

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

Case No. CGRF(NZ)/56/2017

Applicant : M/s SDPL Paradise Apartment
Dhaba,
Nagpur.

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

Applicant :- In person.

Respondent by 1) Shri ,Dilip Uttamrao Ghatol,
EE, Butibori O&M Division, ,Nagpur
2) Shri P.N.Gunnale, Add.Exe.Engineer, Hingana S/Dn.

Quorum Present : 1) Mrs. V.N.Parihar,
Member, Secretary
& I/C.Chairman.

2) Shri N.V.Bansod,
Member

ORDER PASSED ON 17.06.2017.

1. The applicant filed present grievance application before this Forum on 24.04.2017 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. Non applicant, denied applicant's case by filing reply dated 09.05.2017.
3. Forum heard arguments of both the sides and perused record.
4. The Applicant has filed the written arguments contending as follows:

M/s. SDPL Paradise, planned to construct 257 no's of dwelling units at Dhaba, Nagpur. The project was initiated in the year 2014 and was granted a new service connection for construction purpose bearing consumer no. 410018623025 with billing unit no. 4690. As a developer, they had submitted load sanction application clearly stating that the connection for all the 257 dwelling units are being sought under non-DDF scheme.

5. Applicant stated that, they have handed over a piece of land to MSEDCL as per norms and MERC supply code. The said demarcated land was inspected by the then Dy. Exe. Engineer on dated 5.5.2014 and a letter was issued by the said authority for acceptance of the said land for meeting their connection demand for their upcoming project. For releasing connections for their project, Non-application asked them consent to bear the cost of infrastructure under DD Facility (on payment of 1.3% normative/supervision charges) which is around 34 lakhs, as per CE (Dist.) circular no. 22197, dt 20.05.2008 and also CE (Comm.) Circular no. 280 dt.4.2.2017. According to applicant, as per guidelines given in these circulars Non-applicant inappropriately tried to cast the duty of installation of the transformer HT/LT lines on developer/builders in the developer's premises which will be remain exclusively for the complex and supply to the flat owners. Whereas, according to clause no E(5) of Chief Engineer (Distribution)circular no.28792dt.17.07.2015 *"if developer/builder/owner/applicant provides the required land to MSEDCL and MSEDCL develops, erects and commissions substation and necessary allied infrastructure then it shall be treated as non-DDF."* Since the very beginning they were are willing to handover the required land but seeking Non-DDF scheme, But Non-applicant has been forcing them to carry out the work under DDF.

6. Applicant further stated that, about twelve Individual flat owners of SDPL project along with three common meters for SDPL project have submitted application to Non-applicant for new connection on dt.27.06.2016. One of the applicant is Developer of M/s. SDPL Projects requesting three common new connections for their project. The Non-applicant refused to release all Individual new connections, as per guidelines of circular no. 22197, dt 20.05.2008 and also CE (Comm.) Circular no. 280 dt.4.2.2017. and rejected their applications. He therefore alleged that this is ensuring ease of doing business and that some of the offices are misusing different circulars to harass the consumers for their own stated agendas. This is the fit case of gross misuse of power.

7. Applicant further stated that, the MERC through its various orders have put the onus of creation of electrical infrastructure for all new residential and commercial connection to MSEDCL. In support of this, the applicants has cited following orders /Judgments and hence sought reliefs made in the application

1] In the of order the commission passed in the Case No. 70 of 2005 dated 8.9.2006 Commission has observed “ *As regards expenditure incurred on 33 KV and 11 KV infrastructure beyond distribution mains, which from a distinct part of wheeling business, there is no provision in the supply code regulation allowing licensee to recover it from prospective consumer. The expenditure incurred on upstream of the distribution mains may be claim through ARR.*”

2] The commission in Case No. 56 of 2007 passed an order on 16.02.2008 has stated that “*dedicated distribution facilities cannot be imposed on a consumer. If the consumer does not seek dedicated distribution facility, the licensee has to develop its own infrastructure to give electric supply within the period stipulated in*

section 43 of the EA 2003 read with the MERC (SOP of distribution licensees, period for giving supply and determination of compensation) regulations 2005. In fact the license should take advance action to develop the distribution network, based on the survey of growth pockets and demand projections so as to fulfill 'Universal Service Obligation' as per the spirit envisaged in the EA 2003 and the Regulation made there under."

