

Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

Date of Grievance : 09/04/2012
Date of Order : 11/01/2013
Period Taken : 270 days

IN THE MATTER OF GRIEVANCE NO. K/E/593/701 OF 2012-2013 OF
M/S. KISAN MOULDINGS LIMITED MAHAGAON, BOISAR DIST – THANE
REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM
KALYAN ZONE, KALYAN ABOUT EXCESSIVE ENERGY BILL.

M/s. Kisan Mouldings Limited
Survey No. 71 / 72,
Mahagaon, Boisar
Tal : Palghar, Dist : Thane

(Here-in-after
referred
as Consumer)

Versus

1) Maharashtra State Electricity Distribution
Company Limited through its
Superintending Engineer
Vasai Circle

(Here-in-after
referred
as licensee)

2) M/s. Responsive Industries Ltd.,
Mahagaon Road, Betegaon Village,
Boisar (East), Taluka Palghar,
Dist. Thane – 401 501.

Party Added

3) M/s. Encrop Powertrans Pvt. Ltd.
C/o. Valeron Textile Pvt. Ltd.
J-82, M.I.D.C. Tarapur, Tal : Palghar

Party called & Added

(Per Shri. Sadashiv S. Deshmukh, Chairperson)

- 1) This Consumer Grievance Redressal Forum has been established under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006” to redress the grievances of consumers. The regulation has been made by the Maharashtra Electricity Regulatory Commission vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).
- 2) The consumer is a H.T. consumer of the licensee. The Consumer is billed as per Industrial tariff. Consumer registered grievance with the Forum on 09/04/2012 for Excessive Energy Bill.

The details are as follows :

Name of the consumer :- M/s. Kisan Mouldings Limited

Address: - As given in the title

Consumer No : - 003019031660

Reason of dispute : Excessive Energy Bill

- 3) The batch of papers containing above grievance was sent by Forum vide letter No EE/CGRF/Kalyan/0258 dated 09/04/2012 to Nodal Officer of licensee.
- 4) This grievance is received by this Forum on 04/04/2012, registered on 09/04/2012. Consumer made a grievance that he is provided supply as DDF and hence any action of Licensee giving connection to other from his line is not legal and proper. It is contended that Licensee had given further connection to M/s. Encrop Powertrans Pvt. Ltd. (here-in after referred as Encrop) which is illegal. Even grievance is made about loss and wastage caused due to harassment and litigation. It is contended that consumer be

benefited for loss and rent / fitting charges from the date of utilization of facility upto the disconnection of supply given to M/s. Encrop.

After receiving said complaint, notice was issued to Nodal Officer. Accordingly from record it is seen that matter was fixed for hearing on 07/05/2012 and it was postponed to 21/05/2012. On 21/05/2012 hearing was conducted before the then In-charge Chairperson and the two other members. However, from 1st June 2012 the present Chairperson took over and hence matter was decided to be taken a fresh for hearing and date of hearing was fixed as 05/07/2012.

There after on 27/07/2012 letter from M/s. Responsive Industries Ltd. (here-in after referred as Responsive) was received who sought impleading itself in the present grievance, on this action said party alongwith M/s. Encrop against whom the consumer has sought relief were also asked to attend the matter for hearing of impleading Responsive and matter was fixed on 27/08/2012.

There after matter was adjourned and decided to be taken on 10/09/2012, notices of hearing for said date was issued on 29/08/2012 to M/s. Responsive, Encrop and the present consumer, copy was given to Nodal Officer and service is done through speed post. On 10/09/2012 on behalf of consumer representative was there, officer of Licensee also attended, officer of Responsive also attended on that date but matter was further adjourned to 15/09/2012 as one of our member was not available and hearing was not possible.

On 15/09/2012 matter was taken up and it was attended on behalf of Licensee and Encrop but none attended for consumer Kisan Moulding and

Responsive. On that date on hearing the parties who were present it was decided to add and include Responsive as a party. As Responsive was not present for hearing, matter was adjourned to 03/10/2012 and even notice was directed to Responsive. Again matter was adjourned to 22/10/2012, it's notice was given and sent by speed post. However, on 4th Oct. 2012 representative of consumer Kisan Moulding attended and collected the copies pertaining intervention of Responsive. Matter was then heard on 22/10/2012, which is attended by officer of Licensee, representative of Kisan Moulding, representative of Encrop, none attended for Responsive but Responsive had addressed a letter to this Forum on 29/09/2012 contending that Kisan Moulding and Encrop be removed from their Express Feeder but consistently further they opted not to attend.

