

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.

Case No. CGRF /AZ/R/485/2014/06

Date of Admission 18/01/2014

Date of Decision 07/04/2014

1. Nath Pulp and Paper Mills Ltd. COMPLAINANT.
Nath House ,
Paithan Road,
AURANGABAD.

VERSUS.

2. Executive Engineer,(Adm.) RESPONDENT.
Nodal Officer,
O&M Rural Circle,
MSEDCL, AURANGABAD.

CORAM:

Shri S.K.Narwade Member/Secretary

Shri V.S.Kabra Member.

REDRESSAL - DECISION

The petitioner is engaged in manufacturing and marketing of industrial grades of paper. The petitioner is a declared Sick Industrial Company within the meaning of Sick Industrial Companies Special Provision Act, 1985 (Copy of the order dated 09.11.2001 passed by Honorable Board for Industrial and Financial Reconstruction (BIFR)

The petitioner is being supplied electricity from the 132 KV sub station at Paithan. The petitioner is being charged energy charges at a rate applicable to a continuous industry on express feeder.

In view of frequent interruption in power supply, the petitioner made an application to the Superintending Engineer, Rural Circle, Aurangabad seeking change of petitioner's tariff category from continuous to non continuous industry and levy of energy charges as applicable at the relevant time in pursuance of Tariff Order dated 31.05.2008 effective June 1, 2008 passed by the Honorable Maharashtra Electricity Regulatory Commission (MERC).

The respondent Superintending Engineer, Rural Circle, Aurangabad vide letter dated 23.05.2012 did not take cognizance of petitioner's request.

The Order dated 12.09.2008 in case no.44 of 2008, Hon'ble MERC has clarified that only HT industries on express feeders and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT Industrial Consumer will be deemed HT non continuous industry. It is abundantly clear from the aforesaid clarification that continuous power supply is a subjective matter, in as much as it is required to be demanded by the consumer to be able to get uninterrupted power supply.

The petitioner has made an application for non continuous supply so as to be classified as non continuous industry. However, no action was taken on petitioner's application by the respondent and it continued to charge energy charges applicable to continuous industry. That again in pursuance of Tariff Order passed by Hon'ble MERC (Order dated August 1, 2012, petitioner made an application to the Superintending Engineer, Rural Circle, MSEDCL, inter – alia seeking change of tariff category from continuous to non continuous supply.

While taking cognizance of the application, MSEDCL (Respondent) had directed the petitioner to make certain structural changes in its existing set up for power supply to be to able to insulate itself from the main supply line and get supply on non continuous basis and at the same time pay, 1.3% of the normative charges to the respondent towards supervision charges. The alternative suggested by respondent MSEDCL involved a substantial capital investment.

The petitioner submitted that, it is a Sick Industrial Unit (BIFR) under the provisions of Sick Industrial Companies (Special Provisions) Act 1985 and considering its financial health. Considering the financial health of the petitioner, it is beyond its limited resources to incur any capital expenditure at this juncture.

Being aggrieved by the excess levy of energy charges covering the period June 2008 to till date, petitioner is filing this grievance with this Honorable Forum to seek justice/relief. The complainant prayed that, respondent MSEDCL may be directed to reclassify the petitioner under non continuous industry effective June 2008 and revise the excess energy charges charged from 01.06.2008 to till date and refund / adjust the excess amount energy charges charged along with interest thereon under section 62 (6) of Electricity Act, 2003.

The respondent MSEDCL submitted that, the main grievance of complainant in his complaint is basically changing his category from continuous to non continuous since June-2008. In this respect it is submitted that as per consumers request his tariff category was changed from non continuous to continuous vide this office letter No. 4958 date 01.10.2007 and necessary refund was also provided to consumer. The complainant then applied for non continuous tariff on 03/05/2012. The respondent Superintending Engineer Aurangabad has informed to complainant by letter no.3090 dt.23/05/2012, to shift power supply to non continuous feeder by making changes into existing power supply set up and such work will execute into 1.3 normative charges. The copy said is submitted by complainant himself.

The present complainant had filed representation before Hon'ble Ombudsman case No. 99/2013.

