

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER.

Dt. 21/06/2016

Complaint No. :- 8/ 2016

In the matter of grievance pertaining to relief of cost of cubical meters with other charges interest & cost etc.

Quorum

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

J.J.Fines Spun Pvt. Ltd. Ratanlal plots :-
Akola.
Consumer No. Ind. – 310629026910

Complainant.

.....Vrs.....

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

Respondent

Appearances: -

Complainant Representative :-

Shri. Ashish Chandarana

Respondent Representative :-

Shri. G.V.Mahajan, Add.Ex.Engineer

1. The complainant's case in brief is that due to non availability of metering equipments, the licensee directed the complainant - consumer for procuring the same and getting refunds of such amount spent, through energy bills . The N.A. failed to refund the amount spent by the complainant of the 2 meters i.e. of sub-station & premises of the consumer. In spite making demands & also written grievance on 26.10.2015 nothing has been done. It is alleged as per MERC order dt. 08.09.2006 in case No. 70/2005 providing of such materials/equipments is the responsibility of N.A. hence claimed cost of both, the materials/equipments with Labour, Transportation, Testing charges & interest @18% from

the date of purchase of meter & cost of Rs.5000/-. Alongwith complaint copies of documents such as tax invoice, demand in writing etc have been filed.

2. After receipt of notice of this forum the N.A. failed to file reply on the returnable date & on the next date, the reply has been filed with request to accept the reply on record. The complainants representative has endorsed no objection & accordingly order was passed, allowing the reply taken on record. In the reply, which is of 4 lines, admitted refund of the charges to be adjusted in the forthcoming electric bills by referring to audited WCR , copy of which has been annexed & further stated that thereby the grievance of the complainant will be fully redressed, the WCR as well as connected documents are for Rs. 3,12,923/-

3. Heard Shri Ashish Chandarana and Shri G.V.Mahajan,Add.E.E.,the learned representatives for the parties. Ongoing through the invoice filed by the complainant which is for Rs. 5,18,260/- .Apart from the expenses required to be incurred by the complainant it is apparently clear that there is huge difference in the cost as mentioned in the audited WCR of the N.A. It has been admitted during course of arguments that, the material/equipments have been purchased by the complainant from approved vendor of the N.A., so also the erection work has been carried out to the satisfaction of the officials of the N.A. The learned representative of complainant drawn attention to the bill of the authorized seller of the N.A. dt. 29.11.2013 where in cost of the 2 cubical, meters with taxes & allied charges shown as 5,18,260/- whereas in the WCR cost of 33 KV, 2 cubical meters is taken as 2,13,977/- considering the vast difference of the cost of cubical meters as mentioned above this forum thought it proper to have other material on record from the side of the N.A. & when query was made with the learned representative of N.A as to at what rates the N.A. licensee is procuring such equipments/materials, as the same must have been procured at other places, the learned representative of the N.A. sought time for verifying the cost of cubical meters. Hon. MERC has taken cost of cubical meter of 33KV @ 1,90,000/- as mentioned on page No. 245 of case No. 19/2012 i.e. the tariff order of 2012 & when this was pointed out to the learned representative of the N.A. he admitted the same & sought time for verifying

cost data from the records of the licensee. Accordingly the matter was kept for further hearing on next date.

4. That on next date of hearing the N.A. has filed additional reply stating therein the cost of the cubical meter in the sanctioned estimate dt. 27.03.2012 is as per old cost data, so also admitted that as per schedule of the charges approved by MERC its cost is Rs. 1,90,000/-, refund will be made to the complainant as per that approved charges by MERC in the forthcoming energy bills & further prayed that in view thereof the complainant's request for interest may not be admitted. On behalf of complainant also additional written submission has been filed referring as to how the stands of the N.A. is incorrect & it has not produced cost data of the 33 KV cubical meter though available with it but admitting charges of Rs. 1,90,000/- , so also referred to the inaction & incorrectness on the part of N.A. making reference of making payments to other consumers (M/S Sai Agro, M/S Tapdiya stone crusher) as per the bills. It has been further averred that the N.A. has included other charges in the sanctioned estimate hence the same are also required to be added In WCR with other grounds of objection to the stand of the N.A. Alongwith it the complainant has also filed certain documents.

