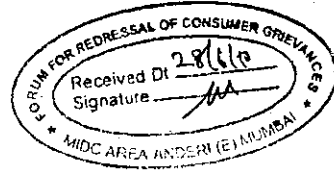


Schedule A

APPLICATION TO FORUM FOR REDRESSAL OF GRIEVANCE

Date: 28/06/2010

1. NAME OF THE CONSUMER – SHIVALIK VENTURES PVT LTD. (Applicant)

2. FULL ADDRESS OF THE CONSUMER - Plot No. 746, Staney Fernandes Wadi, D.
S. Babrekar Marg, Dadar (West), MumbaiPIN CODE - 400 028.
PHONE NO.- 4083 6666 , 4890 47 88 26 - Pawan
FAX NO – 4083 6677
EMAIL ID- info@shivalikventures.com

3. PARTICULARS OF CONNECTION AND CONSUMER NO.

(LT-I Residential)

4. DISTRIBUTION LICENSEE- RELIANCE INFRASTRUCTURE LTD.

5. DETAILS OF THE GRIEVANCE, FACTS GIVING RISE TO THE GRIEVANCE

- 1) The Applicant above named is a Company incorporated under the provisions of the Companies Act, 1956. The Applicant is engaged in inter-alia activities relating to construction, which include Slum Rehabilitation Projects under the provisions of the Maharashtra Slum Areas (improvement, clearance and redevelopment) Act, 1971 and the Development Control Regulations, of Greater Bombay 1991. The said Slum Rehabilitation Project is situated within the area of Distribution Licensee mentioned hereinabove.

2) Some background facts –

Slum Rehabilitation Scheme

The scarcity of residential accommodation is the origin of slum. The misery, poverty, unemployment, illiteracy, lack of sufficient light and air, grim living conditions, overcrowding are the problems in the slums. These slums became a menace to the safety, health and morals of the inhabitants. The Slum Rehabilitation Scheme is of National Importance as it aims social justice and tries

to provide human conditions to slum dwellers. Government has enacted the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, with a view to make better provision for the improvement and clearance of the slum areas in the State and their re-development and for matters connected therewith. All such Slum Rehabilitation Schemes are being implemented under the jurisdiction of the Slum Rehabilitation Authority set up by the Government. The Slum Dwellers whose names and structures are included in a List upon consideration of their eligibility by the Competent Authority are entitled to accommodation under the Scheme. The slum dwellers join the slum rehabilitation scheme by coming together and forming co-operative housing societies of themselves and appointing developer. Before submitting the proposal of slum rehabilitation scheme to the slum rehabilitation Authority the plot is required to be surveyed/measured and map of the plot showing slum structures thereon are required to be prepared. While undertaking the survey, the information of the occupants/slum-dwellers is required to be collected submitted to the slum rehabilitation Authority through an Annexure -II prescribed by the SRA. Annexure-II contains the details of structures occupied by the slum-dwellers, their number and type of structures such as residential, industrial, commercial, amenity structures etc. and the list of eligible and inelligible occupants.

Survey of structures on the plot is carried out and the structures are numbered on the plan. A table of house number as per plan and the name of the occupant is prepared. The slum rehabilitation scheme proposal submitted to SRA along with all the Annexures are simultaneously processed by different authorities. All required documents such as a building plan, layout plan, PR Card etc. along with Annexure- I, Annexure- II and Annexure III are to be submitted to Slum Rehabilitation Authority by the architect along with an application for the slum rehabilitation scheme. If the proposal is in order, the amount of scrutiny fee is accepted from the Developer.

Thereafter the Annexure-II is forwarded for certification to the Competent Authority appointed under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. The Competent Authority upon site verification issues the Annexure II. The Annexure II is the list of those hutment dwellers that are having structure in the property. After the issuance of Annexure-II and on compliance of other formalities, the Letter of Intent is issued by the Slum Rehabilitation Authority. The layout, intimation of Approval and commencement certificate, building plans are sanctioned and issued by the Slum Rehabilitation Authority.

During the construction of rehabilitation building/s the slum dwellers are required to shift to the temporary transit camp constructed by the Developer. Upon completion of the building the tenements are allotted to the eligible slum dwellers.

3. The Applicant hereinabove submits the facts of the present case are as follows:

- a) The Applicants are carrying on Slum Rehabilitation Project as Developer at Golibar – Bandra, Khar (East) Slum Area. The redevelopment of the said rehabilitation project is being undertaken in a phase-wise manner i.e. Phase I, Phase II, Phase III and Phase IV.
- b) The Applicant has been appointed as a Developer by the societies in the aforesaid Slum area for the purpose of the Slum Rehabilitation Scheme.
- c) The Developer submitted proposal for revised Scheme for amalgamation of S.R. Scheme in Phase III and 23 other Societies approved in Phase I and Phase II.
- d) The Letter of intent has been issued to the Developer by the Competent Authority on November 17, 2007 of Slum Rehabilitation Scheme in Phase

III and 23 other Societies approved in Phase I and Phase II encompassing area of 65787.46 sq.mt. and accommodating 3578 slum dwellers.

