

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

**Case No. CGRF/ AZ/ AUR/ R / 644/ 2017 /37  
Registration No. 201700747**

Date of Admission 11.07.2017  
Date of Decision 19.09.2017

M/s. Badve AutoComps. Pvt. Ltd.,  
Gut No. 22,23 & 25,  
At Shivrai, Tq. Gangapur,  
Dist. Aurangabad.  
(Consumer No. 506749074580)

COMPLAINANT

**VERSUS**

The Executive Engineer (Administration)  
Nodal Officer, O/O Superintending Engineer ,  
Rural Circle, MSEDCL, Aurangabad.

RESPONDENT

**CORAM**

Shri Laxman M. Kakade,

Chairman (I/c)

Shri Laxman M. Kakade,

Member Secretary

Shri Vilaschandra S. Kabra

Member.

**CONSUMER GRIEVANCE REDRESSAL DECISION**

The applicant M/s. Badve AutoComps. Pvt. Ltd., Gut No. 22, 23 & 25, At Shivrai, Tq. Gangapur, Dist. Aurangabad is a consumer of Mahavitaran having Consumer No. 506749074580. The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Rural Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure(A) on 11.07.2017.

**The brief details of the complaint are as under.**

The complainant submits that Badve Group has setup plant at Gut No. 63, 64 & 65 at village Narayanpur, Taluka Gangapur, Dist. Aurangabad for manufacturing plastic components required for automobile industries. MSEDCL has released HT connection on 33 KV Voltage level to M/s. Badve Engineering Ltd., on 13.01.2012. The sanction contract demand and connected load is 2000 KVA and 3625 KW respectively.

Badve group thereafter started another plant at Gut No. 22, 23 and 25, at village Shivrai, Taluka Gangapur, Dist. Aurangabad for manufacturing of different types of silencers required for automobile industries. The electricity connection was released by MSEDCL to M/s. Badve Autocomps Pvt. Ltd., on 02.05.2014. The sanction contract demand and connected load are 1500KVA & 2700 KW respectively.

Both the above plants namely M/s. Badve Engineering Ltd and M/s. Badve AutoComp. Pvt. Ltd. are situated adjacent to each other and since the purpose of use of electricity was same, both plants were categorized into industrial category and electricity bills were issued by MSEDCL as per industrial tariff.

As per decision taken by the owners of the Badve group of companies, it was decided to merge premises of M/s. Badve Engineering situated at Gut No. 63, 64 and 65, Village Narayanpur into Badve AutoComp. Pvt. Ltd., situated at Gut No. 22, 23 and 25 village Shivrai.

The petitioner submitted an application of merger of premises to the Secretary, Ministry of Industry, Department of Industrial Policy and Promotion, Govt. of India on 17.09.2010. The sanction for merger for both manufacturing units was accorded by the Ministry of Industry vide its letter dtd. 27.01.2011.

The Petitioner states that an application for merger of premises and sanction of additional load (contract demand from 1500 to 2200 KVA, Connected Load from 2700 to 4537 Kw) along with all relevant documents were submitted to MSEDCL on 25.10.2016. As per MERC SOP Regulations 2014, Intimation of charges i.e. sanction letter is required to be issued within 20 days from the date of submission of application i.e. before 15.11.2016.

The Petitioner was in receipt of letter dtd. 05.11.2016 issued by MSEDCL, in which demand for payment of Rs. 36,27,531/- was made and petitioner was asked to avail benefit of Amnesty Scheme. After that MSEDCL confirmed that arrears were wrongly shown due incorrect multiplying factor taken in the month of January 2011. MSEDCL lastly issued sanction letter for addition load vide its letter No. SE/ARC/HT billing/1434 dtd. 31.03.2017 in the Name of M/s. Badve AutoComp. Pvt. Ltd and address of premises as Gut No. 22, 23 and 25, Village Shivrai and Gut No. 63 to 65. It confirm that merger of premises has been approved by MSEDCL. The said sanction also includes sanction for additional load and charges to be paid, the petitioner was asked to submit document as 1) Permission from Electrical Inspector, 2) permission from Pollution Control Board, these are related for release of additional load and no way concern with merger of premises.

Due to commencement of financial year work for merger not carried out in April 2016 but started the work of merger of premises including shifting of load of M/s. Badve Engineering Ltd., to M/s Badve AutoComps Pvt. Ltd., and completed as same on 14.05.2017.

The Petitioner vide his letter dtd. 30.05.2017 requested MSEDCL to disconnect the power supply of M/s. Badve Engineering Ltd., consumer No 507779044000 from billing month of June 2017 and also requested for refund of Security Deposit.

The petitioner has paid Rs. 17,30,659/- which includes Security Deposit amount of Rs. 17,27,829/- on 30.05.2017. After payment of Security Deposit and completion of other required formalities, the Petitioner entered in to HT Agreement with MSEDCL on Dt. 12.06.2017.

On dtd 09.06.2017 the 33 KV PT installed in the metering cubicle was burst, MSEDCL Authorities after inspection, by passed the metering cubicle and supply was restored to Unit. MSEDCL authorities replaced damaged PT on 17.06.2017. The contract demand recorded during the month of may 2017 and till PT replacement. i.e. 17.06.2017 is within previous sanctioned limit i.e. below 1500 KVA. Thus petitioner has not crossed previous sanctioned limit of contract demand.

The Petitioner submits that he was shock to received bill of Rs. 1,13,04,780/- issued under section 126 of Electricity Act 2003. Which is incorrect as the petitioner has acted after the approval of sanction for merger of premises, Petitioner has not violated any provision of section 126 of Electricity Act 2003. No details of provisional bill were given to petitioner, he submitted letter on dtd. 01.07.2017 and requested to provide copy of spot inspection report, however till today petitioner has not received the same.

The MSEDCL has issued a bill under Section 126 (6) (b) (v) which read as under "unauthorized use of electricity means the usage of Electricity (6) (b) (v)" for the premises or areas other than those for which the usage of electricity was authorized."

The shifting of a load was done on dtd. 14.05.2017 i.e. after receipt of sanction letter dtd. 31.03.2017 from MSEDCL. Further there is no demand for submission of any documents or formalities remain to be completed.

In addition to above MSEDCL has not suffered any financial loss due to shifting of load as the units consumed by both units are recorded by the meter, which is tested by MSEDCL.

Both units are categorized in to industrial category, there is no issue of change in tariff or change in purpose of use of electricity.

During the visit of concerned officer of MSEDCL on 17.06.2017, the Petitioner was asked to shift the load to respective consumers to avoid assessment complication that raised due to failure of PT of M/s. Badve AutoComp Pvt. Ltd., Accordingly, the load were shifted to respective units on 21.06.2017 and the intimation of same was given to MSEDCL vide letter dtd 21.06.2017.

The Petitioner submits that MSEDCL is likely to take coercive action of disconnection of power supply which will result in heavy financial losses and will also affect the bread and butter of employees working on daily wages basis. The Petitioner also communicated to MSEDCL vide letter dtd. 17.06.2017 to pay assessment during the bypass of meter i.e. period 09.06.2017 to 17.06.2017.

Hence Petitioner is filing this present grievance as per MERC, CGRF & Electricity Ombudsman Regulations (6.5) of 2006 as the Section 126 is not attracted in present matter.

Petitioner prayed as 1) Respondent, MSEDCL may be directed not to disconnect electricity supply till final disposal of grievance. 2) MSEDCL may be direct to withdraw the provisional assessment bill issued and quashed.

Petitioner in his statement on 08.08.2017 said that no communication was received by him from Respondent nor the Petitioner was asked to provide any additional documents, which confirm that no additional documents are required for merger of premises.

Petitioner said that as per provision in MERC, CGRF & Ombudsman Regulations No 6.9 of 2006, no grievance shall be rejected unless the applicant has been given an opportunity to hear.

This provision shows that Forum shall admit the grievance and in case prima facia the grievance falls within purview of Section 126 & 135 of the Act, same shall be excluded from jurisdiction of Forum.

Regarding same matter Hon'ble Electricity Ombudsman, Mumbai/ Nagpur passed orders like 1) E.O. Mumbai order dated 05.09.2013, 23.12.2014, Hon'ble Commission and APTEL New Delhi, 1) MERC order dtd. 11.02.2013 in respect of change of category, 2) MERC Order drtd. 01.08.2017 in respect of Aurnagabad Municipal Corporation, Aurangabad.

Observation recorded by Hon'ble Supreme Court in civil appeal No. 8859/2011 reads as para 4 page 13 "In view of the language of Section 127 of the 2003 Act, a final order of assessment passed under section 126 is an order appealable under Section 127 and notice cum provisional assessment made under Section 126 (2), hence CGRF has Jurisdiction to entertain the grievance.

**Say of Executive Engineer, Nodal Officer, Aurangabad Urban Circle.**

Executive Engineer, Nodal Officer, Aurangabad Rural Circle in his statement on dtd. 25.07.2017 it is submitted that, the grievance of M/s. Badve AutoComps Pvt. Ltd., before the CGRF is not maintainable under the law & regulations. As per regulations 6, 8 of MERC (CGRF & Ombudsman Regulation) 2006 there is a bar / restrictions to entertain the matters where assessment is proposed and notice or order is issued under Section 126 of Electricity Act 2003.

Further he states that MSEDCL has carried out inspection of M/s. Badve AutoComp Pvt Ltd., on dtd 17.06.2017. The notice for personal hearing under section 126 of Electricity Act 2003 and provisional assessment is issued to the consumer on dtd 28.06.2017. Consultation with consumer, it is fixed on 25.07.2017 for final hearing. Consumer has filed objection on Dt. 24.07.2017, hence the hearing was pending with assessing officer for its final disposal.

Recently Hon'ble Bombay High Court Bench at Mumbai in WP No. 596/2012 has directed that, if any notice and or order is passed by the utility under Section 126 of Electricity Act 2003, the same is not maintainable before CGRF. Hence matter filed by M/s. Badve AutoComp Pvt. Ltd., deserve to be dismissed with cost as it is filled with ill intention to suppress the real facts.



The Executive Engineer, Nodal Officer, Rural Circle, Aurangabad has submitted statement on dtd. 21.08.2017 and said that detailed facts are mentioned in final order of assessment and its copy is enclosed. In final order Assessing Officer said that Consumer M/s Badve AutoComp Pvt. Ltd., is a HT consumer at 33 KV voltage level with contract demand 1500 KVA & connected load 2700 KW. Consumer has applied for enhancement of load on 25.10.2016 as contract demand from 1500 KVA to 2200 KVA and connected load 2700KW to 4537 KW, MSEDCL has sanctioned additional load on dtd. 31.03.2017, after receipt of technical feasibility. Consumer paid amount of Firm Quotation on 30.05.2017. On dtd. 09.06.2017 all 3 Potential Transformers in metering cubicle of M/s. Badve AutoComp Pvt. Ltd., Consumer No. 506759074580 were failed and consumer submitted undertaking, accordingly supply was restored by passing the meter.

Testing Team of Aurangabad Rural Division visited M/s. Badve AutoComp Pvt. Ltd., on 15.06.2017 for replacement of failed PT, he suspected that load of M/s. Badve Engineering Pvt. Ltd., Consumer No. 507779044000 may have been shifted on M/s. Badve AutoComps Pvt. Ltd., The Executive Engineer, Testing Division, Aurangabad reported vide his report dtd. 17.06.2017. The Superintending Engineer, Rural Circle, Aurangabad had issued instructions to the EE, Aurangabad Rural Divn. -2 & he has submitted that Load of HT Consumer M/s. Badve Engineering Consumer No. 507779044000 was completely diverted on adjacent HT Consumer M/s. Badve AutoComp Pvt. Ltd., Consumer No. 506759074580 and mentioned that consumer is indulge in unauthorized use of Electricity as per Section 126 of Electricity Act 2003. The joint report was signed by

Shri A. R. Patil, the respondent of Consumer M/s. Badve AutoComp Pvt. Ltd, on dtd. 17.06.2017. The Assessing Officer i.e. Superintending Engineer came to conclusion that unauthorized use of electricity has been taken place and consumer indulged in unauthorized use of electricity within the meaning of Section 126 (6) (b) (v) of Electricity Act 2003. Provisional assessment of bill Rs. 1,13,04,780/- was served vide Order No. SR/ABDR/Tech/2943 dtd. 28.06.2017. All necessary documents such as joint inspection report, detailed assessment sheet, MRI data was given to the consumer.

Reasonable opportunity for personal hearing and filling objection was given to consumer during hearing on 25.07.2017. During the hearing the Executive Engineer, Rural Division -2, Aurangabad said that Load of HT consumer M/s. Badve Engineering Pvt. Ltd., Consumer No. 507779044000 was completely diverted to adjacent HT Consumer M/s, Badve AutoComp Pvt., Ltd., Consumer No. 506759074580 by disconnecting the cable from outgoing of M/s. Badve Engineering Ltd., Consumer No. 507779044000 and connected to VCB of M/s Badve AutoCmp Pvt., Ltd., Consumer No. 506759074580, hence consumer found indulge in unauthorize use of Electricity as per Section 126 of Electricity Act 2003. During the hearing consumer representative said that sanction for additional load was given on 31.03.2017. They had shifted load of M/s. Badve Engineering Ltd., to M/s. Badve AutoComp Pvt., Ltd., on dtd. 14.05.2017 and requested MSEDCL to disconnect supply on 30.05.2017 of M/s. Badve Engineering Ltd.. For the month of May & June 2017, same are recorded in meter of M/s. Badve AutoCo Pvt., Ltd. and bills are paid.

33 KV PT failed on dtd. 09.06.2017 and replaced on dtd. 16.06.2017, meter was remained in bypassed for 8 days only, agreement for load enhancement was done on 12.06.2017, Consumer state that 126 does not attract here.

The observations in final order state that from dtd. 14.05.2017 to dtd. 21.06.2017 electric supply of two different connections were available in premises of consumer M/s Badve Engineering Pvt Ltd., which is very dangerous for safety point of view. Consumer has shifted the load of M/s. Badve Engineer Ltd., on dtd. 14.05.2017 without taking permission from MSEDCL. Consumer has paid Firm Quotation on dtd. 30.05.2017. Hence consumer M/s. Badve AutoComp shifted load before making payment of firm quotation and execution of agreement bond and final release of enhancement of load.

Test Reports of electrical contractor along with list of machinery installed and permission of electrical inspector to energies the installation etc. it is awaited from consumer.

Hence, Assessing Officer concluded that unauthorized use of electricity has been taken and final order of assessment under Section 126 of Electricity Act 2003 amount Rs. 1,13,04,780/- given on dtd. 28.06.2017.

As regards to the period of assessment (dtd. 15.05.2017 to 21.06.2017) there is no dispute from both the parties. The methodology for assessment of Unit and demand is used as per guidelines given in MSEDCL Circular 133 dtd. 15.02.2011. The load diversity factor is taken 0.8 as a consumer is plastic molding Industry.

**Observations of the Consumer Grievance Redressal Forum.**

- 1) As per MERC, CGRF & Ombudsman Regulations 6.9, no grievance shall be rejected unless the applicant has been given an opportunity of being heard, hence complaint is admitted & opportunity of hearing for both petitioner and respondent was given.
- 2) Petitioner has submitted an application for load enhancement of M/s. Badve AutoComp Pvt., Ltd. for contract demand 1500 KVA to 2200 KVA and connected load 2700 KW to 4537 KW to MSEDCL on 25.10.2016. The Petitioner was in receipt of letter dtd. 05.11.2016 issued by MSEDCL for demand of payment Rs. 36,27,531/-. MSEDCL authorities confirm that arrears were wrongly shown due to incorrect multiplying factor in January 2011. After 5 months from the date of application MSEDCL has issued approval of load sanction for providing load enhancement on dtd. 31.03.2017. MSEDCL has referred in their Load sanction Letter the NOC of Chief Engineer (EHV), MSETCL dtd. 04.03.2017.

In sanction letter dtd. 31.03.2017 MSEDCL asked to the consumer to obtain clearance before release of supply like 1) permission from Electrical Inspector, 2) Permission from Pollution from Control Board.

The Executive Engineer, Nodal Officer has not cleared that whether the period of 5 months required for sanction is due to old arrears or late NOC received from the CE(EHV), MSETCL.

- 3) Petitioner has paid Service Connection Charges Rs. 930/-, Security Deposit Rs. 17,27,829/-, Agreement & processing fees Rs. 220/-, Rs. 1700/- respectively on dtd. 29.05.2017. Consumer has submitted application to disconnect the power supply of M/s. Badve Engineering Ltd. Consumer No. 507779044000 and merging total electrical load on M/s. Badve AutoComp Pvt. Ltd. on dtd. 30.05.2017, which will run after mega project.
- 4) Consumer has shifted load of M/s Badve Engineering Ltd. in to M/s Badve AutoComp Pvt., Ltd. on dtd. 14.05.2017. On dtd. 09.06.2017 PT of consumer M/s Badve AutoComp Pvt., Ltd. was failed and Consumer has given undertaking for assessment. Meter was bypassed by MSEDCL and supply was restored on 09.06.2017. MSEDCL has replaced the PT on dtd. 16.06.2017. Meter was remained in bypassed from 09.06.2017 to 16.06.2017.
- 5) MSEDCL and Consumer has done agreement on dtd. 12.06.2017. After agreement also MSEDCL has not release the load enhancement to M/s. Badve AutoComp Pvt., Ltd.
- 6) The consumer has shifted the load of M/s. Badve Engineering Ltd., to M/s Badve AutoComp Pvt. Ltd., on dtd. 14.05.2017, before firm quotation payment dated i.e. 29.05.2017, agreement between MSEDCL and Consumer on 12.06.2017 and release of load enhancement (yet it is not given). MSEDCL observed this at the time of PT replacement i.e. on dtd. 16.06.2017. Consumer has not taken permission for shifting of load i.e. shifting of load is done before final release of load enhancement.

- 7) MSEDCL has issued assessment bill to the consumer under Section 126(6) (b) (v) which state that unauthorized use of electricity means usage for premises or areas other than for which the usage of electricity was authorize. . As per Section 126 Assessing Officer has served provisional assessment of Rs. 1,13,04,780/- on dtd. 28.06.2017. He has given opportunity for personal hearing and filling objection during hearing on 25.07.2017 & issued final order of assessment on dtd. 27.07.2017. Hence action under section 126(6) (b) (v) is seems correct.
- 8) Forum is opined that there is a procedure provided under Electricity Act, 2003, when an order is issued under section 126 of the Act and party is aggrieved by the order, then aggrieved party can file an appeal before the appellate authority under section 127 of the act. The Forum observed that petitioner has failed to avail the remedy under section 126 in time and rather he has approached to CGRF, Ombudsman and Appellate authority. The petitioner cannot approach to the Forum in this matter, only hearings are taken as per point (1). The petitioner contended that it could not avail of remedy under section 126 as no final bill was issued to him. MSEDCL submitted that provisional bill was served on Dt. 28.06.2017 and final bill was served on Dt. 27.07.2017. The provisional bill is signed by consumer and Forum observed this proof of signature is enough

for service of MSEDCL. On receipt of such bill, any prudent man would have taken appropriate action to resolve the issue by approaching the relevant authority. It seems that appropriate remedy is not availed in this case.

As per CGRF Regulations 2006 Regulation 6.8 grievance falls within purview of unauthorized use of electricity as provided under Section 126 of the act is excluded from jurisdiction of CGRF.

In view of the above submissions made by applicant, Respondent during the hearings and the observations of the CGRF this Forum passes the following order.

**ORDER**

- 1) The complaint of the petitioner is rejected.
- 2) The compliance shall be reported within 30 days.

Sd/-  
Laxman M. Kakade  
Chairman I/c

Sd/-  
Laxman M. Kakade  
Member / Secretary

Sd/  
Vilaschandra S.Kabra  
Member