

has been established as per the notification issued by MERC i.e. “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as ‘Regulation’. Further the regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission. Hereinafter referred as ‘Supply Code’ for the sake of brevity. Even, regulation has been made by MERC i.e. ‘Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.’ Hereinafter referred ‘SOP’ for the sake of convenience (Electricity Supply Code and other conditions of supply) Regulations 2014’.

2] Consumer is HT Industrial consumer of MSEDCL having consumer No. 003019019151. Till July 2012 they fell in continuous category. There was huge hike in tariff vide MERC order dated 16/8/2012. Then there was further huge tariff hike again in September 2013. Hence the consumer vide their application submitted on 24/2/14 opted for change to non continuous category. Thereafter MERC declared new tariff order on 26/6/15. The consumer again applied for change of category to non continuous and then MSEDCL changed the category to non continuous on 1/1/16.

3] The consumer claims difference in the tariff recovered from them from March 2014 till rectification done on 1/1/16.

4] In support of the grievance, the consumer has made several submissions and placed reliance on the several grounds, legal provisions, Regulations and guidelines, in particular, MERC Tariff Order dated 16/8/12, the ground of staggering day, interest under 62.6, SOP Regulations, 2005, denying express feeder status and discrimination. There were orders of Hon'ble Ombudsman Mumbai, and MERC relied on.

5] In reply (there appears some mistake in the name of consumer) the MSEDCL/Licensee denied the contentions of consumer. They denied that the consumer was not on express feeder. Then the application was not given within one month from Tariff order. The submissions were made with regard to the review petition 94/2015 which was then pending before the MERC.

6] We have heard the matter, the Licensee has submitted written arguments. We find that the categories of consumers for continuous and non continuous supply were first introduced in 2006, in view of shortage of electricity supply then. As we gather further, inspite of shortage of electricity supply for distribution, some industries were considered to be eligible for continuous supply and were provided with the same on request of course with some higher tariff. Earlier, there was a certificate required from the concerned Competent Authority to the effect that a particular industry falls in continuous category so as to be eligible for continuous supply. Later-on there were some changes made on account of some difficulties in getting the above mentioned certificate from the respective authority whereby the certificate was dispensed with if the industry required

continuous supply considering it's activity. Later-on the things changed further and, anybody could change from one category to other. Then it so happened that by reason of sufficiency in power supply there was no more power cut. Power was made continuously available on demand and the consumers preferred to change to non continuous category to avoid excess tariff specially because of alleged increase in tariff. In Tariff order of 2012 a condition was put to make application within one month of the order for change of category. This was made in order that the Licensee should be able to know before hand categories so as to manage the supply properly. It so happened , however, that few applications were made within one month of the tariff order for change of category from continuous to non-continuous, which were allowed by the Licensee. Thereafter, applications were made even after one month of the tariff order, the said applications were rejected by the Licensee on the ground that they were not made within one month of the tariff order. However, there were instances in which the applications were granted. There were contradictory interpretation of the tariff order of the condition of one month to make application. Then came the Review Petition moved by Licensee itself before the MERC bearing 94/2015 in which all the questions were set at rest.

7] The Commission in the above said review matter inter-alia held that SOP Regulations 9.2 gives unfettered powers to the consumer to change the category by making an application and the Licensee was bound to change the category from the next billing cycle. That being so Licensee before us in this case had no points to make against the case of consumer. The Licensee practically agreed in principle to the case of the consumer. The

only submission made was that the MSEDCL is a body corporate and will frame policy and methodology for implementation of the findings of the Commission in the Review Petition no.94/2015 and issue guidelines. It is, rightly pointed out in this context that those are the internal matters of the Licensee. 8

8] So-far-as compensation under SOP is concerned, CR Mr. Hogade fairly does not insist.

9] So-far-as interest is concerned, CR Mr. Hogade further fairly Submitted that as per the order of Hon'ble Ombudsman the interest can be awarded from the date of the order of MERC in Review Petition No. 94/2015 i.e. 19/8/2016. Accordingly the interest may be given to the consumer.

10] This matter could not be decided within time as the Hon'ble Chairperson took charge on 20/09/2016 of this Forum and the matter was reheard.

11] Taking into consideration, all the above points, we find it fit to allow the grievance application of the consumer.

Hence the order.

ORDER

1] Consumer's grievance application is hereby allowed.

2] The Licensee is directed to apply non continuous tariff to the consumer from second cycle after the application given on 24/02/2014 for change of tariff.

- 3] The Licensee is further directed to refund the differential amount recovered from the consumer due to wrong application of continuous tariff from the second cycle after the application till rectification. The same may be done by adjusting it in the next ensuing bills.
- 4] The Licensee is also directed to work out the amount of interest on the differential amount from 19/8/2016 till the date of rectification and to pay the same to the consumer.
- 5] Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 14/12/2016.

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(L.N.Bade)
Member Secretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.
“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51”.
- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or
- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-
“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”
- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.

