

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

“Vidyut Bhavan”,
Ratanlal Plots,
Akola: 444 001
Tel.No.2434476

Dt-03/06/2013

Complaint No.13/2013

In the matter of Shivam Ginning and Pressing Factory, Barshitakli, for refund of amount of infrastructure cost, Service Connection Charges etc.

Quorum :

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

Shivam Ginning and Pressing Factory, Barshitakli.

... Complainant

...VS...

MSEDCL Rural Division ,Akola

... Respondent

1 The Complainant has filed the complaint for refund of amount spent on infrastructure with 12% interest, so also for refund of E.D. recovered illegally and also claimed refund of Rs 3000/- collected towards Transformer testing charges along with refund of Rs 6476/- collected in excess towards SC Charges with refund of Electric Inspection fees, by the present complaint.

2 Ins substance the Grievance of the complainant is that while making grievance with IGRC due to error wrong Consumer No. 310159063360 has been mentioned in place of 31059062560 but with correct name. In spite submitting copy of firm quotation and demand note, however IGRC has decided the matter without giving sufficient opportunity. Reference has been made to letter Dt.20/09/12 of A.E. Barshitakli which was posted on 04/10/12 and the Complainant received it on Dt. 05/10/12. From that letter, the Complainant could gather about error in mentioning wrong consumer no., so written letter to IGRC with copy to Barshitakli and Akola Office. Additional grievance has been raised in respect of recovery of E.D. Illegally. In spite thereof grievance is not

resolved however IGRC hurriedly passed order without considering the facts and correction in consumer no. From the order of IGRC it is clear that, it has not taken cognizance of the complainant's request.

3 It is alleged that after submission of letter by the complainant to IGRC in respect of correction of Consumer No., A.E., Barshitakli written letter to Complainant about submission of documents. The authorized representative of the complainant misplaced the same. According to Complainant supply is released only after completion of all required formalities and once supply is released nothing remains pending on Consumer's part.

4 It is alleged that the N.A. Licensee is raising issue to justify delay on therepart so as to save skin of guilty officer. It is further alleged that after complainant's approach to IGRC this was the first communication from licensee's side. Thereafter HT supply has been released, so also the earlier transformer has been utilized by N.A. Licensee at other place by removing it from existing place, treating it its own asset.

5 Reference has been made to application for enhancement of load to 107Hp from 60Hp which was processed under non DDF, CC, and RF scheme for which estimate of Rs 269734/- was sanctioned on 28/10/10 along with Rs. 6500/- towards SC charges and Rs. 47000/- towards SD as per demand note of 01/01/10, which was paid by complainant on 02/11/10. The Supply was released after completion of all formalities, under supervision of MSEDCL as per circular Dt. 20/05/08 and 19/06/08. Reference has been made to provision of IE rules 1956. After releasing of supply Complainant also released the final payment of contractor who executed the work under supervision of N.A. Licensee and no grievance in any manner was made by N.A. licensee. On getting information of non adjustment of refund of expenses made under the scheme, so the complainant approached IGRC but IGRC has disposed off the grievance hurriedly.

6 Reference has been made to provisions of Electricity Act 2003 and supply code 2005. The N.A. licensee could not recover any other charges than approved by MERC. Reference has been made to Rule 15.6 of supply code in respect of advance payment and interest. Complainant is therefore entitled for refund of Rs. 6460/- as N.A. Licensee can recover only 1.3% of 6500/-, the Complainant is also entitled for Rs 3000/- of Transformer testing fees. The Complainant has also claimed 12% interest.

7 It is alleged that E.D is exempted by the Sate Gove. as per notification. However amount has been recovered from the complainant. The Complainant has been entitled for refund of E.D recovered illegally with 12% interest and sought the reliefs prayed for. Documents came to be filed with complaint from the site of the complainant.

8 The reply came to be filed from the side of N.A., belatedly after receipt of notice of the Forum. Admit that the complainant approached before IGRC but denied that without giving sufficient opportunity, matter has been decided. The alleged that annexure A3 is denied, So also it is denied that letter dt 20/09/12 was received on 05/10/12. The additional prayer of A3 is not legal as it was not raised before the competent authority. There is no provision for incorporating additional plea at appellate stage.

9 The inference drawn by the complainant about order of IGRC and conduct is baseless. Submission of correction application of Consumer no before IGRC is not disputed so also letter of A.E Barshitakli asking the Complainant to submit documents under the scheme. It is denied that complaint has made compliance and submitted documents but same have been misplaced by its representative. It is denied that after releasing of HT supply the N.A. has shifted transformer from the existing location as alleged. Carrying out the work of enhancement of load under supervision of N.A. licensee is not disputed, so also it is not disputed about the work made by concerned contractor. Non refund of the amount under the scheme is not disputed, so also it is admitted that Rs 3000/- towards Transformer testing charges have been recovered in contravention of approved schedule charges but the said amount is deposited on 8th Sept 2006 with Electrical Inspector, hence is not liable to refund the same.

10 As far as exemption of ED by Sate Govt. vide notifications, is admitted however due to oversight, it has been recovered. As per direction in the circular of H.O it will be communicated to the concerned section, in respect of refund thereof.

