

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/AUC/747/2019/32
Registration No. 2019070005**

Date of Admission : 02.07.2019

Date of Decision : 22.10.2019

M/s Quick Ice Factory, : COMPLAINANT/ PETITIONER
Plot No. F-94, MIDC, Chikalthana,
Aurangabad- 431003.
(Consumer No: 490014838110)

VERSUS

Maharashtra State Electricity Dist. Co. Ltd.,: RESPONDENT
through it's Nodal Officer, EE(Admin),
Urban Circle, Aurangabad.
The Addl. Executive Engineer,
Chikalthana, Sub Division, Aurangabad

For Consumer : Shri H.A.Kapaida
For Licensee : Shri. Mohadikar
Addl. EE, Chikalthana Sub-Dn.

CORAM

Smt Shobha B. Varma, Chairperson
Shri Makarand P Kulkarni Tech. Member/Secretary
Shri Vilaschandra S. Kabra Member

CONSUMER GRIEVANCE REDRESSAL DECISION

The applicant is M/s Quick Ice Factory, Plot No. F-94, MIDC, Chikalthana, Aurangabad - 431003 having Consumer No. 490014838110. The applicant has filed a complaint against the respondent through the Executive Engineer i.e. Nodal Officer, MSEDCL Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 02.07.2019.

The facts of the dispute in short are as under:-

- 1) That, the complainant submitted application for release of LT connection for connected load of 75 Kw in the office of Executive Engineer, Urban Division No.2, Aurangabad along with all required documents to start Ice factory.
- 2) It is submitted that after receipt of feasibility report from Additional Executive Engineer, MIDC, Chikalthana Office, Executive Engineer issued sanction letter vide his letter No.293 dt.05.02.2018. The estimate was sanctioned under 1.3% Non-DDF CC&RF scheme, along with estimate sanction bearing No. EE/UDN2/TS/1.3%/NON-DDF CC&RF/190 dt. 05.02.2018.
- 3) Petitioner was directed to carry out the work of development of infrastructure which included installation of 100 KVA transformer, HT/LT Line, cables etc.
- 4) That, after payment of 1.3% supervision charges, the petitioner has procured all required material and carried out the infrastructure work required for providing supply to his factory under supervision of MSEDCL authorities.

- 5) That, after inspection by Electrical Inspector, the work was handed over to MSEDCL. LT supply was released to the factory. The total amount incurred by the petitioner towards development of infrastructure, as per WCR, is Rs. 2,35,197/-.
- 6) That on 09.04.2018, the petitioner has sent a letter to the MSEDCL & requested for refund or adjust the cost incurred by him as per amount shown in Work Completion Report.
- 7) That, as per sanctioned estimate, the petitioner was directed to install DTC meter which was required to be installed by MSEDCL. That, as per MERC guidelines and MSEDCL's own circular No.43 the metering is required to be provided by MSEDCL; hence, the cost spent by the petitioner is also required to be refunded.
- 8) It is contented that, in-spite of the fact that the petitioner has carried out the work under 1.3% supervision charges and installed all material required for providing supply to his factory, Respondent issued quotation of Rs. 40,000/- towards service connection charges and the same is also required to be refunded.
- 9) It is submitted that, as per provision of Electricity Act 2003 and directives issued by MERC, infrastructure for providing connection to consumers is required to be developed by MSEDCL and in case the same is developed by consumer, the cost incurred by consumer is required to be refunded / adjusted in monthly electricity bills.
- 10) Since Respondent has not taken any cognizance of his letter, the complainant has filed complaint before Internal Grievance Redressal Cell of MSEDCL Urban Circle, Aurangabad on 22.04.2019. However, IGRC has neither conducted hearing, nor passed any order within stipulated period of 60 days.

11) It is prayed that :-

- 1) Respondent may be directed to refund Rs.2, 35,197/- spent by the petitioner towards development of infrastructure work together with interest.
- 2) Respondent may be directed to refund cost of CT operated and DTC meter & its testing charges along with interest.
- 3) Respondent may be directed to refund Rs. 40,000/- wrongly claimed from the complainant towards service connection charges.
- 4) Respondent may be directed to pay suitable compensation towards deficiency in service and cost incurred towards litigation.

The relief of refunding cost of CT operated meter & testing charges is not pressed.

