

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

*“ Vidyut Bhavan ”
Ratanlal Plots,
Akola : 444001
Tel No.2434476*

Dt. /06/2014

Complaint NO. 87 / 2014

**In the matter of grievance of payment of compensation because of failure of
Transformer”**

Quorum :

Shri T.M.Mantri, Chairman
Shri P.B.Pawar, Secretary
Shri A.S.Gade, Member

Shri ,Madhakar Pralhad Rathod Khandla ,Tq. Karanja Complainant

...vrs....

The Executive Engineer (R.) Dn. Akola Respondent

Appearances :

Complainant Representative : Shri P. N. Fhulzele Assistant Engineer Murtizapur.

Respondent Representative : Shri D.M.Deshpande.

1. The complainant has approached this Forum in respect of his claim for providing compensation on account of failure of transformer, resulting in non-supply of electric during the period from 3.12.2013 to 31.12.2013. With further

submission that though the transformer was replaced on 1.1.2014, but it again failed on 13.1.2014 and it was replaced on 18.1.2014. According to the complainant as per provision, he is entitled for compensation of Rs.40,800/- for delay in replacement of the transformer. The complainant has also asked for cost of Rs.500/- towards present litigation. Along with the complaint, bunch of some documents came to be filed i.e. Failure Report of Transformer, Replacement Report etc. It is alleged that the complainant has paid of the regular bills.

2. As per the Regulation, notice was sent to the N.A. for submitting para-wise comments to the complaint. The reply was filed, belatedly, submitting that the concerned Transformer was feeding 5 agricultural pump connection. The complainant never asked for increase in load and never informed the N.A. for expansion of load. The said transformer was failed on 3.12.2013 and arrears of energy bill on the said DTC was Rs.26250/- out of which only 50% bills. Rs.13500/- was paid.

3. Then averments have been made in respect of arrears of Rs.6000/- Crore are due from agricultural consumer in the State and in spite of implementing Krishi Sanjivani Yojna, only Rs.150/- Crore could be recovered. In order to recover arrears, the Director (Operations) has given direction for not to replace failed transformer unless 80% of the consumer getting supply from the Transformer pay their electric bills. According to the N.A, the complainant has paid Rs.2500/- only on 7.12.2013 as against due of Rs.5140/- Reference has been made to Circular dated 5.11.2011 and 8.11.2011, so also reference made to the order of

Electricity Ombudsman in Representation No.1 /2013. It is, further, stated that in view of the Circular of the Director (Op) as 80% payment was not received, the failed transformer was not replaced, hence the claim of the complainant needs to be rejected. However, it is stated that on 12/12/2013, the said transformer was replaced but due to heavy load, it failed again on 13.12.2013. The consumer on the said Transformer including the complainant increased the load to 26 HP from 21 HP and because of fault of the consumer, there was a failure of transformer, in view of the extension of load without notice to N.A. It is stated as on 17.12.2013, the complainant made payment of Rs.2500/- and transformer with higher capacity was replaced on 1.1.2014 and it is in working condition and the complainant has taken advantage upto 13.1.2014. The failed transformer was replaced on priority on 18.1.2014 and now it is in working condition and there is no deficiency in the service of the N.A. The transformer with higher capacity has been replaced without application from the consumer, so also without collecting additional charges, for these reasons the complaint needs to be dismissed. Alongwith the reply, copies of documents came to be filed.

4 . Herd Shri D.M.Deshpande, Learned Representative for the complainant and Shri Fulzele, Assistant Engineer and Shri Bahulkar, Jr. Engineer, Learned Representatives of the N.A. The documents on record i.e. Transformer failure report, clearly show that the date of failure is mentioned therein as 3.12.2013, whereas the date of commissioning as “ 5.10.2007” It also mentioned the total connected load of “25.5 HP” Clause-7 of the said Report is “cause of failure” and it is pertinent to note that no reason is mentioned about the failure. On the contrary in Clause No.11 of the said report in front of remark “HT supply may be

damaged". In the Certificate dated 4.12.2013, it is mentioned that 52% payment has been remitted, whereas in other Certificate filed by the complainant with Sr.No.6 and 8 of the complaint, it is mentioned that there are 5 consumers on the said DP and payment percentage is shown 97%. It has been specifically mentioned therein that out of Rs.26250/-, Rs.25500/- has been paid and therefore percentage is shown as 97%. Here, it is pertinent to note that other Transformer which was commissioned earlier, failed on 13.1.2014. The letter dated 14.1.2014 by the Sub-Engineer, Murtizapur to Assistant Engineer, Murtizapur is sent with the report, wherein also the total connected load is shown as 26 HP and it also does not show the cause of failure of DP in the Column No.11 of remark, it is mentioned "D.O. Not Stand" Admittedly the second transformer was also replaced on 18.1.2014 and the same is in working condition.

5. Here it is pertinent to note that in the Electric bills of the complainant, sanctioned load is mentioned as 7.5 HP. The version of the complainant that he has made payments of energy bills and nothing is due against him has not been controverted from the side of the N.A.

6.The main bone of contention on the part of N.A. is about the Circular dated 5.11.2011, submitting that unless 80% arrears from the said DP is remitted, the transformer cannot be replaced, in Para G of the reply filed by the N.A., it has been so mentioned. Though from the side of N.A. an attempt has been made to submit that on 12.12.2013, the transformer was replaced but it failed again on 13.12.2013, because of heavy load, however, no cogent and satisfactory evidence has been brought on record. On the contrary, the position is clear that even there

was no increase in the load and it was within the permissible load of the transformer. On 1.1.2014, the Transformer with connected load of 26 HP was installed, but the same was also failed on 13.1.2014 and in the Failure Report filed by the N.A. it is not mentioned that it is because of overload, on the contrary there is no cause of failure mentioned therein. So that defense/submission on behalf of the N.A. is without supporting material. Admitted position is that on 18.1.14, the transformer was again replaced and the same is in working condition. The complainant has claimed Standards of Performance compensation and according to him it was for 34 days. There was no supply because of failure of Transformer and claimed Rs.40800/- towards compensation and Rs.500/- towards cost as mentioned above.