On 22/10/2012 it was found necessary to have before us and the parties, the record available with the Licensee, how the connection was initially given to Responsive and further development there of, till connection was given to Encrop. Representative of Licensee Mr. Hazare, being newly joined the posting time was sought and hence it was adjourned to 21/11/2012, it's notice was given to all parties.

On 21/11/2012 hearing was attended by representatives of Kisan Moulding, Encrop and Mr. Hazare of Licensee, they placed on record the details. It was noticed that Commercial Circular dt. 29/09/2006 and letter of Executive Engineer dt. 07/09/2007 were necessary for deciding the matter, hence on that day Executive Engineer Shri Hazare was directed to place those documents on record and hence it was adjourned to 10/12/2012. On

10/12/2012 matter was taken up and heard but on that date one of our member was not available, hence matter was adjourned to 20/12/2012. However, third member was not available, on 20/12/2012, hence further date was communicated to parties fixing it on 01/01/2013. On 01/01/2013 representative of consumer i.e. Kisan Moulding was not available, however representative of Encrop, Mr. Hazare, Executive Engineer for Licensee attended and things were elaborately placed before us and there after this matter is adjourned to 11/01/2013 for finalization, making it clear to the parties that if they intend to add anything, they are at liberty. Accordingly on 11/01/2013 except Responsive all attended, they are heard.

In this matter for consumer Kisan Moulding consumer representative Mr. Shridhar Jalwadi, officer Mr. Raju Joshi, for Encrop consumer representative Mr. Shahapure, officer Mr. Dhananjay Tare, and for Licensee Nodal Officer Mr. Purohit, then Executive Engineer Mr. Hazare, Assistant Engineer Mr. Gadhri attended from time to time. During those aforesaid dates, time to time on behalf of Licensee reply is placed on record, even Encrop placed it's reply, Kisan Moulding i.e. consumer replied and added the things. In the same fashion on behalf of Licensee as directed from time to time copies of documents are made available. No doubt, consumer has initially approached IGRC and IGRC passed order on 2nd March 2012 on the grievance application of consumer dt. 14/12/2011 which is challenged before this Forum.

As noted above though consumer approached this Forum on 09/04/2012, matter could not be decided in time initially as Chairperson changed, secondly Responsive intervene in between, accordingly it was

found necessary to serve the parties and to call their contentions, thirdly that matter required in depth consideration as parties were not aware of the exact documents on the basis of which supply is taken by Responsive and others but during discussion all these aspects disclosed hence it was found necessary to call the record. In this light matter could not be decided within the prescribed time.

For the sake of making the things easier, it is necessary to note in brief, the grievance of consumer i.e. Kisan Moulding in the application filed before this Forum. In para No. 5 those details are quoted and in para No. 8 reliefs are sought. Total dispute is revolving around the fact that consumer has applied for 33 KV voltage level H.T. supply for it's factory on 17/08/2007 which was sanctioned on 05/11/2007. It is contended that supply was given under the scheme of DDF (Dedicated Distribution Facility) that too on the basis of Licensee's Commercial Circular No. 43, dt. 27/09/2006. It is contended that inspite of said DDF status Licensee allowed supply from it's dedicated feeder to M/s. Encrop that to without knowledge of consumer. Accordingly it is claimed that supply given to Encrop needs to be discontinued. In that light it is contended that act of Licensee for giving supply to Encrop is illegal, it is a violation of order of Hon. MERC, connection be immediately disconnected given to Encrop and loss be provided.

In reply on behalf of Licensee Nodal Officer filed reply on 5th July 2012 and he placed on record that though consumer Kisan Moulding is seeking relief, similarly relief is sought by M/s. Responsive against Kisan Moulding. M/s. Responsive had erected 33 KV line for two companies alongwith Bay

& Breaker at EHV Sub-Station. Accordingly it is contended the feeding to Kisan Moulding which is extended from the line of Responsive is objected as Responsive is facing frequent interruptions. Secondly it is contended that though Kisan Moulding i.e. consumer contended that there is an interruption due to releasing supply to Encrop but during the period from 01/07/2011 to 26/06/2012 there is no interruption due to the fault on the portion of line erected from Encrops but those are on the line feeding to the consumer itself. Nodal Officer in his reply further suggested that it would be more convenient to call upon other rest of the parties and to decide the matter. In short it is contended that Kisan Moulding though given the supply, prior to it Responsive was there having the connection and subsequently from Kisan Moulding supply is extended to Encrop and the interruptions experienced by Kisan Moulding due to extension given to Encrop is denied.

