

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

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

Dt.12/03/2014

Complaint NO.67 /2014

**In the matter of grievance pertaining to compensation towards crop yield due
to failure of Transformer and delay in replacement.**

Quorum :

Shri T.M.Mantri, **Chairman**

Shri P.B.Pawar, **Secretary**

Shri A.S.Gade, **Member**

Shri Damodar J. Kakad, Barshitakli. Complainant

...vrs....

The Executive Engineer (R.) Dn. Akola Respondent

Appearances :

Complainant Representative : Shri D.M. Deshpande.

Respondent Representative : Shri, P.W.Andhare, Asst.Engineer (R.) Akola.

1. The complainant has approached the Forum in respect of his grievance about the failure of transformer, resulting in losses thereof. The complainant's case is that the transformer from which electric supply is provided to the Complainant's field is failed since 3.2.2014, In spite of bringing this fact to the notice of the Officers orally on 3.2.2014 and in writing on 10.2.2014, nothing was done. The complainant alleged that as per the Regulations time period of

48 hours for rectifying the deficiency is provided and the Complainant has right to approach the Forum. It is alleged that for want of water the crop of gram in 14 acres and wheat 7 and half acres is being affected. It is apprehended that yield of the crop will be substantially reduced, if there is any further delay caused, entire crop may be spoiled hence sought interim relief also apart from compensation. The documents have been annexed with the Complaint.

2. Notice was issued to the N.A. for submitting parawise reply to the Complaint. The reply came to be filed on behalf of the N.A. stating that the Complaint is not tenable as the Complainant did not approach before the IGRC. Reference has been made to Provisions of Regulation and pressed for dismissal of the Complaint.

3. Reference has been made to the failure report dated 15.2.2014 of Assistant Engineer, so also the reference has been made of Circular dated 5.11.2011 from the Director (Operations), wherein guidelines have been given regarding payment and replacement of Transformer. It is further stated that about 10 consumers are connected on this Transformer and except the Complainant, no payment has been made by others.

4. It is further stated the employees of the N.A. had gone to the spot for repairs alongwith new 63 KVA Transformer for replacing the failed transformer on 18.2.2014 at 2 pm but Shri Nagesh Kakad created hurdle intentionally and refused the employees for replacement of Transformer as he wanted 100 KVA transformer against 63 KVA. Therefore, the employees of N.A. return back with the Transformer and lodged complaint with the Police Station, Pinjar against Shri Nagesh Kakad (Son of the complainant). It is stated that intentional hurdle has been created for replacement of Transformer and caused delay so as to get

compensation, therefore the complaint itself is void ab-initio. Hence the complaint is liable to be rejected.

5. The complainant has filed further documents so also the N.A. has filed additional reply with documents. . The matter was posted for argument. On behalf of the complainant additional documents came to be filed, so also the complainant sought time for filing certain documents. Herd Shri D.M.Deshpande, Learned Representative of the complainant and Shri P.W. Andhare, A.E. the learned representative of the N.A. at length. Both have referred to the documents filed on record.

6. Before considering the controversy between the parties on merit, it will be proper to consider the objection of the N.A. about the tenability and jurisdiction of this forum. Though in reply pleas have been raised about this objections, however, during the course of argument no stress has been given thereon. In any case if we consider the provisions under the Regulations, it is pertinent to note that in the Electricity Act, 2003, there is no reference of Internal Grievance Cell and provisions of IGRC. That creation of Consumer Grievance Rdressal Forum and Electricity Ombudsman are specifically mentioned in the Electricity Act of 2003. Even if one goes through the wording of Regulations 2006, it clearly show that it is not mandatory, regulation 6 (2) reads as: " The consumer with grievance may intimate IGRC of such grievance". There seems to be substance in the submission made on behalf of the Complainant that it is not mandatory. Further, it is to be noted that provision of the said Regulation states that "an intimation given to Officials of Licensee shall be deemed to be intimation for the purposes of this Regulation." The present case as is clear from the record, the complainant has made grievance in writing to Superintending Engineer, Akola and copy was also forwarded to the Chief Engineer, Akola vide letter dated 10.2.2014. So from the above referred

proviso of Regulation, there is compliance and the present complaint came to be filed thereafter. In view of the provisions this Forum holds that the complaint is tenable and cannot be dismissed as submitted on behalf of the N.A.

7. As far as the submission of the Parties with regard to the controversy on merits, it is clear that the Complainant has sought interim relief about the direction to provide electricity supply and this Forum has passed order to grant opportunity to the N.A. for filing reply as well as of hearing. Accordingly, notice was issued as referred to above and reply of N.A. came to be filed, the matter was partly heard on that date and as per the submission of N.A, they were ready to replace / install the Transformer but one such attempt was obstructed on behalf of the complainant. Considering the urgency in the matter and rival submissions, this Forum has passed order on 24.2.2014, in view of the understanding between the parties. The transformer was installed/replaced on 25/02/14. According to the complainant the Electricity supply has been restored on 1.3.2014 and because of delay, loss has been caused in yield of the crops for want of proper watering. Accordingly the learned representative has referred to the documents on record including the report of Taluka Agriculture Officer, Barshitakli and claimed the compensation for failure to meet standards of performance under the Regulations i.e. Rs.1200/- per day (At the rate of Rs.50/- per hour) to be awarded for 26 days(from 3.2.14 to 1.3.14) i.e. Rs.31,200/- and also claimed damages for losses of crop as per the report of the Agril. Officer. On the basis of said report the complainant's Ld. Representative has claimed Rs.21,000/- towards damages of crop i.e. less yield of the crop. The Learned Representative has referred to the documents on record.

8. The N.A has referred to circular dt.05.11.11 in reply however it is clear that neither there is approval of MERC to the same nor N.A. has acted upon it. Even as per N.A only complainant has paid the bills and the other consumers did

not pay the amounts, inspite thereof the N.A. as per defence tried to replace the transformer on 18/02/14 and then replaced on 25/02/14. The Learned Representative of the N.A. while opposing the claim of the Complainant for compensation and damages, has submitted that the Transformer was replaced / installed so also electric supply on 25.2.2014 itself. The Complainant is falsely claiming that electric supply was given on 1.3.2014, intentionally. The Leaned Representative of N.A. has advanced submissions that earlier on 18.2.14 new transformer was tried to be installed at the place of failed transformer, but one Shri Nagesh Kakad has obstructed for the same and the reference has been made to the documents from record i.e. letter dated 18.2.2014 of Jr. Engineer, Wani Rambhapur to Police Station Officer Pinjar, which bears the seal and signature of concerned Police Officer . Alongwith the said letter there is one report of the concerned employees of N.A. dated 18.2.2014 in respect of the attempt made by them for replacement of the transformer on 18.2.2014 and obstruction made by Shri Nagesh Kakad. Further from the letter dt.14/12/13 filed by the complainant it is clear that the complainant's son Nagesh wanted transformer of higher voltage, alleging low voltage. Apart from these documents, it is clear from the record that the N.A. also filed on record the list of other consumers to whom supply has been made available from the said Transformer from 25.2.2014, so also the letter in writing by those consumers about the restoration of supply from the said Transformer on 25.2.2014. The recitals of the said letter are clear and the said letter bears the signature of 6 consumers. It is pertinent to note that alongwith the reply, copies of these documents were given to the Complainant. No satisfactory or convincing submissions have been made on behalf of the complainant in respect of such documentary evidence on record, except saying that they are created one. This forum has to place reliance on these documents which bears the signature of

Police Station Officer about the receipt of letter, as well signing of No. of consumers about the restoration of supply on 25.2.2014. Even, it is not the case of the complainant that there is enemical terms with those 6 consumers. Nothing has been submitted as to why these 6 consumers, whose supply as been restored from the said transformer are saying about the restoration of supply on 25.2.2014 itself. More weightage needs to be given to such evidence of N.A. on record rather than complainant's own statement about the restoration of supply on 1.3.2014, So also about incident of 18/02/14i.e. attempt made by N.A. for replacement of transformer.

9. As per the Provisions more particularly MERC (standards of performance of Licensee, period for giving supply and determination of compensation) Regulation 2005 in Appendix-A the level of compensation payable by the License for failure to meet the standards of performance has been prescribed. Item No.2 (iii) of the said Appendix-A deals with "Distribution transformer failure" it is clear that the standard period of 48 hours is provided under the Regulation. So admittedly, there is delay on the part of N.A. to meet that standard of performance. Consequently as per the Regulations it is liable to pay the compensation. As it has been held above that the Electricity supply was restored on 25.2.2014 and prior to that attempt was made from the side of N.A. installation of Transformer on 18.2.2014, but it was obstructed by Shri Nagesh Kakad, who is son of the complainant. So it is clear that because of the obstruction, transformer could not be installed on 18.2.14. IN such circumstances, this Forum thinks it just and proper to consider the period for awarding compensation for delay in meeting standard of performance till 18.2.2014. The compensation for 13 days delay i.e. for the period from 06.02.14 to 18.2.14 is payable. As per the Regulation, compensation at the

rate of Rs.50/- per hour comes to Rs.15,600/-for this period. The complainant's claim for compensation till 1.3.2014 therefore cannot be accepted.

