

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/AUR/U/666/2018/06
Registration No. 2018010058**

Date of Admission : 23.01.2018

Date of Decision : 20.03.2018

M/s. Satish Motors Pvt. Ltd., : COMPLAINANT
Gut No. 135, Opp. Bajaj Auto Ltd.,
MIDC, Waluj,
Aurangabad .
(Consumer No. 490019010600)

VERSUS

The Executive Engineer (Admn) : RESPONDENT
Nodal Officer, MSEDCL, Urban Circle,
Aurangabad.

Complainant Representative : Shri HA Kapadia
Respondent : Smt. R.A. Kulkarni, EE(Admn),
Urban Circle, Aurangabad

CORAM

Smt. Shobha B. Varma, Chairperson
Shri Laxman M. Kakade, Member Secretary
Shri Vilaschandra S. Kabra Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant M/s. Satish Motors Pvt. Ltd., Gut No. 135, Opp. Bajaj Auto Ltd., MIDC, Waluj, is a consumer of Mahavitaran having Consumer No. 490019010600. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 23.01.2018.

Brief History of the case :-

2) The Petitioner has filed the complaint raising following contentions:-

The complainant is authorized signatory of M/S Satish Motors Pvt. Ltd. which has set up a vehicle show room at Gut No. 135, Waluj Road, opp. Bajaj Auto factory, Aurangabad. The complainant is sourcing electricity from Respondent and therefore is a consumer of Respondent.

3) Respondent is responsible officer of Maharashtra Electricity Distribution Company (hereinafter referred to as MSEDCL for sake of brevity) and is providing electricity supply to the complainant's premises.

4) That the Respondent has not complied with order dtd.11.04.2017 passed by Internal Grievance Redressal Cell and not refunded the amount as per said order,

5) The complainant submitted application for sanction of new electrical connection on 11kv voltage level for contract demand of 100 KVA and connected load of 105 kw in the office of Supdt. Engineer ,Rural circle ,Aurangabad on 20.06.2014. The sanction for the same was received by the complainant vide letter dt. SE/ARC/HT/billing/5355 dt. 14.11.2015.

6) The complainant submitted that as per demand made in said sanction letter, the complainant paid the requisite charges .The details of charges demanded and paid by the complainant (in Rs.) are as under.

a) Service connection charges	:	20,500.00	
b) 1.3% Normative charges	:	3,832.21	
c) Security deposit	:	2,39,821.00	non refundable
d) Agreement and booklet	:	220.00	non refundable
e) Processing charges	:	1,700.00	non refundable
f) Testing charges	:	3,000.00	

Total Amount:	:	Rs. 2,69,073.00	

7) It is contended that, since the 11kv metering cubicle, which is required to be installed by Distribution Licensee was not available with MSEDCL, the complainant was asked to procure and install the same. Respondent after testing of metering cubicle and after completion of all other formalities released 11kv HT connection to the premises of complainant on 28.08.2015.

8) The complainant submitted that, since the 11kv HT line from which the connection was released to the premises of complainant was under jurisdiction of MSEDCL Urban circle , the 11kv HT connection was later on transferred from Rural to Urban circle as per internal adjustment of both circle.

9) It is submitted that, since the amount of 11kv metering cubicle along with its testing charges and excess amount collected towards service connection charges were not refunded , the complainant filed his grievance before IGRC of MEDCL on 19.11.2016.

10) The complainant submitted that IGRC, after conducting the hearing passed its order on 11.4.2017 which is reproduced below.

- a) The metering cubicle cost is to be refunded to consumer. The cost to be refunded should be decided as per MERC schedule of charges.
- b) The testing charges of Rs.3000/ are refunded to the consumer.
- c) Rs.20234/collected as excess supervision charges are refunded to consumer.
- d) All above cost to be refunded to consumer through monthly energy bill with equal installments.
- e) No order to cost.”

11) The complainant submits that, in spite of the order passed by IGRC and various assurances, the complainant has still not received the refund of amount till today.

12) In view of above submission, the complainant prays as under.

1. The grievance may be allowed.
2. Respondent may be directed to refund cost of 11kv metering cubicle along with interest as per provision of section 64 of EA 2003..
3. Respondent may be directed to refund testing charges paid towards testing of metering cubicle along with interest as per provision of section 64 of EA 2003..
4. Respondent may be directed to refund excess amount collected towards service connection charges along with interest as per provision of section 64 of EA 2003.
5. Respondent may be directed to pay compensation of Rs.15000/ towards non compliance and cost of filing present petition.
6. Any other relief as deemed fit by the Hon'ble Forum.

13) The Respondent submitted that in his say on dtd. 08.02.2018 (Page No. 23), that the consumer submitted application for new service connection at location,

Gut No. 135, Opp. Bajaj Auto Ltd., MIDC Walui, Aurangabad to Superintending Engineer, Rural Circle, Aurangabad.

14) Superintending Engineer, Rural Circle, Aurangabad processed the application such as survey, sanction & issue of quotation released the connection and then considering source of the supply the consumer is handed over to Urban Circle, Aurangabad.

15) From the sanction letter submitted by the consumer, it is observed that the estimate is sanctioned under 1.3% supervision charges scheme comes under dedicated distribution facility i.e. the infrastructure will be erected by the consumer under supervision of MSEDCL & utilized only by the consumer.

16) The quotation is issued by Rural Circle, Aurangabad as per MSEDCL Circular for DDF.

17) Now, if consumer applied for refund of service connection charges as well as metering cubicle cost, the consumer sanction will go to non DDF category and expenditure ultimately goes to ARR of tariff proposal. Which cost to general people. Therefore, to consider the difficulty in implementation of order passed by IGRC. As per circular of CE(Dist) dtd. 12.10.2017, there is no need to refund in cases where consumers have opted for DDF supply.

18) As per tariff order by MERC in DDF service connection charges are to be taken as 1.3% supervision charges, on approved service connection charges.

19) Also, as per applicant consent letter on Rs. 100/- Bond paper. He will not demand refund for charges of metering cubicle. Therefore it is requested to reject the application.

The complainant has submitted his rejoinder (Page No. 30) in brief as under:

- 20) That as per CGRF & Electricity Ombudsman Regulations (No.6.1) of 2006 and practice direction dt.31.03.2005 issued by Hon'ble Commission, every Distribution Licensee is required to constitute its own Internal Grievance Redressal cell (IGRC).
- 21) That, all the grievances submitted by consumer, even to any office Chief Engineer office , who are not part of IGRC are required to be forwarded to IGRC for redressal.
- 22) The above directives and provision makes its crystal clear that IGRC is constituted by Distribution Licensee and order passed by IGRC is considered to be as the decision of the Distribution Licensee. Further there is no provision of review of the order passes by IGRC in any of the MERC Regulations. This alternatively confirms that it is mandatory for Distribution Licensee to comply the order passed by IGRC.
- 23) The complainant further submitted that, the order dt. 11.4.2015 was passed by IGRC after going through MSEDCL circulars, various MERC Orders and terms and conditions mentioned in the sanction letter dt. 14.11.2014.
- 24) Regarding DDF facility the complainant has submitted that,
- a) No application for release of connection on express feeder was submitted by the complainant.
 - b) Respondent issued all monthly bills from date of connection till today as per HT II Non express tariff.
 - c) Respondent has deliberately avoided to submit clarification provided by Hon'ble Commission regarding Dedicated Distribution Facility Hon'ble Commission, through its various orders has clarified that the work of mere tapping of existing line does not come under DDF facility.

d) Hon'ble Commission has further clarified that metering which includes meter, PTS / CTS ,metering box etc. are required to be provided by Distribution licensee only. The execution of works by paying 1.3% supervision charges are related to development of infrastructure and not to providing metering equipment's.

The above facts makes its clear that any agreement or undertaking which is contrary to Electricity Act & MERC Regulations are to be considered void .

25) The complainant submitted that the terms and conditions mentioned in the sanction letter dt.14.11.2014, issued by the sanctioning authority.

The Para (7 b) , page 3, of sanction letter reads as under.

“That the terms and conditions mentioned in the sanction letter is in accordance with MERC regulations which confirms that the metering cost , if procured by consumer, is required to be refunded to the consumer through monthly bill.”

26) The complainant has submitted that by denying refund of metering cubicle cost, Respondent are violating their own orders, circulars and MERC directives. If such practice is continued, consumer will loose faith in IGRC redressal mechanism and the basis intention behind forming three tier (IGRC/CGRF/Elect. Ombudsman) redressal system will be hammered.

The complainant therefore has requested that the grounds raised in the say may be seriously considered & heavy penalty may be imposed to avoid repetition of such issues.