Now for our decision interruptions experienced by consumer Kisan Moulding not included in it's prayers. However, during hearing on 05/07/2012 representative of consumer made submissions which are noted in the record those are as under :

'On behalf of consumer it is submitted now grievance is just restricted to the aspect of maintaining DDF. Accordingly it is contended that the further extension given to next to be appropriately dealt by the Licensee and it should not be further shared from the said DDF.

In respect of trippings representative of consumer submitted referring to the reply given by Nodal Officer that 18 instances of consumers involvement are shown but if those details of technical reports are provided,

then consumer will be able to rectify and improve the position by reducing the said aspects.'

Accordingly now we are required to concentrate on the main contention of consumer Kisan Moulding, whether in fact it is having a DDF supply and whether there is any force in the contentions of consumer that supply given to Encrop is to be taken out or discontinued.

Though this point is to be addressed in the light of application of this consumer, in between Responsive also entered in the field, sought intervention and that application is dt. 14/07/2012 received in this Forum on 27/07/2012. Considering the contentions therein this Forum issued notice not only to the said Responsive but even to Encrop against whom original consumer has sought relief. Notice was issued to the Licensee also and all of them were given a chance to make their stand clear and on hearing the available parties this Forum allowed impleading of Responsive and said observations is made in the minutes of the Forum on 15/09/2012.

There after inspite of opportunity given Responsive remained absent for hearing, the plea of Responsive is already noted in the aforesaid preliminary narration of facts. In short Responsive contended that the extension given to consumer Kisan Moulding itself is not legal and proper as Responsive is having a DDF facility. In this light Encrop attended and it brought to our notice the details of aspect contending that even Responsive is not also having any facility as DDF but prior to Responsive supply was taken by Krishna Vinyl in 1996 that too on the basis of ORC from Khairipada Sub-Station. It is contended that even after supply given to Krishna Vinyl on the basis of ORC in 1996, MSEB constructed a Sub-

Station at Varangade in the year 1998 then supply given to Axion Impex. On the same line further Responsive was given connection in the year 1999. One more connection is added on 07/09/1999 to Arpita Glass Pvt. Ltd. It is contended that Krishna Vinyl and Responsive were two independent industries in the same plot. Those companies merged in the year 2006 and connections are clubbed. Further it is stated that consumer Kisan Moulding got supply on the same line in the year 2007 and there after from that line supply is given to it i.e. Encrop in the year 2010. Accordingly it is contended that initially line was laid down on the basis of ORC for Krishna Vinyl which cannot be said to be DDF, as supply was extended to different parties and to the Licensee itself. Accordingly it is contended that if any interpretation is to be given to the clause of DDF it will not be applicable as supply initially to Krishna Vinyl was ORC. It is contended when supply itself is not available to the Responsive as DDF there is no question of treating supply given to Kisan Moulding as DDF. Accordingly it is contended claim of Kisan Moulding cannot be upheld on the ground that it is a DDF facility.

On behalf of Licensee documents sought are placed on record including the application filed by Kisan Moulding for supply and more stress was given to the letter of Executive Engineer MSEDCL O&M Division Palghar dt. 5th Nov. 2007 wherein account head is stated as DDF 2007-2008, in this letter reference is made to Commercial Circular No. 43, dt. 27/09/2006, which is also placed on record. On behalf of consumer an attempt is done to contend that 33 KV / 11 KV Warangade Sub-Station was commissioned in the year 1998 i.e. before commencement of MERC order

70 of 2005 dt. 08/09/2006 and it is a property of MSEDCL. Further it is contended that consumer Kisan Moulding met entire cost of this bay, it is a DDF line which is sanctioned by the Licensee. It is tried to contend that now Licensee cannot contend that it is mere tapping and not DDF, it will be contrary, as the entire cost of material and erection, is borne by Kisan Moulding. It is contended Kisan Moulding has borne entire cost of material and erection and reliance is placed on the correspondence of Licensee contending that it is a DDF. On behalf of Licensee Executive Engineer Mr. Hazare made it clear that supply given to consumer Kisan Moulding cannot be said to be a pure DDF, he contended only in the letter of Executive Engineer Account Head is stated as DDF but status of that is not of DDF.

