

**CONSUMER GRIEVANCE REDRESSAL FORUM**  
(Established under the section 42 (5) of the Electricity Act, 2003)  
**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.**  
**JALGAON ZONE**

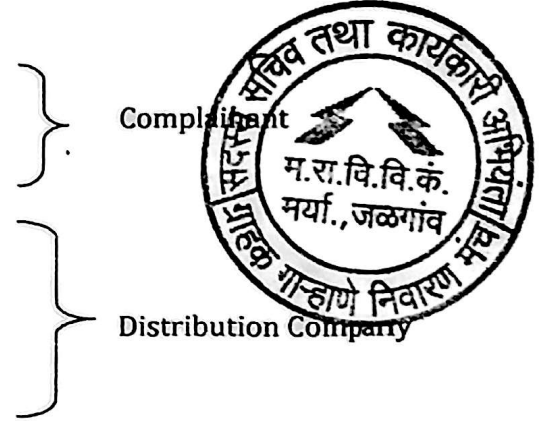
**Office of the  
Consumer Grievance Redressal Forum  
AjanthaChauphuli , Old M.I.D.C.  
Jalgaon 425 003**

No. / CGRF /JLGZ/DHL Circle/DHL U Dn/C.No.14-2016-17 / 060006 Date: 21 JAN 2017  
(BY R.P.A.D.)

**Date of Submission of the case : 22/11/2016  
Date of Decision : 20/01/2017**

To.

- 1) M/s Power Control,  
W-19,MIDC, Avadhan,  
Dhule, Tal-Dist-Dhule.  
(Consumer No. 080018800423)
- 2) Executive Engineer & Nodal Officer ,  
Maharashtra State Electricity Distribution Co LTD.  
Circle office, Dhule.
- 3) Executive Engineer ,  
Maharashtra State Electricity Distribution Com. Ltd.  
Division office, Dhule Urban.



**DECISION**

M/s Power Control, W-19,MIDC, Avadhan, Dhule is LT consumer ( hereafter referred as the Complainant) of the Maharashtra State Electricity Distribution Company Ltd. ( hereafter referred as the Distribution Company ) has filed a complaint regarding disconnection of supply to the unit at Dhule and bill dated 05/03/2012 stating the action as illegal, and malicious. The complainant has filed a representation to the Forum against the order passed by the Internal Grievance Redressal Cell (IGRC) , MSEDCL, Dhule Circle Office. The representation in Schedule "A" is registered at inward no. 101 on 22.11.2016.

It was decided to admit this case for hearing after consulting the Forum . The matter was fixed for hearing on 09/12/2016 at 12.00 p.m. in the CGRF Office, Jalgaon and a notice to that effect was sent to the complainant and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Circle Office , Dhule for submitting para wise comments to the Forum on the grievance within 15 days under intimation to the consumer. The copy of this notice was also endorsed to the Superintending Engineer, Circle Office , Dhule and Executive Engineer ,Dhule Urban Division. The complainant attended the scheduled hearing at Jalgaon but no body appeared on behalf of the Distribution Company. The Nodal Officer , Circle Office ,Dhule requested the Forum to postpone the date by 15 days for getting sufficient time to submit the reply. The Forum in consultation with the complainant agreed to postpone the hearing and rescheduled it on 26/12/2016 at 11.30 a.m. in the CGRF Office, Nashik.

Shri V.M.Shinde, Nodal officer & Executive Engineer, Circle Office , Dhule, & Shri Jayant Patil Add. Executive Engineer, Dhule Rural Division, represented the Distribution Company during the hearing. Shree Nathu Gangadhar Rambhad & Satish Halmare, Accountant, represented by the complainant.

## Consumer's Representation in Brief :

1. M/s POWER CONTROLS, is a proprietary concern of Nathu Gangadhar Rambhad at W-19, M.I.D.C., AVADHAN, DHULE with consumer No. 080018800423; Connected Load - 30 H.P.; Sanctioned Load - 29 H.P.; Supply at L.T.; Date of connection 19-10-1988.; Tariff - 36 LV-V.
2. The complainant is an Electrical Engineer by qualification and experience. The complainant started the business of manufacture of transformers and rectifiers in 1972; the complainant is working as a repairer of distribution - transformers (DTs) since 1976. And the complainant has observed working and work-culture of MSEB and now Maharashtra State Electricity distribution company limited (MSEDCL for short ) for the last 36 years, the complainant was working through 15 number units of 'Power Controls'( Pusad, Akola, Malkapur, Jalgaon, Dhule, Dondaicha, Malegaon, Kannad, Ahmadnagar, Beed, Parbhani, Naigaon, Udgir, Solapur and Samudrapur) and four number units of 'Rambhad Electromagnetic Products Pvt. Ltd. having Head Office at Nagpur and branches at Savda, Dhule, Malegaon and Pandharpur. These branches were set up all over Maharashtra at the requests of senior officers of MSEB / MSEDCL at the places they thought it was necessary that the complainants services were required.
3. The complainant had already paid the necessary electricity dues of MSEDCL till 5-3-2012 ( Rs. 8,400.00 dated 28-1-2012 M.R.No. 1493114 + Rs. 8780.00 dated 13-3-2012 M.R.No.1896650) and a further sum of Rs. 150.00 (M.R.No. 1493117 dated 28-1 2012) being the reconnection charges as the connection was disconnected for non-payment of energy bill . The Money Receipt No. 1493117 dated 28-01-2012 being payment of reconnection charges is enclosed .
4. At this point, the supply of the complainant was already disconnected for non-payment of bill within time; but on 5-3-2012 another bill was issued to him ; the bill was raised at the instance of Flying Squad report dated 30-1-2012, and the bill was for 24 months prior to 30-1-12 ; it was stated that 27088 units were consumed by him during the previous 24 months , and it was alleged that they were to be charged as per Tariff LT-II (Commercial), but they were charged as per Tariff LT-V which is for SSI units; hence the bill was for difference of tariff between LT-V and LT-II . It was also told that the supply will not be connected till the bill dated 5-3-2012 vide letter no. Dy.EE/ Dhule (Ucum R - 1)/ 676 dated 5-3-2012 were paid by the complainant.
5. The complainant on dated March 25, 2012 under Right to Information Act, 2005 requested for relevant documents from Head Office of MSEDCL, the information under Right to Information Act, 2005 is enclosed ; and on the basis of information, the complainant issued a notice dated June 14, 2012. The notice is enclosed . The notice vividly bring to the notice of authorities the contents of 'MERC Order for MSEDCL for APR of FY2009-10 and Tariff for FY 2010-11(Page 215 of 269)'; and the Order clearly states that broadly, the categorization of 'industry' is applicable to such activities, which entail 'manufacture'. And the complainant was manufacturing coils, and insulating materials for the transformers, vide item-rate - contract-order no.CE/NSKZ/DTC Repairs/T-08/6233 dated 6-10-2008 is appended. Hence the activities of the complainant were 'manufacture of components of transformers', hence the complainant was an industry as per (a) 'The Micro, Small and Medium Enterprises Development Act, 2006', (b) 'The Industries (Development and Regulation) Act, 1951. The SSI Registration No. of the complainant was 111001863 dated 25-08-94.
6. Still the MSEDCL did not reconnect complainant's supply , hence the complainant approached the Consumer Grievances Redressal Cell (CGRC for short) in the office of Superintending Engineer, Dhule; with application dated March 1, 2013 and also a supplementary application on May 17, 2013 .The matter was heard on 7-6-2013, and the order dated 18-6-2013 as enclosed was issued.
7. The complainant was aggrieved by the order of CGRC (it should be IGRC). The order did not take into account the extant applicable laws; i.e. (a) 'The Micro, Small and Medium Enterprises Development Act, 2006',(b) 'The Industries (Development and Regulation) Act, 1951, (c) 'The Constitution of India', and (d) 'The Electricity Act, 2003'; and relied entirely on the circular No. PR-3/Tariff/649/3795 dated 9-2-2012 of the Chief Engineer (Commercial); it is clearly mentioned in the Order that the bill was issued as per the circular No. PR-3/Tariff/649/3795 dated 9-2-2012, and there was no question of

