

.(A Govt. of Maharashtra Undertaking)
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PHONE NO. : 25664314/25664316
FAX NO. 26470953
Email: cgrfbhandupz@gmail.com
Website: www.mahadiscom.in

Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date:

Hearing Date: 14/08/2018

CASE NO.161/2018

In the matter of refund of tariff difference amount with interest

M/s. AADHAR HOSPITAL
THANE, MAHARASHTRA.

..... (Hereinafter referred as Applicant)

Vs

Maharashtra state Electricity Distribution Company Ltd

Through it's Nodal Officer,

Thane Circle,Thane

..... (Hereinafter referred as Respondent)

Appearance

For Consumer :- Pranab Shende, M/s. Strom Lounger Pvt. Ltd Consumer.

Representative for Respondent :- R.B. Kore Add. Executive Engineer,Gadkari Sub-Division

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member Secretary and Sharmila Ranade - Member (CPO)].

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide

powers conferred on it by Section 181 read with subsection 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Here in after referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience

This application is filed by the consumer for grievances against the Respondent company MSEDCL to correct the tariff and category and refund of the amount. The Applicant Consumer above named is LT (Low Tension) having following connection of MSEDCL and drawing Electric supply from consumer No. 0000228033109/PC-2, BU; 4728 Gakari S/Dn. Applicant is providing health care facilities and has secured the power supply from MSEDCL for the purpose of providing health care facilities. The power supply is connected on 30-04-2008 and since then the Applicant is receiving regular energy bills without any error in meter or any complaint from the representatives of the respondent company (MSEDCL), who use to visit, inspect and record the reading of the energy consumption of the electricity, for raising energy bills and the Applicant were paying towards the energy bills raised by the respondent company (MSEDCL) from time to time without any default.

The Tariff is made applicable as per Tariff order issued by the commission from time to time. As per section 62(3) Electricity Act, 2003, tariff is based on purpose of use. Section 2(15) of the electricity act provides that the consumer means any person who is supplied with electricity for his own use. Similarly section 43 of the act also provides that distribution licensee shall give supply to the occupier of the premises, Dr. Sunil Chaudari

is operating M/s. Aaddhar Hospital is thus the end user of electricity supplied by respondent (MSEDCL).

Therefore, applicant claims that the Respondent be directed to change the tariff according to MERC orders which is applicable from 1st of June 2015. There the billing cycle of a consumer is different with respect to the date of applicability of revised tariffs, they should be made applicable for the consumption on a pro rata basis. The bills for the respective periods as per existing and revised Tariffs shall be calculated on the pro rata consumption (Units consumed during respective period arrived at on the basis of average unit consumption per day multiplied by number of days in respective period falling under the billing cycle). In this application applicant prayed for redressal of the grievances in respect to the non-compliance of the tariff order issued by the commission for health care services and its refund for 24 months which is eligible and entitle to the consumer along with interest and cost.

The Respondent appeared and filed their point wise reply that the consumer is billed in LTII tariff and the supply date is 30-04-2008. As per commercial circular no. 175 dtd. 16.08.2012, the new tariff category LT-X for public services is come into force. The said tariff category is applicable for nursing home and various public services. Now, the said consumer has applied for change in category from LT-II to LT-X, vide their application dated 04.08.2017. This office had informed the applicant to submit the document. After receipt of the queries by applicant in Nov 2017 and inspection report for confirmation of activities the tariff is changed to LT X(B) with effect from Dec 2017.

It is further said that after verification of the activities, suitable change of tariff is applied from December 2017 and as the activities prior to the application can't be ascertained, As the address of the said consumer which is mentioned on the electricity bill of consumer,

does not surely state that the premises is used for hospital purpose The applicant initially on date 04.08.2017 submitted leave and license agreement date 20.02.2012 with Viveke Lolge where the present Aadhar Hospital Running . If this agreement period is to be taken on rental basis for hospital purpose from 20.02.2012, then it means consumer charged residentially tariff and during same period consumer not informed or not taken objection when charged as commercial tariff till the application had submit for change of Tariff . As per Reg.4.13(b) of MERC Sop Regulation the change of tariff shall be effected within second billing cycle on receipt of application from consumer and the tariff shall be changed with prospective effect from the date of application. The premises was inspected and observed the hospital activity, prior to the inspection, we cannot change the tariff for the period prior to the application and as per proof of registration of hospital does not ensure that hospital started on that same day in existing premises. The consumer's pray for refund by considering retrospective effect may be disallowed.

I have gone through the contented of the grievances application and also gone through the point wise reply submitted by the Respondent. It appears admittedly that there is commercial circular no 243 of MSEDCL that as per MERC tariff order dated 26.06.2015 in the case no 121 of 2014 that the date of revised tariff is applicable from 1st June 2015 and will continue till further orders. In this circular serial No.3 the separate category for Gov. school and hospitals are come under LT X (A) and private and other category LT X(B) is made for other public services the applicability for this tariff shall be applicable to educational institutions such as schools and colleges, and Hospitals, Dispensaries, primary Health Care Centers and Pathology Laboratories and Libraries and Public reading rooms other than those of State or Central Government, Municipal Bodies, Zilla Parishads, Panchayat Samities or Gram Panchyat; all offices of Government/Municipal Bodies, Local Authority, local self Government, Zilla Parishad, and Gram Panchayat;Police Stations, Police Chowkies, Post offices, Defence establishments (army,navy and air-

force),Spiritual Organizations which are service oriented, Railway/Monorail/Metro except traction, State transport establishments,; and State Transport Workshops, Transport Workshops operated by Local Authority, Fire Services Stations, Jails, Prisons, Courts, Airports (only activity related to aeronautical operations), Ports, Sports Club/Health Club/Gymnasium/Swimming Pool attached to the Educational Institution Hospital provided said Sports Club/Health Club/Gymnasium/Swimming Pool is situated in the same premises and is primary meant for the students/faculty/employees/patients of such educational Institutions and Hospitals.

For the implementation of this circular as per serial no 4 the field officers are directed to ensure that where ever the tariff category is redefined or newly created by the commission, the existing / prospective consumer should be properly categorized by the actual field inspection immediately and the data to be immediately update in the IT data base.

All the field officer shall sensitize staff about various aspect of the tariff order and give proper guidance to all the officers and the staff members working under them. These are only important guidelines and for the actual implementation, the filed officers are requested to refer the detail order of MERC of 26.06.2015 in case of 121/2014.

I have gone through the application filed by the consumer regarding grievances and also gone through the point wise reply of the Respondent. It appears admittedly that the connection of the electric supply of the consumer is covered under the Hospital, Dispensary and Public Health Care Centre that is in the category of LT X(B).After spot verification of premises the tariff changed by the Respondent into LTX(B) .The consumer has produce Registration certificate issued on the Name of Sulochana R. Sarvan by Medical Officer of Health The Municipal Corporation of the city of thane, to show that he

has been running hospital but certificates is not shown any address of the premises. The certificate issued on date 16/12/2015 merely shown Dr.Sulochana R Sarvan has been registered under the Bombay Nursing Homes registration Act 1949 in respect Aadhar Hospital ,The certificate merely shows registration of Hospital that does not ipso facto prove that Hospital Home has been actually run since then. Even, if it is presumed so, that alone is not sufficient. There is nothing on record to indicate that the consumer has obtained connection especially for Hospital or that respondent had the knowledge that the hospital was being run there with supply. The consumer has submitted Leave and license agreement dated 24 June 2015 between Dr. Vivek Lolage, Leenata Lolage and Sunil Choudari and Miss Aasma Mull and partnership deed dated 10 Dec 2013 between Choudari and Mulla . The initially connection was released for residentially propose after onwards it changed as commercial. The Consumer charged commercial tariff from April 2014 but consumer have not taken any objection for the tariff applicability The documents submitted by applicant not sufficient to reveal that the Hospital had been running prior to application for change of tariff . There is nothing on record to indicate that applicant had running Hospital in the above premises. The Respondent has already changed tariff as per clause 4.13 (b) SOP on the receipt of consumer applications. Consumer grievance fails . Hence, I proceed to pass following order

ORDER

This application here by dismissed.

No order as to the cost.

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. “ Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051”
- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon’ble Maharashtra electricity Regulatory Commission for non-compliance, part compliance or
- c) Delay in compliance of this decision issued under” Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05”
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.