

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

Case No. CGRF (NZ)/82 /2017

Applicant : Shri Vasant Z. Wakudkar,
At - post Mangrul,
Taluka – Samudrapur,
Dist – Wardha.
Non–applicant : Nodal Officer,
The Executive Engineer,
O & M Division, MSEDCL,
Hinganghat- 442301

Applicant: - Shri Vasant Z. Wakudkar,
Non- applicant: - 1)Shri H. P. Pawade, EE, Hinganghat

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

ORDER PASSED ON 08 .11.2017.

1. The applicant filed present grievance application before this Forum on 08.09.2017 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressed Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).
2. Non applicant, denied applicant's case by filing reply on dated 04.10.2017
3. Forum heard arguments of both the sides and perused record.

4. The history of the case in brief as per grievance application submitted to this forum is as follows:

The electric supply of the appellant was disconnected without notice for non-payment of arrears. (Exact date not known to applicant). In the month of May -2016, incidence of breaking of electric poles/wires happened. Hence the verbal complaint of this incidence was lodged with the concern authority. On dt.29.05.2016, Rs.10390/- was paid towards the arrears. The Dy.EE.Samudrapur was given receipt of the payment, but only poles were transported in his field in the month of May-2016 .But the supply was not restored within 24 hrs. The applicant lodged written complaint on dt.18.02.2017,08.06.2017for the same. The supply was restored on dt.03.06.17.

As per application, the applicant approached the IGRC on 08.05.2017 with the complaint that the electric supply of the appellant was disconnected without notice for non-payment of arrears. In the month of Jan -2015, incidence of breaking of electric poles/wires happened. Thereby demanded SOP compensation and for restoring the supply, to the IGRC. The IGRC passed order on dated 04.05.2017, which is not acceptable to him.

5. From the IGRC order dt.25.05.2017, it is seen that the grievance was lodged on dt 09.03.2017for breaking of the wire in the month of Jan-2015. IGRC directed the non-applicant to restore the supply. However, the claim for SOP compensation was rejected for the reason that as per clause 12.2 of SOP Regulation 2014, applicant should have approached IGRC within 60 days from the cause of action.

6. Aggrieved by the order of the IGRC, the applicant filed with forum this grievance of breaking of poles/wires in the month of May-2016 and disconnection of supply without notice and demanded SOP compensation and for restoring the supply along with action against the officers concerned for negligence.

7. By his reply dated 29.9.2017, the respondent denied the claims of the appellant, stating that the applicant has claimed compensation for the breaking of poles/wires in his field in the month of Jan-15 before IGRC, while he has claimed compensation for the same cause happened in the month of May-16 before forum. As this grievance not being the appeal for the case lodged with IGRC, it is not tenable by law hence deserved to be dismissed. Hence demanded to dismiss the grievance application on account of this reason.

8. Forum has heard Representative Shri B. V. Betal and Shri Pawade, Executive Engineer on dt.28.09.2017, finally on dt.30.10.17.

9. The term of Chairperson of the Forum expired on dt 30.06.2017, consequent to which the matter was 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:

10. During hearing Non-applicant reiterated the facts as per their reply filed with the forum and further stated that there was never an interruption in their electric supply due to disconnection done by them for non-payment of arrears. It is further stated by him that, from the copy of grievance letters attached by the applicant with the main grievance lodged with CGRF, It can be seen that acknowledgment to these complaint letters are seen to be given by circle office, hence complaint of

breaking of poles is lodged with circle office directly whereas, it was mandatory to give intimation of such complaint as per provision made as per Clause 8.2 of the MERC (Standard of Performance of Distribution Licensees period of Giving Supply and Determination of Compensation) Regulations, 2014 (SOP) to their distribution center. He further stated that at least a copy of complaint should have been given to their office, which applicant has failed to do so. He therefore pleaded that the applicant is trying to grab the compensation by misleading the forum. Therefore, requested to reject the Grievance application on this ground.

11. In view of above discussion, considering the fact that, grievance lodged with IGRC and CGRF being the different, It is not tenable by the law .Therefore as per Clause 6.7 of the MERC (CGRF and EO) Regulations, 2006, forum is of the view that grievance is not in respect of the same subject matter that has been settled by IGRC and applicant has not complied with the procedure under Regulation 6.2. Hence the grievance application deserves to be rejected.

Separate dissenting Note by Member (CPO) Mr. Naresh Bansod dated 7.11.2017 in Case No. 82/2017 is given as under.

The grievance of the Applicant is as under :-

- (A) Supply of Applicant's 3 HP Agriculture Pump was disconnected without 15 days notice (B) Two poles & wiring Broken in January 2015 which was not regularise besides application. (C) Applicant deposited Rs.10390/- on 25-5-2016 under KSY (Krushi Sanjivani Youjana) due to arrears & disconnection of supply and

(B) receipts were given to Girad & Samundrapur office (D) Non Applicant since May-2016 brought the poles in the field and it is lying till date of filing complaint before IGRC.