cancellation of the bill. It is to be considered that the circular takes into account the statements of the repairers of transformers in total disregards to the laws passed by the parliament of India and approved by the President of India, and hence the circular is illegal. And the complainant is left with no alternative but to prefer the appeal.

8. In a similar case of transformers repairers in Nagpur Zone, the Ombudsman in Nagpur has decided the case in favors of the Transformers repairers; the MSEDCL had favored an appeal against the order of the Ombudsman, and the Nagpur Bench of Mumbai high Court has ruled in favors of the transformers. The copy of the order of High Court in case No. 304 to 307 and 310 of 2013.is appended herewith

**DEMANDS: -**

1. To restore the power supply of the complainant;
2. To withdraw the bill dated 5-3-2012 valued for Rs. 37,209.70 being illegal;
3. To withdraw the entire bills subsequent to dated 5-3-2012 till date;
4. To pay the following damages -
  - i. @ Rs. 1, 00,000.00 per month for loss of business till the supply is connected
  - ii. Rs. 50, 00,000.00 for the long term damages caused to the business due to illegal and malicious disconnection of supply causing hindrance in starting a new business..

**Action by IGRC :**

1. The complainant submitted the grievance to the Internal Grievance Redressal Cell, Dhule, Circle office on 05/03/2013 .
2. Under letter dated. 18/06/2013,the IGRC took following decision:

१. कार्यकारी अभियंता (शहर तथा ग्रामीण) विभाग प.क्र. १२९५ दि.२५.०४.२०१३ अनुसार व उपकार्यकारी अभियंता शहर क्र१ चे पत्र.क्र. ६७६ दि. ०५.०३.२०१२ नुसार ग्राहकस रु.३७,२१०.७० पैसे चे विजबिल भरण्यास योग्य तो कलावधी दिला गेलेला आहे. ग्राहकने त्यांची थकबाकी बिल व पुर्न: जोडणी आकर कमी भरणा केला याबाबतचा कुठलाही पुरावा जोडलेला नाही. तसेच चालु सी.पी.एल प्रमाणे ग्राहकची शेवटचे बिल भरल्याची तारीख १३.०३.२०१२ आहे. असे दिसत आहे. सोबत चालु सी.पी.एल. माहीती करीता दाखल करित आहोत. संबंधीत ग्राहक श्री रंभाड सोा यांना सी.पी.एल दाखविले व त्यांनी ते मान्य केलेले आहे. सदर सी.पी.एल. वरून ग्राहकची विजबिल भरण्याची अनियमितता व दिरंगाई स्पष्टतः नमुद होत आहे. त्यामुळे ग्राहकचे म्हणणे की , सदर युनिटचा विज पुरवठा खंडीत झाल्यामुळे माझे नुकसान झालेले आहे. हे चुकीचे आहे. कारण सदरचे युनिट चालु ठेवण्यासाठी दर महिन्याला विज देयकभरणे अति आवश्यक असतांना सुध्दा ग्राहकने मार्च २०१२ नंतर एकही विज देयक भरलेले नाही. त्यामुळे त्याच्या नुकसानीस महाराष्ट्र राज्य विदयुत वितरण कंपनी कुठल्याही स्वरूपात जबाबदार नाही.
२. सदर कंपनीचे कार्य चांगले नसल्यामुळे त्यांना नागपुर झोन मध्ये विज वितरण कंपनीतुन ब्लॉक लिस्ट करण्यात आलेले आहे. त्यामुळे सदर कंपनीस होणाऱ्या नुकसान भरपाईस विज वितरण कंपनी जबाबदार नाही.
३. सदर कंपनीने मार्च-२०१२ पासुन विज देयक भरलेली नाहीत, त्यामुळे त्यांचे म्हणणे विज पुरवठा नसल्याने व्यवसाय करता आला नाही हे चुकीचे आहे. तसेच विज वितरण कंपनीस कुठल्याही खाजगी कंपनीला फुकट वीज पुरवठा करण्याचे प्रावधान नाही.
४. महाराष्ट्र विज वितरण कंपनीच्या नियमावलीप्रमाणे मुख्य अभियंता (वाणिज्य) मुंबई यांना विज दर ठरविण्याचे व विज परिपत्रक वढण्याचे अधिकार आहेत. आजपर्यंत वेळोवेळी विज वितरण कंपनीचे विज दर मुख्य अभियंता (वाणिज्य) यांनी वढलेल्या परिपत्रकप्रमाणे बदलण्यात आलेले आहेत. तरी महाशयाचे म्हणणे गैरलागु आहे.

तसेच विविध परिमंडळ /मंडळ कार्यालयास या परिपत्रकचे पालन करणे अनिवार्य आहे. तसेच सदर कंपनीस म्हणणे मे,पॉवर कंट्रोल यांचे स्थळ तपासणी अहवाल भरारी पथक धुळे यांनी केलेला आहे.व त्याप्रमाणे एम.ई.आर.सी नी दिलेल्या खुलाशाला अनुसरून मा.मुख्य अभियंता (वाणिज्य) मुंबई यांनी परिपत्रक दि.०९.०२.२०१२ अनुसार विज दर बदलण्याचे निर्देश दिलेले आहेत. आय.ई.अॅक्ट प्रमाणे विज नियामकआयोग मुंबई यांना महाराष्ट्र राज्यातील सर्व प्रकरच्या ग्राहकचे विज दर व विजदराचे वर्गीकरण करण्याचे अधिकार आहेत. व वेळोवेळी किंवा दरवर्षी विज नियामक आयोग हे प्रत्येक संवर्गातील ग्राहकचे विज दर ठरवित असते व तो त्यांचा शासकिय कयदयाप्रमाणे प्रदान झालेला अधिकार आहे.

## Arguments from the Distribution Company.

The Nodal Officer & Executive Engineer , Dhule Circle office has submitted a written reply to the Forum by letter no. 8314 dated 23.12.2016 which states as under:

