Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup

Ref. No. Secretary/MSEDCL/CGRF/BNDUZ/ Date :

Case No. 404 Hearing Dt. 30/11/2011

M/s. Regency Properties - Appellant

Vs.

MSEDCL Panvel - Respondent

Present during the hearing

A] - On behalf of CGRF, Bhandup

1) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
2) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Appellant

1) Shri Suraj Chakraborti, Consumer Representative.

C] - On behalf of Respondent

1) Shri S.B. Kachare, Ex. Engr. & Nodal Officer, Vashi Circle.
2) Shri Subhash Rathod, Dy. Ex. Engr. Kharghar.

O R D E R

M/s. Regency Nirman Ltd. apparent filed the present complaint challenging the decision of Internal Grievance Redressal Cell, MSEDCL, Vashi circle, dtd. 18/08/2011. The decision of IGRC is challenged by Ailing this application.

The substance of the case of consumer is as under :

Consumer M/s. Regency Nirman Ltd. spent ` 1,06,46,125/- towards cost of infrastructure and ` 1,45,174/- towards supervision charges. The request is made for directions to MSEDCL and M/s. CIDCO to jointly pay above amount to consumer at the earliest. According to the consumer, as per 5.43 of Electricity Act 2003 the distribution licensee should create infrastructure. There is decision of the superior courts, wherein it is held that MSEDCL should refund the cost of infrastructure to consumer.

The MSEDCL denied the claim on following grounds, the present complaint is not maintainable as the same is barred by Law of limitation, secondly it is alleged that, electricity supply has been released to consumer as per the agreement between CIDCO & MSEDCL dtd. 01/08/2003. The issues in the present case are under consideration before Hon'ble Supreme Court of India. It is contended that the all charges are taken as per the terms of agreement. It is lastly averred that IGRC, Vashi has taken proper decision by rejecting the claim.

Heard both sides, persued following documents produced by consumer i.e IGRC order dtd. 30/08/2011, agreement dtd. 01/08/2003, circular of CIDCO Ltd. regarding PSIDC charges, order of MERC in case no. 56 of 2007 order of Ombudsman in case no. 5 of 2008 and 26 of 2010 etc.

The Opponent received following documents:

(i) Consumer application for power supply dtd. 11/07/2006.
(ii) Interim stay order of Hon'ble Supreme Court dtd. 31/08/2007 passed in Appeal no. 4305 of 2007.
(iii) Interim stay continuous order of Hon'ble Supreme Court dtd. 20/07/2011.

On critical perusal of the documents produced on record, it is clear that the amount claimed payment made on 21/09/2006. Hence, the consumer was entitled to claim the said amount within two years from 21/09/2006 as prescribed under MERC Regulation no. 6.6 of MERC (CGRF & EO) Regulation no. 2006. The consumer has not filed an application for condonation of delay.

Second important aspect of the case is that consumer is claiming amount from CIDCO, without joining as partly to the proceeding, which is violation of principles of natural justice. The case is hit by non-joinder of necessary parties to the complaint.

The issue relating to same is pending before Hon'ble Supreme Court hence the complaint at this stage is not maintainable & liable to be dismissed with no order as to the cost.

Both the parties be formed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051.

2) If utility is not satisfied with order, it may go in appeal before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP