

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

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

Dt- 25/11/2013

Complaint No.84/2013

In the matter of grievance of breach of tariff order & providing DDF

Quorum :

Shri T.M.Mantri,	Chairman
Shri P.B.Pawar,	Secretary

M/s Ruhatia Spinners Pvt.Ltd.,Akola	(Con.No. 311039001468)
	... Complainant
...vs...	
The Superintending Engineer, MSEDCL, Circle Office Akola.	... Respondent

Appearances:

Complainant Representative:Mr. D.M.Deshpande

Respondent Representative: Mr.N.S.Chitore, E.E.(Adm.) Akola, MSEDCL Akola

1. The complainants grievance is in respect of breach of tariff order so also order of MERC dt. 16/02/2008 in case No.56/2007 in respect of providing dedicated distribution facility under any nomenclature. The complainants case is that it is a HT consumer since 08/09/1998 connected on non-express feeder. According to the complainant application was submitted for continuous supply on 18/01/2003 alongwith DIC Akola certificate. So also reference has been made to letter dt.05/03/2003, quotation dt. 21/03/2003, payment of Rs.82,207/- on 22/03/2003 and giving of intimation to N.A.licensee by letter dt. 22.03/2003 for taking up the work of separate express feeder. As nothing was done reminder dt. 31/05/2003 was sent. From the side of N.A.licensee

quotation dt. 05/06/2003 of Rs. 23,247/- by way of difference of estimate towards cost of the additional poles was issued and that was also paid on 05/06/2003. It is alleged that after completion of the work the N.A.licensee started charging tariff of continuous supply from August,2003 and the complainant paid all energy bills regularly with additional charges of required express feeder by referring to the electric bills.

2. According to the complainant it was noticed that its express feeder being tagged by N.A. officials for providing connection to M/s Padmawati Cotton Processing unit, hence objection was raised by letter dt. 13/06/2011 but to no effect. Again letter dt. 05/08/2011 was sent in that respect but no cognizance of these letters was taken and on 17/10/11 connection was released to said M/s Padmawati Cotton processing unit. The status was changed to non-express industrial feeder for said M/s Padmawati industries. Reference has been made to letter dt. 19/10/2011.

3. It is alleged that though the status of factory was changed from express to non-express, illegally and without complainants consent but electric bills for higher tariff have been received by the complainant whereas the said M/s Padmawati Industries was billed as per non-express tag. According to the complainant such charging of higher tariff amounts discrimination contrary to statutory provision. Therefore complainant is entitled for refund of difference of tariff for HT-1-C to HT-1-N from 17/10/11 as well as complainant is entitled for refund of Rs.1,05,454/- which the complainant has incurred for erecting separate express feeder.

4. Reference has been made to order of MERC dt. 16/02/2008 in case No.56/2007 by making reference to various observations therein alleging that in view of breach of MERC order, the N.A. is liable to refund infrastructure cost so also excess tariff charged from 17/10/11. Reference has been made to letter dt.03/10/2012 and lastly sought the reliefs prayed for. Alongwith complaint copies of bunch of documents came to be filed.

5 As per regulations notice was issued to the other side N.A.licensee for submitting its reply to the complaint. Time was sought on behalf of the N.A. for submitting reply. It was granted inspite thereof reply was not filed on the extended date, so matter was required to be proceeded for hearing. Thereafter reply came to be filed from concerned office of the N.A.licensee.

6 The matter was then posted for arguments. Additional reply documents came to be filed on behalf of the parties. The N.A. has opposed to the complaint denying commission of breach of tariff order with further averments that N.A. never provided dedicated distribution facility to the complainant. Para-3 of the complaint has been admitted. It is stated that there was only separate line in view of complainants demand for separate line and not DDF. Hence, it cannot be said as DDF.

7 It is stated that supply has been given to M/s Padmawati Cotton Processing Unit from common infrastructure on 17/10/11 as a seasonal consumer, even if it is on express feeder. On behalf of the N.A. it has been stated that estimates have been issued to the complainant separating feeder without charging towards Bays and Breakers. The tariff of M/s Padmawati

factory is seasonal which is more than tariff applicable to the complainant and lastly prayed for rejection of the complaint supporting order of IGRC.

8 As already observed above, the matter was posted for arguments. Heard Mr. Deshpande, the learned representative for the complainant and Mr.N.S.Chitore, the E.E. +(Adm) Akola, the learned representative for the N.A.licensee at length. Gone through the bunch of documents filed on record alongwith rival contentions of the parties and upon giving anxious thought thereto, this order is being passed.

9 Admittedly the complainant is a HT consumer since 08/09/1998 and earlier it was on non express feeder. The initial connected load has been extended to 1001 KW. According to the complainant it has opted express feeder and spent expenses for the infrastructure required there-for. Admittedly after demand made by the complainant demand note dated 21.3.03 came to be issued for of Rs.82,207/- on behalf of the N.A.licensee and immediately on 22.03.03 the complainant deposited the said amount. The complainant was pursuing the matter with N.A.licensee. Subsequent demand note on account of difference of estimate, for Rs.23,247/-, came to be issued on behalf of the N.A.licensee and the complainant has deposited that amount also on 05/06/2003. It is clear from the record that thereafter the work was carried out and bills of HT-1-C came to be issued wherein it has been specifically mentioned "Express feeder flag – Yes". The complainant has filed on record the bills with these details and undisputedly the complainant has remitted the amount under the bills. Till middle of 2011 there was no controversy and the complainant unit was alone connected from the said feeder. Some time in middle of 2011 the complainant had made grievance

about trapping of line illegally, without consent and intimation and alleged that attempt is being made to give supply from said feeder to M/s Padmawati Cotton Processing unit. The complainant has immediately made grievance by letter dt. 13/06/2011, but to no effect. No reply was given from the side of the N.A. Again complainant has made grievance by letter dt. 05/08/2011. No heed has been paid to this also. On the contrary connection has been provided from M/s Ruhatia feeder to said M/s Padmawati Cotton Pro. Factory on 17/10/2011. It is clear from the electric bill of the said M/s Padmawati filed on record. Here it is pertinent to note that though the said connection to M/s Padmawati is from Ruhatia feeder which is known as express feeder for complainant but in the bill issued to M/s Padmawati it is mentioned “express feeder flag – No”.

10 At this stage it will be relevant and vital to have look to letter dt. 19/10/11 of the complainant. Para-2 thereof is material and it has been categorically stated therein that on 17/10/11 all the facts were explained to Chief Engineer and he was kind enough to order stoppage of releasing the connection. In the said letter the complainant has also made other averments since from seeking for express feeder, spending of the amount etc. The submission made on behalf of the complainant that even this letter has not been replied is most significant. So from the record it is clear that none of the letters issued by the complainant have been replied from the side of N.A.licensee. Now in the defense to the complaint an attempt is being made to say that it was not express feeder and complainant has not asked for DDF scheme. An attempt has been made to suggest it was on ORC basis. On behalf of the complainant copy of order of MERC in case No.56/2007 is filed on

record. The observations and conclusions in the said order supports the case of the complainant, Even the definition of “dedicated distribution facilities” as per MERC Electricity Supply Code and other Conditions of supply Regulation 2005, ii(g), is helpful to the complainant as undisputedly since 2003 after spending substantial amount the complainant is the only consumer on this express feeder line till 17/10/2011. As already observed above the complainant has been billed all through-out under tariff HT-1-C. On behalf of the N.A., neither convincing material nor submissions have been made so as to substantiate its stand. No doubt the audit report which the complainant has referred to and relied upon they are of other Sub Dn. i.e Rural Sub dn. The complainants industry is under other Sub Dn. i.e. Barshi Takli. In view thereof there was no question of complainants name appearing in the audit reports of Rural Sub Dn.

11 During course of arguments it has been tried to submit on behalf of the N.A.licensee that the complainant has deposited amount as per demand note with additional demand note in 2003 but dispute is being raised after ten years so it is time barred. Suffice to say that such submission is without there being anything in the reply filed on record. In any case the controversy has arisen as referred to above in the year 2011 and more particularly on 17/10/11 the complainant had made grievance immediately as referred to above from time to time and approached to IGRC immediately. In the facts and circumstances the objection raised on behalf of the N.A. during the course of arguments that the complaint is time barred is having no force at all.

12 It is also pertinent to note that in reply to IGRC on 13/8/2013 in the last para it has been stated on behalf of the N.A.....

i)रुहाटीया स्पिनर्स कान्हेरी सरप हे फिडर इंडस्ट्रीयल आहे असे नमूद आहे.

ii)रुहाटीया स्पिनर्स फिडरवरुन मे. पदमावती कापूस प्रक्रीया केंद्रास विद्दुत पुरवठा दिल्याचे नमूद आहे.

iii)रुहाटीया स्पिनर्स यांना एक्सप्रेस फिडरनुसार तर मे.पदमावती कापूस प्रक्रीया केंद्र यांना non express tariff लावण्यात आलेले असल्याचे नमूद आहे.

iv)अन्य ग्राहकांस या फिडरवरुन विद्दुत पुरवठा देतांना मे. रुहाटीया स्पिनर्स यांची परवानगी घेतली नसल्याचे नमूद आहे.

13 The above recitals supports the complainant's case. During course of arguments on behalf of the complainant reference has been made to certain documents such as Annexure A of letter of N.A. dt. 23/11/1997, estimate report of 1,189,967/-, office note in respect of sanction of HT supply to complainant, more particularly the note of the Chief Engineer on the back of that office note, mentioning "S.I. works can be done under SL charges 3,25,000/- we are collecting from the consumer". This is in support of submission that the complainant has spent lacks of rupees for getting the connection and it is entitled for refund of the same. Though it appears from the documents filed on record that the complainant has spent amount including cost of separate feeder worth Rs.1,05,454/- however suffice to say that it was its need and it has availed the facility. In the prayer clause No.5 of the complaint, the prayer has been made for direction to the licensee to refund the infrastructure cost of separate feeder i.e. Rs. 1,05,454/- with interest. In the complaint no averments has been made in respect of the other amounts of which documents came to be filed in additional reply from the side

of the complainant. Suffice to say that as far as incurring of infrastructure cost the complainant has availed the facility exclusively for more than eight years and is still availing the facility of getting connection from the said line so in the circumstances the prayer for refund of infrastructure cost as made in the prayer clause, cannot be said to be proper hence can not be entertained.

14 As far as prayer of the complainant for changing of tariff HT-I-C to HT-1-N from 17/10/2011 and refund of difference tariff from 17/10/11 to 31/07/2012, this Forum is of considered view that it is reasonable demand considering the observations and conclusion drawn above.

15 The complainant has also claimed interest on the amount of difference @ 9.5% with other reliefs so also claimed cost of Rs.5000/- . Needless to say that the Hon.ble Electricity Ombudsman as well as Hon.ble MERC has granted reliefs of interest at the rate of 9% in cases wherein order of refund has been made in favour of the complainant, So this Forum is of considered view that the complainant needs to be awarded that relief appropriately.

16 As far as claim of cost of Rs.5000/- is concerned, suffice to say that the complainant had made attempts in approaching the N.A.licensee by various means i.e. letter correspondence, personal visits etc. for redressal of grievance, so also approached IGRC and ultimately has to approach this Forum. So considering all these facts and circumstances this Forum is of the view that awarding of reasonable costs will meet the ends of justice. With such observations, this Forum proceeds to pas following unanimous order.

ORDER

- 1 The complaint No.84/2013 filed by the complainant is hereby partly allowed.
- 2 The N.A.licensee is directed to change the tariff of the complainant from HT-1-C to HT-1-N from 17/10/11 till 31/07/12 and to refund the difference of tariff of this period alongwith interest @ 9% per annum.
- 3 The N.A.licensee to give credit of the above difference amount alongwith interest by making adjustment in the forthcoming bill of the complainant.
- 4 The complainant is also entitled for Rs.2000/-(Rs. Two thousand) as costs of the proceeding. Rest of the claim of the complainant is rejected.
- 5 Compliance report to be submitted within one month from this order.

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman