

**CONSUMER GRIEVANCE REDRESSAL FORUM,**  
**AKOLA ZONE, AKOLA.**

*" Vidyut Bhavan " Ratanlal Plot,Akola. Tel No 0724.2434475*

**ORDER .**

**Dt. 13/07/2017**

**Complaint No. :- 27/ 2017**

**In the matter of greivance pertaining to refund of infrastructure cost with interest.**

**Quorum**

**Shri. R.A. Ramteke ,Member-Secretary**

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

M/S. Shubham Floor Mill , Akot                 :-                 Complainant  
Con.No. Ind-318734567485

**....Vrs.....**

Ex. Engineer MSEDCL,                                 :-                 Respondent  
O&M Akot Division,Akot.

**Appearances: -**

Complainant Representative                 :-                 Shri. Ashish S. Chandarana

Respondent Representative                 :-                 Shri. M.D.Kale Dy. Manager (F&A) Akot.

1.                         On being aggrieved by the decision of IGRC Akola issued vide order No. SE/AKL/IGRC/1889 Dt. 08.05.2017, the complainant M/S. Shubham Floor Mill at MIDC Akot, approached to this forum with grievance under regulation 6.4 of MERC (CGRF Ombudsman) regulation 2006.

2.                         Complainant's case in brief is that Shri Rahul Purushottam Tapadiya applied for Industrial connection on 21.10.2015 to NA-MSEDCL in the format "A" with consent to carryout infrastructure cost- initially which is refundable through energy bill, as NA-MSEDCL expressed inability to meet universal service obligation. According to complainant, said electric connection is released on 25.04.2016 after inspecting the

work without pointing out any deviation in the work by NA–MSEDCL, so as to facilitate refund through energy bill. According to complainant as NA–MSEDCL did not refund the cost till 17.03.2017, complaint was lodged with internal grievance cell Akola alongwith required documents. According to complainant as NA–MSEDCL in their submission before IGRC on 11.04.2017 admitted the claim of Rs. 293987/- towards refund of infrastructure cost and credited the amount against arrears of Rs. 570408/- in April 2017, but gave false submission before IGRC that formalities of refund are completed by complainant on 05.08.2016 as against 25.04.2016 alleging their own Executive Engineer for delay in finalizing W.C.R. for 7 months, justifying the delayed refund. According to complainant as NA–MSEDCL refunded Rs. 293987/- as against Rs.351315/- incurred by the complainant, excluding 10% labour, 5% transportation, 3% contingencies and 1.5% plant and tool, which is brought to the notice of IGRC during hearing on 26.04.2017. In spite giving time period to file documents to NA–MSEDCL by IGRC justifying exclusion of above charges towards labour, transportation, contingencies and plant and tool, NA–MSEDCL could not justify the exclusion of charges and IGRC passed order considering only 10% labour, committing error in rejecting the other charges according to complaint and which is the cause for approaching this forum. IGRC Akola have also rejected the claim for interest on Rs.351315/- at 18% per Annum , though according to complainant delay for refund is due to negligent attitude on the part of S.D.O. Akot for four months and on the part of Executive Engineer Akot for 7 months, payable to complainant and recoverable from guilty officer of NA–MSEDCL as as per principle laid down The Supreme Court of India, in the matter of M.K.Gupta Vrs Lucknow Development Authority, reported in 1994(i) SCC page 243 ). Complainant prays for refund of Rs.351315/- towards infrastructure cost with 18% interest from 25.04.2016 and cost of RS.1000/- with request to take appropriate action against guilty officers of N.A. Complainant Annexed with complaint documents such as consent letter, Energy bill for March and April-2017, IGRC case with order, WCR for M/S. Rasoi spices.

3. Reply came to be filed by NA-MSEDCL on 15.06.2017. According to NA-MSEDCL refund of Rs. 293987/- towards infrastructure cost is adjusted in the energy bill for March-2017 after IGRC complaint by M/S. Shubham Floor Mill on 17.03.2017. According to NA-MSEDCL, cost of labour charges 10% on infrastructure cost as per IGRC order dated 08.05.2017 amounting Rs. 29399/- will be adjusted in the energy bill for May-2017 to be issued in June-2017. According to N.A. complainant had agreed as per agreement to incur infrastructure cost and its refund through bill as per sanction estimate. NA- MSEDCL referred Circular No. 22197 dt. 25.08.2008 and C.E. Commercial Circular No. 39206 dtd 21.12.2009 for adjusting 50% cost through bill and claimed that complete cost is adjusted in March- 2017 and balance Rs.29399/- will be adjusted in May-2017. Total infrastructure cost Rs. 323346/- according to N.A. is adjusted through bill and hence demand of other charges of complainant is not proper and should not be accepted by Forum. According to NA-MSEDCL Akot division has recently come in to existence by bifurcating Akola Rural division and grievance was initially reported to Akola Rural division on 11.08.2016 , which is the cause for delay in finalizing WCR and its refund. According to NA-MSEDCL,WCR of Rasoi Spices and Agro processors Akola filed on record with 10% labour, 5% transportation, 3% contingencies and 1.5% tools and plant is of no help of complainant in present case as sanctioned estimate for M/S. Rasoi spices included the above costs. According to NA-MSEDCL inclusion of above charges for refund is principally not acceptable to N.A. as one time refund NA-MSEDCL and requested for dismissal of complaint. NA-MSEDCL annexed with reply of bill dated 18.04.2017, bill revision dated 15.06.2017 for Rs. 29399/- IGRC order , one page No. 4 of case No.4/15 M/S Gurudatta Dairy, MSEDCL Circular No. 22197 and Agreement dated 05.03.2016.