The Respondent in rejoinder (Page No. 34) has raised following points :-

27) In the above case, at the time of hearing at IGRC, MSEDCL representative i.e. Dy. EE(HT), Circle Office, Aurangabad was not present & necessary evidence

not presented to the cell. As such the implementation of IGRC order was pending. Now vide letter under reference the facts are presented to the Forum.

28) The copy of consent given by the consumer is attached herewith which shows consumer is ready to executive work to extend power supply under 1.3% supervision charges.

29) Those consumer opted for express feeder & availed supply from the separate feeder is billed with express tariff. All DDF consumers are not charged with express tariff.

30) Dedicated Distribution facility (DDF) means infrastructure required to extend the supply to consumer will be erected by the consumer under supervision of MSEDCL & utilized only by the consumer. Therefore expenditure on such (DDF) is not considered while preparing tariff proposal.

31) Therefore vide letter No. CE(Dist)/D-IV/MERC/25079 dtd. 12.10.2017 regarding refund of SLC, ORC & meter cost to consumer directives are given as under.

“The SLC, ORC & meter charges shall not be refunded in the case where consumers have opted for DDF supply”

32) No. of consumers have availed supply under 1.3% supervision charges but not applied for refund of metering cost.

33) Being policy matter, necessary action as per circular from MSEDCL (HO) Commercial Section is being taken .Therefore the above facts shows that the decision given by IGRC needs review.

34) On going through the record, hearing both the parties, following points arise for our determination with our findings thereon for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
1)	Whether the complainant application is maintainable ?	Yes
2)	Whether the metering cubicle cost, testing charges & excess amount of service connection charges are refundable to consumer along with interest ?	Partly yes
3)	Whether compensation of Rs. 15000/- is payable by Respondent for non compliance & cost of petition ?	No
4)	What order?	As per final order

REASONS

35) **Point No. 1 :-** Firstly the dispute was filed to Internal Grievance Redressal Cell, herein after referred as IGRC & order was passed on 11.04.2017. However, since the order is not executed, its maintainability is challenged.

36) In this respect, we are fortified by the ratio laid down in Case No. 2/2011 M/s. PACE INVESTMENT PVT LTD., V/S MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED, through its Divisional Executive Engineer & Sub Division Executive Engineer, Pune.

37) The facts in the case are that, the complainant filed complaint raising grievance against MSEDCL for non compliance of the order passed by IGRC, Pune dtd. 14.09.2010.

38) It was observed that non compliance of any order for redressal of grievance would be maintainable in accordance with the rules 8.7 & 17.18 (Consumer

Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006. Whereas Rule 22 lays & is about punishment for non compliance of order. Furtehr, it is observed that, considering factual matrix – the Distribution Licensee through its IGR Cell has failed to redress the grievance. Therefore compliance will need to follow, the provisions of the Regulation 2006, where as a first step the following Regulation will apply :-

“6.4 Unless a shorter period is provided in the Act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his Grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the consumer may submit the Grievance to the Forum. The Distribution Licensee shall, within the said period of two (2) months, send a written reply to the consumer stating the action it has taken or proposes to take for redressing the Grievance. “

39) It is further observed that the consumer has skipped the provisions of the Regulation 2006 & submitted the complaint under section 142 & 149 of the Act. The complainant is presently at the stage where it could prefer filing its grievance before the concerned CGRF. The procedural requirement for filing grievance is specified in Regulation 2006. These provision can't be washed away. One process must be followed.

40) It is further observed that, It was not envisioned that the IGR Cell and the Distribution Licensee would function in a segregated manner where both would not be ad idem with each other. In the spirit of the Regulations 2006 it is expected that in future no such similar eventually would take place. The Regulations expressly state that “The Distribution Licensee shall endeavor to redress Grievances through its IGR Cell.”

Accordingly, the present complaint in case no. 2 of 2011 stands dismissed as not maintainable.

41) Considering these observations, we hold that the complaint is maintainable. We answer point No. 1 accordingly.

42) **Point No. 2** :- As regards provisions of refund of meter cubicle cost, testing charges & service connection charges.

The MERC approved schedule of charges in case No. 70/2005, & those are circulated in circular No. 43 & 34307, Commercial Circular No. 43 prescribes that,

“5.1 The company shall not recover any cost towards meter and meter box, except where the consumer opts to purchase meter from MSEDCL and in case of lost and burnt meter, the company is permitted to recover cost as per Annexure-3.”

