

CONSUMER GRIEVANCES REDRESSAL FORUM;
MSEDCL NAGPUR (RURAL) ZONE NAGPUR
COMPLAINT NO. 02/2013

Shri Rajesh Shamrao Anantalwar
At.Po.Saoli
Taluka- Saoli
District - Chandrapur.

Complainant

,,VS.,

1. Executive Engineer,
MSEDCL,O&M Division,
Chandrapur.
2. Executive Engineer/Nodal Officer,
I. G. R. C., Circle Office,
MSEDCL,Chandrapur.

Respondents

Applicant represented by Shri R.S.Anantalwar

Respondents represented by 1) Shri Vinod Deshpande, Dy.Exe Engineer, Chandrapur.
2) Shri Dipak V. Mahokar, Assistant Engineer.Saoli

CORAM:

Shri Vishnu S. Bute, Chairman.
Adv. Gauri D. Chandrayan, Member
Ms. S. B. Chiwande, Member-Secretary.

JUDGEMENT

(Delivered on 12th day of March, 2013)

The applicant Shri Rajesh Shamrao Anantalwar R/o Saoli Tq.Saoli (the applicant) is an agricultural consumer no.453461080353. It is alleged that the electricity supply to his agricultural pump was interrupted from 15-03-2012. In spite of written complaint the respondent failed to attend the fuse of call. So he informed the higher authorities of the respondent. Even then the cognizance of his complaint was not taken. So he filed the grievance application before this Forum on 14-01-2013. A case was registered at sr.No.02 of 2013. The respondent submitted parawise reply to the application under

no.EE/O&M/CHP/Tech/699 dated 13-02-2013. The case was fixed for personal hearing on 11-03-2013.

2) Shri Rajesh Shamrao Anantalwar, the applicant was present. He argued the case himself. Shri Vinod Deshpande, Dy.Executive Engineer, O&M Dn.Chandrapur and Shri Dipak Mahokar, Assistant Engineer, Saoli represented the respondent. Both the parties were heard.

3) Brief details of the grievance as stated by the applicant are as under, the applicant has an agricultural land at village Singapur, Tq.Saoli. He installed one 5 HP motor pump for agricultural use. The transformer installed at village Singapur stopped working from 15-03-2012. The villagers got a single phase supply started. However 3 phase supply was not started. He registered complaint in the register on 17-07-2012, 07-08-2012, 10-08-2012, 20-08-2012 and 10-09-2012. He also contacted the concerned wireman and the Sectional Engineer on phone. However nothing was done in this regard. So he had to use oil engine at the time of transplantation of paddy. He had to incur the expenditure of Rs.10,000=00. Due to inadequate water supply he could not cultivate his one acre of land.

On 15-09-2012 a transformer was installed. His 3 HP pump set was started. However a line to his 5 HP pump set was not charged.

The Canal work of Gosikhurd project was undertaken by the irrigation department. One pole was broken. The respondent erected the pole, however the jumpers were not fixed and the supply was not restored. In spite of repeated persuasion the respondent did not start the supply.

The transformer was not working from 15-03-2012 to 16-10-2012. So he could not irrigate his land as there was no power supply. He could not carry out the transplantation of paddy properly. The respondent failed to attend fuse off call within prescribed time. So a compensation as prescribed under the law may be given. In addition no electricity charges should be levied for this period.

The applicant submitted the xerox copies of electricity bill. The applicant also produced the xerox copies of the complaint register. The entries about the failure of power supply are made in the complaint register on 17-07-2012, 07-08-2012, 10-08-2012, 20-08-2012 and 10-09-2012.

A copy of the parawise reply submitted by the respondent was given to the applicant. The applicant submitted supplementary statement on 11-03-2013. It is placed to the record.

4) Shri Vinod Deshpande reiterated the written statement dated 13-02-2013. He further added that the instant proceeding is not tenable. The applicant should have approached the IGRC Chandrapur initially. It was denied that the transformer was not working from 15-03-2012. It was denied that the applicant used oil engine for transplantation of paddy. It was also denied that he incurred expenditure of Rs.10,000=00. It was also denied that the pole was broken by the machine of irrigation department. It was stated that this incident took place about 2 years ago. The respondent also denied that the applicant could not irrigate his 20 acre of land.

It was further stated that the applicant registered his complaint about the failure of the electricity supply to his pump set on 07-08-2012 for the first time. After inspection

it was noticed that the transformer which supply power to the pump set of the applicant needs to be changed. It was a rainy season. So the transportation of the transformer was not possible. The road going to the village Singapur was not in proper condition. The local MLA wrote to the Zilla parishad about the bad condition of the approach road. The Sarpanch of the Grampanchayat, Singapur also gave a certificate that the condition of the road was not proper. The respondent submitted the photographs of the location of transformer to show that the transportation was difficult.

