

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

Consumer case No –57/2010

Date: 22/10/2010

Dr.Girish Bidikar.
"Bidikar Hospital"
Shivalaya, Ektamarg,
Gaurinanden Vasahat,
Maruti Mandir,
Dist/Ratnagiri

Complainant


V/S

1) Executive Engineer,
MSEDCL,
Ratnagiri Division.

2) Dy.Ex. Engineer,
MSEDCL,
Ratnagiri Urban Sub -Division
Ratnagiri .

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

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Dr.Mrs.Uma Bidikar

On behalf of opposite party

- 
- 1) Mr.D.A.Bobade
Dy.Ex.Engineer
Urban Sub Division
Ratnagiri
 - 2) Mr.S.P.Deshpande
Dy.Ex.Engineer
Ratnagiri Division
 - 3) Mr.V.V.Sawant
Junior Engineer
Urban Sub Division II
Ratnagiri

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

Mr.& Mrs.Dr.Bidikar are in the medical profession under the name and style " Bidikar Hospital" and have filed their grievances on 22nd October under the prescribed format along with relevant particulars related to grievances . The particulars of the grievances filed are as under:-

Mr.&Mrs.Dr.Bidikar are the owner of "Bidikar Hospital" and are having total five meters out of which four meters are in use. The consumption of electricity is for the purpose of Hospital. As reported by the consumer, the serious explosion of Transformer occurred on 28th Aug 2009 & upon explosion, the machinery as well as equipment belonging to Hospital had burnt and serious damages also caused to the Machinery & Equipments. Consequent upon the incident the supply of electricity commenced from 2 meters, however it was not stable and again in the evening, one more explosion occurred and this has caused a serious damage to the Entire equipments including all the system installed in the Hospital premises.

After the incident, repeated efforts were made to communicate it to Mahavitaran, however the authorities did not respond and no immediate steps were initiated nor did they visit the place. The Hospital remained closed for the period of 4 days from the date of incident. The detailed investigation was carried out and the detailed report was delivered. This was also communicated to the Electrical Inspector under the provisions of law and accordingly Electrical Inspector also carried out enquiry u/s 161 of the Electricity Act and Mahavitaran was held responsible for compensation vide Certificate of Electrical Inspector dated 30/11/2009. The continuous follow up was also made with the office of Mahavitaran and ultimately on 3rd Aug 2010 the office communicated that the papers are filed with the Division office for further action. In spite of follow up, repeated reminders, and considering the period involved of more than 15 months, no action, nor any communications was made by Mahavitaran. The particulars of losses suffered and the details of damages to the property are already filed on the basis of which compensation be granted as early as possible.

Consequent upon receipt of grievances as referred to above explanation was called from Divisional office vide letter, dated 25th October and further reminder vide letter dated 11th November. In response to which Mahavitaran filed it's reply vide letter dated 15th November 2010. In terms of MERC Regulation notice was issued for hearing and the grievances are heard on 7th December 2010. Both the parties were present and argued the case. However Mahavitaran could not submit the submission and requested further time upto 28th December which was allowed having consented by consumer also.

Consumer immediately upon hearing, filed the relevant particulars of the Equipments & Machinery acquired subsequently along with the bills and receipt and a copy of photograph evidencing the position claimed and the total compensation on this basis of Rs.1,20,000(One lack twenty thousand only)has been claimed . Mahavitaran , also filed it's submission vide letter no.8154, Dated 27th December 2010 and once again

requested to dismiss grievances being covered u/s 161 of the Electricity Act 2003 and the rules of Regulatory Commission.

During the course of hearing on 7th December, the parties present advanced their argument and further relied on the submission filed so far. Dr.mrs.Bidikar for and on behalf of consumer clarified the position of incident and further explained the relevant steps initiated by them. She also elaborately disclosed the lapses and lacunas on the part of Mahavitaran in terms of service, which were never bothered for a total period of one year and above by Mahavitaran.

It was further argued that the whole process of Electrical Inspector, one who is the competent authority was never challenged by Mahavitaran. The respective authority was also keeping a mum on the very aspect of this incident in spite of the continuous follow up. They never bothered even to acknowledge nor any communication was delivered by them. This Act on the part of Mahavitaran itself proves that they have nothing to say on this issue. No objections were raised, no clarification nor any further investigation was carried out by them and only one step initiated by them is to reply to the consumer vide letter of Subdivision, dated 3rd August 2010, stating that the relevant papers are filed with the Division office. The Spot Panchnama, the list of damaged Equipments and the certification of the Electrical Inspector u/s 161 already justified and further evidenced the actual position of the accident. It is therefore submitted that the claim of compensation be granted, as early as possible.

