

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

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

January 21,2014.

Complaint No.99/2013

In the matter of grievance in respect of excess amount paid for providing
Electricity connection, compensation for delay in issuing demand note

Quorum :

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

M/s SNG Packaging Pvt.Ltd., Khamgaon ... Complainant

...VS...

The Supdtg. Engineer, MSEDCL, Buldhana ... Respondent

Appearances:

Complainant Representative: Shri Ashish C.Chandarana,Akola

Respondent Representative: Shri S.S.Chaudhari E.E. MSEDCL,
Buldhana.

1. The complainant had approached this Forum in respect of his grievance being not considerably heard and decided by the concerned authority of the licensee at Buldhana. The complainants case in brief is that it had applied for 200 KVA HT supply on 04/01/13 but the N.A. has issued sanction and demand note on 06/07/13 i.e. after six months which clearly indicates deliberate harassment of the complainant. According to the complainant it is not only the loss of complainant but also that of licensee.

2. The complainant has further alleged that even the said estimate was sanctioned under DDF facility which was not at all demanded by the complainant. The action on the part of the N.A. is violation of approved schedule of charges by MERC in case No. 70 of 2005 so also in case No.19/2012 which is presently in force. Reference has been made to representation made during course of hearing before MERC, in case No.19/2012, that time licensee has submitted that it never asked for consent for DDF from the consumers and DDF is not compulsory. The relevant document in that respect is annexed with complaint. It is alleged that Akola Circle has accorded several sanctions to HT consumers under non-DDF CCRF scheme and cited samples with the complaint. The complainant averred that licensee is not empowered to recover any cost towards infrastructure, as per approved schedule of charges.

3. The complainant further averred that the jurisdiction of the licensee in case of HT supply is upto the point of supply and installation beyond that is governed by I.E. rules 1956 where under the concerned authority is Electrical Inspection department. It is alleged that the licensee has exceeded jurisdiction by directing complainant to install transformer of only 315 KVA which will result in incurring of additional expenses to the complainant at the time of load enhancement, in future so also it amounts to prohibition to the consumer from availing the benefit of load factor incentive. Reference has been made to tariff order of MERC in that behalf.

4. The complainant has also made grievance in respect of demand of excessive security deposit from it and reference has been made to supply code regulation 11.3 in that behalf with condition No.18.5 and further averred that the SD should be Rs. 3,35,000/- but the N.A. has demanded Rs.6,42,800/- which

is not only injustice but violation of supply code and though the complainant has approached the concerned authority time and again, raising grievance but to no effect. The action on the part of N.A. is against the preamble of Electricity Act as well as Supply code 2005. The complainant averred that the MERC after hearing licensee and consumer representative/public accorded permission to recover charges from consumer wherein HT consumer with demand of 500KVA is supposed to pay only Rs. 2/-lakhs for underground S.C.Charges and nothing more. In view thereof the decision taken by the authority of licensee is illegal, needs to be set aside.

5 According to the complainant the N.A. has tried to justify the decision by placing reliance on circular dt.8/8/13 which was not at all applicable. In any case how it could have been made applicable for the decision of 6th July,13. The complainant has then referred to total estimate of Rs.4.81,425/- wherein meter work amounting to Rs.1,43,765/- to be executed by N.A. so remaining portion of the estimate is required to be bear by the licensee as per directives of MERC and an amount of Rs.2/-lakhs can be recovered from the complainant towards S.C.charges having left no other alternative and to avoid further delay the complainant has sent cheque of Rs.3,39,590/- (Rs.3,37,660/-towards estimate cost & Rs,1,700/- towards processing fee and Rs.230/- towards agreement charges) with assurance to N.A. to pay any other amount under protest, so as to expedite the work of release of connection. Though request was made for revised S.D. but noting was done, the complainant has referred to correspondence in that behalf and alleged that it has not been answered till date, hence, having left no alternative approaching to the forum for redressal of grievance and sought the reliefs prayed for. The complainant has annexed copies of bunch of documents with complaint.

6 Notice as per regulation came to be issued to N.A. for submitting parawise reply to the complaint. Time was sought for submitting reply and subsequently reply came to be filed on 19/12/13 admitting submission of application for new service connection by the complainant. It is stated the complainant was conveyed about sanctioning of his application under DDF, seeking necessary compliance. According to the N.A. the complainant has not approached to the IGRC hence the matter needs to be remanded. According to the N.A. it has acted as per circulars and regulations. It is stated that the complainant has submitted application on dt 4/1/13 for new connection but it has not decided by the complainant at earliest, for fixing of the metering point, which resulted in delay for estimation. Likewise consent for infrastructure work was not submitted with documents. However, to avoid delay the N.A. has sanctioned the same. It has been further stated that the N.A. has also initiated action against defaulters for delay if any. The N.A. has given vague reply to other averments in the complaint.

7 With regard to the grievance in respect of S.D. it is stated that the calculation were made by multiplying 2 nos. of shifts but the N.A. has calculated S.D. as per the application. In any case the N.A. is ready to revise S.D. calculation if any found incorrect. It is sated that licensee never obtains consent forcefully. The approved S.C.charges by commission is limited to service length only whereas in case of complainant 0.19 km. HT line is required to be laid. Lastly it is stated that the N.A. is bound to act as per direction of Hon.ble MERC in 19/2012 but justified that N.A. has issued estimate as per prevailing rules and lastly prayed for rejection of complaint. Alongwith reply copies of some of the documents came to be filed.

8 During course of arguments heard Mr. A. C. Chandarana, the learned representative for the complainant and Shri S.S.Chaudhary, E.E., the learned representative of the N.A. at length.

9 As far as delay in issuing demand note it has been admitted during course of arguments by the N.As. representative that there was delay in issuing demand note and further submitted that in reply it has been stated that the office has initiated action against the defaulters. However, during course of hearing he could not point out as to what steps have been taken. He has orally submitted that action will be taken against the defaulters. The Hon'ble MERC has prescribed standards of performance to be performed by the licensee and has also made provisions of compensation payable for failure to meet that Standard of performance by the licensee. That in Appendix A of MERC (standard of performance of distribution licensee, period for giving supply and determination of compensation) Regulation 2005. The details of activities and compensation in case of delay are prescribed. As per clause 1(ii) time period for intimation of charges is provided and in this case such time period is of 30 days, so as per this Regulation sanction and demand note ought to have been issued on or before 04/02/13 i.e. within 30 days however, it is admitted position that the sanction and issuing of demand note is on 6th July,13 so apparently there is delay of about five months. The regulation provides compensation payable @Rs.100/-per week or part thereof, so apparently the N.A. is liable to pay compensation for twenty (20) weeks @Rs.100/-per week. It is clear that it is the fault/lethargic attitude of the concerned officer/staff of the concerned office of the N.A. resulted in imposition of monetary liability and it is their personal liability. N.A. licensee to take appropriate steps against such erring officer/staff.

10 As far as grievance of the complainant in respect of S.D., in reply as well as during course of arguments it is stated that it will be revised having different consideration, running of the complainants in two shifts.

11 According to the complainant it had never asked/demanded for connection under DDF category but the N.A. has incorrectly sanctioned it under DDF category. According to the complainant it ought to have been under non-DDF CCRF category. Reference has been made to the available material on record, such as letter Dt. 26/8/13 and correspondence in that respect. According to the learned representative of the N.A. non-DDF scheme is only for LT consumer and not for HT consumers. The complainant has categorically averred in the complaint about granting of connection to the number of H.T. consumers by Akola circle. By way of example copies of documents in respect of M/s Khushi Cotson Akot and M/s Promodkumar Pravinkumar Ginning & Pressing Factory, Hiwarkhed are vital. The learned representative of N.A. has gone to the extent of submitting that sanction and giving of electric supply to HT consumers has been incorrectly done by the said office i.e. Akola Circle Office. During course of arguments the learned representative of the complainant has pointed out from documents on record that it was the reply of the licensee in respect of DDF facility for HT consumers as under-

(7)DDF facility for HT consumers MSEDCL's reply-

“MSEDCL states that of opting for DDF is not the compulsion for HT consumers. MSEDCL further denies that it has been forcefully taking consent for DDF from HT consumers and hence there is no double recovery on account of infrastructure.”

12 According to the complainant's representative it was during course of hearing before MERC such reply came to filed from the side of licensee and in view of such reply there was no question of giving any finding by MERC. When the licensee has categorically stated that for HT consumers there will not be compulsion for opting of DDF, there was no convincing reply from the side of the representative of the N.A. Similarly in respect of grievance about recovery of SC charges the learned representative of the complainant has relied upon documents from Case No.19/2012 in respect of S.C.charges for underground HT supply up to 500 KVA as proposed by licensee and commission's ruling i.e. table No.128 of S.C. charges for new underground connection as approved by commission, Sr.No.2 is of category of HT supply and Sr.No.2(i) is of HT supply upto 500KVA. The service connection charges approved by the commission is of Rs.2/-lakhs. It is mentioned therein that it is inclusive of material, cost of MSEDCL. The sanction order and demand note as placed on record clearly shows that it is for excessive/more amount. Admittedly the complainant has made the payment under protest. From the extract sheet of estimate it is clear that from the said amount, the amount of Rs.1,43,765/- is towards metering cubicles work to be executed by MSEDCL. This estimate is under DDF scheme. Admittedly the complainant has deposited the amount under protest. As per approved charges of MERC an amount of Rs.2/-lakhs can be recovered from the complainants, so apparently there was excess amount collected under the pretext of DDF.

