

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

*" Vidyut Bhavan" Shivaji Nagar, Amravati, Amravati : 444603 Tel No 0721  
.2551158*

**Dt.24/03/2017**

**Complaint No. 5 / 2017**

**In the matter of grievance pertaining to abrupt reclassification in tariff  
and billing thereof.**

**Quorum**

**Shri . S. R. Chitale, Member/Secretary  
Shri. D. M. Deshpande-Member (CPO)**

Shri Sachin Shriramji Khedekar,  
Chatrasal Nagar, VMV Road,  
Amravati 444 604  
Amravati Consumer No:- LT VB - 363970001617

Complainant

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

Executive Engineer,  
MSEDCL, Rural Division,  
Amravati

Respondent

**Appearances :**

Complainant Representative:- Shri P. A. Sagane, & Shri Ashish Chandarana

Non Applicant :- Shri Vikas Bambal,Dy. Manager(F&A),  
Rural Division, , Amravati

1. Complainant Shri Sachin Shriramji Khedekar who is industrial consumer of N.A. MSEDCL with applicable tariff LTVB, approached this Forum as per provisions of Section 6.2 and 8.3 of MERC



(CGRF Obudsman) Regulation 2006 against the final order passed by Dy. Executive Engineer, MSEDCL, Flying Squad dated 19/11/2016 and subsequent energy bill for Rs. 73,420/- issued vide Dy. E.E.(Rural) MSEDCL letter No., 2207 dated 14/12/2016 ( Deemed intimation under regulation 6.2 to IGRC Cell)

2. Complainant's case in brief is, they started Aqua mineral water unit with the brand name Mauli-Aqua at Maouje Revesa , Suurvey No. 88/4 on plot No. 3A 3B Walgaon Road, Amravati wherein industrial connection for load of 13 KW is released by N.A. MSEDCL on 22/05/2015. The above Unit is registered under Amravati District Industries Centre (DIC) with Udyog Adhar No. 897587480733 as INDUSTRIAL. Industrial tariff of LT VB as per tariff order MERC 121 of 2014 was made applicable from 01/06/2015 by N.A. MSEDCL. According to Complainant energy bills as per industrial tariff received up to June 2016 are paid without any dispute.

3. According to Complainant Flying Squad of N.A. MSEDCL headed by Dy. Executive Engineer registered a case under section 126 of Electricity Act 2003 on 28/06/2016 and issued penal provisional bill amounting to Rs. 2,64,110/- which was subsequently revised to Rs. 2,35,957/- and on submission of appeal and subsequent hearing Dy. E.E. , Flying Squad withdrawn the penal section 126 under Electricity Act 2003 but changed the tariff from industrial to commercial with retrospective effect i.e. from date of connection and issued final order dated 19/11/2016 against which N.A. MSEDCL issued energy bill for the 13150 units amounting to Rs. 73,420/- with due date as 12/12/2016 but dispatched to complainant vide Dy.E.E.(R) letter No. 2207 dated 14/12/2016. According



to Complainant disconnection notice dated 10/01/2017 for Rs. 84,330/- is issued. Complaint is filed before CGRF, Amravati seeking relief on account of wrongful change of tariff and retrospective recovery on the basis of abrupt reclassification.

4. According to complainant activity of aqua mineral water comes under industrial category where industrial process such as removal of hardness of water by ion exchange process which replaces calcium and magnesium ions in the water by an equivalent number of sodium ions in R.O. Unit, transferring soften water to chilling chamber and storing in 20 liter Jars, are carried out with the help of machines for pumping, filtration and cooling. According to complainant flow chart annexed with complaint clearly indicates the industrial activity in mineral water plant. According to Complainant N.A. MSEDCL authorities while releasing the new connection on 22/05/2015 rightly classified the connection under industrial tariff (LT V B) as per MERC tariff order in Case No. 121/2014 and commercial Circular No. 243 dated 03/07/2016 issued by MSEDCL. According to Complainant MERC in their tariff order have not expressly categorized Aqua mineral water industry in any tariff schedule such as commercial LT II or industrial LT V and fact is reproduced by Dy. E.E., Flying Squad in order dated 19/11/2016 and still at his own without any powers changed the category to commercial without MERC approval. According to Complainant N.A. MSEDCL i.e. Dy. Executive Engineer, Flying Squad in his order dated 19/11/2016 admitted expressly to have released aqua mineral water connection under LT II(Commercial) and LT V (Industrial) category at different units of MSEDCL. Complainant also referred MERC Case No. 24/2001, vide which no retrospective recovery towards reclassification was allowed and prospective categorization was only allowed. Complainant