11 It is stated that the present claim is not a "Grievance" as per definition of regulation hence this forum has no Jurisdiction. Reference has been made to writ petition No 2031 of 2011 (MSEDCL v/s M/S Kaygoan Paper Mills) Dt. 01/07/11. As per regulation new transformer was erected by removing the old transformer. It is stated that, the work was not under DDF scheme hence ownership of infrastructure remains with N.A. Company. It is stated that as per quotation complainant has to submit the documents named but it has failed, inspite demand . Only on production of the receipt

the Complainant is entitled for the getting the refund of the cost. It is to be refunded in monthly bills. It was not advance payment as alleged, hence Complainant is not entitled for interest.

12 Heard Mr. Ashish Chandrana , the leaned representative of Complainant and Manoj Khnadre, AE, authorized representative of the N.A. Licensee, it is pertinent to note the no documents came to be filed from the side of N.A.licensee. It is further to e noted that the reply was signed by A.E., so also he attended the date of hearing with authority. It is thus clear that the provisions of the regulations have not been followed by the concerned officer/ Nodal Officer and the concerned Authority of the licensee to take note thereof and to give suitable directions.

13 Admittedly the complainant has spent for infrastructure, So also other charges have been recovered from it. Admittedly in the original application before IGRC, there was mistake in quoting Consumer No. but later on the complainant sent communication Dt 05/10/12, which is admitted in reply of N.A. Admittedly complainant has spent 2,69,734/- as per sanction for infrastructure of enhancement of load and the said work was carried out by approved Electricity Contractor of the N.A., under its supervision. Admittedly after the completion, of the work the line was charged and the electrical supply has been made. During course of argument, it has been admitted by the representative of N.A. licensee, that after inspection of the work it was found OK, the line inspection was made and thereafter the line is charged. The contactor is approved contractor by the N.A.Licensee. As per estimate and under supervision of N.A. licensee work was done. Never any grievance was made by N.A.Licensee. On the Contrary having satisfied about the compliances made, the line was charged after inspection, In view thereof now raising of objection of non submission of documents from the side of N.A licensee, can not be said to be just, reasonable. If this was the fact, it ought have demanded the same at the time of release of connection (Recharge of the line) as per settled practice. This supports the case of complainant. In any case the N.A.licensee can collect the documents/copies thereof from its approved contractor. After recharging the line raising of such demand, belatedly, from the side of N.A.licensee is not proper. The amount was spent by the complainant under the scheme whereby it was to get refund. It is N.A.licensee who has to spent for infrastructure but under the said scheme the complainant has spent for infrastructure. Now it can not be asked to wait, on such grounds.

14 The Complainant has filed copy of letter Dt.23/10/12 of A.E. Barshitakli i.e. much after approach of complainant to IGRC. And by that letter demand has been made as per complainant for the first time. Thought the N.A has referred to order of supreme court but it has not taken care to file the copy, on the contrarary the complainant has filed the same. It does not support the objection of the N.A. about jurisdiction of forum.

15 Admittedly Rs 3000/- has been recovered towards transformer testing charges and in para 17 of reply of N.A., it is admitted that it was in contravention to the provisions.

16 Admittedly 6500/- has been recovered towards SC charges. As per the practice and regulation, the N.A.licensee is entitled to recover 1.3% i.e. Rs 84/- So excessive amount of Rs 6416/- has been recovered. Admittedly electrical Inspection fees has been recovered from the complainant, nothing has been pointed out the basis therefore. The N.A. is liable to refund the same to the compit.

17 The Complainant has claimed interest of 12% per annum alleging that the amount spent/incurred by way of advance payment and as per provision it is entitled for interest at 12%. Suffice to say that the said claim is exaggerated. This forum will deal with it appropriately, at the time of final order in that respect.

18 The Complainant's claim for refund of ED, is opposed mainly on the ground that in the original application before IGRC it was not claimed. The learned representative has submitted that in the letter dated 05/10/12 it was made. However nothing was pointed out/submitted as to when the said letter was given/received to/by the said office, it seems that prior to receipt thereof order was passed by IGRC. The learned representative of the complainant submitted that liberty be given to the complainant whereby it will approach IGRC for refund of ED. The forum feels that it will be just and proper to grant such liberty for proper approach.

19 In view of the above observation and conclusion, this forum proceeds to pass following unanimous order.

ORDER

1 The complaint 13/2013 is hereby partly allowed. The N.A.licensee is directed to refund Rs.2,69,734/- spent by the complainant on the infrastructure, so also Rs.6,416/- collected in excess to S.C.charges plus Rs.3000/- collected towards transformer testing charges, alongwith 6% interest from the date of present complaint till adjustment of all these amounts, in the electric bills payable by the complainant from the next electric bill.

2 The complainant is at liberty to take its recourse for refund of electricity duty to the concerned authority (IGRC), as prayed, on its behalf.

3 The complainant is also entitled for cost of Rs.1000/-towards present proceeding.

4 Compliance report to be submitted within the period of three months from the date of this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman