

MAHARASTRA STATE ELECTRICITY DISTRIBUTION CO. LTD.
KONKAN ZONE RATNAGIRI
Consumer Grievances Redressal Forum Ratnagiri

Consumer case No – 70/2011

Date: 18.01.2011

Shree Satya Silica Pvt.Ltd.,
1390, Haveli Nagar, Phondaghat,
Tal - Kankavli, Dist - Sindhudurg. } Complainant

V/S

Executive Engineer,
MSEDCL,O & M Dn. Kankavli . } Opposite Party

Quorum of the Forum

Member }
1) Mr.D. S. Jamkhedkar, Chairman
2) Mr. V.B.Jagtap , Executive Engineer.
3) Mr.N.A.Kulkarni , Member

On behalf of consumer }
1) Shri Ashok Parnandiwar.
2) Shri Nitin Palwankar.

On behalf of opposite party }
1) Mr.K.B.Patil
Executive Engineer, O&M Dn.Kankavli
2) Mr.S.S.Jadhav
Dy.Ex.Engineer, O&M Dn.Kankavli
3) Mr.M.R.Salve
Assistant Engineer, O&M Dn.Kankavli

**Maharashtra State Electricity Regulatory Commission,
Consumer Grievance Redressal Forum and Ombudsman
Regulation 2003 Vide Clause No.8.2**

M/s Shree Satya Silica Private Limited is an Industrial Consumer of M.S.E.D.C.Ltd., having consumer no.230021014261, situated at 1390, Haweli Nagar, Wadade Wadi, Phondaghat, and has filed its grievance in the prescribed format on date.18.01.2011.

The particulars of the grievances filed are as under -

1. Applicant has asked for refund of amount with interest recovered from them towards the cost of cubical & metering equipment. As per the order from Hon. Ombudsman, Executive Engineer, MSEDCL, Kankavli refunded the basic amount of Rs.111000/- vide cheque no.553747, dt.20.11.2010. The amount was refunded without interest. The amount was illegally retained by MSEDCL from 21.12.2006 to 21.11.2010 & hence applicant submitted his grievance for the refund of interest.

2. With reference to the case no.111, Elect/Ombudsman/MERC/111 of 2010, Clause no.13 it is an accepted fact that H.T. supply was disconnected in April 2006 and L.T. connection was sanctioned in June 2007 i.e. after a lapse of over one year. This delay on part of MSEDCL apart from being contrary to MERC Regulation & MSEDCL's own circular caused huge business loss and hence appellant raised the grievance for compensation of Rs.9.00 Lacks to towards financial loss & mental harassment.

3. Power Factor Penalty is levied on power factor in the range 0.01-0.04 such P.F is technically & practically impossible under any supply conditions, hence refund of amount charged towards P.F. penalty to be sought.

4. Previously the Applicant was H.T. consumer & requested to release L.T. connection by disconnecting H.T. connection. In this process MSEDCL made applicant to purchase 100KVA Distribution Transformer worth Rs.1,06,600/- . Accordingly M/s Shree Satya Silica Pvt.Ltd, had purchased a distribution transformer. In this process MSEDCL violated the MERC Supply Code Regulation 2005, clause 5.5. Hence applicant must get refund of cost of transformer.

Consequent upon receipt of grievances explanation was called from Executive Engineer, O&M Division Kankavli, vide letter dated 18.01.2011. In response to which Mahavitaran filed its reply vide letter dated 3rd Feb 2011. The main contents of the reply submitted by MSEDCL are.

5. Then M.S.E.B. had released a H.T.connection of 150 KVA to M/s Maharashtra Mineral Corporation Ltd., on 10.06.1981, this connection was made P.D. on 10.07.1995 for their huge arrears. A Civil Suit was filed by M.S.E.B. for the recovery of arrears. In

due course M/s Maharashtra Mineral Corporation Ltd., requested for one time settlement of arrears. The request was accepted by M.S.E.B. & thus M/s Maharashtra Mineral Corporation Ltd., was benefited by Rs.3,71,717/-. There after a new H.T. connection to M/s Shree Satya Silica Pvt.Ltd. was released at the same address with sanctioned load 110 HP with an agreement period of 3 years. As per the request of consumer the H.T. connection of M/s Shree Satya Silica Pvt.Ltd. was made P.D. before expiry of agreement period by extending co-operative view by MSEDCL., and thus the consumer was benefited for the minimum bill for '9' months period. In terms of money, consumer was benefited by Rs.1,60,380/-.

6. As per the order Hon. Ombudsman's Order the amount retained by M.S.E.D.C.L. towards cubical & metering equipment was returned to the consumer within time limit specified in the order. There is no such order for payment of interest to the consumer. Hence M.S.E.D.C.L. is not at all liable for payment of interest as demanded by consumer.

7. As per the provisions of Electricity Act and Rules & Regulations there under, to maintain the P.F. within the limit is the sole responsibility of consumer. In this case consumer failed to maintain the specified P.F. and hence as per the provisions M.S.E.D.C.L. has a right to recover the P.F. penalty. As such P.F. penalty cannot be refunded.

8. On 19.12.2006 M/s Shree Satya Silica Pvt.Ltd., applied for 60 HP - L.T. connection under 15% ORC Scheme, consumer has given consent on stamp paper for procurement of own transformer. Thus as per the request of consumer connection was sanctioned under ORC. Consumer at his own having consented for purchase of 100 KVA transformer and operated for to carry out the work under 15% ORC. Hence the grievance raised by consumer for refund of transformer cost needs to be dismissed.

In terms of MERC Regulation notice was issued for hearing and the hearing was conducted on dt.22nd Feb 2011. Both the parties were present and argued the case, Mr.Ashok Parnandiwar, advanced the argument on behalf of the consumer.

9. During the course of hearing on 22.02.2011, Mr.Parnandiwar argued that, M/s Shree Satya Silica Pvt.Ltd. is an Industrial Consumer of Mahavitaran. Mahavitaran is unnecessarily introducing the matter of M/s Maharashtra Mineral Corporation Ltd., & hence point raised by Mahavitaran as above is irrelevant. The cost of metering equipment as paid by the consumer on 11.05.2004. M.S.E.D.C.L. has arbitrarily recovered the said amount. As per the order from Hon. Ombudsman the amount so recovered was refunded on 20.11.2010. Thus the M.S.E.D.C.L., retained the said amount from dt.11.05.2004 to 20.11.2010. In the course of hearing at Hon. Ombudsman the issue of interest remained unaddressed. Hence consumer is entitled to get interest on the amount at the rate equivalent to the bank rate.

10. M/s Shree Satya Silica Pvt. Ltd.applied for fresh L.T. connection on dt.03.10.2006. The Executive Engineer, Kankavali, in his letter confirmed that M/s Shree Satya Silica Pvt.Ltd. has applied for 60 HP connections on dt.03.10.2006. The supply to M/s Shree Satya Silica Pvt.Ltd. was actually released on dt.02.07.2007 with a delay of '8' months. MERC Regulation 2005 for Standards of Performance Appendix 'A' clause 1(iii) prescribes the time limit for release of connection from date of application and payment of charges as (A) one month in case connection is to be from existing network and (B) Three months where extension or augmentation of distribution mains is required in the present case extension or augmentation is not being required, thus supply should have been released within one month w.e.f. by 02.11.2006. Thus there is delay is '8' months for release of connection. This delay has put huge loss to the tune of Rs.9.00 Lacs. Hence Hon. Forum may please direct M.S.E.D.C.L. to compensate the loss so caused.

11. M/s Shree Satya Silica Pvt. Ltd respects & undertake to abide it self to the provision 12 of MERC Regulation 2005 dealing with the Power Factor & Harmonics. As per clause 12.1 of the regulation it is obligatory for the consumer to maintain the average Power Factor of his load. The statement of average Power Factor charged through the bills of M/s Shree Satya Silica Pvt. from Oct.2008 to Dec.2010 shows that the average power factor considered for billing are as 0.01, 0.23, 0.07, 0.10, 0.20, 0.19, 0.33, 0.23, 0.24,0.15,0.18,etc. All these figures of Power Factor are practically impossible for any load conditions. One factor which can lead to such situation is incorrectness of meter. At the hearing before Hon. Ombudsman M.S.E.D.C.L argued that, at low load conditions meter cannot record the correct parameters.

As a thumb rule, one of the methods adopted to improve the P.F. is adding of capacitive compensation in KVAR equivalent to 1/3 of the sanctioned load in HP. In this case sanctioned load is 60 HP and capacitors of 20 KVAR are already provided.

As such Hon. Forum is requested to Review the assessed power factor, Not to levy P.F. penalty in future bills till the issue is resolved, Refund the P.F. penalty so recovered.

12. As per MERC order dt. 8th Sept.2006 in case No. 70 of 2005, the Commission did not allow M.S.E.D.C.L. to recover any charges from the prospective consumers under ORC. Clause 6.4 of the said order issued, directions to M.S.E.D.C.L. to the effect that the cost towards infrastructure from delivery point of the transmission system to distribution mains should be borne by M.S.E.D.C.L. violating the directions M.S.E.D.C.L. made M/s Shree Satya Silica Pvt. Ltd to purchase 100 KVA Distribution Transformer, the said transformer was purchased for Rs.1,09,113/-.

Thus it is clear that M.S.E.D.C.L. violated the provisions of the Hon. MERC order dt.8th Sept.2006. In view of the above it is requested to Hon. Forum to direct M.S.E.D.C.L. to refund to cost of the transformer Rs.1,09,113/- recover under ORC.

Shri K.B.Patil Executive Engineer, M.S.E.D.C.L.,Kankavli Division argued that -

13. M/s Shree Satya Silica Pvt. Ltd has applied for 60 H.P. connections under 15% ORC scheme on dt.19.12.2006. Accordingly the estimate was sanction & quotation was issued to the consumer. There after on dt.10.01.2007 M/s Shree Satya Silica Pvt. Ltd has paid the 15 % super vision charges & started the errecation work distribution network through licensed electrical contractor. After completion of said work consumer paid service connection charges on .31.05.2007 & submitted the test report on 02.06.2007 immediately within eight days. on 10.06.2007, the said L.T. connection of 60 Hp was released. Consumer has opted to carry out the work under 15 % supervision at his own. Accordingly M/s Shree Satya Silica Pvt. Ltd carried out the work & installed the transformer & hence there is no any violation of MERC Regulations. Thus M.S.E.D.C.L. is not liable for refund of transformer cost installed under 15 % ORC scheme.

14. After completion of distribution network consumer submitted the test report on 02.06.2007 & the connection was released on 10.06.2007. As such there is no any delay in releasing the connection. M/s Shree Satya Silica Pvt. Ltd has previously approached to Hon. Ombudsman, and this issue was already raised. Hon. Ombudsman decided the delay as time barred, vide the order passed in that respect. Hence M.S.E.D.C.L. is not at all liable for any compensation as demanded by the consumer for the delay in release of connection.

15. To maintain the P.F. within limit as specified in the MERC regulation is the sole responsibility of the consumer. M/s Shree Satya Silica Pvt. Ltd failed to maintain the P.F. even if he was well aware of the regulations. Such type of P.F. assessment is possible at Low Load condition under the circumstances consumer failed to maintain the P.F. Due to which M.S.E.D.C.L. recovered the P.F. penalty as per the provisions under MERC regulations. Hence Hon. Forum is requested to not to direct MSEDCL for refund of P.F. penalty.

