

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

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

Dt.11/04/2014

Complaint NO. 58 to 65 / 2014

In the matter of grievance of not providing Electric Connections etc.

Quorum :

Shri T.M.Mantri, Chairman

Shri P.B.Pawar, Secretary

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| 1.Damodar Gyandev Ghute, Tq. Akot. | ... Complainant in complaint No.58/2014 |
| 2.Bhika Ramkrushna Kale, Tq. Balapur. | ... Complainant in complaint No.59/2014 |
| 3.Bhanudas Vasudev Ingale, At- Dapura.Tq Akola. | ... Complainant in complaint No.60/2014 |
| 4.Sau. Dipali Amol Doifode, Warud Javada, Tq. Akot | ... Complainant in complaint No.61/2014 |
| 5.Ganesh Shaligram Padole,At Warud, Tq. Akot | ... Complainant in complaint No.62/2014 |
| 6.Annabhau Motiram Kharote,At Dapura | ... Complainant in complaint No.63/2014 |
| 7.Ashok Vasudev Tayede, Tq Balapur | Complainant in complaint No.64/2014 |
| 8.Dhondopant Shankarrao Dharamkar,Tq Telhara | Complainant in complaint No.65/2014 |
- ...vrs....

The Executive Engineer, MSEDCL, Rural Dn. Akola Respondent

Appearances :

Complainant Representative : Shri D.M.Deshpande.

Respondent Representative : Shri J.H.Rathour, A.E. Akola (R.) Dn.

1. In this group of complaints, the grievance and the controversy being identical, so also identical replies have been filed on behalf of the N.A. Therefore, as per the submissions made on behalf of both the parties, matters have taken together for hearing, decision and are being decided by this common order. In nutshell, the Complainants' case that the inspite of submitting applications for agricultural pump connections and inspite of making compliances, N.A. has failed to take further steps

as provided under the Regulation, hence the contravention of the same i.e. MERC (Standard of Performance, Distribution of licensee, Period for supply and Determination of Compensation) Regulation, 2005. The grievance has also been made in respect of recovery of excess charges. As far as the recovery of excess charges in all the complainants, except Complainant NO.62/2014 (Ganesh Shaligram Padole) from whom the security deposit has been recovered at the rate of Rs.500/- per HP. The complainants have claimed various reliefs. In order to have clear picture of each complaints, details are given as under:

Sr No.	Case No. & Name of complainant	<u>Date of application Load in HP</u>	F/Q issue date	Date of payment	S.C.C. (Rs)	S.D. (Rs)
1.	58/2014 Damodar Gyandev Ghute, At post ward Javada, Tq. Akot, Dist Akola	<u>03.05.12</u> 5 HP	Nov.12	19.11.12	2500/-	5000/-
2.	59/2014 Bhika Ramkrushna Kale, At. Tamsi, Tq. Balapur, Dist. Akola	<u>06.06.12</u> Load Not Given	Not Given	—	—	—
3.	60/2014 Bhnaudas Vasudev Ingale, At-Ambikapur, Dapura, Mulkapur, Dist-Akola	<u>17.11.11</u> 5 HP	Date Not Given	16.03.12	2500/-	5000/-
4.	61/2014 Sau. Dipali Amol Doifode, At Post- Warud Javada, Tq. Akot, Dist. Akola	<u>02.04.12</u> 5 HP	Date Not Given	Nov.12	2500/-	5000/-
5.	62/2014 Ganesh Shaligram Padole, At Post- Warud Javada, Tq. Akot, Dist. Akola	<u>07.12.12</u> 5 HP	28.03.13	30.03.13	3500/-	2500/-
6.	63/2014 Annabhau Motiram Kharote, Ambikapur, post Dapura, Tq Dist. Akola	<u>15.11.11</u> 5 HP	March 12	20.03.12	2500/-	5000/-
7.	64/2014 Ashok Vasudev Tayede, At Post. Mokha, Tq Balapur, Dist Akola	<u>25.11.11</u> 7.5 HP	14.01.12	28.02.12	2500/-	7500/-
8.	65/2014 Dhondopant Shankarrao Dharamkar, S.No.401, Dahigaon, Tq Telhara, Dist Akola.	<u>26.12.11</u> 7.5 HP	Date Not Given	29.03.12	2500/-	9000/-

2. Alongwith the complaints, copies of some documents came to be filed. After issuing notice as per the Regulation, replies came to be filed from the side of the N.A., belatedly. As already observed above, the same and identical reply has been filed, mainly on the ground that the complainants

have directly approached this forum hence objection has been raised about the jurisdiction of the Forum to entertain the complaint and alleged that complainants never approached the IGRC . Therefore, the complaints are not tenable and prayed for dismissal of the complaints. Reference has been made to the instructions issued by the Director (Project) of the Licensee from Mumbai about the instructions of releasing of agricultural connections as per chronology.

