

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM  
AURANGABAD ZONE, AURANGABAD.

Case No. CGRF /AZ/R/488/2014/09

Date of Admission 27/01/2014

Date of Decision 25/03/2014

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 a Company registered under the provisions of Companies Act, 1956; having its registered office at Aurangabad and its paper plant at Wahegaon, Taluka Paithan, Dist. Aurangabad and engaged in manufacturing and marketing of industrial grades of paper.

The Honorable Board for industrial and Financial Reconstruction (BIFR) had declared the petitioner as a sick industrial unit in terms of

section 3 of Sick Industrial Companies Special Provisions Act, 1985 pursuant to a complete erosion of Petitioner's net worth. The reliefs sought in DRS from MSEDCL and subsequently approved by Hon'ble BIFR were as under:

(i) To consider exemption of the Company from electricity duty for the period of rehabilitation and to waive the Delayed Payment Charges (DPC) and interest levied on the delayed payment of electricity bills from July 1996, being the year in which Company had incurred cash loss, till the cutoff date and refund the amount of DPC, interest paid, tax on sale of electricity since paid

(ii) To supply uninterrupted power without any power cuts during the rehabilitation period

The Honorable BIFR approved / sanctioned the scheme vide its order dated 28.09.2010 and was circulated on 14.02.2012.

In pursuance of Honorable BIFR's order, the petitioner submitted an application to the Superintending Engineer, Rural Circle, MSEDCL, Aurangabad on 10<sup>th</sup> March-2011, seeking refund of DPC and interest paid on the Electricity Bills from the date of declaration of the petitioner as a Sick company to the cutoff date being 31.03.2010, amounting to Rs.87,22,837/-.

The Superintending Engineer, Rural Circle, Aurangabad submitted letter No.2723 dated 27.05.2011 along with a statement of refund duly audited by the Audit Dept. of MSEDCL to the Chief Engineer, Aurangabad Zone for further action. That despite continuous and rigorous follow up by the petitioner, the Respondent did not take a decision.

Considering the inordinate delay in resolving the matter under reference, the petitioner filed a petition with the Executive Engineer, Internal Grievance Redressal Cell (IGRC) seeking refund of the DPC and interest paid by the petitioner. The IGRC has not given the petitioner a hearing in spite of continuous follow up.

Being aggrieved by the inaction on the part of IGRC on petitioner's complaint and since sixty days have expired since the date of filing the application to IGRC, the petitioner has filed the complaint before the Forum in the interest of justice.

The complainant prayed that, the respondent may be directed to refund the DPC and interest to the petitioner amounting Rs.73,87,185 and Rs.13,25,078 (verified / audited by MSEDCL) towards DPC and interest respectively, along with interest u/s 62 (6) of the Electricity Act 2003 without further delay.

The respondent in reply submitted that, the complainant has filed this complaint for getting refund of DPC and interest paid on electricity bills from the date of declaration of the complainants company as a seek company to the cutoff date being 31.10.2010.

That basically in this complaint the complainant seeks compliance of the order passed by Hon'ble BIFR.

The MAHARASHTRA STATE ELECTRICITY REGULATORY COMMISSION (Consumer grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 defines the term grievance means any fault, in perfection, short coming or inadequacy in the quality, nature and manner of performance which has been under taken to be performed by a distribution licensee in pursuance of license, contract, agreement or under the electricity supply code or in relation to standard of performance of distribution licensee as specified by the commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and (b) grievances in respect of non compliance of any order of the commission or any action to be taken in pursuance there of which are within the jurisdiction of the forum or ombudsman, as the case may be". A consumer grievance contemplated under the regulation is basically a complaint about fault or inadequacy in quality of performance of Electricity Dist.Co.

In this complaint there is no grievance that performance of Electricity Distribution Company as a Distribution Licensee is imperfect or otherwise. The grievance of the complainant is in respect of compliance of BIFR order, a statutory authority.

Therefore, respondent submitted that, by no stretch of imagination the grievance of the complainant will be covered by the definition of term “grievance” as defined in MERC consumer grievance redressal forum and Electricity Ombudsman Regulation 2006 in definition clause 2 ( C ).

In support of the contention the respondent MSEDCL the order passed by Hon’ble High Court Bench Aurangabad in writ petition No.2032/2011 (MSEDCL V/s M/s Kaigaon Paper Mill) is placed before forum.

Therefore considering the above mentioned submission and in view of judgment passed by Honorable High Court Bench Aurangabad writ petition No.2032/2011, it is prayed before the forum that the complaint should be dismissed as it does not comes within the purview of definition of grievance.

The Forum heard both the parties and pursued with the documents placed before the Forum. The respondent submitted that the Forum has no jurisdiction regarding non-compliance of the order passed by BIFR since BIFR is a statutory authority. The Forum also seen the order passed by Hon’ble High Court Bench Aurangabad in Writ Petition No.2032/2011, MSEDCL V/s Kaigaon Paper Mill, in relevance with the said order the complaint does not fall under definition of grievance. The complaint is regarding non-compliance of BIFR order. The grievance of complainant is not related with performance of the Electricity Distribution Company. Considering the above ground, the Forum is in the opinion that the complaint is to be dismissed and complainant may file the appeal before appropriate appellate authority against non compliance of order of BIFR, being BIFR is a statutory authority/commission. Therefore the Forum proceeds to pass following order.

**ORDER**

The complaint is dismissed with no cost.

( S.K.Narwade. )  
Chairperson &

( V.S. Kabra. )

Member/Secretary

Member