43) About testing charges & general charges.

“7. MISCELLANEOUS AND GENERAL CHARGES:

(a) Installation testing fee :-

The field officers are directed not to charge any amount for first inspection and testing of consumers installation at the time of giving new connection. For all the subsequent tests and inspection of consumer’s installation, the company shall recover charges indicated in Annexure 4.”

Rule 3.2

“3.2 In case MSEDCL permits an applicant to carry out the works, the company may recover supervision charges at the rate of 1.3% of the normative rates indicated in Annexure 2.”

44) As against this, the Respondent has pointed out that the estimate being sanctioned under 1.3% supervision charges scheme comes under dedicated

distribution facility i.e. the infrastructure will be erected by the consumer under supervision of MSEDCL & utilized only by consumer & therefore & If refund is applied, the sanction bill go to non DDF category & ultimately expenditure goes to ARR of tariff proposal which cost to general people & therefore order of IGRC not followed. To fortify these contentions the Respondent has pointed out circular of Chief Engineer (Distribution) dtd. 12.10.2017 & submitted that the consumer as has opted for DDF facility & not need to refund any of amount.

45) Circular No. CE/Dist/D-IV/MERC/25079 dtd. 12.10.2017 speak as under:-

“7. The SLC, ORC & meter charges shall not be refunded in the cases where consumers have opted for DDF supply.”

46) Alongwith this direction of circular the Respondent has also pointed out that the complainant in their undertaking, (Page No. 25) has agreed that, “We will not demand / claim for the refund charges at metering cubicle which is purchased by us.

47) For this purpose, now let we point out the definition of DDF facility as enumerated in conditions of supply based on the MERC (Electricity Supply code & other conditions of supply) Regulation 2005.

“1.11 **DEDICATED DISTRIBUTION FACILITIES**” means such facilities, not including a service line, forming a part of the distribution system of the MSEDCL, which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises;”

48) Considering the definition of it, implies that consumers on express feeders comes under DDF facility. Hence in this case there is no evidence in the form of application submitted by the consumer for DDF facility. There is no single bill to show availment of DDF facility by consumer. Not only that, but the sanction letter

(Page No. 9). (Para 17) speaks that Addition conditions goes to show that “Feeder–11 KV–Gaothan Feeder”. All these circumstances sufficient to show that complainant has not availed of DDF facility.

49) Further sanction letter para 7 (b) refers that,

“7) METERING

b) The HT TOD Meter and metering equipment for new / fresh HT connection will be as per MSEDCL’s standards in accordance with the specification laid down and as per the list of makes & models approved by MSEDCL. In case, if the consumer is in hurry, he can procure the metering equipments from the approved vendor of MSEDCL, test it at MSEDCL lab and install at site. The approved cost of the metering equipments produced by consumer will be adjusted into the post energy bill as per MSEDCL’s standards.”

50) In this back drop, the term incorporated in undertaking (Page No. 25) of consumer that they will not claim refund charges of meter cubicle is nothing but in breach of the circulars & rules & therefore not valid & not to be implemented. So it has no binding force.

51) Thus, considering that the consumer is not covered under DDF facility, the circular No. 43 & 37305 are applicable to him & therefore he is entitled for refund of metering cubicle charges, testing charges & excess amount collected under service connection charges.

52) Considering the nature of refund amount & they are to be adjusted in energy bills, it is not proper to impose interest on these amounts. Thus, we answer Point No. 2 accordingly.

53) **Point No. 3** :- It appears that there is not deliberate act or negligence on the part of Respondent to harass the complainant to refund the amount claimed. As such, payment of compensation & cost is not justified, hence point No. 3 is answered in the negative.

54) To sum & conclude, it is found that the complainant is not covered under DDF facility, we confirm order passed by IGRC. So he is entitle for refund as claimed. Therefore, in answer to point No. 4, we proceed to pass following order:-

ORDER

- 1) The complaint is hereby allowed.
- 2) The metering cubicle cost be refunded to the complainant, as per MERC schedule of charges.
- 3) The testing charges of Rs. 3000/- be refunded to the complainant.
- 4) Amount Rs. 20,234/- less 1.3% supervision charges collected as excess service connection charges be refunded to the complainant.
- 5) All the above refund amounts be adjusted in monthly energy bills with equal installments.
- 6) Prayer of interest & compensation is rejected.
- 7) Parties to bear their own costs.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member