

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

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

Dt. 19/04/2014

Complaint NO.66 / 2014

In the matter of grievance about refund of amount spent on infrastructure, so
also Transformer Testing charges, Electrical Inspector fees & others :

Quorum :

Shri T.M.Mantri, Chairman

Shri P.B.Pawar, Secretary

M/S Goenka Fibres, Khamgaon. Complainant

...VRS....

The Executive Engineer, MSEDCL, Khamgaon Dn. Respondent

Appearances :

Complainant Representative : Shri Ashish Subhash Chandrana.

Respondent Representative : Shri G.T. Ekade, Dy. Ex. Engineer.

1. The complainant has approached this Forum being aggrieved by the Order of IGRC whereby direction has been given to the Complainant to submit required documents, so also the N.A. was directed to refund the amount upon submission of those documents. According to the complainant, IGRC neither served the notice of hearing, nor N.A. has supplied the copy of the reply which was submitted before the IGRC. It is also alleged that the IGRC has not dealt with all

the aspects raised by the Complainant, hence it is compelled to file the present complaint.

2. The complainant's case in brief is that the Superintending Engineer, Buldana has sanctioned 102 HP load on 29.9.2008 under Non-DDF CC & RF Scheme for Rs.3,26,280/- vide estimate dated 25.9.2008. According to the complainant, the work has been accordingly executed under the supervision and the inspection of material was done by the authorities of the Licensee, so also releasing of connection on 8.10.2009. It is alleged that after supervision and getting fully satisfied with the work, call letter was issued to the Electrical Inspector and after completion of the formalities, released the connection. No deviation in work was pointed out at any point of time and the complainant made payment to the Contractor as per the sanctioned estimate. It was duly audited by the concerned authority.

3. Then reference has been made to provisions of Supply Code 2005 with Electric Act 2003, so also order of MERC in Case No.70 / 2005, prohibiting the Licensee for recovery of infrastructure cost from the consumers. Also reference has been made to formulation of non-DDF CC & RF Scheme. It is alleged that the observation of IGRC is without the application of mind by favoring to guilty officer. Though the electric supply has been provided since 8.10.2009, the Licensee never informed about any deficiency or formality to be completed on the part of the complainant. It is also alleged that prior to approach IGRC, the authorities of Licensee intimated the complainant of Stay of Supreme Court for refund, hence the complainant had done nothing. After approaching the IGRC,

the complainant came to know that there is no such Stay and the consumers are getting refunds through out the State. According to the complainant, IGRC had just attempted mere procedural obligation and no care has been taken about the satisfaction of consumer, hence the refunds have been sought for as prayed for.

4. In spite of service of notice as per the record, the N.A. has failed to file the reply and even to attend the proceeding, the matter was kept for hearing and again notice was sent to N.A. about the date of hearing on 24.3.14. On that date also, neither reply was filed, nor anybody attended on behalf of the N.A. Again notice was sent as the last chance for hearing dt.3.4.2014. Alongwith the letter dt. 27.3.2014., the N.A. has submitted reply alongwith the copies of documents. The N.A. has opposed the claim stating that the Complainant remained absent at the time of hearing Dt 27/11/13 before the IGRC and supported the order of IGRC. According to the N.A. the complainant has unnecessarily made allegations against the IGRC. Reference has been made to execution of the agreement by the complainant with the Licensee under the Scheme and further stated that the complainant did not follow the same till approaching the IGRC. The complainant's prayers are not acceptable till compliance of the agreement executed by the complainant. As far as the giving of estimate and also according of load connection, as well as Demand Note of Security Deposit etc have not been disputed. Reference has been made to the contents of the agreement whereby the complainant confirmed about the submission of vouchers to the Licensee, so also submission of the completion report and alleged that the complainant has not fulfilled the same. Even at the time of releasing connection follow up was made with the complainant for

relevant vouchers and documents, but it has not been complied with. According to the N.A., connection was released to avoid the penalty out of SOP Regulations, 2005 and further averred that original voucher is necessary to ascertain the final tally of estimated amount, with the documents of warrantee. In absence of voucher, it is difficult to finalize and calculate the amount to be refunded to the consumer. Further, it is stated that before the IGRC, the consumer has never taken up this issue to any of the officials of the Licensee and has not even attended before the IGRC. It has supported and justified the order of IGRC dated 31.12.2013 with further averment of finalization of refund of amount depends on the cost specified in the voucher. The complainant is mis-leading and hence prayed for rejection of the complaint stating that the Licensee is not at fault, so also prayed for direction to be given to the complainant for submission of the relevant vouchers / warrantee documents for finalization of refund claim of the complainant. Alongwith the reply, copies of some of the documents came to be filed.

5. In view of the request made on behalf of the complainant, the matter was required to be adjourned. Herd Shri Ashaish Chandarana, the Learned Representative for the complainant and Shri G.T. Ekade, Dy.E.E. the Learned Representative of the N.A. From the record and submissions, it is clear that the complainant has executed the work as per the sanctioned estimate dt. 25.9.2008 and connection has been released on 8.10.2009. It is practically near-about period of 4 and half years has been passed since release of connection and the complainant is using the power, as is clear from the record the total sanctioned estimate is for Rs.3,26, 280. The complainant approached the IGRC

in October 2013 and IGRC has decided the matter on 31.12.2013, as referred above. The main bone contention on the part of N.A. is non submissions of voucher and warrantee document by the complainant because of which the finalization of refund amount could not be carried out under Non-DDF CC & RF Scheme. Admittedly the estimate is of Rs.3,26,280 so also execution of work under the supervision of the officers of the Licensee who have inspected the material / equipment used. The Learned Representative of the N.A. has filed on record the Xerox of register to substantiate that notice to the complainant was sent notice by the IGRC on 27.11.2013 to counter the submission of the complainant that the IGRC did not give any notice of hearing. However, the fact remains that the complaint was not heard before the IGRC, even on 12.12.2013 , the next date given by it.

6. The complainant's averments about even not giving copy of reply by the N.A. which was filed before the IGRC, has not been controverted from the side of the N.A. In Para No.1 of the Complaint itself the complainant has made specific averments about not serving copy of reply by the N.A., nothing has been brought on record to say that copy of such reply which was filed before the IGRC was given to the complainant.

7. It is not in dispute that the complainant has spent substantial amount for infrastructure so as to have electrical supply and as per the understanding / agreement between the parties, the said amount was to be refunded to the complainant. As already observed above, the work was carried out by the Approved Licensed Electrical Contractor of the N.A. so also it is admitted fact that

the work was carried out under the supervision of the authorities of the Licensee. It is also admitted position that after completion of the said work, call letter was given to the Electrical Inspector for doing necessary activities on their part and recharge of the line. Admittedly, after carrying out inspection by the competent authorities , the line was charged and electric supply was made / released by the N.A. on 8.1`0.2009. The Learned Representative of the N.A. has admitted that during inspection, the work was found ok and no deformity or deviation from the work was pointed out at any point of time. It has been admitted by the Learned Representative of the N.A. that whatever the material has been used is as per the specifications of the N.A Licensee and the same was inspected by the competent officer (SDO) before allowing to use, so also it has been admitted that all the work has been carried out by the Approved Licensed Electrical Contractor as per the standards of construction and these are in reference to the note at the bottom of the estimate dated 29.9.2008. In the background of such admitted position, there appears to be some substance in the submission made on behalf of the complainant that all the relevant documents were handed over, before release of connection. Even in the agreement referred to and relied upon on behalf of the N.A., there is a clause that the complainant will submit work completion report for inspection. Admittedly the competent officer of the Licensee has inspected the work / equipments, so also it is admitted position that on satisfying on completion of the work as per the requirement, the N.A. issued call letter to the Office of the Electrical Inspector for inspection and recharging of the line. So the complainant's contention can be accepted that prior to issue of call letter to the

Office of the Electrical Inspector, as well as before recharging of the line, the compliance was made from the side of the complainant.

8. Here, it is to be noted that according to the N.A. release of connection was made so as to provide connection to the Complainant, so as to avoid penalty out of SOP Regulations. This submission of the N.A. has been nullified by the Learned Representative of the complainant by submitting that under Non-DDF CC & RF Scheme, there is no question of imposing of the penalty against the N.A. as per the Regulation, 2005, as the work has to be done by the concerned consumer and if there is any delay it is consumer's responsibility. There was no answer from the side of N.A. to this. This Forum finds substance in the submission made on behalf of the complainant. In any case, it is more than 4 and half years time has been passed since release of connection and the N.A. has never issued any communication in writing to the complainant for production of the documents as tried to be contended in the present proceeding initiated by the complainant for the refund. Here, it is also to be noted that after inspection, the line has been handed over to the Licensee and it has also been mentioned in the agreement that the Company (N.A. Licensee) will maintain the line and equipment on its own cost, so also, it is admitted position that the line and transformer became the assets of the Licensee, immediately after handing over of the line. So admittedly, even according to the N.A. since October 2009, the line and transformer are the assets of the N.A. Licensee. The submission of the complainants that only after receipt of relevant documents the custody is taken so as to become its assets, has not been contraverted from the side of N.A. The Learned Representative was unable to explain as to how accounting if all these assets have been carried out in the Accounts System of the N.A. There must be

liability against the assets. The N.A has not explained or brought as record as to how this accounting has been effected in its records, specially when it is asserting that the Line, Transformer etc are the assets of the N.A. As the period of about 5 years is passed after erection of the infrastructure and the N.A. has never made any grievance about the equipment after acquiring possession thereof the period of warranty is also expired in the meantime. So the N.A's contention in that behalf are insignificant.

9. As already stated above, as per the estimate, under supervision of the N.A. the work was carried out and never any grievance was made orally or in writing about the material / equipment used for completion of the said work. On the contrary, having satisfied about the compliance made, the line was charged after inspection. Raising of objection after long lapse of time of non receipt of documents from the side of the N.A. cannot be said to be justifiable. No doubt, there is also lethargy on the part of the complainant in not making any communication in writing for delay in reimbursement of the amount spent on infrastructure. No doubt in Para No.15 of the complaint, the Complainant has averred that the authorities of the N.A. intimated about the Stay of Supreme Court on refund, hence it had done nothing. In the reply of the N.A., this has not at all been dealt with. The N.A. Licensee could have very well collected the documents / copies thereof from the approved Licensed Electrical Contractor. Or it could have inspected the materials used in the erected infrastructure whereby could have arrived at the final costs incurred for infrastructure, by this time and could have made efforts to resolve the grievance of the complainant. That welfare and the protection of interest of the consumer is the aim and object of the statutes. The N.A. is expected to do all the necessary aspects for achieving

the said aim and object instead of delaying on technicalities. It could have taken out via media also by the time. But withholding of the amount, even after such a long lapse of time, cannot be justified. Admittedly, the complainant was to get the refund under the Scheme for amount incurred on erection of infrastructure. In fact, the N.A. Licensee was to spend for infrastructure, but as per the Scheme formulated by the N.A. the complainant has spent for infrastructure. It is not submitted or pointed out even by the N.A. that such Scheme was approved by MERC. In any case, when the complainant has spent long back and these assets are of N.A., the complainant is entitled for reimbursement of said amount which it has spent on infrastructure which is now asset of the licensee.

10. Admittedly the Transformer Testing charges and Electrical Inspector fees have been recovered from the complainant. The same needs to be refunded. As the complainant has also kept silence for sufficient long time, this Forum is of the view that its claim in the complaint for interest at the rate of 9.5% from the date of release of connection cannot be justified and granted. This Forum, therefore, proceeds to pass the following unanimous order :

ORDER

1. That the Complaint No.66 /2014 is hereby partly allowed. The N.A. is directed to refund Rs.3,26,280/- alongwith the Transformer Testing Charges and Electrical Inspector Fees, in the form of adjustment in forthcoming electrical bills payable by the complainant.
2. The claim of the complainant for interest at the rate of 9.5% p.a. from the date of release of connection i.e. 08.10.2009 till payment, is hereby rejected.

3. In the facts and circumstances, the parties to bear their own costs.
4. 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

No.CGRF / AMZ/

Dt. /04/2014

To
The Nodal Officer / Executive Engineer,
MSEDCL,
Khamgaon Division,
For information & necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Amravati Zone, Akola.

Copy To:
M/S Goenka Fibres, Plot No. C-15/3, MIDC, Khamgaon, Dist. Buladhana.

Copy s.w.r.to:-
The Superintending Engineer, O & M Circle Office, MSEDCL, Buldhana.