- e) The Developer submitted proposal for revised Scheme for amalgamation of Slum Rehabilitation Scheme of 22 Co-operative Housing Societies in Phase IV and 24 Co-operative Housing Societies approved in Phase III.
- f) The Letter of intent has been issued to the Applicant hereinabove by the Competent Authority on August 20, 2009 of Pragati Mandal CHS and 45 other Co-operative Housing societies encompassing area of 112582.02 sq.mt.in Phase IV and Phase III and accommodating 5079 slum dwellers. Annexed hereto and marked as "Exhibit A" are the copies of Letter of Intent issued by the Slum Rehabilitation Authority dated November 17, 2007 and August 20, 2009. The Applicant is in process in Development of aforementioned societies and they are in different phases of Slum Rehabilitation Scheme. Annexed hereto and marked as Exhibit-"B" is copy of layout of the development areas detailing the phase-wise development undertaken.
- g) The Annexure II submitted along with proposal of aforesaid societies have been certified by the Competent Authorities. Annexed hereto and marked as Exhibit-"C" are the copies of Annexure II which is the list of persons residing / structures approved by the Competent Authority, MHADA / Collector in respect of the said area for which the supply of electricity is applied, with which the present case is concerned.
- h) The aforesaid Phases have been divided in different sectors as Sector 1A, 1B, 1C, 1D, 1E, 2A, 2B, 3A, 3B, 4A, 4B, 4C, 5A, 5B and 5C. The Sector A includes four societies namely Aman CHS, Shanti Vikas Mandal CHS, Subhash Nagar CHS, Subhash Nagar CHS and six buildings have been constructed thereon.

- i) As part of redevelopment work under the project, the Applicant is required to demolish the existing slums, relocate the slum dwellers in transit accommodation. The Sectors 1B, 1C, 1D are in evacuation process and some slum dwellers have been shifted to transit tenements and some have accepted rent in lieu of transit tenement. Some of them have not vacated their hutments / shanties therefore an action u/s Sec 33 & 38 have been initiated by the Competent Authority for evacuation. In Sectors 1E, 3B, 4B, 4C the work has not been started yet.
- j) In view of the implementation of the scheme and being aware about the evacuation of slum dwellers in the aforesaid area, the Applicant at times helped the Distribution Licensee to recover dues of slum dwellers and intimated from time to time the Distribution Licensee about the evacuation before the evacuation process was initiated.
- The Applicant vide letter dated 20.02.2009 in reference to the meeting with Mr. Vinay Modi and Mr. Sarkar representatives of the Distribution Licensee dated 19.02.2009 had reminded to take necessary steps to recover the arrears of electricity charges from the slum dwellers of the societies under the development of the Slum Rehabilitation Scheme before the demolition of the societies under the Scheme.
- k) The transit camp no. 1/3 and 3/6 for which the electricity has been applied for is situated in Sector 1A Plot bearing No. C.T.S. No. 13(Pt), 33(Pt) and 21. Some of the slum dwellers of some of the Societies including Subhash Nagar Society who earlier had vacated their structure were shifted to these transit camps.

Transit Camp No. 1/3 is situated on open land of BMC on CTS No. 21 (Pt) therefore there were no occupants.

Transit camp No. 3/6 is situated in the area of Subhash Nagar Society on 13 (Pt). As per Annexure II certified by the Competent Authority there are 86 occupants in Subhash Nagar Society out which 77 are eligible for the Scheme and 9 are not eligible.

- l) The Applicant needed Electricity Supply not only for its construction activities but also in the respect of the transit accommodation. The Applicant had applied for supply of electricity for transit camp no. 1/3 and 3/6 on November 15, 2008 and June 24, 2009 respectively.
- m) There was demand of purported arrears of some alleged earlier occupants by the Distribution Licensee as a precondition for supply of electricity. The Distribution Licensee sought to clear the purported outstanding dues. The Applicant was not provided electricity bills in respect period for which they are claimed and how they are quantified.
- n) The Applicant vide letter dated 19.03.2009 requested to furnish the bills of account numbers providing the details of the purported arrears vide letter dated February 05, 2009 (wrongly mentioned as July 05, 2009) furnished by the Distribution Licensee.
- o) On July 24, 2009, as regards the transit camp No. 1/3 the Distribution Licensee forwarded an Electricity Service Estimate requesting the Applicant to pay a sum of Rs. 75,975/-. In the said Electricity Service Estimate the Distribution Licensee has mentioned a remark 'Recovery Clearance' Annexed hereto and marked as Exhibit-"D" is a copy of the said Estimate dated July 24, 2009.
- p) On July 31, 2009, as regards transit camp No. 3/6 a Communication was received from the Distribution Licensee mentioning that there were 'pending arrears'. Annexed hereto and marked as Exhibit- "E" is a copy of the said Communication.

