

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE AURANGABAD

Case No. CGRF/AZ/Aur/R/343/2011/23

Date of Filing 25.08.2011
Date of Decision 19.10.2011

M/s Mauli Cottex,
Gat No.129, Murma, MIDC, Tq.Paithan.
Dist. Aurangabad.
(Consumer No. 494170594838)

Complainant

V/s
The Superintending Engineer,
Rural Circle, M.S.E.D.C.L.,
Mill Corner, Aurangabad.

Claim: - Grievance against non refund of infrastructure cost
incurred by complainant.

CORAM

Shri V.B.Mantri	Chairperson
Shri V.S.Kabra	Member
Shri Mohd.Quamarudin	Tech.Member

JUDGEMENT

01. The complainant has putforth his grievance against non refund of infrastructure costs incurred by him towards erection of 100 KVA capacity transformer and HT line of 0.6 KM length for obtaining L.T. connection to his factory.
02. The case of the complainant in brief is that, the complainant had applied for L.T. power connection of 45 HP to MSEDCL. The MSEDCL had issued technical sanction letter bearing No. SE/ARC/1.3% Normative/2008-09/ 74, dated 23.10.2008. The said work includes erection of 100 KVA transformer and HT line of 0.6 KM. As per sanction letter, complainant was required to procure and erect 100 KVA Capacity Transformer and HT line of 0.6 KM length for obtaining LT connection to his factory.

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03. It is the case and grievance of the complainant that, the complainant had procured all the material as per MSEDCL specification and carried out the work and obtained permission from Govt. Electrical Inspector electricity for commissioning of installation. It was verbally told to the complainant by MSEDCL authorities that, the amount spent by the complainant, towards the said material, will be refunded through the monthly bills on the basis of MSEDCL Circulars and MERC directives. The MSEDCL has not refunded the amount as yet. As per directives of MERC, Distribution License is not authorized to collect any charges other than approved by the commission. The Chief Engineer(Commercial) has also directed, the procedure of refund of costs incurred by consumer towards infrastructure development. The complainant therefore prayed that, the MSEDCL, be directed to submit amount spent by complainant on development of infrastructure and the said amount be directed to be refunded.
04. In response to the notice issued to the Distribution Licensee, the Nodal Officer has appeared and submitted reply on 13.09.2011. The Nodal Officer contested the complainant mainly on the ground that, so called grievance is not within subject matter jurisdiction of this Forum. It is contended by the Nodal Officer that, the complainant is not entitled for any refund of amount. He is not entitled to claim any interest as claimed. The complainant's grievance is not grievance as defined in Maharashtra Electricity Regulatory Commission Regulation 2006. This Forum has therefore no subject matter jurisdiction to entertain the complaint. The complaint may be therefore dismissed.
05. Considering the nature of complaint and reply filed by the D.L. this Forum proceeded to frame points in controversy. The D.L. has then filed an application requesting this Forum to treat the issue of jurisdiction as preliminary issue and decide it as preliminary issue. The complainant had no objection for treating and deciding the issue of jurisdiction as preliminary issue
06. The members of the Forum heard submissions of parties on the point of jurisdiction, Mr. Kapadiya, the representative of the complainant argued for complainant. Smt. K.C. Talele argued for D.L. Considering submissions of the parties, considering documents, circulars and relevant provisions, this Forum proceed to decide the issue as follows for the reasons given below:

ISSUE

FINDINGS

Whether this Forum has subject matter jurisdiction to entertain the complaint.

NO

WHAT ORDER

AS FOLLOWS

REASONS

07. The complainant is claiming refund of infrastructure costs incurred by him for erection of 100 KVA Capacity Transformer and HT line of 0.6 KM length for obtaining LT connection to his factory. As per the contents of complaint para No.4, the MSEDCL authorities verbally told to the complainant, that, the amount spent by the complainant towards material will be refunded through monthly bills, on the basis of MSEDCL Circulars and MERC directives. As per the contents of para No.2 of the complaint, MSEDCL issued technical sanction by letter dated 23.10.2008. Reliance has been placed by Mr. Kapadiya on Circular No. CE/Dist./D-III/MERC/34307, dated 03.09.2007.
08. The said Circular No.34307 appeared to be regarding directives to refund of Meter costs. The Circular is not regarding refund of infrastructure costs. The said circular is as such of no use to help the grievance of the complainant.
09. The next reliance of Mr. Kapadiya is up on representation No.106/2011 before Electricity Ombudsman judgment and case No.82/2006 decided by MERC. He then relied up orders passed by this Forum but non of the above are regarding on the point of refund of infrastructure costs or regarding jurisdiction of this Forum. The Nodal Officer on the other hand has relied upon the judgment of Bombay High Court in Writ Petition No.2032/2011. The said judgment is directly up on the issue of jurisdiction of this Forum and as such it is binding upon this Forum. The Hon'ble Bombay High Court ruled that, the grievance of the complainant should be grievance as is defined u/s 2© of Maharashtra Electricity Regulatory Commission Regulation 2006, in order to assume jurisdiction by this Forum. The representative of the complainant argued that, the said judgment is not applicable to this case, but failed to explain as to how it is not applicable to this case. We the members of this Forum therefore do not agree with the submissions of Mr. Kapadiya on this point.

10. Mr. Kapadiya then relied up on the Circular No. Dist/D-III/refund/Circular No.39206, dated 21.12.2009 and argued that, as per said circular, the complainant is entitled for refund of infrastructure costs.

As per contention of the complainant himself erection work was carried out on the basis of technical sanction letter dated 23.10.2008. It is therefore obvious that circular No.39206 dated 21.12.2009 was not in existence when infrastructure cost was incurred by complainant in the year 2008. It can not be thereby said that there was any fault, or imperfection, or shortcoming in performance, which has been undertaken by the MSEDCL, so as to cover the present dispute or Grievance within scope or ambit of "Grievance" as is defined u/s 2 © of the Maharashtra Electricity Regulatory Commission Regulation 2006. We the members of this Forum is of the opinion that, the complaint of the complainant is not "Grievance" as is defined under regulation 2006 and therefore this Forum has no subject matter jurisdiction to entertain the complaint. The complaint of the complainant should be therefore returned if requested for, in order to present it to the proper Forum/Court/ if required. The complaint can not be entertainable by this Forum for want of jurisdiction. This Forum therefore proceed to pass following order.

ORDER

01. The complaint is not tenable for want of subject matter jurisdiction.
02. No costs.

(V.S .Kabra)
Member

(Mohd. Qamaruddin)
Member/Secretary

(V.B. Mantri)
Chairperson