

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER

Dt. 22 /11/2016

Complaint No.21/ 2016

In the matter of grievance pertaining to applicability of incorrect tariff, revision of bills, refund of excess amount, interest & cost.

Quorum

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

Shri MALL Enterprises, :- Complainant.
At. Po. Alsna Road,Shegaon
Distt. Buldhana .
Consumer No. Comm.-297058138943

.....Vrs.....

Executive Engineer MSEDCL, :- Respondent.
Khamgaon Division.

Appearances: -

Complainant Representative :- Shri. Ashish Chandarana
Respondent Representative :- Shri. A.U.Shinde, Executive Engineer.
Shri H.J.Wakode.Dy.Ex.Engineer

1. In view of threat of disconnection of electric supply the complainant has approached this forum for seeking redressal of its grievance. Reference has been made to notice/ letter dt. 13.10.2016, alleging that even the said notice is in contravention of electricity Act-2003, as instead of 15 days period, it is for 3 days period. It is alleged that the complainant has even paid energy bills issued by N.A. as LT-VII (B), so also given undertaking about making payment of regular energy bills. According to the complainant it is engaged in construction

activity & has demanded electricity connection for the said purpose. On its own the N.A. has applied commercial tariff in compliance of regulation 13 of supply code. In spite making of payment regularly since connection in Feb-2015 now the N.A. is alleging the connection as temp connection under LT-VII(B) and by making this classification sought retrospective recovery of bill of Rs. 7,82,516/-. By referring to tariff order in case no.121/2014, it is clear that, the stand of the N.A. is wrong. In any case the alleged recovery is beyond scope of the rules & in violation of MERC order No. 24/2001 as well as 42/15 dt. 13.05.2016. It is alleged that the tariff order case No. 121/2014 dt. 26.06.2015, prescribed LT-II-A for commercial. Reference has been made to orders of MERC proximity for reclassification for tariff retraction & lastly pressed for reliefs sought for. The copies of bunch of documents came to be filed with the complaint.

2. In view of threat of disconnection within 3 days of the alleged notice the complainant sought for urgent hearing. In view of threat of disconnection this forum thought it proper of granting opportunity to the complainant. After hearing and on going through the available material on record, order dt.25.10.2016 came to be passed, preventing disconnection of electric supply.

3. After receipt of notice of this forum, the N.A. has filed reply stating that the grievance of the complainant on page No. 5 & 6 are not based on factual position whereas rest of the facts have not been disputed, reliance has been placed on submission of application of connection with A1 form & documents. As per N.A. complainant is engaged in construction activity & sought connection for that purpose on temp basis. Reference has been made to the site of the complainant alleging that the premises is of MHADA hence the execution of construction work is on temp nature. According to the N.A. the connection was sought for temp nature for construction business & having low tension (LT) VII-B tariff. It is stated that estimate was accordingly prepared and was sanctioned by Dy.E.E. placing reliance on estimate dt.23.02.2016, so also it is alleged that relevant document clearly mentioning temp connection was for one Year. The complainant has paid necessary charges after receipt of quotation. Reliance has been placed on NSC report. It has been reiterated that connection is for

construction purpose, which means tariff order LT-VII-B is applicable but due to oversight of the billing staff it has shown as LT-II(A). Reference has been made to issuing of tariff bills amount of Rs.7,82,516/- dt.19.03.2016.

4. It is further stated that as per complainant's request connection has been made in the tariff category and the payment of bills are made. As the connection was sanctioned as temp connection for construction. The complainant was informed for payment of difference bills of Rs.7,82,516/- else face disconnection. The N.A. has gone to the extent of saying that complainant is deliberately not paying the difference bills though paying current bills. The cases cited by the complainant stated to be not applicable as the connection initially sanctioned was temp one. The complaint of complainant be quashed & complainant be directed to pay difference bill with interest. Certain documents have been filed with the reply.

5. On behalf of complainant certain documents that is tariff order & MERC order came to be filed. Heard Shri Ashish Chandrana, learned representative of complainant & Shri A.U.Shinde, Executive Engineer, with H. J. Wakode Dy.E.E. learned representatives of the N.A. Firstly it was found that the reply of the N.A. is signed by Dy.E.E. & not by the nodal officer. This was pointed out, it was submitted that it has been signed by Dy.E.E. wrongly & The E.E. present before the forum has submitted that it is as per his instruction, the reply is prepared and filed, so also submitted that the same is to be filed and signed by the nodal officer. Hence forth due care will be taken. On going through the rival/ submission of both the parties as well as the available material on record it is clear that, Hon. MERC issues tariff order from time to time. According to the N.A. the complainant construction activity falls under temp category hence the correct tariff has been made applicable and attempt has been made to justify the issuing of notice for disconnection. The learned representative of the complainant has made reference to the tariff order respectively. That the tariff order in case No. 72/2007. w.e.f. 1st June-2008 reference to " LT-VII :- LT Temporary on going through the same i.e. Applicability, it is clear that " Any Construction Work " was also covered under temp connection. The copy of the order of MERC in case No. 116/2008 is filed on record page No. 43

para No. 2.12 thereof deals with this aspect. It is clear there from that, in view of objection of VIA& Builders Association the MERC has given its ruling recorded on page No. 46, its reads as under :-

“ The commission appreciates the concern expressed by the consumers engaged in construction activity, that the nature of their connection is by no means “temporary ” and hence, it is inappropriate to classify construction activity under temporary. The Commission agrees with this rationale and rules that from hereon, temporary supply –HT or LT as applicable- will not include any construction activity, and will be limited to electricity used on temporary basis for any decorative lighting for exhibitions, circus, film shooting, marriages, etc, and the time period for consideration under temporary category will be one year. Further , all Construction activity, on infrastructure projects, building, hill station etc, will be classified under ‘ Commercial Category’ and be charged at HT commercial or LT commercial, as applicable. An illustrative Table, giving the applicability of tariff categories for various combinations of activities is given in the Table below.”

