

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Zone, Nagpur**

Case No. CGRF(NZ)/54/2017

Applicant : Shri Gulab.D.Kumare
At Chakapur, Post Kora,
Tq.Samudrapur
Dist. Wardha.

Non-applicant : Nodal Officer,
The Executive Engineer,
O&M Division,MSEDCL,
Hinganghat.

Appellant's representative :- Shri Betal,

Respondent by 1) Shri Pawade, EE, Hinganghat Dn.

Quorum Present 1) Mrs. V.N.Parihar,
I/c Chairman and Member, Secretary

2) Shri N.V.Bansod
Member

ORDER PASSED ON 07.06.2017.

1. The Applicant filed present grievance application before this Forum on 17.04.2017 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).

2. Applicant's case in brief is that, he filed an application for new electricity supply for his agricultural pump on dated 20-01-2014 & non-applicant issued him demand note on 13-11-2014. Applicant paid amount of demand note on 07-01-2016 and

submitted test report on date 15-01-2016 and on dt.10.07.2016 line up to metering point was erected by Non-applicant but due to non-availability of meter supply was not given. Again on dt 19/04/2017 meter was sent to consumer's place through Shri. Gajanan Sanaba Atram. The applicant got meter connected by making local private arrangement connection on date 21-04-2017. Applicant demanded compensation of Rs.25000/- for loss of agricultural produce, physical & mental harassment, Rs.5000/- each for travelling expenses and court expenses & compensation under SOP for delay in issue of demand note as well as connection

3. Non-applicant admitted in his written reply all the facts mentioned above except the fact that said connection was given on date 06-04-2017. According to them, that said connection was released on dt. 06-04-2017 as per seniority list of 2015-2016. For releasing this connection LT line of 0.66 KM was required. Hence on dt 06-04-2017, after the line erection meter No.600425558 was installed outside the metering box at applicants place. As the metering box was not ready, the applicant has taken out the meter and carries the same to his residence. However Applicant filed pursis with them that since he has been given supply, he has no grievance against the Non-applicant. Therefore he doesn't want to proceed with the case and his case may be withdrawn.

4. Applicant filed an application before IGRC on dt.18.01.2017. As per order of IGRC in case No.1107 dated 18-01-2017 it is ordered to release the connection as per seniority list only, and rejected the demand for compensation. Aggrieved by this order, Applicant approached to this forum.

5. During the hearing applicant 's representative took objection that content of pursis is not written by applicant, as his thumb signature has been obtained forcibly by the

Non-applicant after drafting the content matter by Non-applicant. The applicant was present during hearing. He too reiterated the same facts.

6. At the time of hearing on 30 May, 2017, the Parties were informed of the Chairperson of the Forum having resigned the office on 16 May 2017, consequent to which the matter would now be heard by the two remaining Members. At the time of hearing Quorum present was

- 1) Member Secretary & I/C. Chairman.
- 2) Member (CPO).

As per in clause 4.1(c) of MERC (CGRF & EO) Regulation 2006 which reads as under,

4.1(c) "Provided also that where the Chairperson is absent from a sitting of the Forum, the technical member, who fulfills the eligibility criteria of sub-clause (b) above, shall be the Chairperson for such sitting".

Needless to say that, in absence of Hon'ble Chairman, Member Secretary is In-Charge Chairman. There is difference of opinion amongst the two. Since I/Charge. Chairman has one additional casting vote, therefore as per provision given in clause 8.4 of MERC (CGRF & EO) Regulation 2006 which reads as under,

8.4 "Provided that where the members differ on any point or points the opinion of the majority shall be the order of the Forum. The opinion of the minority shall however be recorded and shall form part of the order".

Hence, the Judgment is based on majority view of I/C chairman and Member Secretary. However the separate dissenting note of Hon'ble Member (CPO) is noted in the judgment and it is part and parcel of the judgment. But the judgment is based on majority view and reasoning thereof is as under:

7. To verify legitimacy of applicant's representative's objection, during hearing Forum asked applicant to sign blank paper, which applicant did not sign. Hence inference can be drawn that nobody can forcibly obtain his thumb signature as he wanted to know why he should sign the blank paper. Forum wanted to know as to after knowing about this fact, why applicant did not file complaint with appropriate authority. But Applicant could not answer it.

8. Therefore, after hearing arguments of both side, Forum could see the fact that non-applicant could not produced any evidence to support their contention that pursis filed by Non-applicant is bogus and therefore conclusion can be drawn that applicant's pursis is signed by him only.

9. Hence it is clear that; as per request of applicant, case is withdrawn therefore as the case is withdrawn and proceedings is closed. Therefore Grievance application is disposed off.

10. **Separate dissenting note of Hon'ble Member (CPO) is given as under.**

1) The Grievance of the Applicant is for SOP compensation for late Demand Note & late connection provided by Non Applicant. As per Applicant, 'A1' application form was submitted on 20/1/2014 and late demand given on 13/11/2014 & paid by cash on 31/1/2015 & T.R. on 15/1/2016. Line was erected but supply not provided within time by installing meter. Applicant suffered harassment & mental agony etc & ask for compensation of Rs. 25000/- & Rs. 5000/- after expenses.

2) Non Applicant admitted that 'A1' form received on 21/1/2014 & D.N. given on 12/11/2014 and paid on 07/1/2016 & T.R. submitted on 15/1/2016 and after erecting LT

line of 11 poles as per name included in seniority list in year 2015-2016 & supply will be given as early possible.

3) It is an admitted fact that A1 form is submitted on 20/1/2014 & Demand Note was given 13/11/2014 (As demand note) and test report is given on 15/1/2016. On perusal of Demand Note Application is dated 20/1/2014 but Non applicant wrongly said it was submitted on 21/1/2014.

As per SOP Regulation 'Appendix A' it was obligatory on part of Non Applicant to provide Demand note within 30 days from 20/1/2014 i.e till 20/2/2014 but given on 13/11/2014. Hence Applicant claimed SOP compensation of late Demand Note from 20/2/2014 to 12/11/2014. Non Applicant prayed for dismissal of prayer.

4) In reply Non Applicant mentioned date of application is 21/1/2014 (Para 1) & 20/1/2014 (Demand Note) but to misguide the forum in Para 3, Non Applicant mentioned date of application is 12/11/2014 which is date of Demand & prayed for dismissal of Application as for 1st time complained to Non Applicant on 18/1/2017 & prayed for dismissal Application beyond 2 year as per MERC Reg. 6.6 Which is incorrect presumption of Non Applicant. Hence deserves to be dismissed because cause of action is continuous from 20/1/2014 on submission A1 form, then on receipt of Demand Note i.e 12/11/2014 & paid by cash on 31/1/2015 (As per money receipt). Non Applicant claimed that payment mode on 7/1/2016 but failed to produce any supporting document, hence contention deserves to be dismissed.

5) Even assuming, contention of Non Applicant is correct, even though it is incorrect, as per order in case of mentioned below, the Application is within limitation &

not bar by limitation. The Honorable E.O. Nagpur in case M/s Shilpa steel & power ltd. V/s S.E. Nagpur Urban Circle & SNDL Nagpur in order dated 22/1/2016, relied on "Judgement of High court " of Bombay dated 19/1/2012 in writ petition No. 9455/2011 M/s Hindustan petroleum Corp ltd V/s MSEDCL & others.

"The High Court observed that the terms cause of action has not been defined in the MERC (CGRF& EO) Regulations 2006. After referring to several provisions of MERC (CGRF & EO) Regulations 2006. The High Court concluded that it is thus clear that the consumer cannot directly approach the forum in timely manner. The High Court further concluded that the cause of action for submitting grievance arises when the IGRC does not redress the grievance and not time bar (Para 13 of order).

6) Applicant is entitle for SOP compensation for late demand from 20-02-2014 to 12-11-2014 and installation of 11 LT poles were required as per non-applicant in reply at para 7 mentioned as below,

७. सदर अर्जदारास वीज पुरवठ्याकरीता ०.६६ किमी लघुदाब वाहिनीची उभारणी करण्याची आवश्यकता होती. त्यानुसार अर्जदाराचे कृषीपंपाकरीता लघुदाब वाहिनीची उभारणी करून दि. ०६.०४.२०१७ येजी मिटर क. ६००४२५५८ लावून वीज पुरवठा सुरु करण्यात आला होता. परंतु अर्जदाराने वीज पुरवठ्याच्या ठिकाणी पेटी न लावल्यामुळे ते मीटर बाहेर लावण्यात आले व ते मीटर अर्जदार यांनी स्वतः काढून घेतले व स्वतःच्या घरी घेऊन गेले. सदर बाब उपविभागीय कार्यालयास माहिती झाल्यानंतर कंत्राटदार श्री. वैद्य व सहायक अभियंता नंदोरी यांनी घटनास्थळी जाऊन पाहणी केली व त्याचा घटनास्थळ पंचनामा केला. त्यात ग्राहकाने स्वतः मिटर काढून नेले अशी कबुली दिली व तसे लेखी लिहून दिले. त्यानंतर सहायक अभियंता नंदोरी ह्यांनी सदर मिटर अर्जदाराचे समक्ष दि. २७.०४.२०१७ येजी लावून परत वीज पुरवठा सुरु करून दिला.

It is an undisputed fact that test report was submitted on 15-01-2016. Non-applicant & IGRC mentioned that supply will be as per seniority list of 2015-2016 but

non-applicant failed to submit the seniority list. Hence submission of non-applicant as well as order of IGRC deserved to be dismissed.