In this representation the complainant had challenged order passed by Hon'ble CGRF dtd. 04.06.2013. In the representation the one of the prayer of the consumer is "Respondent may kindly be directed to revise

the excess energy charges charged during the period 01.06.2008 to till date and refund/adjust the excess amount energy charges meaning thereby is wishing for change of tariff category from continuous to non continuous.

The respondent MSEDCL submitted before ombudsman in reply that, the consumer made an application to this office for change of category on 23.10.2012. In this complaint the consumer contained that he has made an application for change of category on date May 02, 2012, while in representation before ombudsman he has referred his request letter date 23.10.12.

The subject matter of present complaint is already filed before the Hon'ble Ombudsman in representation no.99/2013 filed by the complainant. The complainant is merely repeating the contentions by putting them in different language unnecessary engaging in litigations? The respondent during the hearing on 18/03/2014 submitted the order passed by Ombudsman Nagpur in this matter. The Ombudsman Nagpur dismissed complaint with no cost vide the order issued on 26/02/2014. The copy of said order is placed before forum by respondent.

The complainant in this complaint has alleged that despite of continuous supply he was facing frequent interruption in power supply and on these novel conditions he has filed this complaint before the forum pending representation before Hon'ble ombudsman of same subject matter.

The interruptions and tripping as alleged by the complainant are due to unavoidable circumstances, natural causes or any other causes which are beyond control of distribution license. Further another reason for interruption attributed to MSETCL is also, as per ISO guidelines it is mandatory to MSETCL to carry out periodic maintenance of equipments i.e. Power Transformer, HV-LV bays, outgoing feeders, bays etc. of this prior notice is always given to consumers by publishing the same in news papers as well as on personal. Some interruptions are due

to failure of CTPT unit of consumers / EHV sub stations and due to snapping of conductors, due to bird fault/heavy rain/lightning strokes/storms beyond the control of MSEDCL.

The respondent submitted that, the claim of petitioner is not sustainable in view of 17 (1), (2) & (3) of MERC supply code regulation 2005 and also the Agreement made between MSEDCL and consumers at the time of giving supply].

The respondent MSEDCL therefore submitted that, the complaint of is devoid of any merits and liable to be dismissed with cost as the consumer is repeating the same cause before honorable forum.

The Forum heard both complainant and respondent and also seen the documents placed before the Forum by both the parties.

The respondent has conveyed the complainant to submit N.O.C. for non continuous tariff from other consumers those are connected on same express feeder. However the complainant not is reluctant to do so.

The respondent has also informed the complainant that, for application of non continuous tariff to individual unit infrastructural change is required for separation of other consumers from the feeder, for which applicant has to make required infrastructure by paying 1.3 normative charges. The appellant has not shown readiness to bear expenditure for infrastructural changes since their industry is sick unit.

The complainant has previously also filed the same grievance before this Forum and this Forum has dismissed the complaint. The complainant has then filed an appeal against the decision of Forum before Electricity Ombudsman, Nagpur. The matter of present complaint and appeal before Ombudsman is same i.e. for change of tariff from continuous to non-continuous. The complainant has filed the present complaint before this forum prior disposal of the appeal by Electricity Ombudsman. The Ombudsman passed his order and upholds the decision of Forum and the appeal is dismissed. The copy said is placed before forum by respondent during hearing.

Therefore considering all the above aspects, the order dated 26.02.2014 passed by Ombudsman, Nagpur. The present complaint filed by the complainant is liable to be dismissed.

ORDER

The complaint is dismissed with no cost.

(S.K.Narwade.)
Member/Secretary

Shri V.C.Kabra member of the forum has given differ opinion and shall form part of order as per MERC (CGRF and Electricity ombudsman) Reg.2006 8.4

I S.K.Narwade member /secretary pass the following order by casting vote of Chairperson since the post is vacant; as per provision of MERC (CGRF and Electricity ombudsman) Reg.2006 4.1 & 8.1.

The complaint is dismissed with no cost.

(S.K.Narwade.)
Chairperson &
Member/Secretary