So it is clear from that date onwards construction activity is not to be included as temporary . In any case the time period for consideration under temporary category will be one year, further it has been stated that “ All Construction Activity will be classified as commercial category ” and to be charged accordingly, that is LT-II.

6. when query was made with learned representatives of the N.A whether MERC order will prevail for deciding tariff category, No satisfactory reply has been offered, on the contrary reference has been made to the endorsement made in hand on the A-I application submitted on behalf of complainant. The said endorsement is “Temp for const. purpose” . No doubt the N.A. has filed certain documents including Application A-I form given by the complainant with above referred endorsement. During course of argument the learned representatives of the N.A candidly admitted that the tariff is to be made applicable as per use & not mere on the say of consumer. Though reference & reliance has been made on “Acceptance of tender dt. 12.01.2015.” The period of 24 month is mentioned therein. Even during course of arguments the learned representatives of the N.A admitted that the period is exceeding 1 Year after connection & it is more than 1 & ½ years, the construction activities are

going on. So upon plain reading of tariff order as well as the order of MERC referred to above, it is clear that the complainants activities do not fall under LT VII :- category LT Temp. So admittedly the said temporary tariff LT-VII is not applicable and the bills issued there under needs to be revised as per tariff order and ruling of the MERC. The difference amount needs to be paid to the complainant. It has been admitted that earlier the commercial tariff was applicable. Admittedly if the tariff order is to be changed it must be with the order/approval of MERC & by giving due intimation to the consumer. Nothing of the sought has been done from the side of N.A. in the matter in hand. The action is totally in contravention to the Regulation as well as MERC orders referred to above i.e. case No.24/2001, case No. 42/2015, so also tariff orders which are binding on the N.A.

7. During course of arguments it has been admitted that the complainant connection is not temporary for the reason above. So also on the ground that Security deposit has been taken from the complainant. For temporary connection advance payment are being collected, no credit facility is given and permission of Electrical Inspector is necessary, maximum period of one year is for temporary connection. None of these criterias are applicable and attracted in case of the complainant. So admittedly on this ground also it is not a temp. connection.

8. During course of arguments it has been vehemently argued on behalf of the complainant that not only tariff order, MERC Regulations, MERC orders, have been violated but also statutory provisions of Electricity Act-2003. Reference has been made to the impugned letter/notice dt.13.10.2016 of disconnection of electric supply. On going through the said notice, it is clear and even admitted by learned representatives for the N.A. that, it is not as per the provision of the Act. Admittedly the alleged notice is for alleged assessment bills of Rs. 7,82,516/- on account of alleged change of tariff category from LT-II-A to LT-VII-B , when query was made, it has been admitted that the said amount of Rs.7,82,516/- is not entered in the record/CPL of the complainant. It is thus clear that alleged amount has never been shown as “ arrears continuously”. So also it is clear that as per the statutory requirement a period of 15 days is required to be mentioned in notice of the disconnection.

Even that has been given go by and period of 3 days only is mentioned in the said letter/notice, failing which the supply will be disconnected. The learned representatives for the N.A. have admitted that the same is not correct and not as per the statutory requirements. When query was made that in spite having knowledge of statutory provision why period of 3 days only mentioned in the said letter/notice, there was no answer at all. This forum clearly anticipate that such action cannot be said to be simple and plain. There must be some motive behind it. In spite having full knowledge of MERC order, tariff order, MERC regulations and statutory provisions, planning to take serious action of disconnection of electric supply clearly depicts the motive behind it. The complainant has sought reliefs in the complaint such as refund of excess amount with interest at 18% and cost of Rs,10,000/- on the officer, who has initiated such action ignoring MERC orders, MERC Regulation etc. This forum find substance in the submission of complainant in that respect, considering the facts & material on record. So apart from direction of refund of excess amount recovered from the complainant by applying wrong tariff LT-VII-B, it will be also just & necessary to award reasonable cost for the misdeeds, action contrary to rules and regulation amounting to Rs. 5000/- towards cost & sufferance faced by the complainant. This forum is not inclined to accept the request of payment of 18% interest as the complainant paid the electric bills. That refund of the excess amount is to be by way of the adjustment in the forthcoming bills payable by the complainant and that will serve the purpose. Needless to say that the N.A. Licensee to recover this monetary liability imposed vide the order from the concerned erring officer because of whose inaction the liability is imposed, With such observations this forum proceeds to pass following unanimous order.

// ORDER //

1. That the Complaint No.21/2016 is hereby partly allowed & the supplementary bills issued by the N.A. 7,82,516/- is hereby set aside.
2. The N.A. is liable to restore the tariff category LT-II –A to the complainant & by revising the bills issued under LT-VII B (Temporary connection), the excess amount

recovered from the complainant be refunded by way of adjustment in the forthcoming bills payable by the complainant, till full reimbursement.

4. That the N.A. is also liable to pay cost of Rs.5000/- to the complainant and N.A. to recover this monetary liability from the erring staff/officer in terms of order above.
5. That the compliance report to be submitted within period of One 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 /AKLZ/ AKL/ 153

Dt. 22.11.2016

TO,
The Nodal Officer,
Executive Engineer
MSEDCL,Khamgaon Division.

The order passed on 22/11/2016 in the Complaint No. 21/2016, is enclosed herewith for further compliance and necessary action.

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

Copy fwc to:

1. The Superintending Engineer, O&M Circle, MSEDCL, Buldhana.
2. Shri MALL ENTERPRISES, C/O Shri. Ashish Chandarana, Samudra Vihar Apartment Near Datta Mandir, Ramdaspath, Akola.