

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

Case No. CGRF(NZ)/83/2017

Applicant : Shri. Bhaurao L. Khandekar,
At Post – Veda, Tah- Hinganghat,
Wardha.
Non–applicant : Nodal Officer,
The Executive Engineer,
O&M. Division, Hinganghat,
MSEDCL, Hinganghat

Applicant: - Shri. Bhaurao L. Khandekar, Applicant's representative.
Non- applicant:- 1) Shri.H.P. Pawade, EE, MSEDCL.Hinganghat
2)

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

ORDER PASSED ON 14.11.2017.

1. The applicant filed present grievance application before this Forum on 18.09.2017 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 dated 04.10.2017
3. Forum heard arguments of both the sides on dt.30.10.2017 and 03.11.2017 and perused record.
4. Applicant filed an application for electricity supply for his agricultural pump on

dated 08.01.2013. Non-applicant did not issued him demand note. Applicant claim SOP compensation for delay in issuing demand note as per clause 12.2. Along with action against the officers concerned for negligence.

5. The applicant approached the Internal Grievance Redressal Cell (IGRC) on 05.05.2017. By its order dated 03.07.2017, the IGRC directed the non-applicant to issue demand note. However, the claim for SOP compensation was rejected as per clause 12.2 of SOP Regulation 2014.

6. Not satisfied with the order passed by the IGRC, the applicant approached the CGRF demanding: (i) SOP Compensation for late demand note and (ii) action against the officers concerned for negligence.

7. By their reply dated 04.10.2017, the Non-applicant confirmed the date of A 1 form as 08.01.2013 stated by the applicant .They further contended that it was necessary to issue demand note on or before 27.01.2013. The applicant filed grievance with IGRC for compensation on dt.05.05.2017 whereas applicant should have made representation for compensation or should have approached IGRC within 60 days from the cause of action i.e. on or before 07.03.2013. Therefore compensation claim of the applicant is barred by limitation as per Clause 12.2 of SOP Regulations, 2014 of MERC.

8. Forum has heard Shri Betal representative for the applicant, and Shri H. P.Pawade, Executive Engineer, Hinganghat for the Non-applicant.

9. Shri Pawade, filed statement of the applicant dt.11.10.2017 before forum which states that he has received demand note for AG solar pump on dt.11.10.17

hence he is withdrawing the case. But Applicant's representative took objection over the fact that the applicant has given written statement for case withdrawal. The applicant Shri.B.L.khandekar was summoned for the hearing by the forum.

10. Shri.B.L.khandekar was present during hearing on dt.03.11.2017, He too denied the content of the written statement filed by NA on dt.11.10.2017. Applicant's representative filed written statement duly signed by the applicant that applicant's signature has been obtained on blank paper by Non-applicant and therefore the content of that statement is not acceptable to him. He does not want AG solar demand; however he may be given conventional connection and hence the demand note for the same and compensation for late issue of the demand.

11. According to Shri. Pawade, the applicant is unable to write on his own hence it might have been written by somebody else but It is according to verbal statement given by the applicant only. Moreover the signature is real.

12. Due to the expiry of term of Chairperson of the Forum 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:

13. After hearing both parties, it was seen by the forum that applicant being illiterate could not write on his own but kept on repeating sentence such as "***I want connection ,nothing else***" before the forum .Hence inference can easily be drawn that he was only interested in connection not compensation. But it was Applicant's representative who keeps on insisting the applicant that he must demand compensation and submitted statement during hearing written by him and duly sign by applicant. The applicant without reading signed it but unwillingly. Therefore non-applicant might have experienced similar situation and therefore the statement dt 11.10.2017 was submitted. Hence it can be concluded that the same statement was not obtained by NA forcibly but confusion is created by applicant by signing the paper and then denying the content. For this non-applicant cannot be charged that he has produced

false statement. Forum therefore concluded that it was necessary to issue demand note within 30 days i.e. in this case on or before dt. 08-02-2013. But the Distribution Licensee issued him demand note of on 29-07-2017. The cause of action has arisen for issuing demand note on dt. 08-02-2013. According to clause 12.2 of MERC(SOP) Regulation, 2014, the applicant should have made representation for compensation or should have approached IGRC within 60 days from the cause of action i.e. on or before 09.04.2013. In this case grievance application was filed with IGRC on dt. 05.05.2017, Therefore compensation claim of the applicant is barred by limitation as per Clause 12.2 of SOP Regulations, 2014 of MERC. Hon'ble Electricity Ombudsman has clearly stated in representation no.34/2016 at para 7 as follows:

"It may be noted that Clause 12.2 of SOP Regulations is applicable only when the consumer files his claim with the Distribution Licensee.

As grievance is not filed within 60 days from the cause of action i.e. on or before 09.04.2013.. Hence claim for late demand note is time barred as per Clause 12.2 of SOP Regulations, 2014 of MERC.. Hence applicant is not entitled for compensation from Non-applicant for issuing late demand note.

Dissent note by Member (CPO) Mr. Naresh Bansod dated 10-11-2017 in Case No. 83/2017 Mr. Bhaurao Khandekar.

The grievance of the Applicant is as under.

- (1) Applicant submitted "A" form for 3 HP Agriculture Pump on 8-1-2013, inspite of visits no spot survey & no demand was given and claimed SOP compensation for late spot survey & demand Note as per SOP Reg. 12.1 and connection to the pump.
- (2) IGRC ordered on 3-7-2017 to give demand urgently & denied SOP

compensation.

IGRC Categorically noted as under.

“गैर अर्जदार व गैर अर्जराराचे प्रतीनिधी हे सुनावणी दरम्यान कक्षा समक्ष उपस्थित नव्हते व त्यांच्या लिखित अहवाल प्राप्त झाला नाही”

This shows the intentional arbitrary attitude & approach towards their own IGRC & its officials as well as Applicant.

- (3) Non applicant in reply stated that applicant did not filed demand for compensation within time as per SOP Reg. 12.2 after the IGRC order dated 3-7-2017.
- (4) Non applicant admitted the submission of “A” form on 8-1-2013 and expected to issue demand before 27-1-2013 and applicant did not file application within 60 days i.e. 7-3-2013. Non Applicant further said that applicant after cause of action after period of 4 years 3 months filed the complaint and as per MERC Regulation 12.2 & MERC (CGRF * Ombudsman) Regulation 2006 of Chapter II point 6.6 and requested to dismiss as bar by limitation.
- (5) Non Applicant gave demand note on 29-9-2017, 1st for solar (complaint before IGRC & CGRF was for 3 HP pump and not solar pump) & then for other pump of 3 HP on 28-10-2017 for Rs.5648/- after more than 116 days of IGRC order on 3-7-2017 this is strongly objected by Applicants representative as against request & order of IGRC on demand note for Agriculture Pump.
- (6) Non applicant further said that, Applicant applied for Solar Agriculture pump on 6-2-2016 and applicant did not clear that which connection he wants.

(7) We heard the arguments of both the parties & perused all papers on record as well as (A) Copy of Judgements of Bombay High Court, Nagpur Bench in W.P. No.3997 of 2016 in case of M.S.E.D.C.L. Nagpur V/S Shilpa Steel & Power Ltd. (B) Judgement of Bombay High Court in W.P. No.9455 of 2011 in case of M/s. HPCL V/S M.S.E.D.C.L. (C) Order of C.G.R.F.(Nagpur Rural Zone) in complaint No.51/2015 dated 27-7-2015 (D) Order of Electricity Ombudsman, Nagpur in representation No. 34/2016 dated 19-8-2016 (E) Order of E.O. Nagpur dated 6-3-2016 Prakash Deshmukh V/S The Executive Engineer in Representation No. 110/2015 (F) CGRF order dated 3-12-2015 in complaint No. 171/2015 (Present Member/Secretary was party to order).

The Points for my consideration are.

- (1) Whether the application is bar by limitation as not filed within time as per MERC Regulation 12.2 & MERC (CGRF & E.O.) Regulation 2006 of Chapter II point 6.6 ? - No -
- (2) Whether the applicant is entitle for SOP compensation for late issue of demand note? - Yes -

Point 1 & 2 on perusal of above mentioned Judgments of High Court of Nagpur bench as well as Bombay High Courts upholding order of The Electricity Ombudsman, Nagpur as under.

“Respondent No. 2 (E.O.) has rightly held that grievance of Respondent No. 1 (Consumer) was well within limitation as cause of action has arisen from the date of rejection of grievance by IGRC”.

In this case IGRC vide order dated 3-7-2017 ordered to give demand note

urgently to the applicant but denied the SOP compensation.

It is evident that cause of action arise on 3-7-2017 and application before the CGRF was filed. Hence as per 6.6 of MERC (CGRF & E.O.) Regulation 2006 and 12.2 of SOP compensation also, Application cannot be termed as bar by limitation.

Ultimately after order of IGRC dated 3-7-2017 demand note was given on 29-9-2017 for Solar Pump when specific complaint & demand is for Traditional Electric Pump. Further late inspite of order of IGRC which was given on 28-10-2017 late by 116 days which proves the negligent and callious attitude towards order of IGRC as well as Applicant.

On perusal of order in case No. 51/2015 dated 27-7-2015, it is observed on by the Technical Member/Member Secretary as under.

“Moreover the complaint’s cause of grievance about payment of compensation for delay in giving supply will arise only when supply is given to her as supply’s not get given”. This is contrary to say of Non Applicant in present case.

On perusal order of E.O. Nagpur as well as orders of the CGRF makes crystal clear in identical cases that application is not bar by 12.2 of SOP Regulations 2014 as well as Reg. 6.6. of MERC (CGRF & EO Regulations 2006) also and compensation was ordered for late demand or late electric supply.

Hence Applicant is entitle to SOP compensation for late demand note from 28-1-2013 to 27-10-2017 after 20 days of 8-1-2013 date of ‘A’ form submission.

(8) During arguments, Non applicant filed copy of “Bayan” of Applicant dated 11-10-2017 stating that receipt of demand for Agriculture Solar Pump and taking back his complaint before CGRF & Complaint No. 83/2017 be dismissed.

On this applicant's representative strongly objected as false fabricated and forum ordered on 30-10-2017 to keep Applicant present before forum on 3-11-2017.

Applicant was present & given the following letter which is self explanatory.

अर्जदार : श्री. भाऊराव लक्ष्मण खांडेकर रा. वेळा, पो. तेळा ता. हिंगणघाट जि. वर्धा.

महोदय,

मी खालील सहि करतो की मी मंचात उपस्थित झालो. माझी कोऱ्या कागदावर विज वितरणच्या कर्मचाऱ्याणे सहि घेतली त्यावर केले लीखाण मला मान्य नाही. मला परंपरागत विज जोडणीचे डिमांड देण्यात यावे. मला समोर केस चालवायची आहे व मला उशिरा डिमांडसाठी भरपाई देण्यात यावी. हि विनंती मला परंपरागत विज जोडणी देण्यात यावी. सोलर विज जोडणी मला नको आहे. करिता मंचासमक्ष सहिनीशि लीहून देत आहे.

This proves the deliberate attempt of Non applicant to create confusion & doubt while deciding the present complaint but above letter has cleared that by obtaing signature of Applicant on Blank paper, Non Applicant attempted to manipulated Blank Paper. This attitude of Non applicant needs to be condemned.

Applicant specifically mentioned in अनुसुची "अ" that his application be sanctioned under special component plan (SCP of Govt. of Maharashtra) and connection be given under.

DPDC i.e. District planning & development committee as provided by Govt. of Maharashtra but Non applicant is absolutely silent in his reply means keeping mum is an acceptance on his part. Applicant also expressed his willingness to deposit the amount of Demand on or before 6-11-2017

In view of the above observations, applicant is entitle to SOP compensation for delay in demand Note from 28-1-2013 to date of issue of demand note @ Rs.100/- per week or part their off delay as per SOP Appendix 'A'.

Hence the order.

1) The application is allowed.

- 2) The order of IGRC for denying SOP compensation is quash & setaside.
- 3) Non applicant is directed to sanction application under SCP and given connection under DPDC.
- 4) Non applicant is directed to pay SOP compensation for delay in demand Note for period 28-1-2013 to 27-10-2017 @ 100/- per week and part their off for delay.
- 5) The compliance of the order shall be done within 30 days.

Naresh Bansod
Member (CPO)

14. In view of the majority, considering above facts and as compensation claim of the applicant is barred by limitation as per Clause 12.2 of SOP Regulations, 2014 of MERC. 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