3] Further, commission in the said order has said as follows:

"The commission observed that the consumer should not be burdened with the infrastructure cost which is the liability of MSEDCL. It was further observed that paucity of fund is the actual reason for burdening applicants for the distribution infrastructure; MSEDCL may seek the recovery of the same annual revenue requirement. It has further observed in the same point that the DDF should be provide on the request of consumer and not as per direction of MSEDCL. It was further observed by the commission that under EA 2003 regime the mode of recovery of infrastructure cost has been altered. As against the earlier practice of charging individual consumer for infrastructure costs. The recoveries of infrastructure costs need to be made through general tariff (as a part of annual revenue requirement)".

8. The applicant therefore emphasized that, the Commission has ruled that cost towards infrastructure from delivery point of transmission system to distribution main should be borne by the MSEDCL which shall be considered during ARR determination. Whereas the MSEDCL being the Distribution Licensee is bound by the provisions of the Electricity Act 2003 as well as the Regulations of the

Commission to provide infrastructure up to the point of supply. Therefore, Licensee has failed to comply with the E A 2003, Orders issued by MERC, SOP regulation and hence breached the Statutes and has intervened with the procedures of the Appellate Authority. Therefore denying connections to 15 nos. of individual connection of their project is unlawful and in violation of directions of the Commission.

9. Therefore, they seek justice from the forum and pray as follows.

11. Prayer:

1. The new connection to all the applicants in SDPL Paradise at Dhaba may be released immediately.
2. The infrastructure (if any) be developed by MSEDCL at their own cost since we have applied under non-DDF scheme with consent to handover the required land for creation of infrastructure.
3. SOP Provisions is made applicable and compensations as deem fit under SOP be pass to the entire 15 applicants.
4. Action as deem fit may be please initiated against the erring officials for not following MERC SOP guidelines and deliberately misinterpretation of circulars.

12. Argument furnished by the Non-applicant

Non-applicant admitted that, Applicant submitted the application for load sanction and electricity supply for M/s SDPL paradise project with total 1234 KW connected load on dt. 05.01.2016. As per departmental circular no.22197 dt.20.05.2008, issued

by the Chief Engineer (Distribution) MSEDCL, Mumbai guidelines for releasing new connections and augmentation are issued. Accordingly uniform practice throughout the state for releasing the new connection is adopted. The Said Circular's item no.3 has been elaborated as under:-

“Generally ,the loads of 500 KVA and above are availed to cater to the exclusive requirement of complex in the form of dedicated network to such complex and in most of the cases the infrastructure including the transformer, lines and other allied equipments are required to be installed in the developer's premises itself and remains for the exclusive use of the complex. Therefore the developer or the group of consumer shall be given connection as Dedicated Distribution Facility (DDF) which will not include the cost of setting up or augmentation of 33/11 or 22/11 KV sub-station. The line will remain dedicated to the consumers in future.”

10. Accordingly, the connected load being above 500 KVA for M/s SDPL (group of consumers) estimate was framed. The total estimated cost to cater the proposed 1234 KW load works out to be 34 lakhs (Under 1.3 % normative/supervision charges) which was informed to the applicant and requested them to submit the consent for sanctioning estimate under 1.3%Supervision charges. But applicant refused to give the same and insisted for sanction under Non-DDF.

11. On dt.27.6.2016, applicant submitted A-1forms for 12 nos. of individual flat owners and 3 common connections in the name of developer of M/s SDPL Paradise.