7. According to the N.A. in view of the above referred Circular dated 5.11.2011, they were not liable for payment of compensation. When query was made as to whether non-payment of arrears by other consumers having connection from the same DP, cannot deprive the consumer who has made all the payment, there was no answer. The Learned Representative has submitted that as per the Circular, unless 80% payment of arrears is made, providing of connection is not possible.

8. The Learned Representative of the N.A. has referred the order of Electricity Ombudsman, Mumbai in Representation No.1/2013. Here, it is pertinent to note that in the matter involved in the said representation, admittedly the consumer was in arrears and only part payment was made still the consumer was in arrears. Here in the present matter, it is not the case. In any case the Learned Representative of the complainant has filed on record the order of MERC in Case

No.14/2012 and the same was in respect of challenging Circular issued on behalf of the Company to not to replace the failed transformer till payment of 80% current bills are made. In the said order the MERC has taken into consideration Section-56 of Electricity Act, 2003, wherein procedure for dis-connection of supply for non-payment of energy bills by the consumer is provided. So from the wording of Section-56, it is clear that certain compliances are required to be complied with by the Licensee, even for dis-connection of electric supply of the consumer, who is in arrears. The Commission in the said order, directed the MSEDCL for taking steps strictly as per the law, even improving its recovery. It has been categorically laid down therein that ‘The “Procedures provided by the Electricity Act, 2003, should be followed during dis-connection drive.” As already observed earlier, MERC has referred to Section-56 which deals with dis-connection of supply in default of payment , wherein it has to make compliances which are mandatory. Here in the present case, there is no cause of disconnection of supply in default of payment but it was because of failure of transformer. MERC (Standards of Performance of Distribution Licensee, Period of giving Supply and Determination of compensation) Regulation, 2005, deals with this aspect. Under Regulation 6, there is a provision of restoration of power supply and under Regulation 6.3, it is mentioned “the Distribution Licensee shall restore supply by distribution transformer failure within 24 hours on receipt of complaint in Towns and Cities and within 48 hours on receipt of complaint in Rural areas.” Further it is to be noted that in Appendix-A of the said Regulation, level of compensation payable to the consumer for failure to meet the Standards of Performance are also prescribed Under Clause-2 (iii) Of the said Appendix deals with distribution transformer failure. The compensation at the rate of Rs.50/- per

hour is payable upon failure to meet the Standards of Performance and the Standards of Performance is prescribed of 48 hours in Rural areas. So apparently after getting knowledge or receipt of complaint about the failure of Transformer, period of 48 hours is provided to take corrective action of supply Of energy. The reliance of the N.A. on the said Circular issued by the Director (Op) is of no consequence in view of the Statutory provisions referred to above, more particularly under the Regulation. The Circular cannot over-ride the Statutory Provisions. Consequently the liability for payment of compensation arises against the N.A. Here, it is pertinent to note, even it is not the case of the N.A. that the statutory compliances have been made under Section-56. In any case, it is a case of failure of Transformer and N.A. has not disconnected supply of the complainant for arrears, as they were no in arrears as required under Section-56. The MERC has also given direction to the Licensee for following procedure provided under the Electricity Act, 2003. It is thus clear that there is a failure on the part of N.A. in maintenance of Standards of Performance as prescribed under Regulation, 2005 referred to above. Consequently, it is the liable for compensation. Admittedly, there was failure of Transformer during period from 3.12.2013 to 31.12. 2013 and again there was failure of Transformer on 13.1.2014 till the new Transformer was replaced on 18.1.2014. As per the Regulation, 2005 referred above, the compensation payable is after 48 hours of such failure, if it is not rectified. The liability for compensation arises for 26 days excluding period of 48 hours. In the like manner, newly replaced transformer was also failed on 13.1.2014 and replacement of it was done on 18.1.2014, so excluding the period of 48 hours, liability for compensation arises for 3 days, so in all liability for

payment of compensation as provided under the Regulation at the rate of Rs.50/- per hour is for 29 days, it comes to Rs.34,800/-

9. The complainant has also claimed cost. However, considering peculiar facts and circumstances, this Forum thinks it proper to pass appropriate direction with that regard. In view of the above reasoning and conclusions, this Forum proceeds to pass the following unanimous order:

ORDER

1. The complaint No.87/2014 is partly allowed. The N.A. is liable to pay compensation of Rs.34,800/- for causing delay of 29 days as detailed in the above order in removing the defect, because of failure of distribution transformer and N.A to make adjustment of this amount in forthcoming electric bills payable by the complainant.
2. In the peculiar faets circumstances of the case, parties to bear their own costs.
3. That the compliance report be submitted within a period of one month from the date of issue of this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman

No.CGRF / AMZ/

Dt. /06/2014

To
The Nodal Officer / Executive Engineer,
MSEDCL,
Rural Division,
Akola
For information & necessary action.

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

Copy To:
Shir Madhukar Pralhad Radhod, Khandla ,At. Post. Kajleshwer,(Upadhya) ,Tq.
Karanja, Dist .Washim.
Copy To:
Superintending Engineer O& M Circle Office Akola.