(1) Applicant prayed for SOP compensation for late Restoring supply as per “Fuse of Call” Regulation 12.1(Appendix A) for late restoration as restored on 3-6-2017 & compensation.

(2) Applicant prayed that after deposit of Rs.10390/- on 25-5-2016, it was necessary to restore supply within 24 hours and prayed for departmental action against negligent Non applicant because 2 poles were dumped in the field in the month of May-2016 but supply was restored on 3-6-2017.

(3) IGRC in their order dated 25-5-2017 mentioned that Non Applicant or his representative was absent during hearing and did not file any reply alongwith documents. IGRC ordered restoration of Electric supply of applicant urgently and denied other prayer of the Applicant as per SOP Regulation 12.1. Appendix ‘A’.

(4) Non applicant filed reply on 29-9-2017 as under.

तक्रारकर्ते श्री. वसंत झेड. वाकुळकर रा. मंगरुळ, ता. समुद्रपूर यांनी मंडल कार्यालय अंतर्गत तक्रार निवारण कक्ष वर्धा कडे दि. ०९.०३.२०१७ रोजी केलेल्या अर्जांमध्ये जानेवारी-२०१५ पासून वीज पुरवठा खंडीत असल्याच्या तक्रारीची नोंद आहे. त्यानुसार अंतर्गत ग्राहक तक्रार मंचाचा निर्णय क्र. २६४२ दि. २५.०५.२०१७ ला दिलेल्या आहे. कायद्यातील अपिलीच्या तरतुदीप्रमाणे तक्रारकर्त्यांनी सदर निर्णय अमान्य आहे म्हणून ग्राहक गाऱ्हाणे निवारण मंच नागपूर कडे अपील दाखल केली.

सदर अपीलमध्ये तक्रारकर्त्यांनी माहे मे-२०१६ पासून वीज पुरवठा खंडीत असल्याचे म्हटले

आहे. दोन्ही तारखा भिन्न असल्यामुळे ह्या दोन्ही तक्रारी वेगवेगळ्या आहे असे वाटते. अंतर्गत ग्राहक तक्रार निवारण कक्ष वर्धा कडे केलेल्या तक्रारीची अपील नसून वेगळी तक्रार थेट ग्राहक गाऱ्हाणे निवारण मंच नागपूर येथे करित आहे. तरी सदर बाब ही न्याय संगत नसून अपील खारीज करण्याची विनंती करण्यात येत आहे.

- (5) (a)Applicant filed Written Arguments,(b)Copy of complaints dated 18-2-2017,8-6-17 (C)Receipt of payment of Rs.10390/- under “KSY” dated 25-5-2016,(d)Copy of Judgement of Bombay High Court in “Writ Petition No. 9455 of 2011 M/s. HPCL V/S MSEDCL.(e)Copy of Judgement of Nagpur Bench of Bombay High Court in Writ Petition No.3997 of 2016. M/s. MSEDCL V/S Shilpa Steel & Power Limited and Electricity Ombudsman & other (f)Copy of order of the Electricity Ombudsman, Nagpur order dated 30-9-2016 in Representation No.41/2016 Namdeo S. Chavan V/S MSEDCL. (g)Copy of order of the Electricity Ombudsman, Nagpur order dated 19-8-2016 in Rep. No.34/2016 (h)Copy of order of this forum dated 23-11-2016 in complaint No. 168/2016. Ganesh G. Kalvade V/S Nodal Office, Executive Engineer, M.I.D.C., Hinganghat.
- (6) We heard the Arguments of both the parties & perused all papers on record along with copy of Judgments/Orders filed by Applicant.
- (7) It is an admitted fact that Applicant is Agriculturist having 3 HP connection with consumer No. 397760100231 and as per bill on record dated 4-2-2016 for period 16-9-2015 to 16-12-2015 for Rs.46670/- alongwith arrears and hence applicant paid Rs.10390/- under “KYS 2014” on 25-5-2016 and balance amount of DPC, Interest etc. was waived under the scheme and inference can very well be drawn that Applicant supply would have been permanently disconnected.

(8) Secondly on perusal of the CPL from “Internet” it clearly appears that Reading Not available i.e. R.N.A. or RNT with meter status Normal but notional reading was charged to the Applicant from since or prior to March 2015 to June 2017 because inspite of repeated allegations of P.D. Connection, non applicant smartly avoided to comment on it in reply as well as Arguments and also failed to produce any documentary cogent evidence but tried to raise the dispute of dates and requested to dismiss the complaint as well as complaint is not legal which is not of any use to redress the complaint & deserves to be discarded..

(9) Non applicant was also silent before IGRC by non filing reply & non appearance and also tried to keep mum after the order of IGRC i.e. अर्जदाराच्या विजपुरवठा त्वरीत सुरु करुन देण्यात यावा, before the forum inspite of clear allegation of Applicant that poles were lying in the field of the applicant since May-2016. Hence adverse inference is necessary to drawn against Non Applicant and as per IGRC Order supply was restored on 03-06-2017.

(10) Now it is crystal clear that due to pending arrears the Electricity Supply was disconnected since/prior to January 2015 without 15 days statutory notice of Section 56(1) of The Electricity Act. 2003. and during the period of illegal disconnection 2 poles & wire was broken. Under ‘KSY’ 2014 Applicant deposited Rs.10390/- for settlement on 25-05-2016 and it was obligatory on part of Non Applicant to erect the poles lying in the field & restore the supply of the Applicant due to illegal disconnection of electricity and broken poles & wires but the supply

was restored on 3-6-2017 after the order of IGRC dated 25-5-2017. Hence Applicant claimed “Fuse of Call” compensation @ Rs.50/- per hour from Jan 2015 till restoration of supply on 3-6-2017.

(11) The point for my consideration is whether the present complaint while claiming compensation is affected by MERC (SOP of Distribution Licensee and Determination of Compensation) Regulation 2014 Reg. 12.2. as well as Appendix ‘A’ – No

On perusal of order of Nagpur bench of Bombay High Court in Writ Petition No. 3997 of 2016 dated 18-7-2017 M.S.E.D.C.L. V/S M/s. Shilpa Steel & Power Limited, Hon’ble High Court considered the Judgement of Division Bench of Bombay High Court in Writ Petition No. 9455 of 2011 M/s. HPCL V/S MSEDCL and it was held that “Cause of action has arises from the date of rejection of grievance by IGRC”.

In this case applicant filed complaint before IGRC on 9-3-2017 inspite of non restoration of illegal disconnection since 2015 & payment under “KSA 2014” on 25-5-2016 as well as restoration of broken poles and restored after partial order of IGRC & Non granting SOP compensation.

Hence the cause of action arose from date of rejection of grievance regarding non grant of SOP compensation.

(12) On the point of illegal disconnection as well as settlement of P.D.Arrears on 25-5-2016 it was obligatory on part of the Non Applicant to restore the supply within 24 hours. This clearly shows that the IGRC has failed to go through Appendix A

item 2 Restoration on supply (ii) 33 KV/22KV/11KV/400 V overhead break down. In case of overhead line breakdown described in item (ii) of Appendix A. Under the said provision, 24 hours period is given in rural areas to attend breakdown and restore supply. In this case, this has not been done for long period of time of more than 2 years. As such the respondent is liable to pay compensation to the appellant of Rs.50/- per hour for the period from Jan 2015 till restoration of supply i.e. 3-6-2017.

(13) On perusal of Both the orders of Electricity Ombudsmen Nagpur & CGRF identical to this case. Now it is further clear that Non applicant is liable to pay SOP Compensation for "Fuse of Call" since Jan-2015 to 3-6-2017 @ Rs.50/- per hour as applicant filed complaint before forum after restoration of supply.

(14) As observed by The E. O. Nagpur in above representation in para 10, I am of the firm opinion that "In the circumstances of the case," I feel it necessary that inquiry into the negligence of the concerned officials should be made, so as to fix liability on erring officers and to impose appropriate punishment on that found strictly. It is a serious case of harassment, mental agony financial loss caused to Applicant as was deprived from use of water to his field due to illegal disconnection & non restoration of supply for long period violating all norms of the section 56(1) of the Electricity Act. 2003 & Norms of SOP by the Non applicant.

In result. I pass the following order. (A) The complaint is allowed (B) the order of IGRC dated 25-5-2017 on the point of Rejection of SOP compensation is hereby set aside (C) The Non Applicant is directed to pay compensation of Rs.50/- per hour to

applicant for the period from Jan-2015 till this date i.e. 3-6-2017 (D) Compliance be reported within one month.

As per 4.1 (C) proviso of above said regulation. Secondly on perusal case No. CGRF (NUZ) 031/2009, order dated 26-6-2009 where so called member secretary i.e. present technical member was representative of non applicant and is well aware that Mrs. Langewar acted as member secretary and Smt. Gouri Chandrayan as member as per regulation 5.2 of above said regulation and same practice was observed to have followed earlier whenever the post of chairperson was vacant.

This means that when chairperson is appointed in the CGRF & Joined and he is absent from sitting of the forum, then 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 regulation 5.2 of said 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 and not as chairman as per seniority. In entire MERC (CGRF & EO) regulation 2006 post of only Technical Member is notified but not post of Member Secretary is notified and hence self designating as Member Secretary is against provisions of above regulation. Hence order of the Technical person or so called

member secretary cannot be a Majority order.

Naresh Bansod
Member (CPO)

12. In view of the majority, considering above fact that there is difference in complaint lodged with IGRC and Forum, as per Clause 6.7 of the MERC (CGRF and EO) Regulations, 2006, Grievance deserves to be rejected and 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/CHAIRMAN