4. Heard Shri Ashish Chandarana,learned representative for complainant and Shri M.D.Kale Dy.Manager (F&A) MSEDCL learned representative for NA-MSEDCL. Shri Ashish Chandarana, complainant representative re-iterated the

facts mentioned in the complaint and urged that the infrastructure cost Rs. 351315/- incurred by the complainant which should have been refunded in first energy bill after connection on 25.04.2016, is refunded partly and transportation charges with other charges 9.5% of estimated value is disputed and not refunded by N.A., though the amount is spent and incurred by complainant and further urged that complainant is entitled for interest at 18% since delay in refund is admitted on record by N.A. and in similar cases N.A.-MSEDCL have admitted interest of 9.5% and Forum have allowed. In support of admission of other charges claimed by complainant, the document on record which is WCR for M/S. for Rasoi Spices Akola referred and brought to the notice of Forum, admission of 5% transportation, 3% contingencies and 1.5% T&P by N.A.-MSEDCL and urged that no preferential treatment can be given by N.A.-MSEDCL. Complainant representative during hearing on 05.07.2017 filed letter No. 2723 dt. 02.06.2017 by N.A.-MSEDCL on record in support of his " Say " for admission of other charges, which is admitted by N.A.-MSEDCL in similar complaint.

5. NA-MSEDCL representative urged that infrastructure cost Rs. 323386/- as per IGRC order has been adjusted and other charges as claimed by complainant total 9.5% are not refunded since not included in sanctioned estimate. NA-MSEDCL representative however preferred to remain silent on the documents filed by complainant admitting 9.5% other charges refunded in similar cases by NA-MSEDCL. NA-MSEDCL representative on interrogation by Forum, about inclusion of these charges in estimate of work executed by MSEDCL, preferred to remain silent, NA-MSEDCL representative however urged to disallow interest without giving any reason for the same.

6. Forum have gone through the complaint on record, with documents filed on record, reply by N.A.MSEDCL and considered deliberations by both parties. Forum is of the view that the facts about refund of infrastructure cost has not

been disputed by N.A.-MSEDCL and refunded of Rs.323386.00, though belatedly. It is also not denied or disputed by N.A. MSEDCL that infrastructure cost Rs. 351315/- is actually incurred by complainant which includes 5% transportation, 3% contingencies and 1.5% tools and plant. Though N.A. MSEDCL referred C.E.(Commercial) Circular No. 39206 dtd. 21.12.2009 in support of denial of 9.5% charges but did not file the said circular on record for reason best known to them, instead N.A. MSEDCL filed on record only page No.4 of case No.4/15 M/S. Gurudatta Dairy, which is incomplete document to draw any inference in favour of N.A.-MSEDCL. Even the recitals of circular No. 39206 dt. 21.12.2009, mentioned in case No.04/15 which are reproduced below does not support defense of N.A. MSEDCL but instead supports the complainant according to which “ Managing Director of MSEDCL has accorded approval to refund the entire expenditure incurred by the prospective consumer for release of the supply under dedicated distribution facility ( Even though work is not dedicated ) by way of adjusting 50 % of the monthly bill amount till clearance of total expenditure”. Even two similar cases brought on record pertaining to M/S. Rasoi spices and M/S Shivshakati Stone crusher apparently supports the complainant where-in 5% transportation, 3% contingencies and 1.5% tools and plant charges are incurred and admitted by N.A.-MSEDCL. From these observations Forum is of the view that difference of amount between Rs. 351315/- and Rs. 323386/- is to be refunded in forthcoming bill by MSEDCL. Forum is of the view that N.A.-MSEDCL have admitted the delay for refund of cost without giving justifying reasons and used excess amount till the Amount is refunded and hence liable to pay interest at the rate of RBI as per section 62(6) of E.A. -2003. Forum is of the view that loss of revenue to MSEDCL by way of payment of interest be recovered from the guilty officers of N.A. as per principle laid down by Apex court in the matter of M.K.Gupta Vrs Lucknow Development Authority, reported in 1994(i) SCC page 243 ). Forum is of the view that parties to bear their own cost. With these observations forum proceeds to pass following unanimous order.

**// ORDER //**

1. That the Complaint No.27/2017 is hereby partly allowed.
2. The N.A. MSEDCL is directed to refund the difference between infrastructure cost to be paid Rs. 351315/- and already paid Rs. 323386/- and adjust the amount in the forthcoming bill payable by complainant.
3. The N.A. MSEDCL is directed to pay interest at 9.5% per annum on infrastructure cost Rs. 351315/- from 25.05.2016 till payment of Rs. 293987/- and adjust the amount in the forthcoming bill payable by complainant.
4. The N.A. MSEDCL is directed to recover the loss of revenue, which is caused by way of interest from guilty officers of MSEDCL, after due enquiry, as per principle laid down by Apex court in the matter of M.K.Gupta Vrs Lucknow Development Authority, reported in 1994(i) SCC page 243 ).
5. The parties to bear their own cost.
6. The N.A. MSEDCL is directed to submit the compliance report within period of one month to the forum 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

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**No.CGRF /AKZ/ AKL/ 126**

**Dt. :- 13.07.2017**

**TO,**  
The Nodal Officer/Executive Engineer  
Akot Division, MSEDCL, Akot.

The order passed on 13/07/2017 in the Complaint No. 27/2017, is enclosed herewith for further compliance and necessary action.

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

**Copy fwc to :-**

1. Superintending Engineer O&M Circle, MSEDCL, Akola.
2. M/S. Shubham Floor Mill, Akot.C/o Shri Ashish Subhash Chandarana, Samudra Vihar Apartment , Flat No.3 Near Datta Mandir Ramdas peth , Akola. -444001