5. Further arguments of the learned representatives of the parties has been heard. From the additional reply filed by the N.A. as well as the oral submission the learned representative of the N.A. has admitted mistake in earlier stand & WCR. When the MERC has fixed the amount of Rs.1,90,000/- as approved charges for 33KV meter in the year 2012 which was well known to the N.A. and its officers then how the cost of the same equipment could have been less than that amount in 2015-2016 i.e. subsequent years. There appears to be substance in the submission made on behalf of the complainant that in spite availability of cost data of the said equipments with the licensee for relevant year, the same has not been produced on record as it would have been of much more value than the value which now N.A. is admitting. The approved charges by MERC i.e. 1,90,000/- is of 2012, certainly in the later years there must have been increase in the said cost. In any case when the complainant has purchased the cubical meters, equipments from the approved vendor/seller of the licensee & submitted tax invoice of the said company (Huphen electromech

Pvt.Ltd) for Rs. 5,18,260/- including the excise VAT & other taxes etc. how the N.A. can now raise dispute about the said invoice. Even it is not the case of the N.A. that its approved vendor has charged excess amount from the complainant or the complainant is making demand of excess amount than what was paid to the approved vendors. If it was so it could have taken action against the said approved vendor, such as black listing. The N.A. is not disputing the tax invoice submitted by the complainant but for no reason reduced the amount of cost of meter substantially, without any supporting materials/data. Here it needs to be mentioned that during course of arguments it has been admitted by the learned representative of the N.A. that for providing electric connection to the premises of the complainant 1 cubical meter was required & sufficient. The other cubical meter asked to be installed for the N.A. at the cost of complainant, though not necessary. So it is apparently clear that for whatever reason, convenience of the N.A. the complainant has been asked to incur such huge expenses for N.A. & the N.A. has raised various reasons/disputes about the cost & other charges etc which later on in additional reply admitted to be mistake. However from the record it is clear that the N.A. is still not coming with clean hands & tried to raise unnecessary, unfounded grounds.

6. That the learned representative of the N.A. has also admitted that all the meter, equipments etc have been taken in the records of the N.A. as its assets but when quarry was raised, what is the valuation has been taken in the records, his answer was, he is not aware. This also does not support the N.A.defense. In the sanctioned estimate the N.A. has admitted various other charges such as erection charges, transportation, service tax, supervision charges etc so also it has recovered Rs. 10,000/- towards testing charges for 2 cubical meters @ 5000/- per meter. More mentioning & admitting of charges of cubical meters, without the other liabilities of taxes etc the N.A. is trying to raise unnecessary controversy. The complainant has rightly pointed out from the documents on record that the N.A. itself has made payment of cost of the cubical meters as per invoice to M/S Tapdiya Stone Crusher , Sai Agro industries alongwith other charges. From the documents filed on record i.e. letter dt. 23.04.2015 & 24.09.2010 by the N.A. itself, amount of Testing of Rs. 5000/- has been refunded so also supervision charges, Testing charges excess service

charges have been refunded to M/S Tapdiya Stone Crusher, Sai Agro industries respectively. So apparently record clearly shows that the N.A. has adopted discriminative attitude with the complainant. Needless to say that the payments to the above mentioned 2 consumers have been made even before passing of the order by CGRF whereas in the present case it is apparently clear that though the complainant has spent substantial amount in year 2013-14 & work was completed, demand for refund of the amount has been totally ignored. That when the complainant approached this forum, the WCR has been finalized on 06.06.2016, that too, for substantially reduced amount which was later on stated to be mistake in additional reply. The entire facts & circumstances clearly demonstrate that it is with particular intention knowingly that the stand taken at different stages is not correct. It is not only contrary to the order of MERC but also the earlier practices followed by the N.A. as well rules & regulations. When the N.A. itself has made payments as per invoice to other consumers as referred to above, then how it could have made discrimination in case of the complainant. The N.A. being public undertaking cannot be allowed to apply different yard sticks to its consumers. There cannot be disparity amongst the consumers of the N.A. Considering over all material on record the N.A. is liable to pay the entire amount as per invoice of its approved vendor dt.29.11.2013, in WCR as its value and other corresponding charges, accordingly,so also liable for payment of Labour, transportation , testing charges to the complainant.