- q) On August 05, 2009, a meeting was held between the representative of the Applicant and the Distribution Licensee. Annexed hereto and marked as Exhibit- "F" is a copy of the Minutes of the Meeting circulated vide e-mail.
- On August 05, 2009, the Distribution Licensee forwarded a list of Account Numbers. Annexed hereto and marked as "Exhibit" G" is a copy of the said list.
- r) On August 17, 2009, the Applicant sought details of the Meter Number in respect of which the Distribution Licensee had raised demands, from the Distribution Licensee. Annexed hereto and marked as "Exhibit H" is a copy of the letter dated August 17, 2009 addressed by the Applicant to the Distribution Licensee.
- s) Further, correspondence ensued between the parties wherein the Applicant pointed out that the redevelopment was being undertaken in a phase-wise manner and that the Distribution Licensee could demand payments only in accordance with law. The Distribution Licensee was bound to follow the provisions of the Electricity Act, 2003 and the Regulations framed under the Act. Annexed hereto and marked as Exhibit- "I" collectively are copies of the correspondence entered into between the parties.
- t) A reminder dated September 10, 2009 was sent by applicant about paid amount of arrears of Rs.1,36,732.09 and to take immediate steps for recovery of outstanding dues from the slum dwellers of the societies under development.
- u) The Applicant by their final letter dated October 01, 2009 addressed the issue in detail and pointed out to the Distribution Licensee that there are discrepancies in the claims made by the Distribution Licensee and the

persons and connections on site as evidenced by factual position as well as Annexure II approved and sanctioned by the Competent Authority. Further, the Distribution Licensee has not been able or in a position to resolve this discrepancy. No details have been forwarded by the Distribution Licensee. The Applicant vide the said communication dated October 01, 2009 implored the Distribution Licensee to consider the issue in light of the provisions of law and refrain from insisting on payment which are contrary thereto and without any reconciliation of the discrepancies as a condition precedent for releasing the supply of electricity by granting a connection. The Applicant was at pain to point out that the interest of the slum dwellers is adversely affected. Annexed hereto and marked as **Exhibit "J"** is a copy of the letter dated October 01, 2009.

- v) On October 08, 2009, the Distribution Licensee returned the cheque of Rs. 75,975/- dated July 29, 2009 and without giving any details and dealing with the various issues raised by the Applicant in the communication dated October 01, 2009 simply directed the Applicant to "clear *all the respective dues arrears pertaining to your Golibar project at the earliest,*" for processing the application of the Applicant. Annexed hereto and marked as **Exhibit "K"** is a copy of the letter dated October 08, 2009.
- w) On November 06, 2009, aggrieved by withholding of release of new electricity connections for recovery of arrears of unknown slum dwellers the Applicant approached the Hon'ble Commission seeking direction to release the new supply connection.
- x) During the hearing held on 14th January before the Hon'ble Commission advised Distribution Licensee to look into the details of the matter from point of view of reconciling and providing a new connection to the Applicant for its construction activities, as well as transit accommodation, particularly since the requirement is for the Slum Rehabilitation scheme.

and also observed further such disputes have to be resolved by the CGRF.

- y) On January 14, 2010 Distribution Licensee through their Advocates considered the Without Prejudice proposal transpired before the MERC by Advocate of the applicant to provide electricity supply on payment of charges for supply of electricity and without prejudice deposit. Accordingly Distribution Licensee asked to resubmit the Application for Supply of electricity along with processing fee, service line commission charges and security deposit amounting to Rs. 75,975 and also arrears of Rs. 11, 71,279.36. Annexed hereto and marked as "**Exhibit "L"**" is a copy of the letter dated January 14, 2010.
- z) On January 16, 2010 Distribution Licensee provided the total arrears amounting to Rs. 11, 71, 229.36 indicating individual consumer arrears. Annexed hereto and marked as **Exhibit "M"** is a copy of the letter dated January 16, 2010 along with the list of consumers.
- aa) On January 18, 2010 the Applicant to put the matter in right perspective, set out in writing the Without Prejudice proposal made by the Applicant, on January 14, 2010 before the Hon'ble Commission. The Applicant repeated and reiterated that without admitting the Distribution Licensee's entitlement and rights to claim the amount of Rs. 11,71,229.36, the Applicant shall deposit the same Without Prejudice to their rights and contentions and the deposit will be subject to Orders passed in appropriate proceedings. Annexed hereto and marked as "**Exhibit "N"**" is a copy of the letter dated January 18, 2010.
- bb) On January 21, 2010 Distribution Licensee accepted the Applicant's Without Prejudice proposal in aforementioned letter. Annexed hereto and marked as "**Exhibit "O"**" is a copy of the letter dated January 21, 2010.

- cc) On January 30, 2010 the Applicant paid the Service connection charges for Transit Camp No. 1/3 vide cheque bearing No. 6358 dated 30th January drawn on Axis Bank Ltd of Rs. 75, 975/- towards the processing fees- New Connection Service Line Connection Charges etc. The Applicant also paid without prejudice deposit of Rs. 11, 71,229/- (Rupees Eleven Lakh Seventy One Thousand Two Hundred Twenty Nine only) vide cheque bearing No. 6357 dated January 30, 2010 in furtherance to the letter dated January 18, 2010. Annexed hereto and marked as "Exhibit "P"" is a copy of the letter dated January 30, 2010. The electricity has been given to the applicant. The electricity connection has been given to the applicant hereinabove for the said premises.
- dd) In view of the aforesaid facts, circumstances and observation made by the Hon'ble Commission applicant has withdrawn the Petition filed before MERC (Case No. 88 of 2009). Annexed hereto and marked as "Exhibit "Q"" is a copy of the withdrawal application dated March 03, 2010. In view of the application filed by the Applicant the commission dismissed the complaint as withdrawn vide Order dated April 08, 2010. Annexed hereto and marked as "Exhibit "R"" is the copy of the Order dated April 08, 2010 passed by MERC.

4. **Grounds:**

The Applicant states that the demand of arrears by the Distribution Licensee is illegal, arbitrary and unreasonable on following grounds:

1. There are discrepancies in the demand raised by the Distribution Licensee. Further, the Distribution Licensee can raise demands and make claims of electricity dues only in consonance with the Electricity Act, 2003 and the Regulations framed by the Hon'ble Commission. The Distribution Licensee also failed to deal with and address the various issues raised by the Applicant. It is pertinent to note here that in respect of earlier phase-wise development, the

- Applicant has made payment where legitimately due, in accordance with law, to the Distribution Licensee.
2. The demands raised by the Distribution Licensee do not even detail the period for which the demands are not raised nor address the discrepancy in terms of the approved annexure II and non existing consumers from whom the Distribution Licensee claims to have not recovered the electricity dues. Transit Camp No. 1/3 is situated on open land of BMC on CTS No. 21 (Pt) therefore there were no occupants and no issue of arrears arises. The transit camp No. 3/6 is situated in the area of Subhash Nagar Society on 13 (Pt) and the said land is owned by MHADA. As per Annexure II certified by the competent Authority there are 86 occupants in Subhash Nagar Society which doesn't match with the list provided by the Distribution Licensee.
 3. It is further submitted that the Distribution Licensee cannot hold the Applicant and the Slum dwellers to ransom by insisting on clearing purported dues and withholding the electricity connection as a condition precedent. The Distribution Licensee cannot be oblivious to fact that So far as recovery of arrears is concerned the Distribution Licensee can claim dues of the six months period, as stipulated by the Regulation 10.5 of the relevant Statutory Regulation. In present case being the Slum Rehabilitation Scheme is in Public interest and Distribution Licensee should have had liberal approach. As laid down by Supreme Court in ***Paschimanchal Vidyut Vitran Nigam Ltd. & Ors. vs. M/s. DVS Steels & Alloys Pvt. Ltd. & Ors.*** [C.A. No.6565 of 2008] held the intent and the spirit of such provision is to prevent the loss of Distribution Licensee from an unscrupulous consumer may commit defaults with impunity, and when the electricity supply is disconnected for non-payment, may sell away the property and move on to another property, thereby making it difficult, if not impossible for the distributor to recover the dues. Having regard to the very large number of consumers of electricity and the frequent moving or translocating of industrial, commercial and residential establishments. But this is not the Case of Applicant and applicant has given intimation about demolition of the said premises almost

before six month from the date of application for supply of electricity and had asked the Distribution Licensee to take appropriate steps to recover the electricity bills. Therefore the present Regulation is not applicable in this case being in the different intent and spirit. The demand of arrears of unknown slum dwellers from applicant in present case is not within the intent and the spirit of Regulation 10.5 of the Supply Code as the Regulation intends to protect loss of distribution licensee in cases where it has no knowledge of transfer of premises or change in legal occupant of the premises. Even if it is accepted that there are any arrears pending, it is unreasonable and unjustified to impose the liability of said arrears of unknown slum dwellers on applicant in view of the knowledge to R-Infra of the fact (demolition of the said premises) almost before six months from the date of application for supply of electricity. The applicant submits that even such intimation is not required as the Said Premises was declared as Slum by the Competent Authority in Official Gazette and the Distribution Licensee should have taken note of it and could have initiated appropriate action against the slum dwellers for recovery of arrears, if any.

