP to 2 <sup>nd</sup> MSP)	3 <sup>rd</sup> MSP	Length (2 <sup>nd</sup> MSP to 3 <sup>rd</sup> MSP)	Total length
T4F1D02	I Shree Khodiyar Pan	30/1141	66	30/0359	107			173
T2F1D02	Chamunda Store	30/0349	65	30/0352	50			115
T3F2D08	Chamunda store	30/1240	78	30/1242	85	30/0339	30	193
T4F1D01	Brahmani Pan	30/0350	80	30/0365	73			153
T2F2D05	Brahmani Pan	30/0363	75	30/0353	62			137
T3F2D07	Brahmani Tea	30/1241	92	30/0354	66			158

Distribution transformers situated in distribution sub-station steps down the electricity from high voltage to low and it further distributes electricity through distributor which carried from cable to nearest BBC which further separates to different consumer. The aforesaid

statement displays the length of cable from one distributor to BBC No.30/1141 is 66 metres, the BBC is at the distance of 107 metres from BBC No.30/0359. Therefore, total length of cable from Distributor from within the distribution sub-station to BBC No.30/0359 is 173 metres, in case any fault is observed in between the length of whole system had to be shutdown to rectify the fault. However, if any other BBC is placed at the midway point the Respondent company can isolate the faulty area and restore the electricity by laying over ground cable through the intermediary BBC. It is stated that BBCs mentioned hereinabove are those for whom the present complaint is preferred. It may be recalled that Appellant has referred to seven BBCs, however one of the BBCs is outside his plot. Respondent company pleads that due to technical constraints the demand of Appellant cannot be accepted.

- 3.9. In reference to Para 4 of Appeal, it is stated that Respondent reserves absolute right to take appropriate action against the Appellant as per relevant provisions of law, as said in the appeal memo Appellant commits certain untoward actions which may damage the network of the Respondent company.
- 3.10. Respondent has drawn attention of Ombudsman to letter dated 02.02.2019 of Appellant addressed to GERC alleging bias perpetrated by Chairman of CGRF as well as Independent Member of the Forum. Appellant has not only made unsubstantiated allegations against the Members but also has demanded their ouster from the Forum. Appellant has made grave allegation against Members yet has not produced a shred of evidence against them to even make a prima facie case. It is stated that Evidence Act 1872 cast burden of proof on one who makes certain statement, Appellant though being an Advocate clearly has failed to provide any evidence to back his claim. In such situation, complaint made against Members of CGRF in the backdrop of the order passed was clearly to intimidate the esteemed members of the CGRF from dispensing their duty as well as secure sympathy of

Commission as well as Ombudsman. It is stated that Appellant has only made rhetorical statements with no substance at all.

- 3.11. At this juncture, Ombudsman needs to be appraised that Appellant has filed his appeal through letter dated 29.01.2019, subsequently to filing of the Appeal, the Appellant has levelled allegation of corruption against the technical member as well as Chairman. Thus, it is evident that Appellant's move is after thought, made simply to intimidate the CGRF from dispensing their duty. Ombudsman will appreciate that aforesaid letter is no-where mentioned in appeal memo dated 29.01.2019, whereas the same letter is enclosed with letter dated 11.02.2019 provided by Appellant as part of this appeal. Hence it is very evident that Appellant has deliberately has concealed the fact from Ombudsman.
- 3.12. Respondent has submitted rejoinder dated 26.03.2019 and stated as under:
- (A) It is submitted by Respondent that Distribution Code has through Regulation 4.5 directed the Licensee to plan and develop their distribution system based on the technical and design criteria which includes as under:
- (1) The load demand of all the existing users connected to the Distribution Licensee's system and all the users seeking connection with the Distribution Licensee's system shall be taken in to consideration. All the apparatus and circuits shall have adequate capacity to cater to their needs of electricity in a safe, economical and reliable manner.
  - (2) Respondent has underground distribution network. Respondent company excavates roads for laying electrical lines as part of new distribution network, for modification, upgradation of existing network and also for repair and maintenance activity etc.
  - (3) BBC/MSP is part of electrical lines which upon combining forms of distribution system. While Supply Code Notification No.4 of 2015 has defined distribution as system of wires and associated

facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumer, whereas electrical line is defined as any line which is used for carrying electricity for any purpose and includes following:

- (a) Any support for such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and
- (b) Any apparatus connected to any such line for the purpose of carrying electricity.

BBCs are connected to electrical lines which carry electricity disseminating from transformer through distributor cable. The BBC distributes the electricity to nearby consumers. If the function of BBCs is considered in line with the definition of Distribution system and electrical liens it can be readily construed that it is an integral part of the electrical lines as well as distribution system since BBC is an apparatus which connects consumers to cables from same lines and distributes electricity supply. Hence no special permission is required to install BBC, since it is part of the much wider cable network for which permission is obtained from Surat Municipal Corporation.