3. Heard Shri D.M. Deshpande, Learned Representative of the Complainants and Shri Rathour, Asst. Engineer, the Learned Representative for the N.A. Written notes of argument also came to be filed on behalf of the N.A. On going through the rivals submission of the parties and the provisions under the relevant Rules and Regulations, including that of Section 42 of Electricity Act 2003, it is clear that there is no reference to IGRC. In the like manner as per Regulation 2006 more particularly Regulation 1.4, it has been laid down that SOP Code shall prevail in case of controversy with this Regulation. So apparently, it is clear that obligations have been casted on Licensee for failure to meet the Standards of performance prescribed. So also it has been laid down the effects of failure to meet these Standards of Performance.

4. If one considers MERC Regulation, 2006, more particularly 6.2, it is clear that from the wording therein it is not mandatory so as to approach the IGRC, on the contrary, it reads “ A Consumer with a grievance may intimate the IGRCell” Further Regulation 6.2 further clarifies that grievance in “writing” is not compulsory and intimation given to the Officers of the Licensee, other than IGRC, shall be deemed to be the intimation under these Regulations. It further clarifies that obligations have been casted on the Officers of the Licensee to forthwith direct to the Consumer to IGR Cell, in the Proviso of the said Regulations. It cannot be said that approach to the Forum is a deformity of serious nature for which compliant is not tenable. In any case, The

Electricity Ombudsman Nagpur in Representation No.44/2012 has passed the orders in this respect and point, so it is binding on the N.A. also.

5. Similarly, further provisos of the said Regulation 2006, are considered, more particularly 6.4 and 6.5, the period of Standards of Performance given in Regulation in some instances is certainly of shorter period. In such case the complainants cannot be asked to wait for the period as alleged on behalf of the N.A.

6. That the Regulation 12 of MERC (SOP of Distribution of Licensees, Period of giving Supply and Determination of Compensation) Regulations 2005, deals with the “Determination of compensation” on failure to meet the standards of performance specified under the Regulation either: of its own knowledge (Licensee’s knowledge) or upon written claim filed by the affected person. In the like manner, if one considers Proviso-5 of the said Regulations 13.1, alongwith Section 57 and 59 of Electricity Act, 2003, it is clear that the Standards of Performance fixed has been given due importance, so also consequences upon the failure for payment of liability of compensation. Under the said Proviso, it is for the Licensee to give information about the number of cases wherein the compensation has been paid by it without dispute so also the total number of cases where compensation has been paid in compliance with the order and direction of the Forum or Ombudsman. So it is crystal clear from the various statutory provisions that the, compensation payable on account of failure to meet the standard of performance, has been clearly provided, which is in consonance with the Aims and Objects of the Act 2003, to protect the Welfare and interest of the Consumer. In the background such provisions, it is clear that technical pleas has been raised on behalf of the N.A. instead of making attempt to resolve the difficulties / grievance of the consumer. It is pertinent to note that, inspite of pendency of the proceeding since some time, no steps have been taken from the side of the N.A. for

considering and resolving the grievance. In any case the N.A has failed to establish that the Complaints are liable to be dismissed on such technical grounds. The objections raised by the N.A. cannot be upheld.

7. From the submissions of the parties and documents on record, it is clear that Security Deposit at the rate of Rs.1000/- per HP has been recovered from the above named complainants, except Complainant No.62/2014. Other complainants have made payment at the rate of Rs.1000/- per HP as per the Demand Note / Quotation of N.A. As far as the complainant in Complaint No.62/2014 is concerned, the security deposit has been recovered at the rate of Rs.500/- per HP. As far as complainant in complaint No. 59/2014, he has not been issued with demand note and nothing has been informed to him as per the submissions made on behalf of the complainants. However as per reply and documents filed by N.A. he has been provided with connection as he has made all compliance. That is taken for consideration separately later on in this order.

8. As far as other Complainants, except Complaint No. 59/2014 the relief has been asked for providing Electric connections. The Learned Representative of the N.A. has made reference to the Judgment of Hon. Electricity Ombudsman in the matter in Representation No.43 / 2011, by referring to Para-6 of the said order. It has been submitted that no direction can be given in respect of giving electric Supply in view of said ruling of Hon'ble Electricity Ombudsman. He has also referred to the Judgment of CGRF Nashik in that behalf. On going through the said order, it is clear that the Electricity Ombudsman, Mumbai in Para-6 of the said order has laid down "that it is beyond purview of the Forum (CGRF) or Electricity Ombudsman to give any directions in this behalf and cannot interfere in the chronological order/Seniority list..... as per the guidelines." In the said matter the Electricity Ombudsman has turned down the consumer's prayer for giving direction to

the respondent to give supply and it was accordingly rejected. So also it has been held therein that the claim for compensation for delay, at that stage is pre-mature. The Ld. Rep. of the complainants has referred to the order of Hon'ble MERC in case no. 43/2005 and submitted that the complainants are entitled for the reliefs. On going through the said order and order of Hon'ble Electricity Ombudsman referred to above, it is clear that the order of Electricity Ombudsman in 43/11 is directly on the point involved and is later in time whereas the order in 43/2005 is for the relief of general nature and is of 2006. That The said order of Electricity Ombudsman, Mumbai in Rep.43/11 being dealing with the same controversy it is applicable. In view thereof, the claim made by the Complainants for providing Electric connections cannot be granted. This forum thinks it proper to observe that N.A. being the public undertaking has to keep the reasonable approach and to make sincere attempt for making compliance under the Regulations for resolving the grievance/ complaints of the consumers. That the N.A. licensee to take appropriate action against erring officers/staff of the concerned office of the N.A. for the latches on their part.

9. As far as the complainant in 59/2014 (Bhika Ramkrishna Kale) is concerned, according to the N.A. connection has been provided to him on 1.4.14 as the said complainant has made payment of quotation amount and submitted Test Report on 18.2.14. According to the N.A. the said complainant needs to be disposed of. The Learned Representative of the Complainant has submitted that the he is not aware of providing of Electric connection to the said complainant on 1.4.2014 as submitted on behalf of the N.A. The Learned Representative of the N.A. has submitted that all necessary documents such as : application of the said complainant of complaint No.59/2014, copy of his statement, copy of quotation received dt.18.2.14, the payment of amount of quotation, testing report, complainant's letter dated 1.4.14 about the receipt

of providing of the electric connection on 1.4.14, so also electric supply report. On going through these documents, it is clear that the electric connection has been provided to the said complainant and copies of the said documents have been given to the Learned Representative for the complainant, as well as the complainant. On going through these documents, it is clear that as far as Complaint NO.59/2014, his grievance has been fully resolved and nothing remains to be resolved.

In view of the above observations and findings, the Forum proceeds to pass the following unanimous order:

ORDER

1. That the Complaint No.59 /2014 (Bhika Ramkrishna Kale) is hereby disposed of as his grievance has been resolved.
2. That the complaints Nos 58, 60, 61, 63 to 65/2014 are hereby partly allowed and the N.A. is directed to refund the excess amount of Security Deposit. However, the prayer for directing to provide Electric Connections to these Complainants as well as complainant of complaint no.62/2014 cannot be granted, in view of the order of Hon. Electricity Ombudsman in Representation No. 43 /2011, with the observations that N.A. to consider the cases of these complainants for connections, appropriately.
3. The N.A. is directed to take appropriate action against the erring officers / staff for lapses on their part including recovery of monetary liability as per the judgment of Hon. Supreme Court in case of

M.K.Gupta. vrs.. Lukhnow Development Authority, 1994 SCC (i) Page 243 for recovery of excess amount of Security Deposit.

4. In the circumstances, the parties to bear their own costs.
5. That the compliance report be submitted within a period of one month from the date of this order.

Sd/-
(P.B.Pawar)
Secretary

Sd/-
(T.M.Mantri)
Chairman