prayed for withdrawal of commercial tariff and restoration of industrial tariff, with setting aside the assessed bill amounting Rs. 73,420/- and further claimed Rs. 10,000/- compensation and Rs. 5000/- cost. Along with complaint documents such as DIC Registration as Industry Udyog Adhar, Commercial Circular No. 243, Flying Squad bill under 126 dated 28/06/2016 and 25/07/2016, final order dated 19/11/2016, bill for Rs. 73,420/- with letter No. 2207 dated 14/12/2016, flow chart, disconnection notice dated 10/01/2017 and MERC Case No. 24/2001 came to be filed.

5. Reply came to be filed by N.A. on 03/03/2017 after 15 days notice by the Forum. N.A. in their reply admitted to have released industrial connection to Aqua water plant of complainant on 22/02/2015. According to N.A. in absence of clarity in tariff order issued by MERC, industrial tariff LT V B was made applicable and energy bills up to 24/06/2016 were issued under industrial category. On inspection by Flying Squad on 24/06/2016, category was changed to commercial and penal assessment bills were issued under section 126 of Electricity Act 2003, which were revised to Rs. 73,420/- under plain assessment under commercial category after withdrawal of 126 by Flying Squad and issue of final order dated 19/11/2016. According to N.A. after checking the process carried out at plant as per the clarification given by Chief Engineer(Commercial) MSEDCL CE/Com/29611 dated 28/09/2016 though registered under SSI Unit, Flying Squad in their letter dated 19/11/2016 mentioned about commercial use and accordingly bills issued which are correct and pressed for dismissal of the complaint. Along with complaint documents, letter dated 19/11/2016, CE, Commercial letter dated 28/09/2016 and Flying Squad assessment annexed.



6. Heard complainant representative Shri P. A. Sagane with Shri Ashish Chandarana and Shri Vikas Bambal, Dy. Manager(F&A) for N.A. MSEDCL. Complainant representative urged that the said connection was issued by N.A. MSEDCL under industrial tariff on verification of various documents by N.A. for the purpose of Aqua mineral water plant and applied tariff as per MERC order correctly as industrial. Representative brought on record that the purpose for which the connection was taken is never changed and the fact is recorded by Flying Squad in their final order dated 19/11/2016 and hence withdrawn penal action under section 126 of E.A. 2003. It is brought to the notice of Forum that clarification issued by C.E.(Commercial) MSEDCL dated 28/09/2016 has not been taken into consideration by Flying Squad resulting in to applicability of wrong tariff as commercial. Representative further explained complete process of Aqua mineral water industry as mentioned in the complaint and flow chart and stressed that it is industrial activity and was correctly classified as industry by N.A. at the time of connection. It is urged by Complainant's representative that powers to reclassify any category are with Commission and Flying Squad had no authority to change the tariff when purpose is not changed. It is specifically brought to the notice of Forum by complainant's representative that Dy. E.E., Flying Squad, Amravati while passing final order dated 19/11/2016 has not taken into consideration the clarification issued by their superior Chief Engineer(Commercial) directing to retain the tariff as industrial if registered as industry, when the clarification was sought by Dy.E.E., Flying Squad himself by letter dated 01/08/2016, also the directives issued to N.A. MSEDCL to send detail proposal was also ignored and category was reclassified as "Commercial" without any powers to Dy. E.E. or N.A. MSEDCL. Complainant's Representative referred tariff orders of MERC wherein it is specifically brought to the notice of Forum various purpose



mentioned under LT II Commercial or LT V industrial are not limited and addition can be done but by Commission. It is also brought on record that similar industry to aqua mineral water plant under the subject Milk processing /chilling plant (Dairy) is classified under industry and industrial tariff is made applicable by MERC in tariff order. Complainant representative urged by referring MERC order in case No. 24/2001 that even after reclassification by Commission, retrospective change in tariff is not allowed but should be classified prospectively from the date of reclassification. Complainant's representative specifically brought to the notice of Forum that N.A. MSEDCL have taken illegal action of disconnection of supply, when grievance was pending before CGRF on dated 16/02/2017 and even after communication dated 14/02/2017 acknowledged by MSEDCL on 14/02/2017 that complainant was ready to pay current bill as per provision of section 56 of E.A. 2003, reconnected the supply on 16/02/2017 after forceful recovery of part of disputed bill along with current bill amounting to Rs. 29,500/- with reconnection charge of Rs. 100/- . Complainant filed additional documents during hearing such as letter dated 14/02/2017, disconnection notice dated 25/01/2017, Receipt of bills for 29,500/- and Rs.100/- and provisional bill of Rs. 29,500/-.