1. As per MERC/ MSEDCL rules and regulations the bill issued as per Circular No. 3795 Dt. 09.2.2012 which is proper .The complainant has not paid the recovery bill which is raised by Flying squad Dhule dtd 30.01.2012 for tariff diff. from LT V to L T -II which is as per commercial ltr no 3795 Dtd. 09.02.2012 which clearly states that  
"Considering the explanation by MERC in the tariff order, the tariff made applicable by flying squad to the transformer repairers is correct and same the uniformly applied to all such consumers and assessment therefore shall be recovered".
2. As per letter No. 1295 Dtd. 25.04.2013 and Ltr. No.676 Dtd.05.03.2012 the bill is issued for Rs. 37,210/- and complainant has been given sufficient time.
3. Also after Mar-2012 no receipt of bill is seen in CPL there has been no delay on part of MSEDCL.
4. As per MERC approved MSEDCL conditions of supply clause 6.3  
*"Disconnection of power supply "In the event of the supply of electrical energy being discontinued by the Licensee in consequences of any breach or default on the part of the Consumer entitling the Licensee so to do under the provisions of the Act and Rules, the amount of charges for the electrical energy already supplied and all other moneys then payable under this Agreement shall become due and recoverable forthwith provided always and it is here by expressly agreed and declared that during the period of such discontinuance the consumer shall continue to pay the FIXED CHARGES payable as per the Licensee's tariff in force."*
5. Clause 2.2.4 (Verification of Documents) states  
*"Whenever an Applicant / Consumer desires power supply / restoration of power supply for such premises, where previously the MSEDCL has already given the power supply, which has however been disconnected under Section 56 of the Act for the time being due to default of payment on account of the previous occupier of the said premises, the MSEDCL may permit the Applicant / Consumer to obtain power supply /restoration of power supply for such premises provided the Applicant /Consumer completes all such formalities as may be required as per Section 56(2) of the Act including any other charges payable in accordance with the agreement of power supply, is paid by the Applicant / Consumer. Where the disconnection of supply was made as per the provisions of respective Act (i.e. The Indian Electricity Act 1910, Electricity (Supply) Act 1948) restoration of such disconnection shall be governed by the appropriate Act & the Rules and the Regulations framed there under."*
6. Since consumer has not paid the recovery amount raised by the utility , MSEDCL cannot retain the power supply .
7. Consumer has paid the reconnection charges dtd 28.01.2012 due to his previous dues, MSEDCL is not responsible for loss caused due to black listing at Nagpur Zone.
8. Applicant / Consumer. Where the disconnection of supply was made as per the provisions of respective Act (i.e. The Indian Electricity Act 1910, Electricity (Supply) Act 1948) restoration of such disconnection shall be governed by the appropriate Act & the Rules and the Regulations framed there under."
9. IGRC Dhule has considered complainant grievance and disposed off on dtd. 18.06.2013.
10. It is requested to Honorable forum to consider CGRF regulation 6.6, " the forum shall not admit any grievance unless it is filled within two years from the date on which the cause of action has arisen" .
11. As the action has been aroused in the yr 2013 the consumer should have approached the forum within 2 yrs hence the forum is requested to reject the case.
12. As per clause 4.1 b MERC has authorized MSEDCL to recover Charges for electricity supplied by the MSEDCL in accordance with such tariffs as may be fixed from time to time by the Commission .Hence the statement made by the consumer is baseless.





13. Consumer misleading has quoted the tariff order case no 19 of 2012 which is effective from Sept 2012 , for which the tariff for t/f repairing workshops have been categorized under LT V . As the incidence has taken place in the m/o Jan 2012 the demand has been raised is proper
14. Hence no illegal bill has been raised by the utility the recovery made is proper. due to nonpayment of dues by the consumer the supply cannot be restored.
15. It is therefore prayed to Honorable Forum
  1. To reject and dismiss the present case of the complainant
  2. To saddle the cost on the complainant

#### Observations by the Forum:

1. The issue is pertaining to the disconnection and re-categorisation of the connection in March 2012. The complainant submitted the grievance to the IGRC, Dhule on 01/03/2013 which was decided on 18/06/2013. The complainant has submitted grievance to the Forum as per application dated 06/12/2016 against the IGRC decision .
2. When asked about the delay in submitting the grievance to the Forum ,the complainant verbally stated that he had submitted an application to CGRF ,Jalgaon in September 2014. While going through the records of CGRF office it was seen that the application , which was not in schedule "A" , was related to some dispute between MSEDCL and the complainant in view of a contract for Transformer Repairs. Being not within jurisdiction of CGRF the application was not entertained by the then Member-Secretary .The complainant was informed so by a letter no. 129 dated 22/09/2014 . Since then for about more than 2 years , the complainant has neither reverted back on the issue nor applied in schedule "A" .Now the complainant has submitted grievance to the Forum in schedule "A" dated 06/12/2016
3. The regulation 6.6 of the CGRF & EO Regulations ,2006 mandates as under:  
*"The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen."*
4. Bombay High Court has mandated on the limitation factor for approaching the Grievance mechanism vide order dated 19/01/2012 in the matter of M/s. Hindustan Petroleum Corporation Ltd v/s MSEDCL in W.P.No.9455 of 2011. The Hon'ble High Court has given following ruling in this regard :