The representative of Mahavitaran argued on the relevant points and stated that during the period of August and September there were heavy rains and therefore this amounts to natural calamity. The technical personality also stated that insulator was punctured in the nearby vicinity. It was agreed that they were present at the time of Panchnama and also during the course of assessment of damage by Electrical Inspector. Upon discussion it was also confirmed by them, that the finding of Electrical Inspector, dated 30.11.2009 was not at all challenged. The Mahavitaran further reiterated the stand taken by them as to this is the case covered under the provision of section 161 of Electricity Act, and further having the support of the rules 4 (C) and also rule 6.8, sub clause -3 and hence the Forum has no jurisdiction on issues involved and further demanded to dismiss the case being out of the ambit of CGRF. However they also requested time to seek the legal opinion and to file further particulars accordingly they filed their submission vide letter no.8154, dated 27th December. The submission of the Mahavitaran is to the effect that, the procedural steps were initiated, however they could not settle the issue mainly on account certain acts on the part of consumer, which are summarised below :-

- a) The Hospital run by Mr. & Mrs. Bidikar is with the help of other 3 meters belonging to other consumer for which no intimation was given to Mahavitaran.
- b) The supply of Electricity to Bidikar Hospital was connected from 200KVA, 'Parkar Hospital Transformer' and upon accident on 28th August, no other consumers have suffered nor any damages are noticed. The possibility is the defect of Electricity Line; however no one has suffered except "Bidikar Hospital".

No built in stabilizer or other equipment were installed to protect them from heavy load.

- c) The case is covered u/s 161 Electricity Act and rule 6.8, sub rule -3 of the rules and regulation of regulatory commission.

Thus on the basis of above submission they demanded to dismiss the case, since Forum has no jurisdiction to redress the grievances of the said consumer.

On the basis of arguments advanced by both the parties and considering the submission filed /documentary evidence it is concluded by the Forum that the issues before Forum is a considerable delay on the part of Mahavitaran to settle the issue of compensation payable upon accident duly authenticated by Electrical Inspector u/s 161 of the Electricity Act. The Mahavitaran objected that the Forum has no Jurisdiction under the provisions of law and also the Rules and Regulation of Regulatory Commission. The Section 161 deals only with accident occurred due to natural calamities and further procedure is laid down vide sub clause 2&3. In this case, the compliance of Section 161 is already completed for which Electrical Inspector is competent authority and accordingly he exercised power as per provisions of section 161. This is further supported by the procedure of the Regulatory Commission Clause No.6 particularly Clause No.6.8 which state as to grievances referred to it falls within the purview of any of the following provision and in that case the same shall be excluded from Jurisdiction of the Forum vide Clause - C, i.e. -

**" Accident in the distribution supply or use of
Electricity as provided u/s 161 of the Act."**

In view of this particular provision, the question does not arise as to the Jurisdiction of the Forum and Forum is competent enough to deal with the grievances vide clause - 2, sub clause 2.1(C) hence the grievances of the consumer are well within the jurisdiction of this Forum. The submission as well as objection raised by the Mahavitaran deserves to be rejected as the incident cannot be termed as accident occurred due to heavy rains or in consequence of natural calamity.

The next question arises as to from the date of accident, Mahavitaran remained silent for more than one year and they never communicated to the consumer about action taken. Mahavitaran was aware about procedures and they would have preferred appeal with the appropriate authority against the finding given u/s 161 by the Electrical Inspector. The certificate issued by Electrical Inspector dated 30/11/2009 is self explanatory and Mahavitaran is held responsible for accident as well as compensation to be payable in this regard. The total silence on the part of Mahavitaran has no justification at all and the submission filed by them dated 27th December 2010 has no force but that is "After thought". Nothing has been proved by them nor they substantiated any submission and hence the objection raised by them has no relevance to the issues involved and we do not find any merit. Thus the said objection also deserves to be rejected. It is pertinent to note here that Mahavitaran did not bother to carry out any procedural part nor they recorded any objection, even they never communicated to the consumer and thus totally failed in discharging their duties and obligations. The competent authority has already held them responsible which is further accepted by Mahavitaran and then failed in not

complying with the provisions of law. The lapses on the part of Mahavitaran be enquired and Mahavitaran is at liberty to investigate the issue involved and to further decide in order to avoid such type of recurrence.

The issue of Redressal of Grievances is in respect of quantification of compensation on the basis of available material and its immediate release to the consumer. It is observed that initially consumer filed total claim of the machinery and equipment to the extent of Rs. 1, 48,000/- (Rs. One lack forty eight thousand only) which was subsequently modified along with the documentary evidences to the extent of Rs.1, 20,000/- (Rs. One lacks twenty thousand only). The documentary evidence, bills, receipts and such other particulars are verified and consumer was asked to file further evidences vide letter no.797, dated 23/12/2010 for which consumer furnished all the particulars on Dt. 15.01.2011 along with Bills and further justified the claim.

In view of this and upon verifying and on the basis of documents the loss/damages arising out of the accident, of the equipment and machinery are worked out. This is on the basis of accounting norms and generally accepted principles of the insurance coverage in the process of assessment of the loss for which compensation is payable. The particulars are as under:-

| Sr. No. | Particulars | Date of purchase | Cost of purchase (Rs.) | Depreciation up to 31.03.2009 (Rs.) | w.d.v. as on date (Rs.) | Assessed Loss as (Rs.) |
|-------------|--|--|------------------------|-------------------------------------|-------------------------|------------------------|
| 1. | Crompton make bulb flouroseent tube set & celing fan vide bill no.2490/dt.01.02.2000 | 01.02.2000 | 11500/- | 7043/- | 4457/- | 4457/- |
| 2. | 1500VA/48V, UPS with battery & Installation. vide bill no.173/dt.22.08.2000 | 22.08.2000 | 46000/- | 28177/- | 17823/- | 17823/- |
| 3. | Battery IT 650/200AH vide bill no. 611/dt.07.04.2006 | 07.04.2006 | 10030/- | 3448/- | 6582/- | 6582/- |
| 4. | CC TV supply & Installation vide bill no.111/dt.08.04.2006 | 08.04.2006 | 8494/- | 2920/- | 5574/- | 5574/- |
| 5. | EPBX System | Record not available however out of new purchase of Rs.7020/-, 50% is allowed. | | | 3510/- | 3510/- |
| | | | | | 37946/- | 37946/- |
| R/to | | | | | | 37950/- |

Thus the claim payable comes to Rs.37950/-. (Rs. Thirty Seven Thousand Nine Hundred Fifty Only). This needs to be settled within a period of one month along with the interest @ 6 % with effect from 1st Jan 2010 i.e., date of compensation claimed. The delay and lapses on the part of the Mahavitaran is not at all justified and they compelled consumer to run from pillar to the post.

The sheer negligence's on the part of Mahavitaran needs to be further compensated by granting a sum of Rs.1000/- (Rs. One Thousand only) being the compensation for every failure and towards the cost of incidental expenditure.

It is further observed that as against the claim filed, damaged equipment are purchased during the month of March 2010 and partly during Sept 2010 which can not be the basis for the purpose of compensation. The compensation is payable mainly because of accident which further resulted to the loss and damages to the existing equipment and machinery purchased at beginning of the Hospital in the Year 2000, 2006 & 2007. This is as per the particulars of Panchnama immediately carried out on 29.08.2009 duly signed by consumer as well as Mahavitaran. The purchase of LPG - Champ Generator Set (model 5000) purchased during the year 21.02.2007 is not added in the Panchanama list, nor the damage is asked by the consumer and hence this deserves to be deleted. All other part of machinery and equipment as workout on above basis are acceptable, since covered under the process of compensation.

In view of above observation and finding of the Forum the grievances of consumer are allowed by passing the following order to this effect.

ORDER

1. The grievances of the consumer are allowed / accepted and the compensation of Rs.37950/-. (Rs. Thirty Seven Thousand Nine Hundred Fifty Only) be released by cheque within a period of one month along with interest @ of 6 % with effect from 1st January 2010 till the date of payment. Mahavitaran to file compliance report with the Forum within a period of one month.
2. The compensation as well as cost of incidental expenditure of Rs.1000/- (Rs. One thousand only) should be released within a period of one month, and to file the compliances.
3. The objections / contentions raised and filed by the Mahavitaran are rejected since no relevance to the issues involved.

4. No order as to cost.
5. 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. 022-26592965

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 : 18.01.2011
Place : Ratnagiri