

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No.02/2017

Date of Grievance : 05.01.2017

Date of Order : 20.02.2017

In the matter of refund of security deposit alongwith SOP Compensation.

M/s.Indus Towers Limited,
2010,E-Core, 2nd floor,
Marvel Edge, Vimanagar,
Pune - 411014.

Complainant
(Herein after referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Mulshi Division,
Pune.

Respondent
(Herein after referred to as Licensee)

Quorum

Chairperson
Member Secretary
Member

Mr. S.N.Shelke
Mrs. B.S.Savant
Mr. S.S.Pathak

Appearance

For Consumer

Mr.Sachin Mahangade
Mr.Direndra

Shreevastava(Representative)

For Respondent

Mr.C.S.Dhamse, E.E.,Mulshi Dn.
Mrs.Awanti Upadhye, Dy.M.(Rev.)

- 1) The Consumer has filed present Grievance application under regulation No. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
- 2) Being aggrieved and dissatisfied by the order dated 04.11.2016 passed by IGRC Pune Rural Circle, Pune, the consumer above named prefers present grievance application on the following amongst other grounds.

- 3) The papers containing the above grievance were sent by the Forum to the Executive Engineer, M.S.E.D.C.L., Mulshi Division, Pune vide letter no. EE/CGRF/PZ/Notice/02 of 2017/03 dtd.06.01.2017. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 19.01.2017.
- 4) We heard both sides at length and gone through the contentions of the consumer and reply of the respondent and the documents placed on record by the parties.
- 5) Facts giving rise to the grievance are stated as under :

The consumer M/s. Indus Towers Ltd. having consumer No.171512082636 with connected load 12.80 KW was connected on 12.2.2008 in the tariff category LT-V B I. The said consumer surrendered the connection and then applied for refund of security deposit alongwith required documents on 1.7.2015 to the S.D.O Urulilkanchan. However the Licensee did not give any reply though no any compliance was pending on the part of consumer. Thereafter the consumer approached to the IGRC for refund of security deposit. The IGRC directed the Licensee to refund the S.D. within 30 days and to investigate the matter to avoid such delay in future cases. Despite the order of IGRC for refund of S.D., the Licensee did not refund the S.D. till date. Therefore consumer claims refund of S.D. with SOP compensation as per Appendix-A item No.8 (ii) of MERC (SOP) Regulations, 2014.
- 6) The consumer representative Mr.Dhirendra Shreevastava submitted that the above named consumer surrendered the connection vide consumer No.171512082636 & then applied for refund of security deposit of Rs.13000/- on 1st of July 2015. However the Licensee did not give any reply or taken any action for refund of S.D. Thereafter the consumer approached to the IGRC with complaint for refund of S.D. The IGRC vide order dated 4.11.2016 directed the Licensee to refund S.D. within 30 days & to investigate the matter to avoid delay in the cases for refund of S.D.in future. In spite of the said directions given by IGRC, the Licensee did not

refund S.D. till date. Therefore Mr.Dhirendra further submits that Licensee be directed to refund S.D. alongwith compensation as per MERC (SOP) Regulations, 2014.

- 7) On the other hand Mr.Dhamse, Ex. Engr., Mulshi Dn. submitted that the SDO Urulikanchan made spot inspection of the premises of the consumer on 13.01.2017 and found that the consumer was not permanently disconnected. The S.D. cannot be refunded as the connection is live. The outgoing supply is not connected. The consumer is of, " No use" status. The SDO observed that there was no any entry about P.D. in the register. During the site visit it was learnt that there was some court case filed by the owner Shri.Ramdas Ganpat Kalbhor & Ranjana Ramdas Kalbhor against the Indus Towers Ltd. The owner has requested the Licensee to keep the status, as it is, till finalization of the court case. Therefore the S.D. could not be refunded.

- 8) The IGRC on 4.11.2016 passed following order :

1. *The refund of S.D. should be made within 30 days.*
2. *SDO Urulikanchan should investigate the matter make necessary arrangements to avoid delay in such cases in future.*

However, the Licensee did not make compliance of the said order till date.

- 9) It is necessary to take into consideration provisions of supply code Regulations, regarding refund of security deposit.

Regulation No.11.9, 11.11 and 11.12 of MERC (Electricity supply code & other conditions of supply) Regulations, 2005 read as under :

11.9 Upon termination of supply, the Distribution Licensee shall, after recovery of all amounts due, refund the remainder amount held by the Distribution Licensee to the person who deposited the security with an intimation to the consumer, if different from such person.

11.11 The Distribution Licensee shall pay interest on the amount of security deposited in cash (including cheque and demand draft) by the consumer at a rate equivalent to the Bank rate of the Reserve Bank of India:

Provided that, such interest shall be paid where the amount of security deposited in cash under this Regulation 11 is equal to or more than rupees fifty.

11.12 Interest on cash security deposit shall be payable from the date of deposit by the consumer till the date of dispatch of the refund by the Distribution Licensee.

- 10) The Licensee in its reply dated 19.1.2017 has contended that at the time of spot inspection the said connection was found live & there was no any entry about P.D. in the concerned register. It is further contended that the owner of the property has filed suit against the Indus Towers Ltd.(Present consumer) & the said owner as requested the Licensee to keep the status as it is till finalization of the court case. The CPL record of the said consumer shows that from Jan.2014 to Dec.2015 consumption recorded as zero (00) with normal status. The consumer surrendered the connection on 1.7.2015. The Licensee initially on surrendering made the connection, T.D. (Temporarily Disconnected). It was the duty of the Licensee to make it P.D. after six months but it failed to do so therefore there is deficiency in service on the part of Licensee. The connection was found live on the date of spot inspection i.e. on 13.1.2017. Hence the Licensee is own responsible for its losses. The Licensee produce copy of the notice Ex.11 of the Small Causes Court, Pune in suit No.330 of 2016 and copy of the application of Ramdas Ganpat Kalbhor. It is seen that the said suit is for recovery of arrears of rent and compensation between Ramdas & Indus. The MSEDCL is not party to the said suit. The court has not passed any order against the MSEDCL for maintaining of status quo. Therefore there is no force in the submission of Licensee that the said connection could not be made P.D. due to status quo. The action of Licensee, despite the direction of IGRC to refund S.D. appears to be undue favour to the one of the parties to the litigation.
- 11) The Licensee is liable to pay security deposit to the consumer upon termination of supply as per Regulation No.11.9 of the supply code. The

consumer applied for refund of S.D. of Rs.13000/- on 1.7.2015. He paid last bill on 13.5.2016. The consumer is entitled to get interest on S.D. equivalent to bank rate of RBI as per Regulations, 11.11 & 11.12 of MERC, Supply Code. As per Appendix-A item No.8 (ii) of MERC SOP Regulations, 2014, the Licensee is liable to pay compensation of Rs.100/- per week or part thereof of delay. The refund of S.D. was due in the second billing cycle from the application dated 1.7.2015. The Licensee has not refunded S.D. till date. Therefore now Licensee is required to calculate SOP Compensation from the date of application of the consumer till the date of payment of S.D.& further to calculate interest thereon for such period as per Regulation No.11.11 and 11.12 of the supply code as mentioned above.

The grievance is liable to be allowed.

- 12) Hence we proceed to pass following order.

ORDER

1. Grievance of the consumer stands allowed with cost.
2. The Licensee to refund SD of Rs.13000/- to the consumer alongwith interest equivalent to the Bank rate of RBI till the date of dispatch of the refund as mentioned above vide Regulation No.11.9, 11.11 & 11.12 of MERC supply code, 2005.
3. The Licensee to pay SOP compensation to the consumer from date of Application for refund of S.D. till the date of refund at the rate of Rs.100/- per week or part there-of delay as per Appendix -A item no.8 (ii) of MERC (SOP) Regulations,2014.
4. The Licensee may recover above mentioned compensation & interest from the defaulting employee by making necessary inquiry as per rules.

5. The Licensee to report compliance within one month from the date of receipt of this order.

Delivered on: - 20.02.2017

Sd/-
S.S.Pathak
Member
CGRF:PZ: PUNE

Sd/-
B.S.Savant
Member/Secretary
CGRF:PZ: PUNE

S.N.Shelke
Chairperson
CGRF:PZ:PUNE

Note: - The consumer if not satisfied may filed representation against this order before the Hon'ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex,
Bandra (E), Mumbai-51.