

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER

Dt. 24/05/2016

Complaint No.4/ 2016

**In the matter of grievance pertaining to refund of
infrastructure cost SCC charges , Transformer Testing fee,interest & cost.**

Quorum

Shri T.M.Mantri, Chairman
Shri. R.A. Ramteke ,Member-Secretary
Shri. D.M.Deshpande-Member (CPO)

Shri Ranjitsingh Satsingh Oberoi :-
Consumer No. Comm. 310071311821

Complainant

.....Vrs.....

Executive Engineer MSEDCL, :-
Urban Division,Akola

Respondent

Appearances: -

Complainant Representative :- Shri. Ashish C.Chandarana

Respondent Representative :- Shri. G.T. Sorte Add. Executive Engineer

1. Being not satisfied with the order of IGRC,the complainant has approached this forum for redressal of the grievance. The complainants case in brief is that as per sanction dt.15.03.2011 for Rs. 3,30,460/- the complainant has spent for infrastructure cost for getting power supply under non DDF CC & RF Scheme. According to the complainant as per the said scheme the work was carried out under the supervision of the licensee, so also the material purchased was made available for inspection, so also purchase bill with order document were submitted. Upon being satisfied about genuiness of material being purchased from approved vendors of the licensee, work was completed under supervision of the officer concerned, as being asset of the licensee by making reference of circular dt.20.05.2008

2. The complainant made averments about non approval of non DDF CC& RF Scheme by MERC & compelling circumstances for the consumers to agree for such scheme, it

is alleged that in the year 2011 itself, the said asset was taken over by licensee & even started business of selling electricity since 10.05.2011, the date of release of connection and earning profit from the said asset by the licensee, amounting to Rs. 70 to 80 Lacks, from the said asset.

3. Reference has been made of letter dt. 29.03.2011 of office of the Executive Engineer Urban Division Akola to SDO Akola Urban-III, pointing out certain important clauses & averred as per those clauses after release of electric connection no formalities are pending. In spite of such factual position, the Chairman of IGRC, who is Executive Engineer, shown unwarranted favour to save guilty officer alleging compliance is pending on the part of the consumer. According to the complainant the said act is not in consonance with the preamble of Electricity Act -2003. According to the complainant licensee never release power supply without taking compliances of all the formalities, as the asset becomes that of the licensee. The complainant further alleged even IGRC has not dealt with the complainant's grievance about excess service connection charges and transformer testing fees, hence the present complaint seeking reliefs prayed for. Alongwith, complaint copies of documents have been attached.

4. After the receipt of notice of this forum, the N.A. submitted reply which is too short, admitting sanction order dt.15.03.2011 for Rs. 3,30,460/- so also release of electric connection on 10.05.2011. According to N.A. because of non production of the bills/invoice of materials & services by the complainant, refund of amount is pending. It is further stated that even WCR of the said work is recorded but refund was not given due to non submission of invoices, with request to the consumer to produce original/photo copies of the invoices so that earlier refund can be made through electricity bills. That's all, No document has been filed with the reply from the side of N.A.

5. Heard Shri. Ashish Chandarana & Shri. G.T. Sorte, Addl. Executive Engineer, the learned representatives of the parties. The admitted position is issuing of sanction letter dt.15.03.2011 so also estimates for Rs. 3,30,460/- it is pertinent to note that there are

relevant clauses in said documents and some of them they are reproduced here in below for ready reference.

6. Connection should be released after completion of all formalities as per company Rules and regulation and I.E. Act.
7. The work should be carried out as per the approved estimate only & as shown in the line diagram.
9. List of actual material utilized for L.T. line in prescribed format of WCR shall be submitted to this office duly certified by concerned Jr. Engineer & Dy.E.E. for further necessary action for refund of through energy bills.

It is to be noted that as per agreement the material required is to be purchased from approved vendors of the licensee & only after inspection by competent officer of the licensee approval is given for the work to be carried out through approved electrical contractor of the licensee. It is also agreed that if any deviation in the material /works with that of sanctioned estimates is noticed then the same has to be rectified. Admittedly in present case also the work of infrastructure was carried out by the approved licensee contractor that too after inspection by the competent officer by the licensee. It clearly shows that whatever material used has not only been inspected but also approved by the competent officer of the licensee. Further it is to be noted that the Electrical Inspector sanctioned charging of the line upon satisfaction of the work as per estimate by the competent officer of the licensee. All the compliances are to be made on behalf of the N.A. licensee & the consumer/complainant has no role there in. The learned representative of the NA has admitted all such requirements including that of preparation and sending of WCR to division. The complainant has filed on record copy of WCR. Neither in the reply nor during course of arguments the N.A. has disputed the same. In the back ground of such circumstances one has to accept the submission made of the complainant about giving all the relevant documents including invoices to the concerned officer or office of the N.A. licensee. In any case even it is not the fact that the N.A. has any time raised demand about compliances remained on the part of the complainant, during period of more than five years

6. Here it is further to be noted that as per the condition mentioned above, the electric connection is to be released after completion of all the formalities as per companies Rules & regulation & Electricity Act. So when the electrical connection was released after

charging by the Electrical Inspector as required, how it can be said that the same was done without making necessary compliances. When the material as per estimates was purchased from the approved dealer, when the work was carried out by the approved contractor that too upon inspection & supervision of the competent officer of the N.A. licensee & when the electric connection was released after making all necessary formalities on 10.05.2011, how it can be believed that certain compliances were required to be completed by the complainant as tried to be alleged on behalf of the N.A. now.

7. Admittedly since 2011 the infrastructure erected by the complainant by spending huge amount has been the asset of the N.A. licensee & the N.A. is utilizing the said asset for its business of selling of electricity, thereby earning revenue & profit there from. How it can now raised disputes in refunding the amount of infrastructure cost spent by the complainant. During course of arguments the learned representative of complainant has submitted that even there is no approval of MERC to the said scheme (Non DDF & RF Scheme). This has not been countered/denied from the side of the N.A. When query was made with the learned representative of the N.A. as to what valuation of the said asset has been recorded in the records of the N.A. as since 2011, it is asset of the N.A. licensee. The answer was that he is not aware but it has been admitted that since 2011 the said infrastructure is the asset of the N.A. licensee & it is carrying on business from the same.

8. Ultimately even during course of arguments it has been admitted from the side of N.A. that there is no condition that invoices are necessary for making payments of refund of cost of infrastructure. The learned representative of complainant has submitted that complainant is agreed to the amount shown in WCR prepared by the N.A. Considering all the facts, pros and cons this forum is of the view that the stand & defense of the N.A. cannot be said to be just & proper. The circumstances clearly points out that in order to save some one working in the N.A., the defense has been raised which has no valid foundation. The complainant has made clear averments in the complaint on various aspects & the N.A. was supposed to give para wise reply, meeting out those averment, however short reply that too without any details has been filed from the side of the N.A. This clearly supports the complainants case. As per settled legal position no specific denial to the allegation amounts

to admission. Various averments made by the complainant in the complaint have not at all been dealt with by the N.A. in reply. So there is substance in the contention of the complainant. In any case the complainant has spent Rs.3,30,640/- in the year 2011 & on basis of said infrastructure(which is asset of the N.A.) the N.A. is issuing electric bills & as per averment in the complaint the N.A. has done business of about 70-80 Lacks there from. Though the complainant has spend for infrastructure which was agreed to be refunded to the complainant, however in spite lapse of period of more than 5 years, the N.A. is raising disputes avoiding making of repayment to the complainant but at the sametime getting revenue from the said asset. It does not be fit public undertaking like N.A. In such facts & circumstances this forum thinks it just & proper to award interest @ 6% p.a. (though the complainant has demanded 12%) from 10.05.2011 till repayment of the entire amount to the complainant.

9. The complainant also claimed for refund of excess service connection charges amounting to Rs. 6415/- and refund of transformer testing fees Rs. 3000/- which has not at all been dealt with in reply of the N.A. The complainant has produced receipts & documents in that respect with the complaint. The N.A. could not justify about levying of such charges during course of argument also. Consequently the N.A. is liable to refund the said amount to the complainant with interest @ 6% p.a. The complainant has categorically averred about commission of negligence by the concerned in the office of the N.A. & sought relief of recovery of monitory liability from concerned guilty officer by referring to ruling of the Hon. Supreme Court in the matter of M.K.Gupta Vrs Lucknow Development Authority, reported in 1994(i) SCC page 243 – In reply the N.A. has not stated anything's about the same. It is clear that it is the negligence/latches of the concerned erring officer which resulted in raising of this grievance and ultimately monitory liability against the licensee. Hence it will be proper, as per view of this forum, the N.A. licensee to take appropriate steps/action against the concerned officer of the concerned office of the N.A., of the relevant time. This forum is of the view to award reasonable cost to the complainant as it has to approach various authorities for redressal of the grievance. .With such observation this forum proceed to pass following unanimous order.

ORDER

1. That the Complaint no. 4/2016 is hereby partly allowed. The N.A. licensee is directed to refund/make adjustment Rs. 3,30,460/- (cost of the infrastructure) spent by the complainant + Rs. 6415/- excess SCC charges + Rs. 3000/- as transformer testing fees, alongwith interest of the rate @ 6% p.a. from 06.05.2011 till making of entire payment to the complainant.
2. That the N.A. is also liable to pay cost of Rs. 2000/- to the complainant.
3. The N.A licensee to take appropriate action against the concerned officer of the N.A. licensee for negligence/laches, resulting in monitory liability against it as per ruling of Hon. Supreme Court of India.
4. That the compliance report to be submitted within period of two month from this order.

Sd/-
Member/Secretary

Sd/-
Member (CPO)

Sd/-
Chairman

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/ Amravati/ 73

Dt. 24/05/2016

TO

The Nodal Officer,
Executive Engineer
MSEDCL, Urban Division, Akola.

The order passed on 24/05/2016 in the Complaint No. 4/2016, is enclosed herewith for further compliance and necessary action.

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

Copy fwc to:

1. Shri Ranjitsingh Satsingh Oberoi,
C/o Ashish C.Chandarana, Samudra Vihar Apartment Flat No. T-3
Ramdas Peth, Akola.
2. The Superintending Engineer, O&M Circle, MSEDCL, Akola.

S.R.Chitale
Member/Secretary

D.M.Deshpande
Member (CPO)

T.M.Mantri
Chairman

s/d
Member/Secretary

s/d
Member (CPO)

s/d
Chairman