16. In the case no.111 of 2009 before the Hon. Ombudsman the issue regarding refund of cost of metering equipment was throughly discussed and up on hearing of both the sides wise M.S.E.D.C.L. & M/s Shree Satya Silica Pvt. Ltd. Hon. Ombudsman passed the order, the order clearly directs for refund on cost of the metering equipment & the amount was Rs. 1,11,000/- M.S.E.D.C.L. has already refunded the metering equipment cost & the order. Hon. Ombudsman has not given any direction refunding payment of interest. Hence it is requested to Hon. Forum that M.S.E.D.C.L. should not be directed to pay interest in this regard.

After having heard both the parties and on careful consideration of submitted documents on record it is following issues arise for our consideration.

- a) Whether the Appellant is entitled to get the interest on the amount retained by M.S.E.D.C.L. towards cost of cubical & metering equipment.*
- b) Whether the Appellant is entitled to get refund of cost of transformer installed under 15% ORC scheme.*
- c) Whether M.S.E.D.C.L. is entitled to charge P.F. penalty for such a low P.F.*
- d) Whether there is any delay in releasing the L.T. connection & if so whether the Appellant is entitled for the claim any financial loss occurred due to delay in releasing connection.*

It is interesting to note that, present consumer applicant had earlier filed his grievance before this Forum under case no.49/2009. It was disposed off by this Forum under its order dated 22.06.2010. Being aggrieved by the order passed by this Forum consumer approached Hon'ble Electrical Ombudsman and the appeal was numbered as No.111/2010. It was heard and disposed off by Hon'ble Ombudsman on 07.09.2010. It is pertinent to note that consumer has again approached this Forum with the same grievances but with little modifications.

17. Facts of the case reveals that M/s Shree Satya Silica Pvt. Ltd. was a H.T. consumer. As per consumers request M.S.E.D.C.L. already disconnected the H.T. power supply permanently & settled the issues regarding arrears agreement period etc. Also as per the own request of consumer L.T. connection to M/s Shree Satya Silica Pvt. Ltd. was sanctioned under 15% ORC scheme. As per consumers submission dt.18.01.2011 it is very clear that M/s Shree Satya Silica Pvt. Ltd. has filed suit regarding refund of metering cost retained by M.S.E.D.L.& that too with the interest as applicable at the bank rates before Hon. Ombudsman vide case no.Elect/Ombudsman/MERC/111 of 2010. Hence Appellants argument as issue regarding interest was remained unaddressed at the Hon. Ombudsman do not attract any merit at the C.G.R.F. level. Up on hearing both the parties & considering the submission on record. Hon. Ombudsman has given findings & direction at clause no. 11 & 12. In the direction Hon. Ombudsman clearly directed for refund of metering cost, but for payment of interest Hon. Ombudsman has not given any specific directives even after the grievance was put forth by the Appellant for refund of cost with interest. Hence as the issue was already dealt by at Hon. Ombudsman & there are no such specific directives regarding payment of interest. So this Forum cannot again entertain this issue. So the same is answered in the negative.

18. As regard to the issue of refund of cost of transformer, it clearly reveals from the argument & through the submission on record that the 100KVA transformer was installed by the Appellant at his own consent which was given on stamp paper. This transformer was installed and commissioned in Jan 2007. After commissioning of transformer from Jan.2007 to Jan.2011 Appellant remained silent & has not raised any

issue regarding refund of cost of transformer. Thus in any case the issue is very stale and barred by limitation, as it was not raised and agitated earlier. The Forum is not inclined to entertain the prayer as being time barred in terms of Regulation 6.6 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006. Therefore no relief in this behalf can be considered at this stage. So the issue at (b) above is answered to be negative.

