

(A Govt. of Maharashtra Undertaking)
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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 579,580 & 581

Hearing Dt. 7/04/2015

In the matter of Change of Tariff

M/s. Balaji Builders and Developers - Applicant

Vs.

M.S.E.D.C.L., Thane. - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil Bavthankar, Chairman, CGRF, Bhandup
- 2) Shri. S. B. Bhalshankar, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Applicant

- 1) Shri. B.R. Mantri - Consumer

C - On behalf of Respondent No. 1

- 1) Shri. D. M. Jadhav, Dy, LO, Thane Urban Circle.

Order (passed on 13/05/2015)

1. Above named consumer has filed this complaint review application against Respondent utility alleging that M/s. Balaji Builders and Developers situated 125/1,Kapurbavdi junction, Thane having Ht connection consumer No.

1902690 they applied for new connection without specific request of continues supply MSEDCL as sanction the same on continues basis connection which was release on 24.12.2010 MSEDCL issued Monthly energy bill as per the tariff code HT II E(continues supply instated of HT II N) non continuous supply against the said bill the dispute was raised by consumer before the IGRC on 27/04/2014. The IGRC, Nodal Officer heard the matter on 11/04/2014 and pass order in the said matter corporate office consider the tariff code HT II express and HT II N non continuous supply and already refund of excess amount charged due to wrongly charged of tariff code with interest to the consumer as per public decision taken by MSEDCL consumer No. 000019026690, 000019026680 & 000019026670 Rejected on account of policy decision on MSEDCL being aggrieved by the said order of Nodal Officer this complaint was made by consumer to this Forum on dated 03/02/2015.

2. After receiving the said complaint notice was issued to the respondent utility. The utility appeared and filed reply on 07/6/2014. It is contention of respondent utility that in earlier complaint No. 541, 542, 543 the order passed by CGRF, Bhandup was already complied with. Being unsatisfied with the said order, an appeal was filed before MERC (No. 213 of 2014). MERC heard the said issue and passed an order on 14/08/2015.
3. It is contention of responded utility in previous application that M/s. Balaji Builders and Developers did not apply for refund of tariff difference, but the same was already given from continuous to non-continuous supply along with and change of tariff code in case Nos. 541, 542, 543. Thus the consumer cannot raise the dispute now claiming difference in the charge of

tariff for non continuous supply since date of connection. Multiple litigations on the same cause of action cannot be entertained as consumer is required to raise action against all grievances in the same litigation. Therefore no new cause of action is available to the consumer in this matter. As per

MERC supply Regulation on 2014

4. Change of name and change of tariff category

4.13 The Distribution Licensee shall intimate the charges to be borne by an applicant for change of name and change of tariff category within seven (7) days of receipt of an application in this regard and shall give effect to it within the following time limits :—

(a) change of name shall be effected within the second billing cycle on receipt of an application and payment of necessary charges.

(b) change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges.

5. The consumer is already given benefit for change of tariff. It is done from second billing cycle from the date of consumer application as per Rule No. 6.7 MERC and (CGRF & Ombudsman Rule) **Disconnection of supply**

6.7 On expiry of 30 days notice from receipt of an application for termination by consumer, in accordance with the MERC Supply Code Regulations, 005 amended from time to time, the Distribution Licensee shall disconnect the supply within three (3) days in Class-I cities, within seven (7) days in Urban Areas and within ten (10) days in Rural Areas. CGRF Cannot entertain the dispute which is already decided by Forum and MERC. Therefore the consumer complaint nos. 579, 580 & 581 may be dismissed with cost.

6. The respondent utility relied on the notice issued by MERC in case 213/2014 dated 16.03.2015. The next date is scheduled on 14/05/2015 and the matter is subjudged in MERC. The consumer filed copy of sanction order dated 30.07.2010 and bill issued to consumer dated 11/12/2014.
7. An opportunity was given to the consumer and respondent utility to file the document. Arguments of both the sides were heard. It appeared that consumer raised the dispute claiming difference of amount due to change of tariff from HT E of HT non express feeder from the date of connection and excess amount is claimed in separate litigation by way of filing this complaint.
8. We have considered the issue raised by consumer in this complaint. It appears that application in earlier litigation which was considered by this Forum for change of tariff category from HT II E to HT N with effect from next billing cycle. Earlier at any point of time consumer had not prayed for the change the tariff from the date of connection 2010. The consumer enjoyed power supply from the express feeder till the application of change of category of tariff made by him.
9. The supply was sanctioned to the multiplex vide an order dated 30/009/2010 on ordinary feeder. But the said supply actually was received by the consumer through express feeder till he made an application for change of tariff supply on non-continuous feeder and which is already considered by respondent utility and charges collected for the express feeder were refunded with interest for the particular period as per order.

10. Taking advantage of order passed by this Forum, the complainant again lodged a complaint on same cause of action, which not tenable. Also the consumer has already taken the benefit of supply through express feeder till he made application and therefore question of granting relief from the date of connection does not arise. To our view, the consumer should have claimed all the benefits and the cause of action in the same litigation. The consumer has already exercised the right in earlier litigation filed by him. Therefore now the consumer is not entitled to raise the dispute on the same cause of action.
11. Secondly respondent utility has rightly brought to the notice of this Forum that as per MERC SOP Regulation 2014 which permitted the authority to the change tariff category and the difference referred in the schedule is available from second billing cycle on the receipt of application and on payment of necessary charges. In view of said provision the consumer is not entitled to the relief of difference due to change of category from express to non-express feeder and continuous to non-continuous supply from the date of connection. This relief cannot be granted to consumer. We also find that the consumer is not justified in making application against the same of cause action as the consumer is now estopped by the principle of estoppel under 115 CPC. All the relief should have claimed in the same cause of action. Also it appears that the consumer was availing of the benefit of receiving supply from the express feeder from the date of connection. Therefore now he cannot claim any refund from the responded utility. Therefore consumer Case deserves to be dismissed with cost. Hence we proceed to pass following order.

ORDER

1. The consumer complaint No. 579, 580 & 581 stands dismissed.
2. Both the parties be informed accordingly.

Proceedings closed.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

1) If Consumer is not satisfied with the decision, he may file representative within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP

S.B.BHALSHANKAR
MEMBER SECRETARY
CGRF, BHANDUP