

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant M/s. Navjeevan Hybrid Seeds Corporation, Plot No. A-9/18, MIDC, Aurangabad Road, Jalna. is a consumer of Mahavitaran having (Consumer No. 510030467246). The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, O&M Circle, Jalna under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 27.02.2018.

2) The petitioner has submitted the following facts :

The petitioner has set up seed manufacturing unit at plot No. A-9/18, MIDC Jalna .The petitioner is sourcing electricity supply from Maharashtra State Electricity Distribution Co. Ltd. (hereinafter referred to as MSEDCL) and therefore is consumer of respondent. Respondent is authorized and Responsible officer of MSEDCL company which is engage in distribution of electricity in MIDC Jalna, along with other parts in the state of Maharashtra.

BRIEF HISTORY &FACTS RELATING TO THE GRIEVANCE:

3) The petitioner states that after allotment of plot, he submitted application for release of three phase 10 HP electricity connection in the concerned office of Respondent company at Jalna. It is further submitted that Respondent, after receipt of requisite amount release LT three phase 10 HP connection to the petitioner industry on 20.02.2009.

4) The petitioner submits that Respondent thereafter issued all the monthly bills as per applicable industrial tariff from date of connection till April 2013. The

petitioner was regular payer of all electricity bills and there was no dispute regarding tariff or bills till April 2013.

5) The petitioner, in the month of May 2013 , received a bill of Rs. 1,89,406.24/ in which Rs. 1,71,318/ was shown as debit bill adjustment. No details of bill adjustment amount was shown nor any clarification was given by the Respondent during his visit to Respondent's office at Jalna.

6) The petitioner therefore filed his grievance before IGRC of Respondent co. on 16/7/2013. The IGRC in its order dt. 6.12.2013 held that bill issued for May 2013 is based on recommendation given by Flying squad for levying commercial tariff for his seed plant is correct and further held that the power factor penalty levied is also correct.

7) The petitioner has submitted that since the order of IGRC was not accepted, he filed his grievance before CGRF on 13.07.2015. Hon'ble Forum, after hearing both parties , passed its order on 25.08.2015 and quashed the bill of May 2013 and further directed issue all future bills as per Industrial tariff.

8) The petitioner has submitted that since the order dt.25.08.2015 , passed by Hon'ble CGRF was not complied , he filed appeal u/s 142 and 146 of EA 2003 before Hon'ble MERC on 18.12.2015 . Hon'ble MERC , after hearing both parties passed its order on dt. 09.12.2016 (Case No. 04/2016) which is reproduced as under.

Para 10:

“ In view of foregoing , the commission directs MSEDCL to

(a) comply with the CGRF order within a month , including refund of the amount due along with applicable interest till such refund is made.

- (b) Recover from the officer(s) concerned the amount of interest for the delay in complying with CGRF order under report to the commission within three months.
- 9) The petitioner has submitted that, as per order dt. 09.12.2016, passed by Hon'ble Commission, Respondent was expected to comply the order within one month i.e. before 09.01.2017. The Respondent was expected to withdraw all electricity bills issued after May 2013 and to issue revise bill as per industrial tariff without levying interest & DPC charges.
- 10) The petitioner has submitted that, in order to harass the petitioner, Respondent deliberately avoided to comply order passed by Hon'ble Forum as well as order passed by Hon'ble Commission and continued to issue monthly showing huge arrears amount till Nov.2016. The petitioner is submitting copies of CPL which discloses that the bill amount for the month of Nov.2016 was claimed as 3,49,609/-.
- 11) The petitioner has submitted that, due to his old age & medical problems, he could not run the unit in full capacity which resulted in less consumption of electricity till July 2017. The petitioner, on receipt of monthly electricity bills , was required to visit office of Respondent every time for getting bills corrected. In spite of above facts, the petitioner has paid the monthly bills regularly.
- 12) The petitioner has submitted that, even after delay of 14 months, respondent failed to comply the order passed by Hon'ble Commission and continued to issue bill showing huge amount as arrears. The copy of bill for Jan.2018 for Rs. 1,06,710/ showing arrears amount of Rs. 1,04,569/-.
- 13) The petitioner has submitted that, in order to get revise bill as per order passed by Hon'ble Forum, he submitted a letter on 14.12.2017 and requested

Respondent to issue revise bill and to provide details of revision. However, inspite long delay in complying orders , no heed was given to this letter also.

14) It is alleged that, without giving any notice or intimation, and violating provisions of EA 2003, disconnected the supply of petitioner on 23.02.2018at 11.00 hrs.

15) It is contended that, on visiting office of Respondent company, he was made run from office to office of respondent company for obtaining permission for reconnection of supply. However even after realizing their own mistake and verbally accepting the same, the supply was not reconnected till today.

16) The petitioner is suffering huge financial losses in addition to mental agony for no fault on his side. The petitioner is also required to be compensated for utter negligence on the part of concern officers of MSEDCL and strict action is required to be initiated against the concerns officer for deliberately not complying Hon'ble CGRF as well as Hon'ble Commissions orders .

The complainant reserves its right to make additional submission.

17) Hence it is prayed that :-

1. The grievance may be allowed.
2. Respondent may be directed reconnect electricity supply of the petitioner immediately.
3. Respondent may be directed not to disconnect electricity supply in future till compliance of Hon'ble Commission's order dt. 09.12.2016.
4. Respondent may be directed to produce proof of recovery of amount from the officers concerned as per order issued by Hon'ble Commission.
5. Respondent may be directed to pay Rs. 25000/ for mental agony and losses incurred by the petitioner.

6. Respondent may be directed to pay Rs. 50000/ for not complying the orders passed by Hon'ble Commission and for disconnecting electricity supply by violating provisions of EA 2003.
 7. Any other relief as deemed fit by Hon'ble Forum.
- 18) Respondent has submitted the reply (Page No. 28) raising following defense:-
1. The main grievance of the consumer in the instant matter was relating to the change of the tariff from Industrial to Commercial from the month of May 2013. In respect of the same grievance, which was already been decided by this Forum vide order dated 25.08.2015 in the grievance No. CGRF/AZ/AUR/JL/ 558/2015/12, the present applicant appeared before this Forum alleging non compliance of the order, hence it deserves be rejected as per Regulation NO. 6.7 of the CGRF Rule.
 2. As per regulation no. 6.8 (4) of the CGRF Rules, this Hon'ble Forum, may be pleased to consider, this grievance as the grievance for the recovery of the arrears for which there is no dispute.
 3. It is submitted that, the order of this Forum is complied by this office subject to outcome of the Writ Petition filed before Hon'ble Court, Mumbai Bench at Aurangabad vide WP No. 1678/2016.
 4. The compliance of the order was without prejudice to the Right of MSEDCL to recover the arrears from the consumer.
 5. The compliance of the order of this Hon'ble Forum can be summarized as below :
 - A. The bill issued by the Flying Squad of Rupees 176318/- is already deducted by the respondent office, the copy of the bill revision report is annexed here to and marked as Exb.1.

- B. The interest on the above amount of Rupees 59011/- was also credited to the consumer, the copy of the bill revision report is annexed here to and marked as Exb.2.
- C. The tariff of the said consumer was also changed according to commercial circular issued by Hon'ble MERC and consumer has been given tariff difference from commercial tariff to Industrial tariff from the Month of May 2013 amounting to Rs. 23609/- and from October 2016 to February 2017 amounting to Rs. 306.83. The copy of the circular is annexed hereto and marked as Exb-3. And the copies of the Bill revision reports are annexed hereto and marked as 3A and 3B.

As seen from above the substantial compliance of the order of the Hon'ble CGRF dt. 25.08.2015 has been effected by this office subject to outcome of the writ petition filed by this office vide WP No. 1678/2016 without prejudice to the legal rights of the MSEDCL to recover the amount due from the consumer.

6. That, currently, apart from the disputed amount, consumer is in arrears of Rs. 1,08,830/- because, as the consumer was using electricity on regular basis, but have not paid its current bills other than disputed amount on regular basis which can be seen in CPL of consumer. But this Forum has extended the temporary relief in favor of the consumer and hence MSEDCL is restrained from resorting to the recovery of the outstanding arrears from the consumer. Hence it is prayed that balance amount may kindly be ordered to be deposited by the consumer with the MSEDCL and hence the legal right of the MSEDCL may kindly be

protected by vacating the interim order passed by this forum. It is prayed to reject the petition.

19) The complainant has submitted rejoinder as follows :-

It is submitted that , Respondent ,as per interim order dt. 27.2.2018 passed by Forum, reconnected electricity supply of the complainant on 28.02.2018. The complainant was in receipt of letter which was sent by speed post on 05.03.2018 in which the disputed bill amount of Rs. 1,06,710/ is justified . It is pertinent to note that Respondent has sent the said letter only after receipt of notice issued from Hon'ble Forum on the grievance filed by the complainant. That the supply was disconnected without giving any notice and without giving any details of bill revision and disputed arrears amount.

20) We have gone through the entire record heard consumer representative Shri Kapadia for complainant and Shri S. M. Rathod, Executive Engineer(Admin), Jalna Circle & Shri P. P. Sardeshpande, UDC, Jalna Urban Sub Division for the respondent following point arise for our determination with a findings recorded below for the reasons to follow :-

| Sr. No. | POINTS | FINDINGS |
|---------|---|--------------------|
| 1) | Whether the application is maintainable ? | No |
| 2) | What order & costs? | As per final order |

REASONS

21) **Point No. 1** :- Prima facie while entertaining the grievance interim protection not to disconnect the electricity supply was granted to the complainant. However, during the course of hearing it is transpired that there is dispute about calculation of the amount of the bill made by the respondent as per order of MERC and CGRF passed on dtd. 09.12.2016.

22) That the CGRF, Aurangabad on 25.08.2015 passed an order which is as follows :

“3.6 Aggrieved by the IGRC Order, NHSC filed its grievance with the CGRF, Aurangabad on 13th July, 2015. CGRF Aurangabad passed an order on 25th August, 2015 which is reproduced as below :

- a) *“The complaint is allowed.*
- b) *Respondent is restricted from disconnecting electricity supply of the complainant.*
- c) *The assessment bill of Rs. 1. 76,318 on the basis of commercial tariff is quashed.*
- d) *Respondent (MSEDCL) shall issue revise bill as per industrial tariff.*
- e) *MSEDCL shall adjust excess amount paid by the complainant along with interest equivalent to bank rate as per Section 62(6) of the Electricity Act, 2003 from the date of deposit of excess amount.*
- f) *No order to cost.”*

23) The said order was carried in appeal before Hon. MERC case No. 4/2016 and Hon. MERC has passed order on 09.12.2016 which reproduced as follows.

“10. In view of the foregoing, the Commission directs MSEDCL to (a) comply with the CGRF order within a month, including refund of the amounts due along with the applicable interest till such refund is made; (b) recover from the officer(s) concerned the amount of interest for the period of delay in complying with the CGRF order, under report to the Commission within 3 months.”

24) On going through the reliefs claimed in the application, it is apprent that the petitioner is not satisfied with the compliance of the order of CGRF and as directed by Hon. MERC. It is also transpired that according to petitioner the

calculations submitted by the respondent are in correct and does not amount to compliance.

25) In t his respect Rule 6.7 of MERC regulations 2006 (CGRF & Ombudsman) Rule (d) is important it lays down as under.

“6.7 The Forum shall not entertain a Grievance :

(d) Where a representation by the consumer, in respect of the same Grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.”

26) Considering the above provision the compliance of order passed by Hon. MERC is required to be challenged before that Forum only. Considering the reliefs claimed by the petitioner the grievances of the petitioner in all respect are to be ventilated before the Hon. MERC. This Forum therefore requires to pass directions to approach before Hon. MERC as this Forum has no power to entertain this petition. Therefore point No. 1 is answered accordingly and we proceed to pass following order in reply to point No. 2.

ORDER

- 1) The petition is hereby rejected with directions to the petitioner to submit his grievance before Hon. MERC.
- 2) Interim protection stands vacated.
- 3) No order as to cost.

Sd/-
Shobha B. Varma
Chairperson

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member