12. Non-applicant further stated that, for releasing of new connections to the group of consumers in a complex for all material purposes, the clause at serial no.3

Of MSEDCL circular no.22197 dt.20.05.2008 will be effective which states that the developer or group of consumers shall be given connections as DDF only. Non-applicant further stated that, as per Commercial circular 280 dt.4.02.2017, all the apartments/flat schemes/gated colonies will be treated as one group and new connections to group of LT consumers can only be released under DDF scheme. And therefore the request of the applicant about providing of Electricity supply to M/s SDPL paradise under non-DDF cannot be granted. These 15 consumers being part of the group having common approved plan cannot be therefore given connection separately from existing infrastructure. Also premises being the same, estimate for partial consumers could not be framed. Therefore, for releasing of 15 new connection to the Individual flat-owners and common connection for Developer of M/s SDPL Paradise from existing infrastructure, will not be feasible unless SDPL provides the necessary infrastructure under DDF Scheme. Hence 15 nos of A-1 forms were returned back.

13. Non-applicant denied the contention of applicant that denying connections to 15 nos. of individual connection of their project is unlawful and in violation of directions of the Commission. He prayed to the forum to dismiss the applicant's grievance application, as Non-applicant has never breached directives of MERC nor acted in contravention to EA2003, but followed the standard procedure followed uniformly all over the state as per departmental circulars which are consistent with MERC Regulations only.

14. Applicant filed his grievance with IGRC on dt.23.02.2017. Accordingly matter was heard. IGRC passed the order on dt.03.04.2017. and rejected his application

stating that M/s SDPL Paradise being a residential and commercial complex having group of consumers, supply to individual connection in the group is not feasible hence applicant's request cannot be considered & hence aggrieved Applicant filed his grievance application with this forum for necessary relief.

15. To enable the Applicant and Non-applicant to put forth their arguments in person, a hearing was conducted before the forum on dt.30.05.17. Forum heard the argument of the both sides and perused documents furnished by them.

16. Applicant put forth the following argument:-

(i) On dt. 05.01.2016 an application for connection to their project M/s.SDPL paradise was submitted as per MERC SOP Regulation 2014 but inspection is not carried out nor demand note was issued by Non-applicant. But they received letter that their application will be processed as per departmental circular 22197 dt.20.05.2008. The applicant argued that this circular is for guidelines, but Non-applicant has taken it as a law. As MERC has not given any stipulation regarding load basis work, circular No.22197 dt.20.05.2008 is contrary to MERC's directives.

(ii) Again on dt.11.05.16 with subsequent reminder on dt 25.05.16, they requested non-applicant where to submit A-1 form for individual connections of M/s SDPL project. Finally submission of A-1 form was done on dt. 27.06.16. On dt.27.01.17., Non-applicant issued them a letter stating that connections cannot be given as per guidelines of CE(Dist.) circular no.22179.

(iii) Applicant argued that, MSEDCL has universal obligation to give connection as per MERC's directives and EA2003. But Non-applicant is refusing the

same under the pretext of following guidelines issued by their department which has contradictory directives to MERC for releasing new connection. Under such circumstances, clause no 19.1 of MERC (Electricity supply code and other conditions of supply) Regulation, 2005 should be considered which reads as follows:-

“Any terms or condition of the Distribution Licensee, whether contained in the terms and conditions of supply and /or in any circular, order, notification or any other document or communication, which is inconsistent with these Regulations, shall be deemed to be invalid from the date on which these Regulations come into force.”

(iv) Applicant therefore argued that, the above mentioned rule contemplates to make invalid the circulars of MSEDCL which are inconsistent with the directives of MERC, it is mandatory to Non-applicant to release to give supply for 15 Individual connections without any further consent, when they have explicitly demanded connection under Non-DDF category only.