- (4) As mentioned in the reply dated 05.03.2019, Pandol Industrial Estate Sub-station No.2 was commissioned in 1989. Respondent had laid its network in the year 1989 and since then the distribution network is in place. In Plot No.246, Respondent had provided connection on 16.10.1991 in the name of Shri Jayantilal Bhagwanji, vide Service No.500263570. Appellant, Mr. Mitul Navadia had purchased the property in November, 2017 and applied for name transfer in the said service number on 26.10.2018. Network of Respondent was in place at the time

of purchase of property and Mr. Mitul was well aware regarding installation of BBC on public road outside plot No.246. However, Respondent replied time and again to Appellant stating that the shifting can be done if he makes payment of requisite amount as quoted in the quotations. It is evident that Respondent has been very cooperative to the extent that the 2<sup>nd</sup> quotation dated 26.10.2018 was drastically reduced to Rs.11,673.74 from the earlier quotation of Rs.34,696/-.

- (5) In reply dated 05.03.2019 there was a preliminary objection to the purpose of usage as during name change application of 26.10.2018, Appellant had applied for three phase industrial connection at Plot No.246, Ground floor, Pandol Ind. Co-op. Society Limited, but he was carrying commercial activity at the said premises. This falls under Section 126 of the Electricity Act,2003. Also, the locus standi of the Appellant was challenged as he was not an affected party and there were shops around his premises in front of which the MSP/BBCs were installed. It is utmost important to note that within eight days of filing the reply, i.e. on 13.03.2019, Appellant replied for change of purpose and reduction of load, but for Plot No.246, Shops 1 to 8, Pandol Ind. Co-op. Society Limited, the same is applied in the capacity of the owner without submitting any proof of ownership. However, based on the application of Appellant, Respondent made a site visit to the premises of Appellant on 19.03.2019 and found that Appellant was providing electricity to the shops within his premises, which in other words is sub-metering and is a clear case of Section 135 of Electricity Act, 2003. Hence, it is clear that Appellant has violated Section 126 and Section 135 of Electricity Act,2003. In this context, Respondent has issued a notice on 20.03.2019 to Appellant about the same and Respondent is likely to disconnect the connection of Appellant, if this situation persists. Respondent shall not go ahead with the application of Appellant dated 13.03.2019 for reasons

mentioned hereinabove and also the fact that since the matter is sub-judice, status quo is to be maintained. Respondent has submitted a copy of Rojkam prepared at site and copy of notice dated 20.03.2019.

- 3.13. It is submitted that in view of the above submission and the reply dated 05.03.2019, the present appeal is liable to be dismissed with cost.

**::: ORDER :::**

- 4.0.** I have considered the contentions of the Appellant and the contentions of Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.

- 4.1. The main issue covered in this representation is for shifting/removal of BBCs/MSPs installed by Respondent, which are obstructing the Appellant and from the view point of Appellant it is not necessary to keep the same at present place.

- 4.2. In representation, Appellant has stated that total 7 No. of BBCs/MSPs have been installed nearer to place i.e. plot No.246, Pandol Road, Ind. Service society, Ved Road, Katargam, Surat. These BBCs/MSPs have been installed without approval of Appellant or of any relevant authority as said by Appellant. It seems that the electric network has been commissioned very much earlier prior to purchase of Plot No.246 by Appellant. It is also seen that appellant is not a registered consumer as per the record of Respondent. Therefore, the said argument of Appellant is not tenable.

Respondent has stated that present Appellant had applied for name change in service No.500263570 on 26.10.2018. Prior to that service No.500263570 was registered in the name of Shri Jayantilal Bhagvanji. At the time of release of electric connection, original consumer had not taken any objection regarding installation of BBCs/MSPs. In present place the whole electric network of said area was developed very long back. As per load demand of industrial area, electric network along transformer and other electrical accessories had been installed to provide electric supply by Respondent. The present

argument of Appellant regarding obstruction of BBCs/MSPs is after a long time of its installation.

- 4.3. The brief of correspondence made between parties as said by Respondent vide Para 3.2(c) to 3.2(g), it is viewed that after purchase of Plot No.246 by Appellant and having knowledge of installation of BBCs/MSPs on surrounding the plot area, i.e. Plot No.246, he had applied before Respondent for shifting/removal of the same. Respondent had time and again stated that shifting can be done only after making payment of requisite amount of shifting of electric infrastructure by Appellant.

It is here to note that Respondent had issued estimate for shifting of electric infrastructure on 08.06.2018 for an amount of Rs.34696/- and later on vide letter dated 26.10.2018 estimate was issued for the amount of Rs.11673.74 considering only labour charges, which is not paid by Appellant.

Though present Appellant was not registered consumer of Respondent, complaint against shifting of BBCs/MSPs situated nearby Plot No.246 area, was replied by Respondent.

- 4.4. Respondent had clearly stated in his reply to Appellant that only three BBCs could be shifted while rest will have to stay as it is due to technical constraints.

Respondent had cleared that three BBCs for which solution can be brought out, two BBCs namely T4P4D2/3019/38 and T3F2D8/38/1240 could be shifted from its regular position, whereas the third BBC, namely T2P2D2/3019/21 could not be shifted due to technical constraints, but direction of the said BBC can be changed by ninety degrees. After conducting meeting with parties and after getting consent given by Appellant vide letter dated 15.10.2018, for bearing the cost of labour charges, Respondent had reissued an estimate on 26.10.2018, and thereafter Appellant had applied for change of name for service No.500263570. Thus, it is on record that present Appellant after purchasing Plot No.246, as per sale deed dated 08.11.2017, requested for shifting of BBCs/MSPs situated around the Plot No.246

and requisite estimate is not paid, though consent was given by appellant for the same, and later on he had applied for change of name for service No.500263570.

- 4.5. It is observed that as per Para 3.1, electric network has been created by Respondent in the year 1989.

The argument of Appellant is to shift/remove the BBCs which are obstructing to him. No records are submitted that BBCs/MSPs are in Plot No.246. In fact, Appellant had asked information from Surat Municipal Corporation for granting approval for installation of BBCs/MSPs in SMC area and said document is placed. In this regard, it is said by Respondent that electric underground network had been created by Respondent earlier in 1989 as per the then Electricity Acts/Regulations for providing electric supply to mass of consumers. Respondent has also relied and stated that "Distribution system means wires and associated facilities, between the delivery points on the transmission lines for the generating station connection and the point of connection to the installation of the consumer."

It is viewed that Respondent had commissioned the electric infrastructure i.e. distribution system as per relevant provisions of the Electricity Acts at the then time and BBCs/MSPs are part of electric distribution underground system are to be laid down at the time of creation of underground system. The existing BBCs/MSPs are laid down much earlier as per design and specification of distribution system requirement as per load demand of consumers as well as to provide continuous and reliable power supply along with safety measures. In the said distribution system, now Appellant, who has purchased Plot No.246, has requested to shift the BBCs around the Plot No.246 and after taking technical view of distribution system, Respondent has shown readiness for shifting of 3 No. of BBCs out of 7 No. of BBCs and issued an estimate to Appellant in lieu of Clause 8.2F of Notification No.9 of 2005. Referring to the said provisions, estimate issued by Respondent is as per norms.

Therefore, on making the payment of estimate by Appellant, proposed work for shifting of BBCs would be carried out.

- 4.6. Distribution Code Notification No.6 of 2004, Distribution system planning and security standard attachment No.1, Clause 5.0 states as under:

**5.0 SERVICE AREA OF A DISTRIBUTION NETWORK:**

- (1) *The Service area of a distribution network is an area in which the load is supplied by a substation by one or more number of feeders, as required. The distribution network fed from the distribution transformers and the substations from which the 11 kV feeders emanate shall be initially planned as independent networks within their respective service area. Further, wherever possible, provision shall be made for interconnection with adjacent networks and/or substations for an alternate supply in case of failure. The design of distribution lines shall incorporate features to enable their augmentation in future, with minimum interruption to power supply. The existing right of way shall be fully exploited.*
- (2) *The Distribution Licensee shall take suitable measures, sufficiently in advance, to augment the capacity of the feeders in the event the voltage regulation limit is exceeded within the area.*

From the Distribution System Design & Planning & Security point of view, Respondent has responsibility to design a distribution system in such a manner to electricity supply need not be interrupted for more than the specified duration as specified in SoP Regulation as well as Distribution System shall have adequate stand by capacity.

- 4.7. In fact, existing electric network laid down much earlier as per provision of the then Electricity Act. The claim made for shifting of electric network including BBCs/MSPs around Plot No.246 is without any substance by Appellant.

Respondent had proposed shifting of 3 No. of BBCs/MSPs out of 7 No. of BBCs/MSPs request of Appellant for shifting with present technical ground and issued an estimate for recovery of labour charges only, seems to be correct and accepted.

- 4.8. As per Para 3.12(5), Respondent has pointed out that change of name application dated 26.10.2018 is not processed by him on the ground of utilization of electricity for commercial activity at the said premises under Industrial category connections. Respondent had further stated

that as per site visit on 19.03.2019 it was found that Appellant was providing electricity to the shops within his premises and he has clearly violated Section 126 and Section 135 of Electricity Act,2003, and Respondent has issued notice for the same on 20.03.2019. This issue came across as per site visit made by Respondent. Respondent by way of duty is law abide to take suitable action in accordance with relevant rules and regulations. In this regard no any comment is to be passed by Ombudsman.

- 4.9. In Forum order it has been observed that for the larger interest of public Respondent has shown his willingness for shifting of 2 No. of BBCs and tilting of 1 No. of BBC on technical ground with payment of requisite estimated amount and rejected the arguments of Appellant.
- 4.10. Looking to the above observations, order issued by Forum is accepted.
- 4.11. I order accordingly.
- 4.12. No order as to costs.
- 4.13. With this order, representation/Application stands disposed of.

(Dilip Raval)  
Electricity Ombudsman  
Gujarat State

Ahmedabad.  
Date: 02.04.2019.