12) The Respondent has filed say dtd. 16.07.2019 (P.No.27) as under:-

That, as per requirement of consumer estimate was sanctioned for connection on 11 Kv. Sanction was given under 1.3% Non-DDF CC&RF Scheme. After completion of work, work completion report was prepared and proposal for refund of infrastructure cost is submitted to Higher Office.

13) In the rejoinder dated 30.07.2019 (P.NO.29), it is submitted by the Petitioner that, on 22.04.2019 proposal for refund was submitted to Superintending Engineer, Urban Circle. Since last 14 months cognizance was not taken by the Respondent. So delay may be clarified.

14) In the say dated 06.08.2019 (P.No.30) the Respondent has stated that on 23.05.2019, the proposal is submitted to Chief Engineer.

15) In the second rejoinder dated 20.08.2019 (P.NO.33,34), it is contended by the Petitioner that the Respondent has accepted that all the material was

procured by the consumer, however objection is raised on flimsy ground that the bill date is after the date of WCR. That, the final bill is always submitted after completion of work.

- 16) We have Perused pleadings & documents filed on record by both the parties. Heard arguments advanced by Consumer Representative Shri. Kapadia & Shri. Khakse, Nodal Officer and Shri. Mohadikar, Addl. Executive Engineer, Chikalthana Sub-division.
- 17) Following points arise for our determination & we have recorded our finding on it for the reasons to follow:-

Sr. No.	POINTS	ANSWER
1	Whether the petitioner is entitled for refund of infrastructure cost, DTC meter cost together with interest?	Yes
2	Whether the petitioner is entitled for refund of service connection charges Rs. 40,000/-?	No.
3	Whether the petitioner is entitled for compensation?	Yes Rs.1000/-
4	What order & costs?	As per final order

REASONS:

- 18) **Point No.1:-** Parties are not at dispute that the power supply was released to the petitioner under Non DDF CC & RF scheme, which is reflected in the sanction letter dtd. 15.02.2018 (P.No.15). As can be seen from work completion report (P.No.50) the date of commissioning is 09.03.2018. The technical sanction letter goes to show that consumer was permitted to execute the work of infrastructure by making his expenditure & under supervision of officers of the Respondent. That accordingly, it was duly executed as per agreed terms & completed as per norms, as can be seen from the WCR (P.No.50), hence power supply was released on 14.03.2018.

19) After application dt. 09.04.2018 (P.No.24) submitted by the petitioner for refund, on 28.08.2018 & again on 22.04.2019 proposal (P.No.47 & 28) was submitted by Executive Engineer to Superintending Engineer. On 23.05.2019, proposal was submitted by Superintending Engineer to Chief Engineer. On 16.07.2019 the proposal is rejected on the reason assigned as reproduced below:-

“In above proposal it is found that as per WCR, date of work completed is 28.02.2018. However, invoice No.13/17-18 of DTC & material purchase bill date is 07.03.2018”.

20) Accordingly on 30.07.2019, letter (P.No.38) was sent by Superintending Engineer to Executive Engineer. It appears from the record that all necessary documents were scrutinized. Amongst other documents, the invoice dt. 07.03.2018 (P.No.58) is material.

21) While assessing the proposal, the only reason of rejection is that work completion date is 28.02.2018, but invoice date is 07.03.2018. It is to be noted that the material, which was found on the spot is deemed to have been purchased by the consumer. In this respect, general practice adopted in business community is required to be considered i.e. delivering the articles on demand & preparing final bill after completion of the work. In order to enlighten this fact, the petitioner has produced on record the copy of delivery challan dt.20.02.2018 (P.No.35) & 08.02.2018 (P.No.36) issued by Bush Trading Co. & received by the petitioner. Considering trading practice, about issuance of final bill after completion of the work, we feel that the issuance of final bill on 07.03.2018 i.e. after WCR does not falsify the fact of purchasing the infra material by the petitioner. Respondent ought to have given opportunity to the petitioner to explain about such final bill & its production before rejection of the proposal.

Hence, we feel that the petitioner is entitled to get refund of infrastructure cost.

22) It is not in dispute that the petitioner has installed the DTC meter which is seen in WCR (P.No.57) & expended for it.

23) The Hon'ble MERC approved Schedule of Charges in case No. 19/2012 and circulated vide Circular No. 24500 dated 30.08.2012, prescribes that:

"3.1 – The cost of meter is recoverable only when the consumer opts to purchase meter from MSEDCL or in case of lost & burnt meter. The recoverable charges approved by the Commission shall be Annexure-3"

Also about testing charges it is prescribed in - 4 Miscellaneous and General charges of the said circular as under:

"a) Installation testing fee:

The filed officer are directed not to charge any amount for first inspection & testing of consumers' installation at the time of giving new connection. For all the subsequent tests & inspection of consumer's installation, the company shall recover charges indicated in annexure-4."

Considering the spirit of the circular, we are inclined to refund the cost of the DTC metering to the petitioner as part of the infrastructure work on the basis of WCR.

24) WCR (P.No.50) goes to show that work was completed on 28.02.2018 & date of commissioning is 09.03.2018. The petitioner has submitted application for refund on 09.04.2018, still for about 14 months & 15 days i.e. before 02.07.2019, his application was not allowed. Naturally on account of delay caused for refund of his amount, we feel it just & proper to grant interest on refundable amount.

25) In this respect, recent practice directions dt. 22.07.2019, issued by Hon'ble MERC regarding interest rate are material, which is reproduced below:-

“Unless the commission does not specifically deny or approve different interest rate on amount to be refunded by Distribution Licensee to the consumer, Forums under CGRF Regulations 2006 shall henceforth, uniformly grant interest if entitled to, on amount to be refunded to consumer at interest rate equivalent to the Bank Rate declared by the Reserve Bank of India prevailing during the relevant period (i.e. Bank Rate)”.

26) Bearing in mind these guidelines, we direct the Respondent to pay refund amount together with interest from the date of his application i.e. 09.04.2018 calculated at the prevailing rate of interest equivalent to the Bank rate declared by the Reserve Bank of India till the date of actual payment as the petitioner is entitled for interest from the date of his application i.e. 09.04.2018. We accordingly answer point No.1 in the affirmative.

27) **Point No. 2**:- The Demand note issued by the Respondent is at P.No.71 for service connection charges & the Receipt (P.No.70) goes to show that those charges were paid by the consumer.

28) As regards claim of its refund, we would like to refer the Hon'ble MERC approved Schedule of Charges in case No. 19/2012 and circulated vide Circular No. 24500 dated 30.08.2012; Annexure-2 refers to Service Connection Charges for New Underground connection and Sr. No.2 of it refers to Three Phase and point 2(c) speaks as under:-

Motive Power above 67 HP	:	Approved by MERC
but upto 134 HP or for other		Rs.40,000/-
loads above 50 Kw but upto 100 Kw		

- 29) Considering the Schedule of Charges and the load of petitioners power supply being of 75 Kw, those charges are not excessively collected, but are found correct. Therefore, those charges can't be refunded. Hence, we answer Point No.2 in the negative.
- 30) **Point No. 3**:- It appears that the application demanding refund of infrastructure cost was submitted on 09.04.2018 (P.No.24 & 48). However, the proposal was sent on 28.08.2018 (P.No.47) & again on 22.04.2019 (P.NO.28 & 42) & ultimately proposal was rejected on 16.07.2019 (P.No.32, 39). Thus time of about one year & three months was consumed for processing the proposal. As such we feel that considerable time was consumed without any reason for refund. As such, the petitioner was put to inconvenience & compelled to file the petition. Hence, we feel it just & proper to grant compensation of Rs. One thousand payable by the Respondent to the petitioner. We accordingly answer point No.3 in the affirmative.
- 31) Considering aforesaid discussion, we proceed to pass following order in reply to point No.4:-

ORDER

The petition is hereby partly allowed in following terms:-

- 1) The Respondent is hereby directed to refund infrastructure cost, including DTC meter cost, to the petitioner together with interest from 09.04.2018, at the rate equivalent to the prevailing Bank Rate declared by the Reserve Bank of India till the date of actual payment.
- 2) The aforesaid refund amount together with interest amount be adjusted in the post energy bills starting immediately from next billing month of this order.

- 3) The Respondent is also directed to pay compensation of Rs. 1000/- (Rs. One thousand) to the petitioner.
- 4) The prayer of refund of service connection charges is dismissed
- 5) Parties to bear their own cost.
- 6) Compliance be reported within thirty days of passing this order.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Makarand P. Kulkarni
Member / Secretary

Sd/-
Vilaschandra S.Kabra
Member