17. The Non-applicant reiterated the facts furnished in their written submission during argument with the following argument:-

(i) Non-applicant further stated that ,Schedule of Charges have been prescribed by the Commission in the order dated 8th September 2006 in Case No. 70 of 2005. Recovery of expenses for releasing the connection are set out in Regulation 3 of Supply Code Regulations and for that approval of the Commission is to be taken as per Regulation 18 of the Supply Code Regulations. Service Connection Charges (SCC) are payable for connecting the premises to nearest distribution infrastructure. The Commission has approved rate of 1.3 % of the

normative charges to be recovered as the supervision charges. The Non-applicant has relied upon Regulation 3.3.2, 3.3.3 of the Supply Code Regulations and clarified that it could recover the actual estimated expenditure from the consumer as per Regulation 3.3.3.,under DDF scheme. Their departmental Circular 22197dt.20.05.2016 which is consistence with MERC's directive clearly states that:-

“There is a need to clarify and streamline the procedure of levying reasonable charges under section 46 of EA2003 and the regulations framed there under for releasing /upgrading connections. It has been brought to our notice by consumers and petitions before MERC that field staff are often making different subjective interpretation of DDF and augmentation under regulation 3.3.3 and 3.3.4 Of MERC(Electricity supply code and other conditions of supply)Regulation2005 resulting in confusion and hardships to the consumers. In order that field Engineers follow uniform practice throughout the state and to avoid hardship to prospective consumers and to remove difficulties in release of new connection. The guidelines are issued which shall be subject to the final decision in the proceedings pending before the Hon'ble Supreme Court and MERC”

(ii) Therefore, they have to release supply to the 16 connections which are part of one gated colonies i.e. M/s SDPL, as per guidelines of departmental circulars 22197dt 20.05.2016,28792 dt.17.07.2015 and Commercial circular 280 dt.04.02.2017 only and it was communicated to the applicant through their official letters dt. 19.01.2017 and 10.03.2017.

(iii) Non-applicant further stated that, these connections also couldn't be

released under ongoing INFRA scheme as Infra Scheme does not permits to release connection to any apartment or group of LT consumers and require IPDS certification that “DTCs are not prepared for any builder/Group/single consumer and not for DDF.”

(iv) So they humbly stated that, they have not breached MERC’s directives while refusing the individual connections to the 15 Applicants from existing network. Hence, prayed to the forum to dismiss the grievance application

18. 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) Regulation2006 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) Regulation2006 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:

19. During the argument and discussion,

(i) It was contended that M/s SDPL being a residential and commercial complex , had applied for new connection with load of 1234 KW for their project SDPL Paradise Dhaba at Amravati Road, Nagpur. As they are considered as a group of consumers by Non-applicant, they were suppose to bear under DDF scheme the cost of developing the infrastructure including the transformer .HT/LT lines in the premises of their complex, which will remain exclusively for their complex and flat owners of the scheme. Further, it was contended that the applicant namely M/s SDPL was not ready to bear the cost of required infrastructure as they had applied for the load sanction and electricity supply under non DDF scheme. Further the said applicant had shown his willingness to provide suitable piece of land for erection of infrastructure and providing of NSCs under Non-DDF, but Non-applicant denied them facility of Non-DDF scheme.

(ii) On perusal of MSEDCL's circular no 22197 dated 20.05.2008, it would be seen that, it is in respect of guidelines for releasing new connection and augmentation. In the present case, the earlier application for connections is for a

complex having 257 tenants/connections. The contingency regarding group of LT consumers in non domestic, residential complex where the load is equal to or more than 500 KVA is given in serial No 3 of the said circular where it is specifically given that *generally load of 500 KVA and above are availed to cater exclusive requirement of complex in form of dedicated network to such complex and in most of the cases infrastructure including transformer, lines and other allied equipments are required to be install in developers premises and remains for exclusive use of the complex. Therefore, the developer or the group of consumer shall be given connection as dedicated distribution facility (DDF) which will not include the cost of setting up or augmentation of 33/ 11 or 22/ 11 KV S/S, the line will remain dedicated to the consumers in future.*

(iii) On perusal of circular no.28792 dated 17.07.2015, it is seen that the said circular is in continuation to the circular dated 20.05.2008. The said circular is specifically for determination of load of residential/ commercial/ industrial premises in complex and establishment, determination of the capacity of the DTC for the complex, determination of requirement of Sub Station for such complex, for determination of load for establishment of Sub Station and Switching station. The load of a particular complex, how it is to be determined is given in clause 'A', while the determination of capacity of the Distribution Transformer is given in clause 'B'. The diversity factor mentioned in clause 'B' is only for the purpose of determination of transformer capacity which shall be considered for the effective load so determined. The clause-4 of the said circular wherein option of DDF is given to the developer/ builder/ owner/ applicant is in respect of erection and commission of

substation and necessary allied infrastructure for the same where as clause No. 5 states that if the land is provided by the developer/ owner/builder and MSEDCL erects and commission a sub Station, the same shall be treated as non DDF. It is worthwhile to note that both the clause No. 4 & 5 is in respect of erection and commissioning of substation only. For releasing of the new connections to the group of consumers in a complex for all material purpose, the clause at serial No. 3 in MSEDCL circular dated 20.05.2008 will be effective which states that the developer or group of consumers shall be given connection as DDF only.

(iv) The request of the applicant, M/s SDPL about providing of electricity under non DDF couldnot be granted in the wake of clause at serial No. 3 as above. The applicant has mis-interpreted both the circulars which are to be read conjointly.

(v) It was further contended that, 12 individual flat owners who are part of M/s SDPL along with 3 nos. of common connections for SDPL projects, applied for individual connections. These 15 nos. of consumers demanding individual connections are part and parcel of one gated colony i.e. M/s SDPL having 257 tenants/connections with common approved plan. The Regulation 3.3.3 of Supply Code Regulations authorizes the Distribution Licensee to recover all expenses reasonably incurred on such works from the applicant based on the schedule of charges approved by the commission under regulation where the provision of supply to an applicant entails work of installation of Dedicated distribution facilities. The Commission in its order dated 8th September, 2006 in Case No. 70 of 2005 has ruled in this regard as under:- *“The Commission totally rejects MSEDCL’s proposal to recover Service Line Charges from the prospective consumers except in cases of*

consumers requiring dedicated distribution facility. Similarly, the Commission in the said order dated 8th September, 2006 under the head Tariff Philosophy has also observed as below:- *“As regards expenditure incurred on 33 kV & 11 kV infrastructure beyond distribution mains, which forms a distinct part of wheeling business i.e system of wires and associated facilities, there is no provision in the Supply Code Regulations allowing licensee to recover it from prospective consumers. The expenditure incurred on upstream of the distribution mains may be claimed through ARR. The Commission, therefore, rejects the proposal, devoid of any legal authority, of MSEDCL to recover SLC from the prospective consumers except in cases of consumers requiring dedicated distribution facility.”* Thus, the *Schedule of Charges are applicable except in DDF.* Therefore, it is very much clear that, as regards to releasing of new connection to the group of 15 NSCs from existing infrastructure, being a part of one gated colonies, the same will not be feasible unless SDPL provides for the necessary infrastructure under DDF scheme.

(vi) On perusal of circular 280 dt 4.02.2017, it is seen that, as per circular M/s SDPL will be treated as one gated colony, and therefore 15 individual connections will be treated as part of colony and therefore one group. Technical and administrative (financial) sanction in those cases shall be given as one group calculating load. Further it is seen by the forum that, this circular only supersedes commercial circular no.22197 dated 20.05.2008 regarding load and administrative (financial limit) sanctions not entirely as contemplated by the Applicant during the hearing.

(vii) The Forum is of the opinion that as per the Regulation 3.3.3, the supply

in this case is required to be released under the scheme of Dedicated Distribution Facility (DDF) only even though Applicant has given application for Non-DDF. It is also clear to the forum that, above mentioned various circulars are issued to have one uniform practice throughout the state subject to final decision in the proceedings pending before the apex court and MERC and to avoid hardship to prospective consumers and to remove difficulties in release of new connection. Non-applicant has followed the same circular and does not breach MERC's directives and hence their denial to release supply individually to 15 connections from existing infrastructure is justified.

(viii) In view of the above, interpretations and contentions placed by Applicant deserves to be rejected. His grievance application deserves to be dismissed.

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

- 1) The grievance of the applicant is against IGRC & MSEDCL's order as legal prayer is denied by non-applicant is as under,
- 2) The applicant prayed for new connection to all the applicants in "SDPL Paradise" at Dhaba, be released as the infrastructure (if any) be developed by MSEDCL at their own cost since applicant applied under non-DDF scheme with consent to hand over the required land for creation of infrastructure and claimed SOP compensation and action against the erring officials for not following SOP guidelines & deliberate misinterpretation of the circulars.
- 3) We have heard the arguments of both the parties and perused all the papers on record, circulars of MSEDCL, various MERC orders.

4) To resolve the controversy of the litigants and misinterpretation of non-applicant alleged to harassment to the consumer/citizens of the democratic India, I quote here the judgement of Supreme Court of India 2005 CCTJ 1077 – P.S.E.B. Ltd V/s. Zora Sing for knowledge of non-applicant's higher officials.

“Electricity Board is a statutory authority and a state it is expected to discharge its statutory function within a reasonable time having regard to the fact that undertakes an important public utility service. Its inaction besides being governed by the electricity (supply) Act & Regulations framed there under, It must also fulfill the test of reasonableness as envisioned under article 14 of the constitution.”

MSEDCL – a state within article 12 of the constitution of India must act fairly and bonafide. It cannot act for a purpose which is wholly unauthorized not germane for achieving the abject it professes whether under a statute or otherwise.

5) The section 42(1) of the electricity Act 2003 is as under,

It shall be the duty of a distribution licensee to develop and maintain an efficient, coordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.

6) It is worth to note the directions/observations in order of MERC in petition no.56 of 2007 (Para 9) dated 16-09-2008 i.e.

The commission observed that consumer should not be burden with infrastructural cost which are the liability of MSEDCL. It was further observed that if paucity of funds is the actual reason behind burdening consumers from distribution infrastructure, MSEDCL may seek the recovery of the same as an annual revenue requirement.

“Also dedicated distribution facility cannot be shared in future by other consumers. Such facilities cannot be imposed on a consumer. If the consumer does not seek dedicated Distribution facility, the licensee has to develop its own infrastructure to give electric supply within the period stipulated in section 43 of the E.A. 2003 read with the MERC (standard of performance of distribution licensees, period of giving supply and determination of compensation) Regulations 2005. In fact the licensee should taken advance action to develop the distribution network, based on the survey of growth pockets and demand projections so as to fulfill “universal service obligation” as per the spirit envisaged in the E.A. 2003 and the Regulations made their under.

7) MERC in order dated 08-09-2006 in case no.70 of 2005 on page 16 – 6.4 commission’s Ruling.

The commission totally rejects MSEDCL’s proposal to recover service line charges from the progressive consumers excepts in cases of consumer requiring dedicated distribution facility. As per the provisions of the Act, developing infrastructure is the responsibility of licensee. The commission therefore directs that the cost towards infrastructure from delivery point transmission system to distributing mains should be borne by MSEDCL.

8) The MSEDCL vide circular no.CE(Dist)/D-III/Rep.of land/28792 dated 17-07-2015.

Sub:- Revised guidelines for requirement of adequate land for distribution transformer centre and substations while releasing connection to residential/commercial/industrial etc., complexes/township/establishments having multiple numbers of connections.

Page 4 para-2 – As per the provisions in MERC(Electricity supply code and other conditions of supply) Regulations 2005 and various standardized development control and promotion Regulations of urban development department, government of Maharashtra, it is the responsibility of the developer/builder/owner/applicant to provide the adequate developed land required for establishment of distribution transformer centre/s and substation.

Applicant may be requested to make available the required suitable piece of land for the establishment of distribution network for providing the power supply to the establishment by way of lease agreement of annually for the period of 99 years.

Page 5 para-4 – The developer/builder/owner/applicant can option under DDF to develop, erect and commission substation and necessary allied infrastructure for getting power supply for his establishment either by paying 1.3% supervision charges towards estimated cost to MSEDCL or 100% payment to MSEDCL for establishing the said work mentioned.