10. With regard to the claim of the Complainant for the loss of damages to the crop as referred to above, the Learned Representative of the complainant has claimed for Rs 21,000/-towards damages to the crop submitting that as per the report filed on record by Taluka Agril Officer of Barshitakli, the yield of the wheat crop has been reduced by 1 and half to 2 qtls per acre and as reported minimum guaranteed price of wheat is Rs.1400/- per qtl. He has submitted that losses / damages of wheat crop comes to Rs.21,000/- On behalf of the N.A. these submissions have been opposed. Both the Learned Representative have referred to the documents. On going through the report filed by Taluka Agril Officer, it is clear that Inspection Report of the concerned Officer prepared and signed on 7.3.2014. As far as the crop of Gram is concerned, it has been mentioned that in the said report that the yield of Gram crop is as per the average yield. So it is clear that the complainant's grievance about the damages of Gram crop is not correct.

11. With regard to claim of Wheat crop, recitals of the said report show that the field in question is of low grade, watering to the crop was done by sprinkler system which is not prescribed for such field, so also it is mentioned that the sowing of seed was in excess than the prescribed quantity and very less quantity of fertilizer (Nitrogen) was used. It further reveals that considering all this aspects, yield of Wheat crop was 6 to 7 qtls per acre. However, as mentioned in the report, actual yield per acre was 4 to 5 qtls thereby there is less yield of 1 and half qtls to 2 qtls per acre. In the report the minimum guaranteed price is given as Rs.1400/- per qtl. From the said report it is further clear that only on area of 3 hecets, there was sowing of wheat crop, so the Complainant's claim as referred to above appears to be exaggerated. There is some substance in the

submission made on behalf of the Learned Representative of N.A. that the field in question is shallow and of low grade, providing of water to such field by sprinkler is not prescribed and using of excessive quantity of seed may result in lesser yield. However, one has to keep in mind the report of Experts. But this Forum also finds that it is not specifically mentioned in the said report that there was failure in watering to the crop and because of that only the yield was less. For want of such conclusive findings in the report, this Forum is not inclined to accept the submission of the Complainant in-toto. Further, it is to be noted that on 18.2.2014, attempt made for installation of transformer from the side of N.A. was obstructed and as per the Complainant the supply was restored on 1.3.14, whereas the record as observed as above, says otherwise i.e. restoration of supply on 25.2.14. That upon considering all these aspects and clear position, this Forum thinks it just and proper to grant token amount of compensation / damages to the Complainant in respect of claim made by him on this count. According to the Forum it will be just and proper to assess it at Rs.2000/-. It will be just and proper to direct the N.A. to make adjustment of these amounts of compensation / damages in the forthcoming bills of the Complainant. So also N.A.licensee to take action against erring Officer/staff of N.A.office for their laches on their part in meeting standards of performance, resulting in monitory liability against it, as per direction of Hon'ble S.C. in the matter of M.K.Gupta Vs. Lucknow Development Authority in 1994 S.C.C.(i) page 243. In view of above reasoning and conclusions, this Forum proceeds for following unanimous order:-

ORDER

1. That the complaint no.67/2014 filed by the complainant is hereby partly allowed. That The N.A. is liable to pay the compensation of Rs.15,600/-

towards failure to meet the standards of performance in restoration of supply and Rs.2000/- towards losses of damages to the crop of the complainant.

2. The N.A. is directed to adjust these amounts of compensation / losses payable to the complainant in the forthcoming bills of the complainant.
3. The N.A. licensee to take action against erring officer/staff in causing delay resulting in imposing of monetary liability against the licensee as per 1994(i) S.C.C page 243 M.K.Gupta Vs. Lucknow Development Authority.
4. In the circumstances, the parties to bear their own costs.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman

Copy s.w.r.to:-

The Superintending Engineer, O & M Circle Office Akola.