

**Consumer Grievance Redressal Forum
Maharashtra State Electricity Distribution Co. Ltd.
Bhandup Urban Zone, Bhandup**

Ref. No. Member Secretary/MSEDCL/CGRF/BNDUZ/

Date :

Case No. 437

Hearing Dt. 25/04/2012

In the matter of Refund of Estimated Cost

M/s. Everest Nivara - Applicant

Vs.

MSEDCL, Vashi - Opponent

Present during the hearing

A] - On behalf of CGRF, Bhandup

- 1) Shri S.K. Chaudhari, Chairman, CGRF Bhandup
- 2) Shri R.M Chavan, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B] - On behalf of Applicant

- 1) Shri Suraj Chakraborty – Consumer Representative

C] - On behalf of Opponent

- 1) Shri C.R. Mishra, Ex. Engr., Washi.
- 2) Shri Hannawar, Jr. Law Officer.

The Consumer M/s. Everest Nivara has filed this complaint before us for getting refund of cost of Infrastructure amounting to ` 76,18,062/- along with interest.

It is Grievance of the consumer that:

- 1) The utility has sanctioned LT Connection under DDF Scheme to the consumer suo-moto, without any such request or application from the consumer.
- 2) Though MSEDCL has sanctioned DDF Scheme, MSEDCL has given connections to many other consumers from this distribution system.
- 3) Though the consumer has executed all infrastructure work out of its own funds, as per instructions of MSEDCL on making payment of processing charges, it is obligation & responsibility of MSEDCL to refund the cost of infrastructure to the consumer.
- 4) MSEDCL has misrepresented that Hon'ble Supreme Court has granted "Status Quo" in the matter of refund of ORC charges. In fact the Hon'ble Supreme Court has directed to refund the infrastructure cost to the consumer if the same was spent from pocket of the consumers.

The consumer has filed various circulars & orders of Hon'ble Supreme Court, Electricity Ombudsman and MERC to support his claim.

The utility filed its say, raising following points :

- 1) Since the consumer is demanding refund of the amount (which was paid on 19/07/2008) after more than 3 years, the Complaint is barred by limitation.
- 2) The consumer had voluntarily accepted execution of work under DDF scheme, which is exempted to be refunded from the ambit of MERC order.
- 3) Hon'ble Supreme Court has granted stay to the order of MERC.

4) As per MSEDCL circular no. CE (Dist)/D-III/Circular/22197, dtd. 20/05/08, non domestic LT consumers with load 500 kVA and above are required to be considered under DDF scheme. The consumer vide authority letter dtd. 07/04/2008 had agreed to execute the work under DDF as per sanctioned estimate and also paid 1.3% supervision charges which amounted to ₹ 99,050/-

5) MERC Regulations (3.3) has authorized distribution licensee to recover all expenses reasonably incurred in providing electric line or plant or laying down service line from the distribution mains to his premises.

6) MSEDCL has not given supply to any other consumer and the supply from consumer's transformer is exclusively for himself.

l) Now the question to be decided before us is :

Whether the consumer is entitled to refund of infrastructure cost?

We answer the question negatively for the reasons afore-stated

We have gone through the documents filed by both the parties

Our observations are as follows :

1) The claim of consumer that vide circular no. D-III/Circular/22197, dtd. 20/05/2008 of Chief Engineer, the MSEDCL is liable to refund the expenditure of infrastructure cost through energy bills is a clear misconception. The said circular (filed by consumer) has stated as :

“If the consumer/group of consumers wants early connections and opts to execute the work and bears the cost of infrastructure then the refund of the cost of infrastructure will be given by way of adjustment through energy bills

While releasing load in complex/s and where DTC is required to be established in that complex, the provision for land to accommodate DTC shall be made available by the developers from the space earmarked for amenities and public utilities be made available to MSEDCL on non chargeable basis by developer/owners.

The consumer will have option to

- *Get the connection as Dedicated Distribution Facility (DDF) and bear all the expenditure. The line will remain dedicated to the consumers in future or*
- *Get the connection on non Dedicated Distribution Facility (DDF) basis and bear the expenditure on creation of infrastructure (except the cost of land) which will be refunded to the consumer/s through the energy bills. In this case the infrastructure will not remain dedicated.*
- *Generally, the loads of 500 kVA and above are availed to cater to the exclusive requirement of complex in the form of Dedicated Networks to such complex and in most of the cases the infrastructure including the transformer, lines and other allied equipments are required to be installed in the developer's premises itself and remains for the exclusive use of the complex. Therefore, the developer or the group of consumers shall be connections as Dedicated Distribution facility (DDF) which will not include the cost setting up or augmentation of 33/11 or 22/11 kV sub-station. The line will remain dedicated to the consumer in future.*
- *If the complex load is 3 mVA or more, then 33/11 kV S/stn. Or 22/11 kV shall be established to cater such load, in the complex. However, the cost of substation or associated facility shall be on account of MSEDCL. The provision for land to accommodate substation shall be made available by the developers from he space earmarked for amenities and public utilities on none chargeable basis. In this case because MSEDCL incurs expenditure on the construction of the substation and*

lines, MSEDCL will be at liberty to provide power supply from that substation/lines to other consumers.

- *But the developer can choose to construct the substation as Dedicated Distribution Facility and bear all expenditure if he wants that substation to remain dedicated to that complex only. In that case, the substation shall remain dedicated to that complex in future and no connections from that substation shall be released to other consumers.*

The simple reading of the above thus indicate for group of LT consumers in non domestic, residential complex where the load is equal to or more than 500 kVA, the developer or the group of consumer shall be given connection as Dedicate Distribution Facility (DDF) which will not include the cost of setting up or augmentation of 33/11 or 22/11 substation. The line will remain dedicated to the consumer in future.

If the complex load is 3 mVA or more, then 33/11 kV substation or 22/11 kV shall be established in that complex.

However, the cost of substation or associated facility shall be on account of MSEDCL. The circular further states as :

“The developer can choose to construct the substation as DDF and bear all expenditure if he wants that substation to remain dedicated to that complex only.”

Thus, if the substation is to remain dedicated to the complex, MSEDCL is not supposed to refund such expenditure when it is not proved that other consumer are also getting supply from the same substation.

In the letter of MSEDCL dtd. 20/05/2008, no. SE/VC/Tech/2943, it is mentioned clearly that 1.3% (` 99,050/-) supervision charges are to be paid on non-refundable basis instead estimated cost (` 76,18,062/-).

Since the consumer has paid the charges to MSEDCL acting upon this said letter, the action of the consumer shows that he had accepted the terms and conditions of this letter.

Therefore, now he cannot be allowed to rescind .

The consumer vide its letter dtd. 20/09/2011 has clearly admitted that the work was done as per DDF scheme. It shows the approval of consumer for DDF scheme. Thus to conclude, we are of the opinion that

- 1) Consumer had opted for DDF scheme & payment of 1.3% supervision charges.
- 2) There is nothing on record to show that other consumers are given supply from same substation.
- 3) Consumer is not entitled to get refund of infrastructure cost.

We are disposing off this complaint with following order :

ORDER

- 1) Complaint no. 437 stands dismissed
- 2) No order as to the cost.

Both the parties be informed accordingly.

The order is issued under the seal of consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup on 19th July 2012.

Note : 1) If Consumer is not satisfied with the decision, he may go in appeal 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 proceed before the Hon. High Court within 60 days from receipt of the order.

DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP

S. K. CHOUDHARY
CHAIRMAN
CGRF, BHANDUP

R.M. CHAVAN
MEMBER SECRETARY
CGRF, BHANDUP