Para-5 – If developer/builder/owner/applicant provides the required land to MSEDCL and MSEDCL develops, erects and commissions substation and necessary allied infrastructure, then it shall be treated as non-DDF.

I wish to reproduce the text of 5.5 of MERC (Electricity supply code and other conditions of supply) Regulations, 2005,

Where in the opinion of the distribution licensee, the provision of supply requires installation of a distribution transformer within the applicant's premises, the applicant shall make available to the distribution licensee by way of lease, for the period for which supply is given to the premises, a suitable piece of land or a suitable room within such premises for the distribution transformer.

Provided that the terms and conditions for such lease of land or room shall be mutually agreed between the distribution licensee and the applicant having regard to prevailing market rates.

9) It is not disputed that applicant at Sr.No.1 to 12 submitted applications for new connection to non-applicant for their own flats in "SDPL Paradise" project at Dhaba, Nagpur vide letter no.SD/project/623-184 dated 27-06-2016 and non-applicant refused new service connection to the premises vide their letter no.EE/MIDC/Tech/267 dated 19-01-2017. The applicant from Sr.no.13 to 15 belongs to common meters in the SDPL projects and the applicant is developer and common connections were also refused to applicants.

10) On perusal of Sr. page 8 and other papers, it is an undisputed fact that applicants has already handover the space (land) for transformer erection etc. which has reference to circular CE(DIST)/D-III/Requirement of land/78692 dated 17-05-2015 and acknowledged by Deputy Ex.Engineer DyEE/MIDC/S/01/340 dated 05-05-2014 for erection of infrastructure if any for release of NSC to our project.

11) Applicant on 12/11/2016 informed that initially for 1st phase requirement will be 74 meters, one common meter & building will be ready for possession within 2 to 4 weeks. Applicant while making application for power supply stated that they do not required supply under DDF but require under non DDF and not submitted any consent to carry out work by paying 1.3% supervision charges. Applicant specified the requirement of supply as per section 43 of the Electricity Act 2003 & SOP – case no.19 dated 16-08-2012 as well referred the circular of Chief Engineer, commercial no co-ord cell/make in India/21283 dated 02-05-2015, circular no.240 & shown preparedness to pay processing fee if demand note is issued as per the norms.

12) In an identical case of applicant i.e."SDPL green apartment at Wanjara, Kamptee Rd. Nagpur", the franchisee of non-applicant i.e SNDL, Nagpur vide letter dated Ref.Jan-16/con/000089 dated 28-01-2016, with load requirement at site is 1023.50 kw and advised to submit land lease agreement Copy is required for installation of the Transformer to release New service connection, as per your application phase wise so that we will enable to process further for infrastructure creation as per your load requirement (page 50)

13) On perusal of letter No DNEE/MIDC/S/01/340 dated 5/5/2014 – reference – space for transformer it is as under "We have inspected the site & as per drawing of site plan the space for installation of distribution transformers in the area mention in plan is OK", Which is admitted by Non Applicant in their additional reply dated 19/5/2017 (page 62).

Non Applicant again referred letter No. vide CE (Dist)/D-iii/Circular/22197 dated 20/5/2008 regarding Guidelines for releasing new connections and augmentation and emphasized on Dedicated Distribution Facility which is not at all the option or demand of the Applicant and hence submission about connection will be given only after Developer/ Builder provides the necessary infrastructure for giving new service connection is absolutely contradictory to above Para No. 5,6,7,8, The MERC (Electricity supply code and other conditions of supply) Regulation 2005, Regulation 19- Terms & conditions of supply on perusal of Regulation 19.1 &19.22. Hence it is inconsistent with these Regulations shall be deemed to be invalid. This submission of Non Applicant shows that there is no update of the EC Act 2003, MERC orders or directives and the circular of their own Chief Engineer dated 17/7/2015. Such type of non observance of directives shows their unawareness

about the guidelines & its application.