Mr. Hazare had heavily relied on the initial sanction to Krisna Vinyl for supply on the basis of ORC i.e. Out Right Construction, to explain the said position of ORC it was stated that said lines erected are to be erected at its cost and maintenance is also to be done for five years but there after it happens to be the property of the MSEDCL. In this light a copy of format to be filled in, at the time of execution of such ORC work is placed before us and Clause No. 7 therein speaks about the position which reads as under :

Clause No. 7 : 'An undertaking on the stamped paper of Rs. 100/- is to be executed before taking up the work in hand to take that effect the assets duly commissioned will be handed over to the Board for maintenance purpose and right of ownership on that assets and shall be the property of the Board. However, party will have to maintain / replace the same if it fails within the agreemental period of 5 (five) years since the date of commissioning. In this light it is contended

these are the said formats showing implementation of ORC and hence the status did not remain to be of that DDF when it was given to Kisan Moulding after five years i.e. after 2001. We find this aspect is clear itself.

Now reverting back to the contention of consumer it is seen that consumer is referring to MERC SOP definition Clause i.e. 2.1 (g) DDF said Clause reads as under :

“Dedicated distribution facilities” means such facilities, not including a service line, forming part of the distribution system of the Distribution License which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises ;

Other reference is made to Supply Code Clause No. 3.3.3, 3.3.5 and then made reference to order of Hon. MERC in case No. 56 of 2007 which speaks about levying of charges and bar of giving any connection from the connection given to the consumer as DDF. In the said order of MERC para No. 12 legal position is stated which reads as under :

“12. Having heard the parties and after considering the material placed on record, the Commission is of the view as under :

(1) Since, MSEDCL do not have a clear conception of Dedicated Distribution Facility and the levy of ORC in the EA 2003 regime, it is necessary to provide guidance on the same and issue necessary directions as under :

- (i) At many places prospective consumers with an intention to get better quality of supply seek Dedicated Distribution Facility, though distribution network is available in nearby vicinity and it is possible to give supply by extending the existing network. Such consumers seeking Dedicated Distribution Facility will have to pay the cost incurred in providing the Dedicated Distribution Facility. As per Regulation 2(g) of the Supply Code :

“(g) **“Dedicated distribution facilities”** means such facilities, not including a serviceline, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises;”

It is clear from this defined term that mere extension or tapping of the existing line (LT or HT) cannot be treated as Dedicated Distribution Facility. Such extension or tapping being part of the common network will be affected due to any fault or outages on the common network and cannot be considered as a facility solely or clearly dedicated for giving supply. Thus, in the distribution system, Dedicated Distribution Facility means a separate distribution feeder or line emanating from a transformer or a substation or a switching station laid exclusively for giving supply to a consumer or a group of consumers. The transformer or the substation can also form a part of Dedicated Distribution Facility if it is provided exclusively for giving supply to

these consumers and no other consumer is fed from the said transformer/substation. Also, Dedicated Distribution Facility cannot be shared in future by other consumers. Such facilities cannot be imposed on a consumer. If the consumer does not seek Dedicated Distribution Facility, the licensee has to develop its own infrastructure to give electric supply within the period stipulated in Section 43 of the EA 2003 read with the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005. In fact, the licensee should take advance action to develop the distribution network, based on the survey of growth pockets and demand projections so as to fulfill 'Universal Service Obligation' as per the spirit envisaged in the EA 2003 and the Regulations made there under.

