

# CONSUMER GRIEVANCE REDRESSAL FORUM KOLHAPUR

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Con. Comp. No. 171/12-13/122

Date : 28.3.2013

## JUDGMENT

1) Yashwant Sahakari Glucose Karkhana, (Case No.171/1213)  
Sidheshwar Nagar, Tal : Shirala, Dist. Sangli | Appellant

**V/s**

1) Superintending Engineer (KC),  
M.S.E.D.C.L. Circle Office,  
Vishrambag, Sangli | Respondent

2) Executive Engineer cum Nodal Officer,  
M.S.E.D.C.L. Circle Office,  
Vishrambag, Sangli

**Corum -**

- 1) Shri B.G. Pawar, Chairperson
- 2) " G. B. Pankar, Member Secretary
- 3) " G.C. Lele, Member

### **MAHARASHTRA ELECTRICITY REGULATORY COMMISSION ( Consumer Grievance Redressal Forum & Electricity Obudsman): Regulation 8.2 of Regulation 2006**

Judgement by Shri. B. G. Pawar, Chairperson, C.G.R.F. Kolhapur is as follows:

The applicant Yashwant Sahakari Glucose Karkhana, Sidheshwar Nagar, Tal : Shirala, Dist. Sangli has filed grievance/ complaint against M.S.E.D.C.L. through its representative Shri S.V. Deuskar on 1<sup>st</sup> Feb. 2013 before the Forum in prescribed Schedule 'A' Form under C.G.R.F. and Electricity Ombudsman Regulations 2006 rule 6.10. The brief facts are as follows :

The applicant is H.T. consumer having consumer No.272619004340. His contract demand is 1250 KVA. According to complainant, tariff applicable is HT (Non Continuous) and the bills upto the month of Oct. 2010 are issued as per HT (Non Continuous) tariff. In the year 2007, the applicant requested the Company to exclude from load shedding. The Company informed since applicant is connected on common feeder, he can not be excluded from load shedding and if at all applicant wants continuous supply he may lay separate service line at his own cost. Accordingly, the applicant applied for separate service line at his own cost under DDA scheme. He has carried out the said work, but still he is not connected on express feeder. It is contended that the Company in one breath says the applicant's express feeder is not yet commissioned and avoids to give continuous supply and in another breath says that since express feeder is sanctioned to the applicant, he will be billed as per HT (Continuous) tariff. Initially applicant filed grievance before Internal Grievance Redressal Forum, Sangli on 16.11.2012, which has been rejected on 2.1.2013. Order of I.G.R.C. is challenged before the Forum on various grounds set out, in the grievance application, mainly I.G.R.C. Order is wrong and the applicant is connected on express feeder and the discontinuation of supply was not due to load shedding but due to maintenance, is totally wrong. It is contended I.G.R.C. has failed to consider the criteria laid down by M.E.R.C. for applicability of H.T. tariff in case of H.T. consumers on express feeder and on non-express feeder vide its Tariff Order dated 20.6.2008 passed in case No.72 of 2007. The relevant portion of applicability of HT-I tariff is as follows :

“ Only H.T. industries connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other H.T. industrial consumers will be deemed as HT non-continuous industry”.

This has been further laid down in case No. 19/2012 in Tariff Order dated 16.8.2012. Thus it is contended applicability of tariff depends upon provisions of Law and Tariff Order and other directions of M.E.R.C. not at the whims or wishes of the Company. Reference is made to Commercial Circular issued by MSEDCL No. 88 dated 26.9.2008, which reads as follows :

“Applicability of HT I ( continuous industry)

In the Tariff Order, the Commission has specified that “only HT industries connected on express feeder and demanding continuous supply will be deemed as HT continuous industry and given continuous supply, while all other HT industrial consumers will be deemed as HT non continuous industry”. Reliance is placed upon decision of Hon’ble Electricity Ombudsman in case No. 146/2009 Order dated 3.2.2010. Hence, prayed to allow the grievance and issue directions to the Company to rectify the bills from November 2010 onwards as per HT non-continuous tariff and to refund the excess amount with interest to the applicant, and also direction to pay suitable compensation for injury and harassment caused to the applicant due to the deficient services rendered by the Company.

Nodal Officer, MSEDCL, Sangli filed written Say on 20.2.2013. It is contended the applicant is H.T.consumer and the supply is given through 132/33 KV Rile Sub Station to 33/11 KV Shirala Sub Station by tapping incoming 33 KV Shirala line. The said line is express, it has been excluded from load shedding. The supply on this line is closed for some period as and when required for repair and maintenance. Since the supply from this line is on express feeder, the load shedding is not applicable. The consumer is billed as H.T. continuous. The grievance of the complainant that there is interruption in supply so he be treated as H.T. non-continuous and billed accordingly, is not proper and legal.

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The prayer of the applicant to refund the amount is liable to be rejected. Accordingly, by letter No. 17 dated 2.1.2012, the consumer has been informed. The supply given to consumer on HT line, express feeder was billed and charged as per HT continuous tariff is correct. The applicant is not entitled to refund of amount and interest on it. As per M.E.R.C. Supply Code Rule 3.4, Company is entitled to recover the energy charges from the consumer of electricity supplied to it. Prayer for awarding compensation on account of mental torture liable to be rejected. The Executive Engineer, Islampur addressed a letter to Nodal Officer with copy to Secretary of this Forum received in the Office on 18.2.2013, in which it is contended power supply to 33 KV HT consumer M/s. Yashwant Sahakari Glucose Karkhana is tapped on 33 KV Shirala feeder which is emanating from 132/33 KV Rile Sub Station. Supply on 33 KV Shirala feeder is continuous from 33 KV Shirala Sub Station. Load shedding is carried on 11 KV side of 33 KV Shirala Sub Station. Supply will be unavailable if break-down occurs and emergency. Load shedding from EHV Sub Staion (132 KV Rile),, so this 33 KV line is express and there is no load shedding. Copies of log sheet from Nov. 2010 onwards attached for power failure given by the consumer and as per MSEDCL log sheet. There is variation in timings. MSEDCL has taken shut down for maintenance on staggering day wherever necessary. Regarding shut down taken on 33 KV Shirala feeder are intimated to consumer telephonically in advance. Correspondence to consumer complete DDF express feeder work has been attached.

The complaint was taken for hearing before the Forum on 12.3.2013. One Mr.Abhijit Naik, Technical Director, Mr.S.V.Deuskar, E. Manager, and Mr.Mokashi present on behalf of the complainant and Shri Kshirsagar, Nodal Officer, Sangli on behalf of MSEDCL.

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Mr. Naik as well as Mr. Deuskar made submission before the Forum the Company has started charging the bills as per H.T.continuous on express feeder since November 2010, though the express feeder has not been commissioned. Previously the tariff was non-continuous. There was interruption in supply of energy to the industry. On some occasions on staggering day i.e. Tuesday for Sangli District energy was consumed but for entire period MSEDCL started billing as H.T.continuous. Written complaint was made on 28.7.2011 and thereafter on 19<sup>th</sup> Nov.2011. It was also submitted the supply is given by tapping the express feeder line from Rile and it is not on express feeder. So application of tariff HT continuous is wrong and hence prayed to issue direction to the Company to refund the amount of difference i.e. near about Rs.53.00 lakhs and from November 2010 to September 2012 with interest. Amount be adjusted in ensuing bills.

Shri Kshirsagar, Nodal Officer, Sangli supported the Order of I.G.R.C. and contended that supply given to consumer on express feeder is continuous. So bills have been claimed as per the Supply Code approved by M.E.R.C. There is no load shedding on express feeder line, except for repair, maintenance, supply is interrupted for some period. He further submitted on account of interruption in supply, the claim of complainant regarding correction of bill is not allowed. The consumer has been informed by letter No. 17 dated 2.1.2012. In reply the Officer of the Company submitted, in the year 2007, letter was given to the MSEDCL that power supply is with interruptions. Shri Kshirsagar, Nodal Officer was given time to file additional Say, if any, on or before 14.3.2013. The same is received on 15.3.2013, in which, it is contended that consumer has been informed extra hours of interruptions for example in the month of Nov. 2010 -- 43.15 Hrs.

whereas, MSEDCL has informed 14.55 Hrs. Rest of the contention is repetition of earlier Say.

The following point arises for determination :

- 1) Whether the applicant consumer is entitled to issue direction to Company to rectify the bills from November 2010 till Sept. 2012 as per HT non-continuous tariff and refund the excess amount recovered from it with interest ?

Answer : No

#### Reasons

The common admitted facts are as follows :

The applicant is the HT consumer of MSEDCL Sangli. It has been provided power supply by tapping on 33 KV Shirala feeder which is emanating from 132/33 KV Rile Sub Station. Admittedly, supply was on 33 KV Shirala feeder is continuous from 33 KV Shirala Sub Station. The consumer is on 33 KV Shirala feeder and it is common ground that supply will be unavailable if breakdown occurs and emergency. 33 KV line is express and there is no load shedding.

The applicant in the year 2007, requested Company to exclude from load shedding. In response to this letter, it is informed by Company as applicant is connected on common feeder, he can not be excluded from load shedding and if at all applicant wants continuous supply he may lay separate service line at his own cost. Accordingly applicant applied for separate service line at his own cost under DDA scheme. Work is in progress and for some formalities and technicalities, the consumer is not connected on express feeder.

Therefore, the applicant contends the consumer applicant is not connected on express feeder, but the facts remain that applicant has been provided supply by tapping on 33 KV Shirala feeder which is express feeder and there is no load shedding on this 33 KV Shirala line which is emanating from 132/33 KV Rile Sub Station, supply on 33 KV Shirala feeder is continuous. This being the position, applicant company applied to Executive Engineer, Islampur on 1.1.2007 for excluding from load shedding. So the applicant has been informed by letter dated 22.1.2007, the consumer can not be excluded from load shedding. The supply is given to consumer by tapping the 33 KV Shirala incoming line as contended in the Say.

In this background, question crops up for consideration whether action of Company to apply tariff - H.T.continuous is justifiable ? Undoubtedly it is true, the Company issued Commercial Circular No. 88 dated 26.9.2008 on the basis of Order of Hon'ble M.E.R.C. in case No. 72/2007 dated 20.6.2008 in respect of HT-I tariff, applicability to the consumer. The criteria laid down by Hon'ble M.E.R.C. requires fulfilment of two conditions before industry is charged continuous or non-continuous.

- 1) HT industry has to be connected on express feeder.
- 2) HT industry has demanded continuous supply.

In the present case, there is reason to believe, HT industry of applicant has been connected on express feeder by tapping on 33 KV Shirala feeder and this industrial consumer has demanded the continuous supply and consumed energy continuously for running its industry. Since there was interruptions on account of repairs, maintenance which prompted applicant consumer to write a letter to Company dated 1.1.2007 (copy of the same is not produced).

The reply of the Executive Engineer dated 22.1.2007 makes it clear the consumer has requested to exclude from load shedding, reasons are obvious that consumer was not connected on separate express feeder. Therefore, the consumer has shown readiness to erect a separate line to connect on express feeder. Thus the consumer has enjoyed the supply continuously on express feeder by tapping at 33 KV Shirala incoming line, which is an express feeder, which is continuous from 33 KV Shirala Sub Station.

In this background, the Forum is of the opinion the ratio laid down in case No.146/2009 M/s. Paul Strips and Tubes Pvt. Ltd. V/s. M.S.E.D.C.L. Order dated 3.2.2010 by Electricity Ombudsman is of little help to the consumer. In the cited case the appellant never asked for express feeder connection, in the present case, the consumer has been given electricity supply by tapping on express feeder and there is separate work of express feeder under D.D.F. at the cost of applicant. In the present case, the consumer has demanded and enjoyed the supply. The applicability of tariff is based on the purpose for which electricity is being used and not otherwise. The statement attached with letter of Executive Engineer of the Company and the consumer prime facies established that the consumer has consumed electricity supply on staggering day i.e. Tuesday. There is reason to believe the consumer has exercised choice to take supply continuously from express feeder. The Company is right in levy of tariff to the applicant meant for industry on express feeder. Both the parties are silent on this aspect of exercising choice. The facts remain the consumer was given supply through tapping on express feeder, it enjoyed the same. When Company issued bills as per tariff category HT I continuous, amount has been paid as per bills from November 2010. Zerox copy of the log sheet of the Company and that of consumer has given.



The consumer has given statement of power failure hours from Nov. 2010 to 27.9.2012, whereas, the Company has filed a zerox copy of the log sheet for the said period. There appears to be a difference of 17.00 Hrs. of interruptions, considering the period from Nov. 2010 to Sept. 2012, nearly 22 months, is shorter or negligible. So on this ground of frequent interruptions in electricity supply, the prayer of the complainant consumer he be billed as non-continuous, can not be accepted. The consumer is not entitled to refund excess amount with interest as prayed. The point is answered in the negative. In clause 8 of the Schedule A of grievance, at Sr.No.6, the prayer is made to direct opponent to pay suitable compensation for injury and harassment caused to the applicant due to the deficient services rendered by the opponent. In view of answering point (1) in the negative, the prayer of applicant to issue direction for compensation is liable to be rejected.

Prime facies complaint appears to be time barred or not filed within 2 years as per CGRF and Electricity Ombudsman Regulations 2006. Refund of the bill amount from Nov. 2010 has been claimed initially before I.G.R.C. Sangli by filing grievance on 16.11.2012 and before the Forum on 1.2.2013, restricting claim upto period Sept. 2012. However, the consumer has informed by letter dated 28.7.2011 to Superintending Engineer, Circle Office, Sangli making prayer for refund of bill amount as per tariff HT I continuous and made prayer for refund of excess amount Rs. 21,41,183/- and in subsequent letter dated 19.11.2011 - Rs. 24,92,299.85, so answer of the Company has been intimated about the grievance within 2 years.

Therefore, the Forum is of the opinion, the grievance is not time barred, it is within 2 years period as per CGRF and Electricity Ombudsman Regulations 2006. Hence following Order .

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**ORDER**

- 1) Grievance is rejected.
- 2) The applicants / aggrieved persons by this Order are having right to prefer appeal within 60 days from the date of this order before the Hon. Ombudsman at ' Keshwa ' Bandra Kurla Complex, Bandra (E) Mumbai.

Date :

Sd/-  
( B. G. Pawar )  
Chairperson

1) G. B. Pankar, Member Secretary :

2) Shri G.C. Lele, Member

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