*"15 A perusal of the impugned order shows that the CGRF and the Ombudsman have proceeded on an erroneous assumption that cause of action has arisen on 1st July, 2008 and, hence, the grievance filed before the Forum at Sangli on 14th October, 2010 is beyond two years. Thus reasoning clearly over looks the definition of the word "Grievance" as provided under Regulation 2 (c) of the 2006 Regulations. Though time spent by the Petitioner before the Consumer Court cannot be excluded, one cannot lose sight of the fact that the Petitioner approached the Internal Consumer Grievances Cell for the first time on 14th October, 2010 and that grievance was rejected by the Internal Consumer Grievances Cell on 27th October, 2010. This, according to me is the date on which the cause of action for filing a complaint or Grievance before the Forum as defined under Regulation 2(c) really arose. ...."*

5. Hence , "cause of action of submitting grievance to the forum arises when IGRC does not redress the grievance. In other words, the cause of action starts after the decision of IGRC."
6. As such in this case, the cause of action arose on 18/06/2013. Hence the Forum can not admit this case as the grievance is submitted on 22/11/2016 i.e. not within 2 years in terms of the regulation 6.6 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 .
7. However the Forum would like to bring to the notice of the Distribution Company an order dated 11<sup>th</sup> December 2014 by the MERC in Case No. 153 of 2014 in a similar case filed by the same complainant.

In the matter of Petition of Shri Nathu Gangadhar Rambhad for refund arising from wrongful application of Commercial category tariff by MSEDCL to his transformer repair industry in Solapur . The Hon'ble Commission's Ruling in this case is as under:

- ✓ As mandated under the EA, 2003, MSEDCL has established a redressal mechanism for grievances such as those raised in this Petition, viz. the MERC (CGRF and Electricity Ombudsman) Regulations, 2006. Regulation 6.4 provides that, if the IGRC has not addressed the grievance within two months, the consumer can approach the concerned CGRF. Instead of doing so, the Petitioner has approached the Commission. It is well-settled that, when there is an institutional mechanism specifically established by the Commission itself (the CGRF) for grievance redressal, consumers must take recourse to it and the Commission does not have jurisdiction. The Petition is, therefore, not maintainable. Section 86(1) (i) of EA, 2003 cited by the Petitioner is not relevant to this matter either.
- ✓ However, it has been brought out during these proceedings that the LT Industrial tariff category was applied to the Petitioner's unit from inception, and the provisions relating to transformer repair units in the Commission's Tariff Order of 2012 and the Bombay High Court's Order dated 22 April, 2013 upholding the Ombudsman's ruling in similar cases have also been cited. In accordance with the commitment given during the hearing, the Commission expects that MSEDCL shall resolve the dispute regarding tariff categorization and disputed billed amount with the Petitioner within a month.

As directed by the Hon'ble Commission, the Distribution Company must have resolved the above grievance as of Solapur unit of the complainant . As the Distribution Company does not have the 2 years limitation /constraint as applied to the Forum , it can resolve the issue in the light of this ruling .

The grievance is therefore disposed off with the observations as elaborated in the preceding paragraphs.

If aggrieved by the non-redressal of his Grievance by the Forum, the complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', BandraKurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

  
— sign —  
(RAJAN S. KULKARNI)  
MEMBER

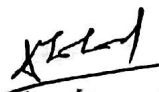
— sign —  
(D.K.MOHOD)  
MEMBER-SECRETARY

— sign —  
(SURESH P.WAGH)  
CHAIRMAN

**Consumer Grievance Redressal Forum  
Jalgaon Zone**

**Copy for information and necessary action to:**

1. Chief Engineer , Maharashtra State Electricity Distribution Company Ltd. , Jalgaon
2. Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. , Dhule.

  
Member-Secretary/Executive Engineer  
MAH. STATE. ELECT. DIST. CO. LIMITED  
Consumer Grievance Redressal Forum  
Jalgaon Zone, Jalgaon