7. N.A. MSEDCL representative urged that the premises is not industrial but is commercial as retail sale is being effected from the plant. N.A. also urged to have inspected the premises on receipt of clarification from Chief Engineer(Commercial), Mumbai dated 28/09/2016 by Flying Squad and after confirming commercial activity only order is passed by Flying Squad and subsequent bill for Rs. 73,420/- for plain assessment in commercial category issued and is correct. N.A. representative urged that disconnection is carried out as per the notice dated 25/01/2017



for bill amount 1,02,920/- towards arrears and reconnected on same day on payment of reconnection charges and provisional bill of Rs. 29,500/-. As per N.A.'s representative action of disconnection was as per provision of the Act. N.A. during the hearing admitted the fact that complainant's purpose of use is not altered. On direction by Forum N.A. filed additional document such as disconnection notice dated 25/01/2017 and bill for amount Rs. 1,02,920/- for which notice was issued and disconnection carried out on 16/02/2017. N.A.'s representative urged that MSEDCL is empowered to classify the consumer on the basis of purpose of use and classification in commercial tariff by Flying Squad and bills issued to Complainant are correct and should be paid by complainant and complaint be dismissed.

8. Forum have gone through the complaints, verified the documents on record, considered the reply by N.A. After hearing both the parties deliberation and material on record Forum is of the view that present dispute is about re-classification of certain category as per the purpose of use. It is not disputed that purpose of use for electric connection is changed. It is also not disputed that disconnection is given to Aqua mineral water plant and is registered under DIC. It is also not disputed by both the parties that Express provision are not given in any of the tariff orders of MERC, to classify Aqua mineral water plant industry as commercial, industrial or any other category. Forum finds substance in complainant's plea that industrial tariff was made applicable as per tariff order by Dy. Executive Engineer MSEDCL after verifying DIC registration and industrial process as industrial. Even Flying Squad in the final order dated 19/11/2016 has admitted the fact and recorded that different authorities of MSEDCL at different places are categorizing Aqua mineral plant purpose as industrial or commercial and different tariff commercial



or industrial is made applicable. The fact on record about reference to Chief Engineer(Commercial) by Dy. E.E., Flying Squad dated 01/08/2016 seeking advice about applicability of relevant tariff to complainant's aqua mineral water plant speaks fickle mind of Dy.E.E., Flying Squad. Forum is convinced that Dy. E.E., Flying Squad himself was not certain about applicability of proper tariff and his authority to reclassify, which is the cause of reference to Chief Engineer(Commercial) higher authority of MSEDCL at Head Office dealing the subject. Despite the fact on record ( letter PR-3/Tariff/Aqua-mineral/29611 dated 28/09/2016 ) instructing Dy. E.E., Flying Squad and S.E, MSEDCL, Amravati in the present grievance to apply industrial tariff if registered as SSI or industry or send detailed proposal, Dy. E.E., Flying Squad passed order dated 19/11/2016. Forum is convinced that Dy. E.E., Flying Squad, Amravati has not taken cognizance of C.E.(Comm) letter while passing order dated 19/11/16. N.A. MSEDCL could not bring anything on record to show that site was re-inspected as per C.E.'s letter as mentioned in their reply and urged. So Forum thinks it proper to set aside the final order passed by Dy. E.E., Flying Squad, Amravati dated 19/11/16 and subsequent bill for Rs. 73,420/- as per commercial tariff. Forum is of the view that industrial tariff should be continued to be made applicable till reclassified to any other category by Competent Commission. It is also not brought on record whether proposal as asked by C.E.(Comm) in above letter is moved.

9. Forum reproduces below the provisions of Act and certain judgement of Hon'ble ATE dated 20 October 2011 in Appeal No. 110, 111, 170, 171, 201 and 202 of 2009 and 70, 71, 78, 79, 80, 81 and 82 of 2010 taken from tariff order 19/ 2012 which referred.



A] As per Section 62 of the Electricity Act 2003, the Commission may differentiate the tariff according to the consumers load factor, power factor, voltage, total consumption of electricity during any specified period or time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which supply is required.

B] Tribunal ruled as under

i) "The State Commission in the present case wrongly placed all the consumers including Appellant who were neither domestic nor industrial nor falling under any of the categories under commercial category. The purpose for which supply is required by the Appellants can not be equated as per with other consumers in the commercial category.

ii) The real meaning of Expression "Purpose for which supply is required " as used in section 63(3) of the Act does not merely relate to the nature of activity carried out by a consumer but has to be necessarily determined from the objects sought to be achieved through such activity.

iii) By the impugned order, the State Commission classified the members of Appellants into commercial category following a mechanical approach. This has been done only because the Appellants can not fall under either in the industrial or agriculture or residential category and therefore, the Appellant would automatically fall in the commercial category. This is not a proper approach. In case the State Commission felt that the Appellant are not falling under any particular existing category, then State Commission ought to have applied its mind and provided for a new



category and given them competitive tariff having regard to the purpose for which the electricity is used by them.

10. As per ruling mentioned above, it is imperative that the Commission create new category based on the purpose of use of electricity under the provision of the section 62 of Electricity Act 2003 and powers to re-classify certain category is also with Commission. C.E.(Comm) rightly instructed S.E., MSEDCL to send proposal. Forum is of the view that Dy. E.E., Flying Squad exceeded his powers in changing tariff to commercial without going in to the process of Aqua mineral water plant and its registration under industry. Forum is convinced after verifying the facts brought on record that N.A. MSEDCL threatened complainant and forcibly recovered part of the disputed bill despite, complainant by his letter dated 14/02/17 shown his willingness to pay his current bill as per the provision of section 56 of E.A. 2003. Even the notice dated 25/01/2017 issued is bad in law and subsequent disconnection in furtherance of notice on 16/02/2017 is illegal because the notice dated 25/01/17 is issued for the amount Rs. 1,02,920/- due on 08/02/17 for which energy bill dated 25/01/2017 is issued. N.A. MSEDCL issued disconnection notice before due date of 08/02/17. From the facts brought on record Forum is of the view that the disconnection on 16/02/17 is bad in law and hence N.A. MSEDCL should refund reconnection charges. Rs.100/-. The Forum is not inclined to accept the complainant's claim for Rs. 10,000/- towards mental harassment in absence of actual loss suffered by complainant and no exemplary or incidental claim is tenable as per the provision of MERC CGRF Regulation 2006. Forum is of the view that Rs.2000/- towards cost would meet the ends of justice. With such observation Forum proceeds to pass following unanimous order :-



**ORDER**

1. The Complaint No. 5/2017 is hereby partly allowed. The N.A. MSEDCL is directed to withdraw commercial tariff made applicable from date of connection and continue to apply industrial tariff as earlier applied till June 2016. All future bills be issued with industrial tariff.
2. N.A. MSEDCL is directed to set aside bill with due date 12/12/2016 for Rs. 73,420/- issued vide Dy.E.E./Amt/2207 dated 14/12/16 and adjust the bill amount Rs. 29,500/- paid by complainant in forthcoming bill.
3. N.A. MSEDCL is directed to refund Rs.100/- towards illegal disconnection and adjust in forthcoming bill.
4. N.A. MSEDCL is directed to compensate complainant by Rs.2000/- towards cost to be adjusted in forthcoming bill payable by complainant.
5. N.A. MSEDCL is directed to submit compliance report to Forum within a period of one month.

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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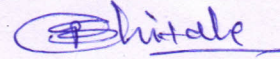


No. CGRF / AZ/ Amravati/ No 0 8 5 5 /

Dt. 24/03/2017

TO  
The Nodal Officer,  
Executive Engineer  
MSEDCL, Rural Division,  
**AMRAVATI**

The order passed on 24/03/2017 in the Complaint No. 5/2017, is enclosed herewith for further compliance and necessary action.



**Secretary,**

Consumer Grievance Redressal Forum,  
MSEDCL, Amravati Zone, Amravati

**Copy s. w. rs. to:**

The Superintending Engineer , MSEDCL, O&M Circle, Amravati

**Copy to :-**

Shri Sachin Shriramji Khedekar, Chatrasal Nagar, V.M.V.Road, Amravati.

Consumer No:- LT V B 366479005960