On reading the aforesaid analysis of Hon. MERC order it is clear that if at all any supply or connection given, is to be said to be DDF, then in that case it is available through a separate Distribution Feeder or line emanating from Transformer or Sub-Station or Switching Station laid exclusively for giving supply to consumer or group of consumers. In this light it is submitted on behalf of Encrop and the Licensee that supply given to Kisan Moulding i.e. consumer is not from separate Distribuion feeder or line emanating from Transformer or Sub-Station or Switching Station exclusively built up for supplying to consumer. It is contended what is done in the case of Kisan Moulding is just extension given from H. T. Line. It is

clarified that there is a Bay - Beaker placed when supply is given to Kisan Moulding which is just to minimize the interruptions. Now though consumers stress, the supply given as DDF, question comes up whether it will be DDF. As noted above right from beginning it was not DDF it was ORC, period of five years has already completed, more than seven to eight tapings / extensions are there and present consumer i.e. Kisan Moulding is one amongst them who has got the supply due to extension.

Under such circumstances question comes up whether there is a force in the contention of consumer that it is having a facility of DDF and there cannot be any further supply to any other consumer and that connection already available to Encrop to be disconnected.

At this juncture we have heard Mr. Jalwadi, representative of consumer i.e. Kisan Moulding, he submitted that all along Kisan Moulding sought supply by way of DDF and said DDF has sanctioned by the Licensee and hence consumer expects that it is to be followed and it needs to be maintained. He explained to us that in fact at Warangade there is a Sub-Station, he submitted just prior to Warangade Sub-Station Bay & Breaker was put and connection is taken up to the site of Kisan Moulding by spending it's own and paying necessary charges to the Licensee. Accordingly he submitted this particular tapping of feeder and taking connections amounts to DDF. He contended that his status as DDF is not challenged by Licensee.

We scanned his arguments in the light of observation of MERC order which consumer himself has referred and noted above i.e. in the case No. 56 of 2007 which speaks tapping from existing line (HT & LT) cannot be

treated as Dedicated Distribution Facility (DDF). Accordingly in this matter there is a tapping before the line enters in the Sub-Station Warangade. No doubt Bay & Breaker is put up which ensures minimum interruptions. Accordingly we find this aspect is of utmost important. In this matter tapping is on H.T. line prior to Warangade Sub-Station. However, submission of consumer Kisan Moulding speaks about the making appropriate provision by Licensee for the consumer i.e. Encrop by making appropriate infrastructure and facility & till it is done so, it is to be treated that whatever extension is given from the line of consumer Kisan Moulding as temporary one. This submission is made in the light of letter addressed by Licensee to other consumer Power Grid Corporation which is having a facility from Feeder No. 09 that too for diverting load available, to Responsive and Axion. It is submitted that there is increase in demand for supply by the Axion and Responsive and in that light said suggestion is made, hence same position be now maintained for Kisan Moulding considering the working position of Encrop. On behalf of Encrop this contention is not supported.

One thing is crystal clear that Responsive consistently remained absent for hearing of the matter before this Forum, however Encrop has made efforts to place before us how ORC benefit was available to Krishna Vinyl and then to Respondent, thereby so called ORC granted in 1996 came to end after five years and position after 2001 is clear. Though there is clubbing in the year 2006 of Krishna Vinyl and Responsive status no more remained to be on DDF and hence there is no any need to treat line available to Responsive as DDF.

Though Mr. Jalwadi representative of consumer Kisan Moulding tried his best to place the things in his own words in support of consumer but we find there is no force in the contention that the supply available to Kisan Moulding falls in the category of DDF as laid down by the MERC in the above referred order. Admittedly tapping H.T. line, prior to Warangade Sub-Station, supply is provided by the Licensee to the consumer and consumer claims it as DDF. In loose sense at times officers of Licensee used the words DDF, accordingly if this particular supply is not DDF factually as per order of Hon. MERC then there is no any ground available to uphold the claim of consumer that supply given to Encrop is to be disconnected or as per submission it is to be treated as temporary till Licensee makes provision through infrastructure. Licensee is following policy of Universal Service obligation which is on going process of additional infrastructure we hope that taking clue of this position, Licensee will ensure that things pertaining to this consumer is stream lined. In result this complaint is to be rejected, even claim of Responsive against Kisan Moulding is also rejected.

Hence we pass the following order :

ORDER

- 1) Grievance application No. K/E/593/701 is hereby rejected. Claim of Responsive is also rejected.

2) 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”.

3) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or 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”

Date : 11/01/2013

I Agree

I Agree

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

(R.V. Shivdas)
Member Secretary
CGRF Kalyan

(Sadashiv S. Deshmukh)
Chairperson
CGRF Kalyan