7) IGRC in order dated 29-04-2017 i.e. after erection of poles supply will be given but non-applicant alleged that supply was given on 06-04-2017 which is neither submission of non-applicant before IGRC & no observation of IGRC which proves extent of falsification before the forum. If factually non-applicant would have installed meter no.60042558 on 06-04-2017, they would have informed IGRC that poles are erected & meter is installed and grievance would have disposed off. Hence contention of erection of meter on 06-04-2017 & other developments are deserved to be dismissed.

8) Non-applicant made further attempt to mislead the forum by filing "Bayan" without date, Thumb impression of applicant as well as panchnama dated 27-04-2017 with mention of "सही ग्राहक / प्रतिनीधी " when applicant is illiterate and use Thumb impression & "Bayan" of Shri Vaidya dated 27-04-2017 (page No.39 & 40) is false & baseless..

9) It is very surprising to note that "Bayan" of applicant is without date & "panchnama" & "bayan" of Shri Vaidya is dated 27-04-2017 and shows that there is no grievance of applicant with non-applicant, then why all these papers were not filed, by non-applicant before IGRC which proves that non-applicant has intentionally created the documents under duress. (The text of "Bayan" is as under at Sr.No.page 37.

बयान

मि.

श्री. गुलाब डि. कुमरे

रा. चेरखेडा (ताकापुर)

मि. लिहून देतो की dt: 6/04/2017 रोजी श्री.वैदय डेकेदार यांनी माझ्या कृषी पंपाची लाईन उभी करून मिटर लाऊन (पोलला) विद्युत पुरवठा सुरु करून दिला.

परंतु त्याविळेस माझी पेठी तयार नसल्याने व मिटर चोरीला जाईल म्हणून ते मिटर मी स्वतः काढून माझ्या घरी गेलो. ती माझी चुक झाली त्या नंतर दि. 27/04/17 रोजी श्री. वैदय व डोंगरे साहेब माझ्या घरी आले. मिटर घेऊन माझ्या पंपाला लाऊन दिले. माझे समकक्ष व माझा विज पुरवठा सुरु करून दिला व माझी आता विज वितरण कंपनी विरुद्ध कोनती तक्रार नाही व मि माझी केस (तक्रार) परत घेत आहे. मला कुनतीही नुकसान भरपाहि नाही पाहीजे.

सही

१. साक्षदार:

२. नितीन वैदय

10) During argument, applicant made statement that non-applicant's have taken their Thumb impression on blank paper which is fraud on part of non-applicant authorities. During arguments, neighbor of applicant Shri Gajanan Tanba Atram was present, who made statement before the forum that erection of poles was done till 10-04-2017 but supply was not connected and petty contractor of non-applicant kept the meter at his residence. Mr. Atram further said that petty contractor gave the meter on 19/4/2017 to him when he asked why the meter is not connected and advised to arrange for service wire & get connected through other persons or contractors and accordingly meter was installed on 21/4/2017 which proves the false story of Non Applicant and tragedy with poor illiterate applicant.

11) Applicant submitted Test Report on 15/1/2016 and meter was installed on 21/4/2017, even though it was obligation on part of Non Applicant to install meter within

3 months from 15/1/2016 (TR) i.e till 14/4/2016. Hence Applicant is entitle for SOP compensation as per "Appendix A (ii) b @ Rs. 100/- per week from 15/4/2016 to 20/4/2017.

12) It is necessary to mention that the technical member (so called Secretary as no mention in Regulation) claims to be Chairperson as the then Chairperson has resigned and left the job on 16/5/2017. The provision of chapter II 4.1 of MERC (CGRF & EO) Reg. 2006 is as under "Provided also that where the Chairperson is absent from a sitting of the forum, the technical member who fulfills the eligibility criteria of sub clause (b) above shall be the chairperson for such sitting".

This means that when chairperson is appointed in the CGRF and he is absent from sitting of the forum, than technical member, shall be the chairperson for such sitting (during leave, sick leave etc) but presently the Chairperson's post is vacant in the forum on date of sitting, so the technical member and member (CPO) can continue to run sitting and decides the cases but technical member does not get position of Chairperson and second & casting vote, which is done in earlier cases after 16/5/2017. Which is illegal as per me because in case of vacant post of Chairman of MERC, Hon'ble Shri Ajj Khan & Mr. Deepak Lad Saheb sign as member only.

13) Therefore Non Applicant is directed to pay SOP compensation for late demand for period 20/2/2014 to 12/11/2014 & late connection for period 15/4/2016 to 20/04/2017 @ Rs. 100/- per week and other prayer is dismissed.

Naresh Bansod
Member (CPO)

11. In view of the majority we hold that the as the applicant has withdrawn his case therefore as case is withdrawn, proceedings is closed. Therefore Grievance application is disposed off.

12. Therefore we proceed to pass the following order.

ORDER

1. Application had withdrawn his case therefore case is withdrawn and proceedings is closed.

Sd/-
(N.V.Bansod)
MEMBER

sd/-
(Mrs.V.N.Parihar)
MEMBER/SECRETARY
& I/C.CHAIRMAN