

CONSUMER GRIEVANCES REDRESSAL FORUM;
MSEDCL NAGPUR (RURAL) ZONE NAGPUR
COMPLAINT NO. 05/2013

Shri Uddhav Motiramji Kubade
AT.Dasoda
Po.Mangrul
Taluka- Samudrapur
District - Wardha.

Complainant

,,VS..

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

Respondents

Applicant represented by Shri V.B.Betal

Respondents represented by 1) Shri S.M.Vaidya, Executive Engineer, Hinganghat.
2) Shri P.R.Parankar Junior Engineer, Girad

CORAM:

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

JUDGEMENT

(Delivered on 27th day of February, 2013)

- 1) Shri Uddhav Motiramji Kubade R/o Dasoda post Mangrul Tq.Samudrapur, (hereinafter referred to as the applicant) is an agricultural consumer of electricity supplied by the Maharashtra Electricity Distribution Company Ltd. (hereinafter referred to as the respondent) The applicant has filed this grievance application feeling aggrieved by the order passed by the IGRC Wardha under No.SE/Wardha/Tech/IGRC/4807 on 01-09-2012. The IGRC rejected the grievance filed by the

applicant. The application is registered at S.No.5 of 2013. Brief details of the grievance, as stated by the applicant, are as under,

2) Supply of electricity to the agricultural pump of the applicant got interrupted from 15-06-2012. The applicant complained about non availability of supply on 27-06-2012, but no reply was given by the respondent's local office. Finally the power supply was restored on 20-11-2012. The applicant submitted application on 09-01-2013, as per the provision of Regulation 12.2 of the MERC (S.O.P.) Regulations 2005. On 04-07-2012, the applicant filed a petition before the Internal Grievance Redressal Cell (for short, the IGRC), seeking compensation from the respondent for failure to comply the provisions of the standards of performance Regulations. The IGRC rejected the petition. Not satisfied with the decision of the IGRC, the applicant filed the instant proceeding.

3) The applicant stated that the respondent has not furnished to the IGRC, any evidence of natural calamity. The applicant has prayed for reconsideration of the IGRC's order and sought compensation for violation of standard of performance.

4) The respondent filed its written statement under no.EE/O&M/H"ghat/Tech/631 dt.02-02-2013. It states that the applicant stated in his application that his electricity supply was interrupted from 15-06-2012 to 20-11-2012. He claimed compensation as per the provision of S.O.P Regulations. However his complaint received for the first time on 27-06-2012. On receipt of the complaint, concerned Junior Engineer was directed to rectify the same. It was a rainy season. Six poles of the L.T.line were broken. So the Assistant Engineer prepared an estimate under no.993 dated.09-07-2012 to repair the L.T.line. There was a mud and the soil became sluggish. So the

transportation of poles became difficult. Thereafter the restoration work was affected due to standing crops in the fields. The farmers requested that it was a rainy season. So they were not required to start the pump sets. The work of repairs of the electric line might be carried out afterwards. When the crops were taken out the poles were erected and the power supply resumed on 20-11-2012. It was a rainy season. The crops were not in need of irrigation. So the applicant did not suffer any loss. The respondent attached a copy of a letter dated 02-02-2013 issued by the Serpanch, Grampanchayat, Dasoda. The letter stated that there was a storm on 15-06-2012. Due to the storm the roofs of houses, electric poles and the electric lines were damaged. The Tahasildar, Samudrapur, issued a certificate. It states that on 05-09-2012 there was heavy rainfall in the taluka. The rainfall was recorded at 90.2 m.m.

5) The respondent finally stated that as per the provisions contained in Regulation 11.1 of the MERC (S.O.P.) Regulation 2005 the distribution licensee is exempted from the standards of performance if the situation was beyond control due to natural calamity causing delay in restoration of supply. Delay cannot be attributed to negligence of any employee. With this submission, the respondent has prayed not to entertain any claim of compensation.

A notice was issued to the respondent. The respondent submitted written reply. The matter was taken up for personal hearing on 22-02-2013.

6) Shri B.V.Betal, a representative was present for the applicant Shri M.S.Vaidya, Executive Engineer, O&M Dn. Hinganghat represented the respondent.

7) Shri B.V.Betal again referred to the application in appendix A and the supplementary statement dated.14-01-2013. He vehemently argued that the respondent failed to attend his fuse off call. There was no power supply to his agricultural pump from 15-06-2012 to 20-11-2012. He suffered a huge loss due this situation. He may be awarded compensation @ Rs.50/- per hour. In addition to this he may be awarded compensation of Rs.2,00,000/- towards loss to his agricultural produce. Rs.30,000/- and Rs.20,000/- may be awarded for physical and mental harassment. In addition Rs.3,000/- and Rs.2,000/- may be awarded towards travel expenses and the cost of instant proceeding respectively.

8) Shri Vaidya reiterated the facts submitted in the written reply dated.02-02-2013. He narrated the situation stated in para 4 above.

9) Ld. Member of the Forum gave 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 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):

	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 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. He is entitled to get compensation excluding the period of load shedding.

10) The technical member of the Forum submitted a note as under,

In present grievance application dtd.14-01-2013, the applicant has demanded compensation for the period from 15-06-2012 to 20-11-2012 @ Rs.50 per hour as

specified in standards of performance (SOP) Regulation, 2005. According to the applicant his agricultural pump set supply was failed from 15-06-2012 due to broken of electric wires & falling of poles. The respondent stated that the supply was failed due to broken of 6 Nos. poles of L.T.line. The delay in restoration of supply is caused due to rain & muddy situation in the field that prevented transportation of poles & further carrying out of work.

After perusal of the documents on record I have observed that applicant had submitted the complaint about supply disruption from dtd.15-06-2012 to the respondent's office on 27-06-2012. He then filed complaint in IGRC on .04-07-2012 with prayer of restoration of supply & compensation thereof. After hearing the matter IGRC held that applicant's agricultural pump set supply was failed due natural calamity & directed the respondent for immediate restoration of supply by erecting L.T.line. The respondent has submitted the letter from Sarpanch Grampanchayat Dasoda which shows that there was storm on date.15-06-2012 causing falling of poles & broken of electric wires. The above fact corroborated the contention of the respondent which resulted into supply disruption of applicant's Ag.pump. During the hearing on date.22-02-2013 the applicant's representative has produced written statement in which it is mentioned that he had informed the respondent to carry out the work by transporting the material but the respondent did not heed to his complaint.. He further mentioned that from 17-07-2012 rain started & not before as contended by the respondent. The letter of Tahsildar Samudrapur dtd.01-02-2013 about heavy rainfall on 05-09-2012 is on record. The respondent stated in their reply that there was standing crops in the field.

Therefore the supply was restored on 20-11-2012 by carrying out the work of the applicant's Ag.pump line.

In view of above in my opinion the applicant's Ag.pump supply failed due to falling of poles & broken of electric wires which was caused due to storm. The letter of Sarpanch, Grampanchayat, Dasoda confirms the above situation. There is a certificate from Tahsildar Samudrapur about heavy rainfall which is also on record. Record further shows that rainy season started in the month of June moreover the applicant himself accepted that during rainy period it is not possible to transport of poles & other materials due to mud & non approachable way in the field. .

In above circumstances it can be concluded that the respondent could not carry out the work of erection of lines in the stipulated time because 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 this, 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 :

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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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.

11) Having heard the parties and upon careful perusal of documents on record, it reveals that supply of electricity to the applicant's agricultural pump set was interrupted. As per the applicant the period was from 15-06-2012 to 20-11-2012. However the respondent say that they got the information on 27-06-2012 for the first time. The applicant submitted Xerox copies of the complaint application. It is seen there from that the application dated.27-06-2012 was received in the office of the respondent. So there is a force in the statement of the respondent that they got the information on 27-06-2012 for the first time. So it is admitted fact by both the parties that the supply was interrupted from 27-06-2012 and it resumed on 20-11-2012. The respondent attributes

the delay in restoration to collapsing of L.T.line poles, the rainy season, the standing crops. The respondent argued that it was a natural calamity.

12) The applicants case is that the respondent has not restored power supply. So he had to suffer a huge loss to his agricultural produce. Therefore he is entitled to compensation @ Rs. 50/- per hour for the failure of the respondent to meet the standard of performance.

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

14) 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 stipulated that the supply in the rural areas is required to be restored within 24 hours in case of overhead line breakdown. Therefore the respondent was required to restore supply within 24 hours.

15) 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.

16) 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.

17) 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, Dasoda and the Tahasildar, Samudrapur are not useful anyway.

18) The IGRC Wardha has passed order under No.4807 on 01-09-2012. The IGRC observed that the poles were broken due to natural calamity. Due to rainy season the respondent could not erect the line. There was no intentional delay. While making this observation the IGRC has not referred to any provision of the Regulation or the exemption clause. So also the IGRC did not indicate whether or not the respondent has been exempted by the commission from meeting the standards of performance as laid down in the Regulations. As such the IGRC erred in concluding itself that it was a natural calamity so the applicant is not entitle for compensation As such the order is liable to be set aside.

19) As discussed in para 11 above, it is admitted fact that there was no power supply to the pump set of the applicant during 27-06-2012 to 20-11-2012. It revealed from the record that there was overhead line breakdown. So as per the provisions of Regulation 6.2 of the S.O.P. Regulation, the supply should have been restored within 24 hours. If not as per the provisions of Regulation 6.2 and item 2(ii) of Appendix A, the applicant is entitled for compensation from 28-06-2012 to 20-11-2012. In absence of any cogent evidence, we are not inclined to accept other claims of the applicant.

20) 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 10 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 of giving supply and determination of compensation) Regulation 2005, the point *has no force. Furthermore the respondent has not taken any such defence during the proceeding.*

21) 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 28-06-2012 to 20-11-2012. 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.5/2013 is partly allowed.
- 2) The respondent should pay the compensation @ Rs.50/- per hour for the period from 28-06-2012 to 20-11-2012, excluding the period of load shedding as provided under Regulation 6.2 and item 2(ii) 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/-
MEMBER

Sd/-
MEMBER SECRETARY

Sd/-
CHAIRMAN

CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR ZONE NAGPUR
(Nagpur Dtd.27th day of February, 2013)

CONSUMER GRIEVANCE REDRESSAL FORUM
NAGPUR ZONE (RURAL) M. S. E. D. C. L.
Plot No.12, Shrikrupa, Vijaynagar, Chhaoni,
NAGPUR – 440 013
(O) 0712- 2022198

NO. CGRF/NZ/

Date :

Certified copy of order dtd 27th February,2013 in Case No.05/2013 is enclosed herewith.

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

To,
Shri Uddhav Motiramji Kubade, At.Dasoda, Po.Mangrul, Tq.Samudrapur, Dist.Wardha

Copy S.W.R.to :-

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

Copy F.W.Cs.to:

1. The Executive Engineer/Nodal Officer., O&M Circle Office, MSEDCL.Wardha
2. The Executive Engineer,C.C.O&M Dn., MSEDCL, Hinganghat
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