19. As per Appellants submission the L.T. connection to M/s Shree Satya Silica Pvt. Ltd. was released on 02.07.2007. There after M.S.E.D.C.L. charged P.F. penalty in the month where ever it is applicable, as per annexure 'A' enclosed. From the table it is clear that M.S.E.D.C.L. charged penalty for P.F.0.01 in the bill dtd.16.11.2008, for P.F. penalty of 0.07 in the bill dtd.13.01.2009 for the P.F.0.01 in the bill dtd.18.02.2009 etc. In the order of Hon.Ombudsman in case no. 111 of 2009 at clause 14, Hon. Ombudsman clearly passed the order as Appellant cannot be held entitled for refund of Power Factor penalty levied by M.S.E.D.C.L. In terms of the provision of tariff order.

At this stage as argued by M/s Shree Satya Silica Pvt. Ltd., P.F. of the level of 0.01, 0.23, 0.07, etc. are technically & practically are impossible. But M/s Shree Satya Silica Pvt. Ltd. has forgotten that this issue of P.F. was already considered by Hon. Ombudsman & considered as stated above. Hence the case as such does not hold any merit at the level of C.G.R.F. So Forum's view towards point (c) as above is answered in the negative.

20. Directives passed by Hon. Ombudsman in the case no.111 of 2009 at clause no. (13) reveals that there is delay in releasing connection, but in any case this grievance has not been raised or agitated by the Appellant within the span of two years of its occurrence before the Forum. As such the issue becomes time barred in terms of Regulation 6.6 of C.G.R.F. Regulation.

At the clause .16 of the same order Hon. Ombudsman, has considered the issue of compensation to the extent of 12 lacs towards monetary loss. The claim was rejected on the ground of non submission of any documentary evidence, proof or justification to show that such loss, if any is actual loss caused as a direct consequence of alleged act.

In the present case M/s Shree Satya Silica Pvt. Ltd. claimed monitory loss of Rs.9.00 lacs & that too without any full proof evidence or document. And hence Forum's view for the issue as stated above is in the negative being already considered in the clause of 13 & 16 of the Hon. Ombudsman's order in the case no.111 of 2009.

Thus with the above finding & observation of the Forum the following order is passed.

Annexure –A

Sr.No.	Bill Date	Power Factor	P.F. Penalty Charged
1	17.10.2008	0.80	801.87
2	15.11.2008	0.01	17305.38
3	10.12.2008	0.23	12100.19
4	13.01.2009	0.07	5692.00
5	18.02.2009	0.10	10843.50
6	17.03.2009	0.20	10044.35
7	14.07.2009	0.33	3432.00
8	14.08.2009	0.19	16376.75
9	11.09.2009	0.24	2421.18
10	16.10.2009	0.23	5739.45
11	10.11.2009	0.64	1256.04
12	07.12.2009	0.42	4257.10
13	29.01.2010	0.34	7857.67
14	09.02.2010	0.76	2815.75
15	08.03.2010	0.56	10933.63
16	10.04.2010	0.39	9776.62
17	11.05.2010	0.36	3400.00
18	11.06.2010	0.63	971.38
19	12.07.2010	0.19	3569.47
20	12.08.2010	0.15	10471.00
21	13.09.2010	0.18	4956.00
22	13.10.2010	0.85	422.81
23	08.11.2010	0.80	3496.00
24	14.12.2010	0.79	4576.00

ORDER

- 1. The Grievances of the consumer Shree Satya Silica Pvt.Ltd, stand rejected and disposed of accordingly.**
- 2. No. orders as to the cost.**
- 3. In case consumer desires to appeal against this order he should file his appeal to the following addresses.**

**Secretary,
OMBUDSMAN,
Maharashtra State Electricity Regulatory Commission,
606/608 Keshava building, Bandra Kurla Complex,
Mumbai- 400051.
Phone No. 022-2652965**

**D.S.Jamkhedkar
Chairman ,C.G.R.F
Konkan Zone**

**V.B.Jagtap
Ex. Engineer,C.G.R.F
Konkan Zone**

**N.A.Kulkarni
Member,C.G.R.F
Konkan Zone**

Date : 30.03.2011

Place : Ratnagiri