14) IGRC also failed to take Cognizance of the updated circulars but taken note of circular No. CF(Dist)/D iii/circular/22197 dt. 20/5/2016 which is already superseded shows that IGRC do not have any update or intentionally with ulterior motive attempts to place wrong findings which is a matter of serious concern as misusing their position to deny power supply and harass the consumers.

15) On perusal of order of IGRC dated 03-04-2017, the quorum present is Mr.M.S.Dhoble, Executive Engineer(Adm.) Officer, IGRC NUC & Mr.S.S.Vikhar, Manager(HR), Member IGRC NUC & Mr.A.Y.Raut, Manager(F&A), Member, IGRC, NUC but order is signed by Mr.M.S.Doble as incharge and is without consent & signature of the other members of IGRC, and hence order loses its legal value and not worth to be considered as order, (page 92 to 102)

The main question for my consideration is as under,

1] Whether applicant is entitle for NON DDF power supply or not?

In view of the Para 5,6,7,8 above and specific demand of Applicant for supply under NON DDF as already provided the land for infrastructure (Earmarked in Sanction plan) as well made Ok by Non Applicant, I am of the firm opinion that pressuring the Applicants for DDF is illegal and against the circular of higher authorities. Hence Applicant is entitle for power supply to the applicant's project and order of IGRC as well as submission of Non Applicant is baseless and deserves to be discarded at the 1st instance which is without basis & updation of guidelines.

It will not be out of context to mention the relevant text of commercial circular No 240 dated 2/5/2015 on subject Revised guidelines regarding standard of performance (SOP) i.e.

“As stipulated under section 43 of Electricity Act 2003 and further provided in MERC (sop of Distribution licenses, period of giving supply and determination of compensation) Regulations 2014, New connection & supply of electricity has to be provided within the given time period. Which is the maximum period for providing the electricity.

In the endeavor to provide for power supply even before the stipulated period, so as to provide more expedition's service to consumer & to improve ease of doing business.”

In view of the above guidelines, the action of Non Applicant is totally in violation and as per me it is insubordination of law full and reasonable orders of superior and Chief Engineer of Zone may take serious Note of such acts of Concerned officials.

It is noteworthy to mention that so called legal opinion dated 28/11/2016 is deserves to be discarded on the point of subject matter (page 38 circular dated 17/7/2015) itself is self explanatory and is not in continuation of the circular dated 20/5/2008 and hence further deserves to be discarded as is without reading the entire Text & spirit behind circular & review by A Committee.

It is undisputed fact that L.T. infrastructure is available in the premises and New service connection for construction purpose bearing consumer no.410018623025

with billing unit no.4690 is already provided and hence no hardship will cause to Non Applicant in providing electric supply to the applicant on payment of individual Demand Note immediately. Therefore Non Applicant be prompt enough to provide demand notes to applicants in the interest of Justice.

2] Whether applicants are entitle for SOP Compensation for New service connection?

It is undisputed fact that Application was submitted on 27/6/2016 and refused by Non Applicant on 19/1/2017. As SOP 'Appendix A' it is statutory duty of Non Applicant to complete the inspection within 7 days and intimate the charges within 15 days and duty to extension and argumentation of distribution main is within 3 months. Hence all applicants are entitle to SOP compensation for late demand i.e from 12/7.2016 till demand note is received by Applicants (12) @ Rs. 100/-per week.

Hence the application is deserves to be allowed. Non Applicant is directed to consider the application of Applicants under Non DDF scheme and release New service Connection to all the applicants in SDPL paradise at Dhaba, Nagpur and pay SOP compensation for late demand from 12/7/2016 till demand is delivered to Applicants.

16) 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 as per 5.2 of above MERC Regulation 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.

Naresh Bansod
Member (CPO)

21. In view of the majority we hold that, considering all the above, No vital reasons are found in the appeal to interfere with the order of the IGRC. The proceedings and order of the IGRC is in order. Hence the appeal is dismissed.

Therefore we proceed to pass the following order.

ORDER

- 1) Grievance application is dismissed.

Sd/-
(Shri.N.V.Bansod)
MEMBER

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