4. The Applicant submits that the Regulation 10.5 MERC (Electricity Supply Code and other Conditions of Supply) Regulations, 2005, is *ultra vires* the constitution under Article 14, 19(1) (g) and 300A and *ultra vires* the Electricity Act, 2003 under Sections 43, 56, 174 and 181. The aforesaid Regulation 10.5 is reproduced as under:

"10.5 Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representative/successors-in-law or transferred to the new owner/occupier of the premises, as the case may be and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner/occupier of the premises, as the case may be:

Provided that except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises."

Applicant states the aforesaid Regulation is *ultra vires* the constitutional provision for following reasons:

The Applicant should not have been called upon to clear past arrears of the previous owner, as a condition precedent for the fresh connection or supply of power, as the Applicant is just a Developer of the Slum Rehabilitation Scheme with noble, socialistic object intending social welfare and the dues towards the consumption of electricity could only be recovered if the Applicant was a consumer;

5. The Applicant states that it is the inability of the Distribution Licensee to take appropriate steps to recover dues from slum dwellers, if any, even after giving prior intimation for which Applicant cannot be penalized.
6. It is also necessary to mention here that factually some of the connections mentioned in list of the Distribution Licensee are in the respect of a completely separate plot of land have no nexus to the transit camp constructed on plot bearing No. 13, 33 and 21 for which an Electricity Connection was applied. The law does not permit the Distribution Licensee to refuse grant of electricity connection in respect of a property distinct from one for which demand raised.
7. The transit camp is purely a temporary arrangement structure & building is temporary and builder is not the owner of the building or construction. The developer cannot be considered as an occupier because after construction the Developer has no control over the transit camp accommodation. The developer is not legally entitled to recover or take or accept any rent or charges from those occupiers of transit camp. The transit camp are purely of temporary nature constructed in view of a statutory liability imposed upon the builder under a SRA Scheme and duration of transit camp is temporary because they were to be rehoused in the newly constructed building and then the transit camp are destroyed or demolished if required. The developer is not the owner of the either transit camp or the newly constructed building for slum dwellers because the land stands in the name of MHADA or BMC and building is to be given to the slum

dweller in lieu of transit camp to be of the slum dweller co operative society. Therefore it can not be said that the Developer is in occupation of the said premises.

8. The Distribution Licensee failed to consider that some portion of the aforesaid property stands in the name of the MHADA and some in the name of BMC.
9. If builders are held liable to the arrears of electricity then for transit camp accommodation either they will desist from taking part in the scheme or they will pass on their liability to the purchasers of the flat in the said scheme.
10. The Applicant submits that the demands raised by the Distribution Licensee are without any transparency and arbitrary. The Applicant states that the high handed, illegal and arbitrary demands by the Distribution Licensee, in a monopolistic situation without addressing the issues raised by the Applicant had caused tremendous hardship and misery to the Applicants and the slum dwellers. The transit camp has been ready in all respects since July, 2009. It is the illegal action on the part of the Distribution Licensee which has jeopardized the entire project.
11. In spite of Several correspondence made to Distribution Licensee since 2009 no remedy was provided to the Applicant and Applicant was forced to pay the unjustified, illegal amount of Rs. 11, 71,229/- as arrears because of the situation created by the Distribution Licensee.
12. The Distribution Licensee had ample opportunity to recover arrears pending if any from slum dwellers and applicant can't be made liable for the same as the Distribution Licensee was intimated about the demolition of the same premises in meeting dated February 19, 2009, on February 20, 2009 and was requested to recover the arrears of electricity charges from the slum dwellers. In view of the knowledge of the said facts the demand of arrears is arbitrary and unreasonable.
13. The Distribution Licensee has failed to establish that the list of slum dwellers provided belongs to the premises for which applicant has applied supply of

electricity and the arrears claimed belong to the relevant period. The Applicant denies that the list of individual consumers provided to the Applicant on 16.01.2010 being correct and puts the Distribution Licensee to the strict proof thereof. The Specifications including the list of consumers provided by the Distribution Licensee do not belong to the premises for which the Applicant has applied for the supply of electricity and also does not show for which period they are claimed. There are no regulations to decide who is legal occupant and it is the discretion of Distribution Licensee while giving electricity supply which should be used diligently. Therefore there may be illegal occupant on the said premises to whom the Distribution Licensee might have provided electricity and applicant hereinabove is not liable to pay for the arrears of illegal occupants, if any. The applicant would rely on the Annexure II issued by the Competent Authority for Slum rehabilitation Scheme. Without prejudice to the contention of the Applicant raised above, it is further stated that in the event the Distribution Licensee has not granted proper connection earlier than the connections existing presently as per Annexure II or it has granted connections to un-authorized occupant in the past without any safeguards, the Distribution Licensee cannot adopt the back door method in respect of past dues, if any contrary to the statutory provisions.