13 The learned representative of the N.A. has referred to and relied upon, copies of certain documents more particularly Circular No.182 dt. 8th August,13 and correspondence made by S.E.Buldhana with C.E. Akola, suffice to say that he could not justify as to how circular of 8th August,13 could have been made

made applicable to sanction order of 6th July,13. On that date this circular dt.8th August,13 was not on the scene at all so how the N.A. could have expected of issuing of such circular, on 6th July,13. It is thus clear that the stand and submissions made on the basis of the said circular of 8th August, 13 is of no help to the N.A. Moreover it is pertinent to note that subject of the said circular is “Power supply in upcoming/new MIDC area”. The recitals of said circular also clearly shows that the annual policy of the State Govt. of 2013 has been released with objective to retain leadership position of the Maharashtra in industries within the country, so also to accelerate investments flow to industrial under developed region. This was further clear that in co-ordinate meeting between MSEDCL and MSETCL and MIDC authorities, steps have been taken for taking initiatives as laid down therein. Admittedly the complainants establishment is not in MIDC area but outside MIDC area so how this circular is applicable to present case, has not been explained from the side of the N.A. As already observed above, the licensee is not empowered to recover more than approved charges by MERC, consequently it is clear that the grievance of the complainant in respect of recovery of excess charges, appears to be justified. The record further clearly shows that though complainant had approached authorities of the N.A. in respect of grievance, which is not disputed, it has not been resolved. No steps have been taken to hear the grievance of the complainant, even communications in writing have not been replied and now fake attempt has been made to vaguely allege that the complainant has not approached IGRC. The complainant has been informed inability by the S.E. Buldhana as per annexure A-2, so it is clear that the complainant had approached the competent authority and as per provisions of regulations(MERC, CGRF)Regulation 2006, the present complaint is rightly filed. There is no need to

remand the matter to IGRC, as vaguely alleged in the reply. However during the course of arguments this was not stressed upon from the side of the N.A. So apparently it is clear that the complainant has made out the case for getting appropriate reliefs in terms of the following order.

14 During course of arguments the learned representative of the complainant has submitted that till date connection has not been provided and in reply nothing has been stated from the side of the N.A.in that behalf. The learned representative of the N.A. during the course of arguments has made statement at bar that within 15 days the connection will be released. The complainants representative is satisfied with such statement.

15 The complainant has claimed cost of Rs.1/-lakh in the prayer clause of the complaint. During the course of arguments nothing has been established or pointed out to justify such exaggerated claim. That upon considering the nature of the complaint and grievance with facts, this forum will deal with this aspect appropriately, in the order, hence proceeds to pass following unanimous order.

ORDER

- 1 Complaint NO.99/2013 is hereby partly allowed. The N.A. is directed to pay compensation of Rs. 2000/- (Two Thousand) for delay in issuing demand note by twenty weeks (4.2.2013 to 6.7.2013) @Rs.100/- per week, as per MERC (standard of performance of distribution licensee, period for giving supply and determination of compensation)Regulation 2005.
- 2 The N.A. is further directed to refund excess amount collected from the complainant after deducting S.C. charges of Rs.2/-lakhs, processing

charges Rs.1700/-, agreement charges of Rs.230/- immediately within period of one month, else it will be liable to pay interest @9% at RBI rate of interest.

- 3 The N.A. is also directed to allow use of 500KVA transformer to the complainant
- 4 The N.A. is liable to pay cost of Rs.1000/- towards cost of the present proceeding
- 5 The NA. is further directed to take appropriate action against the erring officer/staff of the concerned office of the N.A. licensee which resulted in imposing of monetary liability against the licensee including recovery of monetary liability apart from taking other action under service regulations, as per observations of Hon.ble Supreme Court in Lukhnow Development Authority versus M.K.Gupta reported in 1994 SCC (1) Page 243.
- 6 That the compliance report to be submitted within one month from this order.

Sd/-
(A.S.Gade)
Member

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman