

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

**Case No. CGRF/ AZ/ AUR/ R / 646/ 2017 /39
Registration No. 2017070065**

Date of Admission 25.07.2017
Date of Decision 29.09.2017

The Chief Officer, Municipal Council, : **COMPLAINANT**
Raw Water Pumping Station,
At Khelna Dam, Tq. Sillod 431112,
Dist. Aurangabad
(Consumer No. 490019006031) &
(Consumer No. 490019006040).

VERSUS

The Executive Engineer (Admn) : **RESPONDENT**
Nodal Officer,
O/O Superintending Engineer,
Rural Circle, MSEDCL, Aurangabad.

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 The Chief Officer, Municipal Council, Raw Water Pumping Station, At Khelna Dam, Tq. Sillod, Dist. Aurangabad is a consumer of Mahavitaran having (Consumer No. 490019006031) & (Consumer No. 490019006040). 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 25.07.2017.

The brief details of the complaint are as under.

The complainant submits that water requirement of Sillod city is being cater by pipeline laid from Khelna Dam at distance 7-8 KM from Sillod. The raw water pumped form Khelna Dam is brought to water treatment plant constructed near Sillod. After carrying out necessary treatment, the water is supplied to residents of Sillod City. The petitioner has taken 11 KV HT connection for its water pumping station situated at Khelna Dam in August 1994. The sanction contract dement is 105 KVA and connected load is 183 KW respectively with consumer No. 490019006031. The petitioner taken 11 KV HT connection for its water treatment plant in September 1994. The sanction contract demand 55 KVA and load 55 KW respectively with consumer No. 490019006040.

The electricity supply was given from 11 KV feeder emerging from 132 KV Sillod Sub Station. There was no bill dispute till the year 2009.

On the report submitted by the Flying Squad team, Respondent without giving any opportunity of hearing, arbitrarily changed the category of connection from HT non express to HT express and issued a huge amount of assessment bill.

It was told from respondent's office that the tariff difference of express and non express is debited as per inspection report of Flying Squad.

The petitioner submits that after release of connection in the year 1994, no demand was made by the petitioner for providing express feeder supply. The petitioner has not paid any amount for express feeder work and no any work has been carried out by petitioner under 1.3% supervision scheme. The petitioner has demanded copies of application, details of payment etc. made towards providing express feeder supply. Respondent intentionally avoided to handover any of the documents. Respondent issued notices for disconnection from 2009 to 2016 but no action was taken as there was no confirmation about status of express feeder from which supply has been given to both locations. The petitioner has paid part payment of Rs. 5.00 lakhs to avoid disconnection of electricity supply. After constant follow up, Respondent for the first time provided assessment details on 29.03.2017. No details about status of 11 KV feeder from which supply has been extended to pumping station and water treatment plant. The petitioner was forced to make payment of Rs. 22.00 lakhs on 15.06.2017. The petitioner also requested, respondent to issue revise bill and to give benefit of scheme declared by MSEDCL as per circular 283 dtd. 16.05.2017.

The petitioner submits that inspite of incurring heavy financial loss towards performing obligatory duty of providing water supply to residents of Sillod, the petitioner is ready to make payment subject to matter regarding status of express feeder is clarified and of benefit of interest and DPC amount waiver is given to the petitioner.

Petitioner prayed that, grievance may be allowed, respondent may directed to provide copy of application, detail estimate, details of amount paid and name & no. of consumers on same feeder. Respondent may direct to issue revise bill as per original tariff.

The petitioner submitted rejoinder on 22.08.2017 to reply filed by respondent on 08.08.2017. The Petitioner states that after the inspection on dtd. 09.07.2009, Respondent without giving any chance of hearing abruptly changed the tariff from non express to express feeder. Respondent for the first time, vide its letter dtd. 29.03.2017 provided the details of assessment to petitioner. The continuity of cause of action and herein the reply of respondent is incorrect and cannot be accepted. In case the grievance is not within the time limit then the recovery of amount is also time barred as per limitation act. The petitioner request forum to direct respondent to submit documents like

- 1) Name of feeder on which supply was released in the year 1994.
- 2) Name of feeder on which supply was transferred and date
- 3) Application of petitioner for transfer of load.
- 4) Estimate prepared for carrying out work of laying express feeder.

- 5) Payment receipt under 1.3 supervision charges.
- 6) Govt. / MERC notification, if any for converting water supply schemes in to express feeder.
- 7) Copy of agreement.

The documents are necessary to decide the grievance and same is in the custody of Respondent.

Complainant after receipt of reply from respondent dtd. 29.08.2017, 06.09.2017 and 11.09.2017 submitted rejoinder on dated 19.09.2017 and states that as directed by Forum, he submitted copy of RTGS receipt dtd. 15.09.2017 towards payment of monthly electricity bill for the month of August 2017. Respondent in its reply on dtd. 11.09.2017 submitted copy of MSEB Circular dtd. 10.06.1977 and shown his inability to produce old record but complainant pointed out that Respondent already submitted copy of commissioning report dtd. 03.09.1994 and additional load sanction letter dtd. 01.11.2004, which are of period beyond ten years.

The complainant further said that said circular regarding preservation of records discloses that any record regarding correspondence with HT consumer can be destroyed and that too subject to review. Respondent ought to preserve documents like payment receipts of security deposit, copy of sanction letter and agreement etc. It confirms that complainant has not submitted any application for express feeder nor executed any agreement nor paid any amount towards same to respondent.

Petitioner again requested to direct the respondent to produce documents asked on dtd. 22.08.2017 also but till date no documents received.

Petitioner submitted documents on dtd. 26.09.2017 like letter of Addl. EE, Sillod, EO Order 03.02.2010, Rep No. 146/2009, EO Mumbai order dtd. 11.12.2015 in Rep No. 86/2015 & MSEDCL Circular No. 88 dtd. 26.09.2008.

Petitioner again state that after inspection on dtd. 09-07-2009, respondent without giving any chance of hearing abruptly changed the tariff from non express to express feeder. Respondent for the first time, vide its letter dtd. 29.03.2017 provided the details of assessment to petitioner, hence the reply submitted by respondent is incorrect and cannot be accepted.

The respondent, in its reply dtd. 11.09.2017 submitted copy of MSEB circular dtd. 10.06.1977 & shown inability to produce old record beyond 10 years, but circular regarding preservation of records discloses that only record regarding correspondence with HT consumer can be destroyed and also subject to review documents like receipt of security deposit, copy of sanction letter & copy of agreement are important documents.

It discloses that petitioner has not submitted any application for express feeder nor executed any agreement nor paid any amount towards express feeder to respondent.

The petitioner requested forum to direct respondent to produce documents which are important but till date following documents not received.

- 1) Name of old and present 11 KV feeder has been provided to complainant.
- 2) Application of petitioner for change or category, copy of sanction letter, copy of payment receipt and copy of agreement etc.
- 3) Name of other consumers connected on the same feeder.
- 4) Government / MERC Notification, if any for converting water supply schemes in to express feeder without application of consumer.

Since respondent failed to submit above documents reply dtd. 18.09.2017 received from Addl. EE, Sillod discloses facts that Name of 11 KV feeder is water supply and there are 22 Nos. of HT and LT consumers on said 11 KV Feeder. Respondent declared that this feeder is express feeder.

The petitioner states that tariff orders passed by Hon'ble Commission since year 2006 and there is introduction of express & non express feeder category. Express feeder is defined as "feeder emanating from distribution licensee substation and ending at consumers premises or to contingency premises." The Commission in its tariff order dtd. 20.06.2008 clarified concept of express feeder as "only HT industries connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and given continuous supply while all other HT consumer will be deemed as HT non continuous."

MERC order dated 11.02.2003 (Case No. 24/2001) state that No retrospective recovery of arrears can be allowed on basis of abrupt reclassification of category even though the same might have been pointed out by Auditor.” No application was submitted by the petitioner for change in tariff category, further since 22 Nos. of HT & LT consumers are connected on same feeder and as per MERC directives cannot be defined as Express feeder , therefore bills issued on basis of Flying squad needs to be quashed and respondent directed to revise the bill.

Say of Executive Engineer, Nodal Officer, Aurangabad Rural Circle.

Executive Engineer, Nodal Officer, Aurangabad Rural Circle submits on dtd. 08.08.2017 that as per MERC (CGRF & Ombudsman Regulation) 2006 Clause No. 6.6, the above matter is not filed within the limitation of two years. Hence the complaint deserves to be dismissed. M/s. Chief Officer, Municipal council, Raw Water pumping station at Khelna Dam, Tq. Sillod, Dist. Aurangabad bearing consumer No. 490019006031 and 490019006040 are HT consumers fed from express feeder and having supply for 24 hrs.

As per spot inspection report of the Addl. EE, MSEDCL, Flying Squad, Rural Circle, Aurangabad, this office has communicated the consumer bearing No. 490019006031 regarding under billing vide letter No. SE/ARC/111/HT/5148 dtd. 05.11.2009 & letter No. SE/ARC/III/HT/5146 dtd. 05.11.2009 and requested consumer to pay the tariff difference bill amounting Rs. 22,71,284/- & Rs. 5,67,898/- respectively. Several reminder

letters from November 2009 to till 15.06.2017 are given. Aurangabad Rural Circle Office Letter No. SE/ARC/III/HT/2970 dtd. 29.06.2017 has communicated the details alongwith calculation sheet regarding tariff difference bills and requested to pay the same. Inspite of that consumer approached to CGRF Aurangabad. As on date payable amount of consumer No. 490019006031 is Rs. 72,96,870/- & consumer No. 490019006040 is Rs. 17,92,980/- respectively, hence complainant has misguided the Forum and wasted the time of Forum, hence liable for punishment. He submitted copies of above mentioned letters.

The Executive Engineer, Nodal Officer, Rural Circle, submitted additional reply on 29.08.2017 in response to applicant's rejoinder dtd. 22.08.2017. He states that as per spot inspection dated 09.07.2009 carried by Addl. Executive Engineer, MSEDCL, Flying Squad, Rural Circle, Aurangabad, the Superintending Engineer, Rural Circle, Aurangabad has issued a tariff difference bill to consumer No. 490019006031 and 490019006040 on dtd. 05.11.2009. From date of issue of tariff difference from 05.11.2009 the applicant did not raised any query regarding subject matter and suddenly on dtd 15.06.2017 requested to wave off the bill. Hence rejoinder submitted by applicant cannot be accepted. The documents desired by applicant as per his application Sr. No. 1, 2, 3 are enclosed like load sanction report dtd. 01.11.2004 & cost of estimate. It is seen that work is carried out in ORC Scheme. As matter is very old finding of document N. 4 to 7 needs period of one month. The consumer has not paid the current bill for month of July 2017.

The Executive Engineer, Nodal Officer, Rural Circle, Aurangabad submitted additional reply on 06.09.2017 and state that document desired by applicant at Sr. No. 1 to 7 are very old. The documents mentioned at Sr. No. 1 to 3 are already submitted. As per Government GR the documents beyond 7 years are need not to be presented, also document at Sr. No. 4 to 7 are not available with this office. As per MERC, CGRF and Ombudsman Regulation 2006, Clause NO. 6.6 the above mater is not files within the limit as of 2 years. Hence complaint deserves to be dismissed.

The Executive Engineer, Nodal Officer, Rural Circle, Aurangabad submitted rejoinder on dtd. 25.09.2017 in response of complainant rejoinder dtd. 19.09.2017 and submitted documents like

- 1) Name of old and present 11 KV feeder from which 11 KV supply has been provided – already given on 29.08.2017.
- 2) Application of petitioner for change category from non express to express feeder. – not found.
- 3) Copy of estimate sanction and amount paid by the complainant towards conversion of non express to express feeder – estimate copy submitted.
- 4) Copy of payment receipt under 1.3% supervision changes - copy of payment receipt submitted.
- 5) Copy of agreement executed for change in tariff category – Agreement copy attached.

- 6) No. & Name of consumer on 11 KV feeder before & after express feeder - letter of SDO, Sillod was given.
- 7) Total maximum load reached on 11 KV Feeder. Letter of SDO, Sillod was given.
- 8) Government / MERC notification if any, for converting water supply schemes in to express feeder - not found.

He again asked as per MERC, CGRF & Ombudsman Regulation 2006, Clause No. 6.6 the above matter is not filed within the limitation of two years, hence the complaint deserves to be dismissed.

Observations of the Consumer Grievance Redressal Forum.

- 1) M/s. Chief Officer, Municipal council, Raw Water Pumping Station, at Kehlina Dam, Tq. Sillod, Dist. Aurangabad bearing consumer No. 490019006031, connection was released in the year August 1994 with contract demand & connected load 75 KVA & 90 KW respectively. M/s. Chief Officer, Municipal Council, Water Treatment Plant Tq. Sillod, Dist. Aurangabad bearing consumer No. 490019006040, connection was released in September 1994 with contract demand and connected load 55 KVA and 55 KW respectively.
- 2) Superintending Engineer had sanctioned load enhancement of consumer No. 490019006031 of contract demand from 75 KVA to 105 KVA and connected load from 90 KW to 183 KW. While taking new connection or during load enhancement respondent not produce any papers showing consumer has demanded for express

feeder. In load enhancement sanction clause 14 state that there is power restriction and staggering holiday i.e. Friday will be observed.

- 3) Tariff dispute was raised during spot inspection report of Addl. Executive Engineer, MSEDCL, Flying Squad, Rural Circle, Aurangabad on dtd. 05.11.2009. Due to under billing as exist HT-IV (Non express) and consumer is HT IV (Express), Superintending Engineer issued bills for under billing (tariff difference) of Rs. 22,71,284/- and 5,67,893/- respectively of 490019006031 & 490019006040 consumers to Chief Municipal Council, Sillod on dtd. 05.11.2009 vide SE, Rural Circle, Aurangabad Lr. No. SE/ARC/III/5148 dtd. 05.11.2009 & Lr. No. SE/ARC/III/5146 dtd.05.11.2009. It encloses spot inspection report dtd. 09.07.2009 of consumer No. 490019006040.
- 4) Respondent has not submitted information of consumer present on 11 KV feeder at time connection or load enhancement but at present time submitted that total 22 Nos. consumer present on existing 11 KV water supply feeder emanating from 132 KV Sillod including above 2 nos. consumers, as per tariff order express feeder is defined as "Feeder emanating from Distribution Licensee and ending at consumers premises for contingency premises". It shows that at a time of releasing load enhancement or at a time of inspection by Flying Squad, feeder may not be express feeder.

- 5) Respondent given letter to complainant and asked to pay bills due to under billing (tariff difference) on dtd. 05.11.2009. Complainant has not replied of said bills and arrears shown continuously till 15.06.2017. It also shows that complainant had made part payment and also some intermediate energy bills are also not paid. Respondent's efforts are not sufficient to recover total arrears since 2009. Complainant not responded these bills & not raised any compliant also up to June 2017.

As per MERC, CGRF & Ombudsman Regulation 2006 Clause No. 6.6 as cause of action is in November 2009 and more than two years, it is not filed within (2) two years from date on which cause of action has arisen.

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