14. The Applicant submits that Distribution Licensee has defaulted its duty to supply electricity u/s 43 of Electricity Act, 2003 within stipulated period. The Applicant submits that it is the duty of Distribution Licensee to provide Electricity upon application being made except in the cases provided in Section 44 of Electricity Act, 2003. The payment of arrears of previous occupant by the applicant for supply of electricity is not a condition precedent for supply of electricity. Specifically when Distribution Licensee failed to maintain clarity in regard with arrears claimed of unknown slum dwellers and of unspecified period, there should not have been delay in supply of electricity. The returning of application of the Applicant for supply of electricity amounts breach of statutory duty by Distribution Licensee to provide electricity when applicant was ready to pay the charges for Supply of Electricity as per law. Applicant submits such denial

defeats the very purpose of the Section 43 and also submits that such denial is not subject to any of the exception in Section 44 of Electricity Act, 2003.

15. In view of the terms of License the Distribution Licensee is bound to follow the rules, regulation in regard with supply of electricity and should have been working in the interest of the consumer. The electricity being public property and bound by the terms of License the Distribution Licensee can't misuse the existing monopolistic situation in absence of proper law and detailed procedure for recovery of arrears and can't act against the interest of the Consumer.
16. The applicant submits that the applicant has intimated Distribution Licensee on February 20, 2009 about the demolition of the said premises and was requested to recover electricity charges from the slum dwellers. The applicant made several correspondences with Distribution Licensee requesting to take appropriate steps to recover outstanding dues from slum dwellers. The applicant has made its application for supply of electricity on July 23, 2009 for same premises, this fact shows that R-Infra had enough time to recover its dues from slum dwellers. As the R- Infra had knowledge of the fact about demolition of said premises, it ought to have taken appropriate action against slum dwellers to recover dues or disconnect supply of electricity for default in payment under Section 56(1) of the Electricity Act, 2003.
17. The Applicant submits that the arrears of unknown slum dwellers claimed by R-Infra may not be payable in view of the Section 56 (2) of the Electricity Act, 2003, as R-Infra has also failed to provide the period for which the arrears have been claimed and any concrete proof thereof.
18. The Distribution Licensee has failed to provide dates of disconnection, the bills of consumers of the relevant period (Six months) pending, if any. It is not clear how the amount of arrears have been worked out by the Distribution Licensee.
19. The Supply Code Regulation or any other Regulations does not mention that recovery of arrears as a condition precedent for supply of electricity and nor

such demand of arrears supply of electricity is in consonance with Electricity Act, 2003. There isn't any statutory provision empowering Distribution Licensee to refuse supply of electricity for outstanding dues against previous owner / occupant. In absence of regulation to govern the sanction of connection or supply of electricity the Distribution Licensee can not impose unreasonable and arbitrary terms causing harassment to the Consumer.

20. The applicant hereinabove is the Developer of the Slum Rehabilitation Scheme which is intended in Public interest and social welfare. Such unreasonable demand of arrears would increase the financial burden on the Developer and may restrict the Scheme being successful and defeat the good intention behind it. The Scheme which is in effect through welfare legislation intends to fulfill the socialistic and economic object of Indian Constitution enshrined in the Fundamental rights and Directive Principles of State Policies. The failure of this Scheme would mean denial right to life and personal liberty of Slum dwellers as enshrined in Article 21 of the Indian Constitution. That Article 21 confers positive rights to life and liberty, the word life in Article 21 means a life of dignity and not just mere animal survival.

The failure, denial or any kind of obstruction to the Slum Rehabilitation Scheme would mean the denial of right to life within the meaning of Article 21 of the Constitution in view of the wider interpretation given by Judiciary and will also defeat the legislative intent giving effect to the Article 14, 19, 38 and 39 of the Indian Constitution.

21. The Applicant hereinabove submits that they are going to develop the garden on certain portion of the aforesaid land and would be handing over to the Municipal Corporation which is not a mandatory work. The Said work being done in Public interest and to give effect to socio-economic principle in Indian Constitution, the Distribution Licensee should have had a liberal approach.
22. The Applicant submits that the Distribution Licensee should pay compensation to the applicant for delay in intimating the charges for supply of electricity and delay

in providing electricity supply for demand of illegal and unreasonable payment of arrears which is not a condition precedent under Supply Code Regulation and for the agony, inconvenience suffered by the applicant.

23. The Applicant submits that these tactics of Distribution Licensee to recover the arrears without clarity and against law violates the terms of License of Distribution Licensee.
24. The Applicant submits that as per proviso of Regulation 6.2 of the of the MERC (CGRF & Ombudsman) Regulation, 2006 Intimation given to officials (who are not part of the IGR Cell) to whom consumers approach due to lack of general awareness of the IGR Cell established by the Distribution Licensee or the procedure for approaching it, shall be deemed to be the intimation for the purposes of these Regulations unless such officials forthwith direct the consumer to the IGR Cell. The Applicant due to lack of general awareness of the IGR Cell, has made several correspondences since February, 2009 intimating grievance about the supply of electricity and demand of arrears of unknown slum dwellers with the officials of distribution licensee and there was no guidance given to the Applicant to approach Internal Grievance Redressal Forum. Therefore the Applicant states that this forum has the jurisdiction to entertain this application in view of Regulation 6.2 and Section 2(c) of the MERC (CGRF & Ombudsman) Regulation, 2006.

