

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

“ Vidyut Bhavan ” Ratanlal Plot, Akola. Tel No 0724.2434475

ORDER.

Dt. 27/04/2017

Complaint No. :- 13/ 2017

In the matter of grievance pertaining to refund of infrastructure cost with interest and payment of interest on cost of metering cubicle.

Quorum

Shri. R.A. Ramteke ,Member-Secretary

Shri. D.M.Deshpande-Member (CPO)

M/s Dayawan Ginning & Pressing Factory, :- Complainant
Sindkhed Road, Barshitakli,
Distt. Akola.
Consumer No. Ind-311039025260

.....Vrs.....

Superintending Engineer MSEDCL, :- Respondent
O&M Circle, Akola.

Appearances: -

Complainant Representative :- Shri. Ashish Chandarana

Respondent Representative :- Shri. D.S. Umbarkar Ex.Engineer

1. On being aggrieved by the decision of IGRC Akola issued vide order No. SE/AKL/IGRC/154 Dt. 10.01.2017, the complainant M/s Dayawan Ginning & Pressing Factory Barshitali approached this forum, with prayer to refund the cost of infrastructure incurred under DDF Scheme with 18% interest and refund of cost of metering cubicle with 18% interest and seeking action against guilty officials as per guidelines laid down by Apex Court in the matter of M.K.Gupta Vs Lucknow Development Authority.

2. According to the complainant, he is H.T. Industrial Consumer of N.A. MSEDCL, and approached IGRC Akola with grievance of unlawful recovery of Electricity duty, refund of security deposit, refund of cost of metering cubicle with interest and refund of cost of infrastructure incurred against DDF scheme with interest. According to complainant the grievance of unlawful recovery of Electricity duty and refund of security deposit are already resolved. According to the complainant IGRC Akola have already resolved the grievance of refund of cost of metering cubicle but rejected the interest part and hence they are aggrieved. According to the complainant after approaching IGRC Akola with grievance of refund of infrastructure cost under DDF scheme N.A. MSEDCL by communication dated 17.12.2016 informed complainant to provide copy of firm quotation and money receipts and bills of material. According to the complainant infrastructure was sanctioned and erected at the time of taking new HT connection and work was supervised by N.A. MSEDCL for which they have recovered Rs. 17398.00 towards 1.3% supervision charges. Complainant referred and Annexed copy of estimate and according to complainant, the material was inspected by N.A. MSEDCL and verified the bills and took it under their possession and then only work was executed under MSEDCL supervision and hence question of submission of bills at this stage does not arise. According to the complainant, the issue of refund of infrastructure cost arises due to sharing of dedicated asset of complainant with other consumer by MSEDCL without the consent of complainant. Complainant referred MERC order in case No. 56 of 2007 dated 16.02.2008. According to the complainant MSEDCL have agreed and not disputed the refund of infrastructure cost as DDF status is converted to Non DDF by MSEDCL. According to the complainant sharing dedicated asset of complainant without their consent for use of other consumers by MSEDCL amounts to forceful acquisition of asset and treated as theft. According to the complainant forceful acquisition without any communication requires action against guilty officers of MSEDCL and monetary loss due to refund of amount should be recovered from

guilty officers. According to the complainant N.A. MSEDCL should process the refund cost without insisting for bills as it is in their custody as per estimated cost. Complainant is aggrieved by the order of IGRC Akola for submission of bills at this stage and rejection of interest. Bunch of documents annexed alongwith complaint viz. letter No. 2062 dt. 17.12.2016, IGRC order dtd. 10.01.2017 copy of D.D. paid to railway for Rs. 10500.00, and S.E. Akola letter No. 6899 Dt. 27.10.2008 with copy of estimate for Rs. 1355666.00 and invoice for purchase of cubicle for Rs. 95680.00

3. Reply came to be filed by N.A. MSEDCL on 17.03.2017. According to N.A. MSEDCL they have already credited Rs. 162450.74 towards the cost of metering cubicle in the bill of Feb-2017 billed in March-2017. According to N.A. the complainant has not submitted the purchase bills and inspection report as per IGRC and hence not processed the refund of infrastructure cost. N.A. MSEDCL in their reply opposed payment of interest on metering cubicle and according to N.A. it is non compliance of IGRC order on the part of complainant as required documents to process refund of infrastructure cost not submitted by complainant.

4. Heard Shri Ashish Chandarana representative of complainant as well as Shri D.S.Umbarkar E.E. for N.A. MSEDCL. Complainant's representative urged that after approaching IGRC Akola, the grievance of refund of Electricity duty and security deposit are resolved and about refund of cost of cubicle with interest, N.A. MSEDCL credited principle amount Rs. 162450.74 including duty in the bill for Feb-2017. Representative of complainant further urged that as cubicle metering was purchased for MSEDCL they are entitled for the interest at 9.5% P.A. on the amount of cubicle. Complainant's representative urged that they have erected infrastructure under DDF scheme and as per MERC case No. 56 of 2007 dated 16.02.2008, the said infrastructure can not be shared by other consumer and N.A. MSEDCL in this case have shared 11 KV line for other consumers without consent and communication to complainant, the fact has not been denied by MSEDCL in their reply and IGRC also

ordered to refund the cost of infrastructure, provided bill receipt and inspection report is submitted. Complainant representative urged that demanding bills and inspection report at this stage is not proper on the part of N.A. MSEDCL as the same were collected at the time of inspection of material and execution of work carried out under the supervision of N.A. MSEDCL. In support of this fact complainant representative brought to the notice of forum letter SE/AKL/6899 dt. 27.10.2008 filed on record wherein SE O&M Akola MSEDCL issued directives to Nodal Officers which are reproduced as follows-

“ It is also directed to inspect the material as per MSEDCL rule which is procured by party and necessary material receipt shall be collected from the party”.

Complainant's representative during hearing filed on record letter dated 17.03.2015 addressed to Dy.E.E. Balapur by Nodal Officer in support of practice followed in the division for inspection of work and submission of bills and letter No. Director Project/752 Dt. 13.11.2009 and urged that it is regular practice that unless bills are submitted at the time of inspection by MSEDCL, work can not be executed and further urged that N.A. have already collected the bills and charged the line and asset is taken on stock as per letter from Director Project /752 Dt. 13.11.2009. Complainant representative further urged that N.A. MSEDCL should finalize the work completion report as per actual asset on site and estimate which will be acceptable to complainant. Complainant's representative filed on record order dtd. 7th June-2013 passed by ombudsman, in representation No. 45 to 48 and 55 of 2013.

5. N.A's representative urged that on submission of bills by complainant process of refund as per IGRC Akola order can be arranged. N.A's representative remain silent on the issue of directives by their superiors regarding inspection of material and receipt of bills before execution of work. On interrogation by forum N.A's representative however agreed that fresh work completion report

can be prepared on actual basis as per estimate and refund can be effected . N.A's representative oppose for payment of interest on the cost of infrastructure being work under DDF Scheme. N.A's representative agreed for payment of interest at 9.5% P.A. as per Ombudsman Nagpur order dated 07.06.2013 on record on cost of metering cubicle.

6. On going through the complainant on record with documents, reply and arguments by both the parties , forum finds substance in the facts brought on record by complainant that DDF infrastructure erected by complainant has been shared by N.A.MSEDCL with other consumers, changing status of dedicated line to common net-work which is in violation of MERC Order No.56 of 2017 dated 16.02.2008, the fact is not denied by N.A. MSEDCL at IGRC or in reply to forum. So complainant is entitled for refund of infrastructure cost. It is not brought before forum by either parties as to when the breach of contract is actually done. It is also not brought on record the time period for which the complainant has enjoyed the DDF facility, hence forum is not inclined to accept the claim for interest at 18% on the cost of infrastructure to be refunded to the complainant. Forum find substance in the claim of interest on refund of metering cubicle cost at 9.5% as agreed by the parties as per ombudsman order dated 7th June 2013 in representation No. 45 to 48 and 55 of 2013. With these observations forum proceeds to pass following unanimous order.

ORDER

1. The complaint No.13/2017 is hereby partly allowed.
2. The N.A. MSEDCL is directed to prepare work completion report as per estimate under DDF and directed to refund the cost of infrastructure as per work completion report above and adjust the amount in forthcoming bill.
3. The N.A. MSEDCL is directed to pay interest at 9.5% on the cost of metering

cubicle on amount Rs. 106684.00 from the date of procurement till adjustment, in the forthcoming bills of the complainant.

4. The N.A. MSEDCL shall take appropriate action against erring officials in the light of the observations of the The Supreme Court of India in the matter of M.K.Gupta Vrs Lucknow Development Authority, reported in 1994(i) SCC page 243.
5. Parties to bear their own cost.
6. The N.A. MSEDCL to submit compliance report to forum within period of one month from this order.

Sd/-
Member/Secretary

Sd/-
Member (CPO)

Contact details of Electricity Ombudsman appointed by MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni, Nagpur-440 013.
Phone : 0712-2596670

No.CGRF /AKZ/ AKL/ 78

Dt. :- 27.04.2017

TO,

The Nodal Officer,
Superintending Engineer O&M Circle, MSEDCL, Akola.

The order passed on 27/04/2017 in the Complaint No. 13/2017, is enclosed herewith for further compliance and necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Akola Zone, Akola

Copy fwc to:-

1. The Chief Engineer Akola Zone, Akola.
2. M/s Dayawan Ginning & Pressing Factory, Sindkhed Road, Barshitakli, Distt. Akola.