7. The complainant claims for interest @ 18% is though exaggerated but in the fact and circumstances of the case when the complainant has incurred substantial amount, which in fact the N.A. ought to have spent, the complainant, is entitled for reasonable interest. The learned representative of the N.A. admitted that the consumer is required to pay interest if there is delay in payments of the bill, apart from penalty. This forum thinks it fit just & proper for the liability of the N.A. at the rate of interest which is charged by Nationalized Bank i.e. @ 7.5% from April-2014 when the work was completed after installation & supply has been started, on the entire amount, till adjustment/repayment of the said amount in its entirety.

8. In the like manner the complainants claim for cost of Rs. 5000/- appears to be just & proper. Not only complainant has been deprived of its entitlement after making huge investment but it is also required to pursue the just demand for sufficient long period & ultimately compelled to approach this forum for redressal of grievance. Hence it needs to be mentioned that for the just claim of the complainant various delaying tactics practices have been adopted, including reduction of the amount for no reason by the concerned staff/officer & thereby liability of payment of interest has been arisen against the licensee. In fact for lethargic/negligent attitude of the concerned staff/officer this additional monetary liability with cost has been incurred on the licensee. This could have been easily avoided, had the concerned staff/officer acted diligently. As per principal laid down by Hon. Supreme court of India in the matter of Lucknow Development Authority Vrs. M.K. Gupta, reported 1994(i) SCC Page 243, the erring staff/officer is responsible/accountable there for & the licensee to take suitable steps for recovery of this aspect of financial liability from them apart from other administrative action. With such observations, this forum proceeds to pass following unanimous order.

ORDER

1. The complaint No.8/2016 is here by allowed. The N.A. is directed to refund amount of Rs. 5,18,260/- as per tax invoice dtd.29.11.2013 alongwith incidental charges plus Labour , Transportation, Testing Charges alongwith interest @ of the Nationalized Bank rate i.e. of 7 ½ per p.a. from April-2014 till adjustment of the entire amount in the forthcoming bills payable by the complainant
2. The N.A. is also liable to pay cost of Rs. 5000/- to the complainant.
3. That the additional financial liability of interest & cost as per order is to be recovered by the licensee from the erring officer/staff as per the ruling of Hon. Supreme court of India- Lucknow Development Authority Vrs. M.K. Gupta, reported 1994(i) SCC Page 243 apart from the other administrative action for lethargic /negligent attitude.

4. That the compliance report to be submitted within period of two months 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/ AKL/96

Dt. 21.06.2016

TO

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

The order passed on 21/06/2016 in the Complaint No. 8 /2016, 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. J.J.Fines Spun Pvt. Ltd 2nd floor, Friendz Piazza, Ratanlal plot Akola. Distt. Akola
Consumer No. Ind. – 310629026910

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/ 88

Dt. 15.06.2016

TO

The Nodal Officer,
Executive Engineer
MSEDCL,Akot Division Akot.

The order passed on 15/05/2016 in the Complaint No. 6 & 7 /2016, is enclosed herewith for further compliance and necessary action.

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

Copy fwc to:-

1. Laddha Agro Industries, Telhara, Plot No. A-31, MIDC, Telhara Distt. Akola
2. Laxmi Agro Industries, Telhara, Plot No. A-31, MIDC, Telhara Distt. Akola
3. The Superintending Engineer, O&M Circle, MSEDCL, Akola.

Sd/-
Member/Secretary

Sd/-
Member (CPO)

Sd/-
Chairman

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