5. The Applicant therefore prays that

- a) the Hon'ble Forum may be pleased to direct the Distribution Licensee to refund arrears of Rs. 11,71,229/- (Rupees Eleven lacs seventy one thousand and two hundred and twenty nine only) along with penal rate of interest as the Hon'ble Forum may deem fit to direct in the facts and circumstances of the case.

- b) the Hon'ble Forum be pleased to declare that the demand for clearing purported outstanding dues of alleged consumers is contrary to the provisions of the Electricity Act, 2003, Electricity supply Code and statutory provisions and the same be set aside.
- c) the Hon'ble Forum may be pleased to direct the Distribution Licensee to pay the compensation of Rs.20,00,000/- (Twenty lacs only) to the Applicant in view of the failure on the part of the Distribution Licensee, to adhere to the statutory period for release of the supply on request by the Applicant, delay in intimating the charges for supply of electricity and delay in supply of electricity to the Applicant.

Dated this 28th day of June, 2010

LIST OF DOCUMENTS ENCLOSED

Sr.	Date	Particulars
1		<u>Exhibit-"A"</u> Copy of Letter of intent dated 17.11.07 and 20.08.09.
2		<u>Exhibit-"B"</u> Copy of layout of the development areas detailing the phase-wise development undertaken by the Applicant.
3		<u>Exhibit- "C"</u> Copy of the Annexure II i.e the list of persons residing/ structures certified by the Competent Authority, MHADA /Collector in respect of the area for which the supply of electricity is applied.
4	24/07/2009.	<u>Exhibit-"D"</u> Copy of the Electricity Service Estimate sent by the Distribution Licensee to the Applicant as regards the transit camp No. 1/3.
5	31/07/2009	<u>Exhibit-"E"</u> Copy of the letter sent by the Distribution Licensee to the Applicant as regards the transit camp No. 3/6.
6	05/08/2009	<u>Exhibit-"F"</u> Copy Minutes of the Meeting held between the representatives of the Applicant and Distribution Licensee.
7		<u>Exhibit-"G"</u> Copy of the list pertaining to the arrears which was handed over by the Distribution Licensee to the Applicant in meeting held on 05/08/2009.
8	17/08/2009	<u>Exhibit "H"</u> Copy of the letter addressed by the Applicant to the Distribution Licensee.
9	05/02/2009 (typo as 05/07/2009), 20/02/2009, 19/03/2009, 17/04/2009,	<u>Exhibit-"I" Collectively</u> Copies of the corDistribution Licensee entered into between the Parties. i) Letter by Distribution Licensee to the Applicant asking recovery of Rs. 11,45,092.85 alongwith list. ii) Letter by Applicant to the Distribution Licensee. iii) Letter by Applicant to the Distribution Licensee requesting details. iv) Letter by the Applicant to the Distribution Licensee with regards payment. v) Letter by Distribution Licensee to the Applicant insisting recovery without any details.

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	29/05/2009 10/09/2009	vi) Letter by Applicant to the Distribution Licensee with respect to the demand of recovery of the Distribution Licensees.
10	01/10/2009	<u>Exhibit "J"</u> Copy of the letter addressed by the Applicant to the Distribution Licensee requesting early supply and informing do dues are pending from them.
11	08/10/2009	<u>Exhibit "K"</u> Copy of the letter by Distribution Licensee to the Applicant refusing to give connection unless their illegal demand of payment under gist of arrears is fulfilled by the Applicant.
12	14/01/2010	<u>Exhibit "L"</u> Copy of the letter by Distribution Licensee's Advocate to the Applicant in regard with without prejudice proposal
13	16/01/2010	<u>Exhibit "M"</u> Copy of the letter by Distribution Licensee along with the list of individual consumers
14	18/01/2010	<u>Exhibit "N"</u> Copy of the letter by Applicant in regard with without prejudice proposal
15	21/01/2010	<u>Exhibit "O"</u> Copy of letter by Distribution Licensee accepting Applicant's without prejudice proposal
16	30/01/2010	<u>Exhibit "P"</u> Copy of letter of Applicant in regard with without Prejudice deposit
17	03/03/2010	<u>Exhibit "Q"</u> Copy of withdrawal application filed by applicant before MERC
18	08/04/2010	<u>Exhibit "R"</u> Copy of the Order passed by the MERC observing such disputes have to be resolved by the CGRF

Dated this 28th day of June 2010

Applicant
For Shivalik Ventures Pvt. Ltd.
Director / Authorised Signatory

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 hereinabove and the documents submitted herewith.