Chandrapur, Gadchiroli, Bhandara and Gondia are the heavy rain fall district. So as soon as the rain fall receded the respondent installed the transformer on 15-09-2012 and power supply was resumed.

The applicant stated that he could not cultivate the 20 acre of land. However he has only 4 acre of land recorded in his name. Even if the land of his joint family is taken into consideration he has only 14 acres of land. It is not true that due to failure of the transformer, the applicant had to suffer a loss. The Sarpanch of the village and Patwari of village issued certificates in this regards.

It was a rainy season. The condition of the road was not proper. So the situation was beyond the control of the respondent. Under such circumstances, the respondent is exempted under Regulation 11 of the S.O.P Regulations.

In view of the aforesaid facts and circumstances the grievance application may be dismissed.

5) Ld. Member of the Forum recorded her opinion as under,

In this case, it is very important to consider the load shedding criteria. Hon'ble

Commission issued order in case No. 5/2005 on the principles and protocol to be adopted for load shedding by MSEDCL, in view of the prevailing shortage of electricity in the State of Maharashtra on 16th June,2005.

The few key feature of the Commission's order are given below :

(a) The EA, 2003 casts certain obligations on Distribution Licensees with regard to supply of electricity to their consumers, except in certain circumstances outside their control. However, it is inevitable that, when there is a shortage of available power vis-à-vis the requirement of consumers, load shedding would have to be undertaken in order to maintain the system frequency and to ensure its security. The present Order deals with the basis on which such shortage should be apportioned among different consumers and areas through load shedding, rather than the actual extent of shortage that may prevail at any point of time. Thus, it should not be construed as the Commission having validated or accepted the figures presented by MSEDCL with regard to the shortfall or its reasons. Moreover, the load shedding requirement is dynamic, and would vary from time to time depending on the system demand-supply gap, system frequency, season, time of day, etc.

(b) The thrust of the EA, 2003 is on efficiency and economy of operations. Moreover, the immediate issue of concern in these proceedings is the equitable management and Regulation of the load in a situation of shortage. In order to do so in a fair and equitable manner, the Commission believes that it is necessary to distinguish between areas with better performance, and undertake lesser load shedding in areas with lower Distribution

losses and higher collection efficiency, all else being equal. This would be in keeping with the principle that, at a time of scarcity, areas where energy is not being efficiently utilized or paid for should rank lower in the rationing order.

h(i) Applying the above principles, the Divisions have been ranked in four Groups as follows, such that all Divisions within a Group would be subject to the same level of load shedding (except for Divisions comprising a major city, which would be clubbed):

	Group	Weighted average loss and collection efficiency level	
		Urban	Rural
1	Group A	0% to 25%	0% to 28%
2	Group B	> 25% to 35%	> 28% to 38%
3	Group C	> 35% to 50%	> 38% to 53%
4	Group D	Above 50%	Above 53%

The above features clearly specify that Hon'ble Commission has approved load shedding as per average loss & collection efficiency of divisions of the MSEB Area of supply. The maximum hrs. of planned load shedding was initially for 8 hrs. which was increased from time to time for 13 to 16 hrs. This load shedding protocol requires to be modified as and when the situation demands. The load shedding protocol is implemented in consultation with MERC Hon'ble Commission issued various orders regarding load shedding vide order dt.10.01.2006 in Case No.35/05, Case No. 78/06, date. 20.02.2007, based on that MSEDCL issued various circulars from time to time

regarding revised load shedding programme. MSEDCL give wide publicity in news papers & also display the same at prominent places.

In this case, being the agricultural dominated region & as per recent load shedding programme, the applicant is liable to get supply maximum for 8 to 10 hrs. depending on the DCL groups in which it falls. Hence the applicant's request for compensation considering the period of failure for continuous 24 hrs. is improper & illegal. As per the various order of Hon'ble Commission & based on that various circulars issued by MSEDCL, the applicant is not approved for getting supply for 24 hrs. in a day, hence he can not claim compensation for the same. Therefore, in my opinion, the applicant's claim of compensation considering 24 hrs. supply period is unjust & improper. He is entitled to get compensation excluding the period of load shedding.

6) The Technical member of this Forum recorded her opinion as under,

In present grievance application dated 14-01-2013, the applicant has demanded compensation for the period from 15-03-2012 to 16-10-2012 as specified in standards of performance (SOP) Regulation 2005. According to the applicant his agricultural pump set supply was disrupted from 15-03-2012 due to failure of transformer and broken of pole. The respondent stated that the supply was disrupted due to transformer failure & the incidence of broken of pole was happened before 2 years back & has no relevance with the present case. The delay in restoration of supply is caused due to heavy rain & muddy situation in the field that prevented transportation of transformer upto the location, where it exits.

After perusal of the documents on record, I have observed that the applicant has registered his complaint in the complaint register on 07-08-2012 stating that three phase line supply was failed due to broken of pole. In response to the complaint the respondent contended that the transformer which caters supply to the applicant's Ag.pump line was failed & it was necessary to replace the transformer to restore the supply. However the respondent could not replaced it immediately because of heavy rain & muddy situation in the way & around the location of exiting transformer that prevented transportation of transformer resulting delay in restoration of supply. The respondent produced a letter dated 27-12-2010 written by Hon.MLA to the Executive Engineer, PWD Chandrapur. Certificate from Sarpanch Grampanchayat Kawathi dated 12-02-2013 & statement of villagers of Singapur alongwith photographs of site location of transformer. All the above documents corroborated the fact that the way/road upto the location of transformer which was failed was not approachable & therefore the transportation of transformer was not possible in that period. The applicant could not establish the fact that his Ag. Pump supply was failed from 15-03-2012 & further it restored on 16-10-2012. The respondent was duty bound to restore the supply as specified in SOP Regulations 2005 but could not replace the transformer in stipulated time because the situation was entirely beyond their control.

Further it can not be construed to mean that the respondent has failed to maintain SOP Regulation because of his negligence or deficiency or lack of preventive maintenance of the distribution system on failure to take reasonable precaution on the

part of Distribution Licensee. However available record shows that the situation was beyond their control.

The SOP Regulation 11.1 specifies that the occurrences which was beyond the control of distribution licensee are exempted from payment of compensation. In view of above in my opinion the Regulation 11.1 is applied.

In this case, it is very important to consider the load shedding criteria. Hon'ble Commission issued order in case No. 5/2005 on the principles and protocol to be adopted for load shedding by MSEDCL, in view of the prevailing shortage of electricity in the State of Maharashtra on 16th June,2005.

The few key feature of the Commission's order are given below :

a)The EA, 2003 casts certain obligations on Distribution Licensees with regard to supply of electricity to their consumers, except in certain circumstances outside their control. However, it is inevitable that, when there is a shortage of available power vis-à-vis the requirement of consumers, load shedding would have to be undertaken in order to maintain the system frequency and to ensure its security. The present Order deals with the basis on which such shortage should be apportioned among different consumers and areas through load shedding, rather than the actual extent of shortage that may prevail at any point of time. Thus, it should not be construed as the Commission having validated or accepted the figures presented by MSEB with regard to the shortfall or its reasons. Moreover, the load shedding requirement is dynamic, and would vary from time to time depending on the system demand-supply gap, system frequency, season, time of day, etc.

(b) The thrust of the EA, 2003 is on efficiency and economy of operations. Moreover, the immediate issue of concern in these proceedings is the equitable management and Regulation of the load in a situation of shortage. In order to do so in a fair and equitable manner, the Commission believes that it is necessary to distinguish between areas with better performance, and undertake lesser load shedding in areas with lower Distribution losses and higher collection efficiency, all else being equal. This would be in keeping with the principle that, at a time of scarcity, areas where energy is not being efficiently utilized or paid for should rank lower in the rationing order.

h(i) Applying the above principles, the Divisions have been ranked in four Groups as follows, such that all Divisions within a Group would be subject to the same level of load shedding (except for Divisions comprising a major city, which would be clubbed):

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The above features clearly specify that Hon'ble Commission has approved load shedding as per average loss & collection efficiency of divisions of the MSEB Area of supply. The maximum hrs. of planned load shedding was initially for 8 hrs. which was

increased from time to time for 13 to 16 hrs. This load shedding protocol requires to be modified as and when the situation demands. The load shedding protocol is implemented in consultation with MERC Hon'ble Commission issued various orders regarding load shedding vide order dt.10.01.2006 in Case No.35/05, Case No. 78/06, date. 20.02.2007, based on that MSEDCL issued various circulars from time to time regarding revised load shedding programme. MSEDCL give vide publicity in news papers & also display the same at prominent places.

In this case, being the agricultural dominated region & as per recent load shedding programme, the applicant is liable to get supply maximum for 8 to 10 hrs. depending on the DCL groups in which it falls. Hence the applicant's request for compensation considering the period of failure for continuous 24 hrs. is improper & illegal. As per the various order of Hon'ble Commission & based on that various circulars issued by MSEDCL, the applicant is not approved for getting supply for 24 hrs. in a day, hence he can not claim compensation for the same. Therefore, in my opinion, the applicant's claim of compensation considering 24 hrs. supply period is unjust & improper.

From all the facts & circumstances mentioned above, the respondent can not be held responsible for delay in restoring the supply but the condition was beyond the control of distribution licensee & is not liable for paying compensation to the applicant as per SOP Regulation. Hence the applicant demand for compensation is unjust & untenable at law.

Therefore in my opinion, the applicant's grievance application should be dismissed.

7) Having heard the parties and after careful perusal of the record, it reveal that the applicant allege that the transformer was not working. So there was no power supply to his agricultural pump during the period from 15-03-2012 to 16-10-2012. As per the respondent they got the knowledge of the breakdown on 07-08-2012. The applicant produced the xerox copy of the complaint register maintained by the respondent. The entry dated 17-07-2012 reads as follows,

ek\$ k fl xki q (l koyh) ; k "ksle/mhy fo | q ykbZ cn vlgscdi ; k pkyqd#u n; koh

The entry dated 07-08-2012 reads as follows,

Jh vkj-, l -vuryokj fl xki q ; Ehy 3 Qs ykbZ cn vlgsc i ky rdy; keGsi ky ykoY; koj
duB"ku tkMysulgh

Naturally the entry dated 07-08-2012 is specific whereas the entry dated 17-07-2012 is ambiguous. So it will be proper to hold that the respondent got the knowledge about the interruption of supply on 07-08-2012 for the first time. The applicant himself admitted in the statement dated 05-11-2012 and 11-03-2013 that the transformer started working from 15-09-2012 and power supply to his 3 HP pump resumed. The respondent also say that the transformer start working from 15-09-2012. So it will proper to hold that the power supply to the agricultural pump of the applicant resumed on 15-09-2012. So it is undisputed fact that the power supply was interrupted during the period 07-08-2012 to 15-09-2012. The respondent attributed the delay in restoration of supply to bad condition of the approach road. It was also argued that due

to rainy season the transportation of the transformer was difficult. The restoration of supply was beyond of the control. The applicant's case is that the condition of the road was not so bad. The location of the transformer is in the vicinity of the village gaothan. So the excuse of natural calamity has no force. Therefore he is entitle for compensation. The applicant stated that he may be awarded compensation as per rules. He may also be awarded compensation for the expenditure of the oil engine engaged by him. So also he could not cultivate some of his land as there was no power supply to his agricultural pump set.

In such situation the issue arise whether the applicant is entitle for award the compensation, in terms of, The MERC (standards of performance of distribution licensees, period for giving supply and determination of compensation) Regulations, 2005.

The MERC in terms of Regulation 6 has fixed standards of performance to be achieved by the distribution licensee as regards restoration of supply. Appendix A to the said Regulation stipulates that the supply in the rural areas is required to be restored within 48 hours in case of failures of distribution transformer. Therefore the respondent was required to restore supply within 48 hours.

8) Regulation 11 of the above Regulations provides for exemption. It reads,

11 Exemptions

11.1 Nothing contained in these Regulations shall apply where, in the opinion of the commission, the Distribution licensee is prevented from meeting his obligations under these Regulation by cyclone, floods, storms or other occurrences beyond the

control of the distribution licensee.

Provided that the Distribution licensee shall not be excused from failure to maintain the standards of performance under these Regulations, where such failure can be attributed to negligence or deficiency or lack of preventive maintenance of the distribution system on failure to take reasonable precaution on the part of the distribution licensee.

11.2 The commission may by general or special order, exempt the Distribution licensee from any or all of the standards specified in these Regulations for such period as may be specified in the said order.

Regulation 11.1 makes it clear that the stipulation of time limit for restoration of supply would not apply where, in the opinion of the commission, the distribution licensee is prevented from meeting its obligation under these Regulations by cyclone, floods, storms or other occurrence beyond the control of the distribution licensee. Proviso to the said sub Regulation speaks of the negligence or lack of preventive maintenance by the distribution licensee.

In view of the above, the issue is whether the distribution licensee was prevented from meeting his obligations due to cyclones, floods, storms and/or other occurrences beyond its control. Provision in the said sub Regulations states that such situation has to be assessed by the commission and decide whether or not the situation was beyond the control of the distribution licensee. Then only exemption from meeting standards of performance under Regulation 11 would come into play. It is not open for this Forum to

step into evaluation of the situation and decide whether or not it was beyond the respondent's control. The respondent has not explained as to whether it has obtained any such exemption from the commission. In absence of any such exemption in this behalf, it has to be concluded that the distribution licensee was required to meet the standards of performance and the time limit for restoration of supply. So also the certificates issued by the Sarpanch Grampanchayat, Kawathi, the statement of the villagers and the photographs are not useful anyway.

As discussed in para 7 above, it is admitted fact that there was no power supply to the pump set of the applicant during 07-08-2012 to 15-09-2012. It revealed from the record that there was a transformer failure. So as per the provisions of Regulation 6.3 of the S.O.P. Regulation, the supply should have been restored within 48 hours. If not as per the provisions of Regulation 6.3 and item 2(iii) of Appendix A, the applicant is entitled for compensation from 09-08-2012 to 15-09-2012. In absence of any cogent evidence, we are not inclined to accept other claims of the applicant.

9) The technical member submitted that as the situation was beyond the control of the respondent the provision of exemption clause will apply. However as discussed in para 8 above in absence of any notification/order from the commission the exemption provision will not come into play. Secondly, the member also submitted that the commission has approved the load shedding programme. So the applicant's claim of compensation for every 24 hours is unjust. In absence of any provision about the load shedding programme in the MERC (standards of performance of Distribution licensee,

period for giving supply and determination of compensation) Regulations 2005, the point *has no force*. Furthermore the respondent has not taken any such defence during the proceeding.

10) The instant application/proceeding is filed by Shri Rajesh Shamrao Anantalwar. However in the documents he made a passing reference of the grievance of Shri Shamrao Pandurang Anantalwar also. We make it clear that this order pertains to the grievance application of Shri Rajesh Shamrao Anantalwar only. If necessary Shri Shamrao Pandurang Anantalwar may file a separate proceeding.

11) The applicant also requested that as there was no power supply to his agricultural pump the respondent should not charge the electricity bills for this period. However the applicant has not produced any documentary evidence even the electricity bills in support of his contention. So the Forum is unable to give any finding in this regard. The applicant may file separate application therefor.

12) As per the provisions of Regulation 8.1 of the MERC (CGRF &ED) Regulation 2006, the order is to be passed by majority. In the case in hand, the chairman is of the opinion that the applicant is entitle for compensation @ Rs.50/- per hour for the period from 09-08-2012 to 15-09-2012. As per the technical member the applicant is not entitled for any compensation. As per the another member the applicant may be awarded compensation for the above period excluding the period of load shedding.

So we pass the following order, by majority.

ORDER

1) The grievance application No.02/2013 is partly allowed.

- 2) The respondent should pay the compensation @ Rs.50/- per hour for the period from 09-08-2012 to 15-09-2012, excluding the period of load shedding, as provided under Regulation 6.3 and item 2(iii) in appendix A attached to the S.O.P. Regulations 2005,
- 3) The compliance of this order should be reported within 90 days from the receipt of this order..
- 4) The parties to bear their own cost.

Sd/- Sd/- Sd/-
MEMBER MEMBER SECRETARY CHAIRMAN
CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR ZONE NAGPUR
(Nagpur Dtd.12th day of March, 2013)

CONSUMER GRIEVANCE REDRESSAL FORUM
NAGPUR ZONE (RURAL) M. S. E. D. C. L.

Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,

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(O) 0712- 2022198

Email.id- cgrfnz@mahadiscom.in

cgrfnz@gmail.com

NO. CGRF/NZ/

Date :

Certified copy of order dtd 12th March, 2013 in Case No.02/2013 is enclosed herewith.

Member-Secy/ Exe.Engineer,
C.G.R.F.(NZ)MSEDCL
N A G P U R

To,

Shri Rajesh Shamrao Anantalwar, At.Po.Tq. Saoli Dist.Chandrapur

Copy s.w.r.to :-

1. The Chief Engineer(NZ), MSEDCL, Vidyut Bhavan,Katol Road, Nagpur.

Copy f.w.cs.to:

1. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Chandrapur

2. The Executive Engineer,C.C.O&M Dn., MSEDCL, Chandrapur
for information and necessary action.

Address of the Electricity Ombudsman is given as below.

Office of - The Electricity Ombudsman,

12, Srikrupa, Vijay Nagar,

Chhaoni, Nagpur-440 013

0712-2596670