(b) The subject matter of the present Grievance has never been submitted to the Forum by me/ or by any one of us or by any of the parties concerned with the subject matter to the best of my/ our knowledge.

(c) The subject matter of my / our Grievance has not been settled through the Forum in any previous proceedings.

(d) The subject matter of my / our Grievance has not been decided by any competent authority/court/arbitrator, and is not pending before any such authority / court / arbitrator.

Yours faithfully

For Shivalik Ventures Pvt. Ltd.


Director / Authorised Signatory

(Signature)

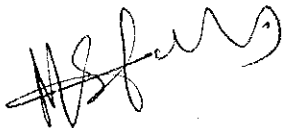
(SHIVALIK VENTURES PVT LTD.)

NOMINATION

(If the consumer wants to nominate his representative to appear and make submissions on his behalf before the Forum, the following declaration should be submitted.)

I/We the above named consumer hereby nominate Shri. Mahadev Jadhav, who is not an Advocate and whose address is Plot No. 746, Staney Fernandes Wadi, D. S. Babrekar Marg, Dadar (West) Mumbai as my/our REPRESENTATIVE in the proceedings and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. He/She has signed below in my presence.

ACCEPTED



(Signature of Representative)

For Shivalik Ventures Pvt. Ltd.



Director / Authorised Signatory

(Signature of Consumer)

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DISTRIBUTION LICENSEE STRUCTURE LTD.
FORUM FOR REDRESSAL OF CONSUMER GRIEVANCES.

(to be submitted along with schedule A)

Case No. 04/2010

1. Name of the Applicant: SHIVALIK VENTURES PVT. LTD.
2. Contract Account/ Application No.: 1006087866 & 107441744
3. Division: South Division
4. Tariff Category (LT I, Lt II....): LT-I
5. Nature of Complaint: Recovery of arrears of unknown slum dwellers
6. Disputed amount: Rs. 11, 71,229/- (Rupees Eleven lacs seventy one thousand two hundred and twenty nine only.)
7. No. & Date of First Complaint:
8. Is the Amount Charged u/s 126/135 of the Electricity Act, 2003. (i.e. for unauthorized use of Electricity or Theft of Electricity)
No
9. Date of registration of Complaint with Rinfra and with Name & Designation of the concerned Officer
10. Name & designation of the officer contacted & given details of the discussion and orders issued:
 - i. Estimate dated 24.07.2009 issued by Ms. R. Sankhe (Sr. Manager, South Division)
 - ii. Request for pending dues vide letter dated 5th Feb, 2009 by Shrinath Kasi (Business Head- SD)
 - iii. Meeting with Mr. Vinay Modi & Mr. Sarkar held on 19.02.2009 and letter dated 20.02.2009 to take necessary steps to recover the arrears of electricity charges from the slum dwellers of the societies.
 - iv. Letter to Mr. Shrinath Kasi dated 17.04.2009 requesting to take appropriate steps for outstanding dues pertaining to the said area.
 - v. Meeting dated 5th August, 2009 with Mrs Radhika Nadkarni (Legal), Mrs Anuradha Shetya (Legal), Ms Tanu Banerjee (Legal), Mr Bidhubhuson Sarker (Recovery) & Mr. Vinay Modi (S& M) in regard with recovery of outstanding dues
 - vi. Request to the Manager, Bandra to Send Metere No. vide letter dated 17.08.2009
 - vii. A reminder to take appropriate immediate steps for recovery of outstanding if any to Mr. Shrinath Kasi dated 10.09.2009.
 - viii. Mr. Vinay Modi- DGM (Sales & Mktg) – letter dated October 1, 2009 withholding of release of New Connection for Recovery.
 - ix. Letter to clear arrears to process requests for the power supply dated 08.10.2009 by Mr. Shrinath Kasi (Business Head- SD).

11. Action taken by Rinfra in mitigating grievance and letter thereof: **No action taken in clarifying how the arrears have been worked out.**

12. Date of intimation to Integral Grievance Redressal Cell of Rinfra:

Intimation given to officials (who are not part of the IGR Cell) to whom consumers approach due to lack of general awareness of the IGR Cell established by the Distribution Licensee or the procedure for approaching it, shall be deemed to be the intimation for the purposes of these Regulations unless such officials forthwith direct the consumer to the IGR Cell as per proviso to Regulation 6 of the MERC (CGRF & Ombudsman) Regulation, 2006.

13. Date of acknowledgement given by Internal Grievance Redressal Cell of Rinfra:

14. Name & Designation of R-infra Internal Grievance Redressal Cell Officer:

15. Letter from Internal Grievance Redressal cell of Rinfra stating the action taken by Rinfra in respect of the grievance:

16. Any other feedback regarding Grievance Redressal Cell of Rinfra: