

BEFORE THE CONSUMER GRIEVANCE REDRESAL FORUM
M.S.E.D.C.L.,NAGPUR ZONE-RURAL,NAGPUR

Application/Case No. CGRF/NZ/Rural **15** of 2005

Applicant : Shri Prakash Ramdeo Jaiswal,
Amgaon Road, Gondia. PIN 441 601

Non-applicants : 1. Executive Engineer/Nodal Officer,
Internal Grievance Redressal Unit,
Circle Office, Bhandara.
2. Executive Engineer, CCO&M Dn.,
MSEDCL, Gondia.

Presence : 1.Shri N.J.Ramteke, Chairman.
2.Shri M.G.Deodhar,Member,
3.Shri M.S.Shrisat, M/Secretary.

Appearance : 1.Shri Prakash Jaiswal, Applicant.
2.Shri V.P.Yaul, Exe.Engineer, N.O.,Bhandara.
3.Shri B.A.Hiwarkar,Dy.E.E.,Gondia
(Representatives of non-applicants.)

O R D E R

(Passed this 3rd Day of February,2006)
(Per Shri N.J.Ramteke,CHAIRMAN)

This is an application in Schedule 'A' under Regulation 6.3 of the C.G.R.F.& O Regulations, 2003 (hereinafter called the Regulations). This application was received in this Forum on 29-12-05. Acknowledgement was given to the Applicant as required under Regulation 16.6 of the Regulations. The copy of the grievance alongwith the enclosed documents were sent to the No-applicants and the Nodal Officer for their parawise comments as required under Regulation 6.7 and 6.8 of the Regulations. The notices were issued and served on both the parties for hearing. The non-applicants submitted the parawise comments alongwith the documents on 9.1.06 . The copy of the parawise comments with set of documents was sent to the Applicant alongwith the notice for hearing. The Forum heard both the parties on 23.1.06 . Shri P.R.Jaiswal – Applicant was present and made the submissions in respect of his application in Schedule 'A' and the relief sought by him. Shri Yaul made the submission on behalf of the non-applicants and the D.L. i.e. MSEDCL. Applicant also submitted his written note of submission dt. 23.1.06 to the Forum. The copy of the same is given to the non-applicants. Shri Yaul also submitted his written note of submissions alongwith the documents on 23.1.06 and the copy of the same is received by Applicant.

The Applicant sought the relief from this Forum on grounds that the sum of Rs. 7500/- as a compensation for failure to meet the Standard of Performance as per Regulation 4.1, 4.3 and 4.4 of the MERC (Standards of Performance of D.L. etc) Regulations, 2005. Applicant also demanded that Superintending Engineer, MSEDCL, Bhandara is liable to pay penalty of Rs. 1000/- per day for delaying the connection which he had demanded vide his application dt. 12.4.05 for conversion of LTP 65 to HTP 225 H.P.

The Facts in this case in brief are that the Applicant is the electricity consumer of MSEDCL with Consumer No. IP-601-433560005079 . He submitted an

application in the prescribed Form to the Superintending Engineer, MSEDCL, Bhandara for conversion of 65 HP to 225 HP on 12.4.05 (the non-applicants disagree about the date and stated that it is 10.3.05 and not 12.4.05) and 26.12.03 and found the theft of electricity and issued the provisional assessment order of Rs. 6,52,425/- on 1.1.04. The non-applicants demanded 20% suit amount on 14.1.04 for restoration of supply. This was challenged under section 126 of Electricity Act, 2003 on 15.1.04 by Applicant. In respect of the application for conversion into HTP the superintending Engineer referred the matter to the Head Office , Mumbai for guidance. In the meantime, Applicant had also approached the Hon'ble High Court in Writ Petition No. 3938 of 2005. The Applicant sought the permission of the High Court to withdraw the petition. The Hon'ble High Court under order dt. 24.8.05 dismissed this writ petition as withdrawn and directed the Superintending Engineer, MSEDCL, Bhandara to decide the application dt. 15.1.04 on its own merit according to Law after giving the opportunity for hearing to the petitioner within six weeks from the receipt of this order. The Applicant preferred an appeal before the Appellate Authority under Section 127 of the Electricity Act, 2003 and the matter is still pending before the Appellate Authority.

Applicant submitted his grievance in Forum 'X' to the Internal Grievance Redressed Unit, Bhandara on 9.11.05. On hearing the Applicant and representative of the D.L., the Internal Grievance Redressed Unit, Bhandara sent the reply on this grievance application to Applicant under letter dt. 15.12.05.

The Nodal Officer, Internal Grievance Redressed Unit, Bhandara informed under letter dt. 25.1.06 (Record page 100) that the applicant paid arrears upto December,05 Rs. 76,005/- vide receipt dt. 30.12.05 and Rs. 53,115/- vide receipt dt. 23.1.06 . Now no due balance against the regular bill of Applicant.

The main contention of the applicant is that he made an application in the prescribed proforma to the D.L. for conversion of 65 HP to 225 HP on 12.4.05. But the non-applicants failed to comply with the provisions under Standard of Performance Regulations and still no conversion has been done. He wants a compensation of Rs. 7500/- for this failure in terms with the provisions under Standard of Performance Regulations. The Superintending Engineer, MSEDCL, Bhandara rejected his demand for the compensation under standard of performance Regulations without assigning and justifying the reasons for doing so under his letter dt. 17.1.05 . He has already given the undertaking to the non-applicants on 25.11.05 about the full payment of arrears, if any, as per decision of the Court of Law. He made an application in Schedule 'X' to the internal Grievance Redressed Unit, Bhandara on 9.11.05 but no relief is given to him inspite of several requests. The Superintending Engineer, MSEDCL, Bhandara failed to issue demand note and the power supply within time limit under the relevant regulations as mentioned above and, therefore, he approached this Forum to seek redressal of his grievance. The applicant further contended in his written note of submissions dt.23.1.06 that the terms and conditions for giving supply on 33 KVA were not clarified and, therefore, he applied for supply on 33 KVA vide letter dt. 19.4.05 . It was clarified that the 33 KV line which is passing through his premises is a 33 KV main sub-stn. To Sub-stn. Feeder and it cannot be tapped. Applicant has also clarified the reasons and circumstances which are not feasible for him to avail the supply on 33 KV and, therefore, he has decided to avail supply on 11KV vide his letter dt. 31.5.05.

The main contention of the non-applicants is that the theft was detected by the team of Flying Squad, Chandrapur and Napery Unit in respect of connection of Applicant. Application for conversion of LTP to HTP dt. 12.4.05 is incorrect and incomplete for supply of 33KV. In fact, this application was received on 10.3.05 in the Circle office. Applicant was in confusion about to avail supply on 33KV or 11 KV side. Though the theft was detected, the D.L. officials visited the site on 12.4.05 for deciding the

point of supply. Applicant was asked to submit sanctioned layout map of his proposed 33KV from Electrician Inspector. The non-applicants further contended inter-alia that Applicant has been asked to provide detail map showing the boundaries of this and other concerned IP connection premises coming under Khasra No.497/3 . Applicant did not submit the detail map to their office which is essential for preparing estimate. However, the D.L. had inspected the consumer premises twice for deciding point of supply and estimate was framed and sanctioned and the process of load sanctioning is under consideration. The non-applicants directed the Executive Engineer, MSEDCL, Gondia for joint inspection of site to decide the point of supply and framing the estimate. The Asstt. Engineer, MSEDCL, Gondia has written to applicant vide letter dt. 6.4.05 for submission of documents. As per directives of Head Office, Mumbai, estimate was sanctioned on 16.1.2005 . The load sanction is not effected because Applicant has not cleared up the current liability of Rs. 1,13,912/- . Applicant has not yet submitted the undertaking against service connection 433560000901 which is in the ownership of Applicant himself and dues of theft of electricity amounting to Rs. 41,21,955/0 are outstanding against the Applicant. The Judicial Magistrate, First Class, Special Court, Gondia has admitted the case of theft of energy against the connection No. as mentioned above and others under Section 135 and 138 of Electricity Act, 2003 and the matter is under trial . The non-applicants requested the Forum to decide the case in such a way that all financial liabilities (against the theft of energy and even current liabilities) are to be cleared up by Applicant so that company may not sustain financial loss.

Shri M.D.Deodhar, member, strongly felt that some sort of compensation for the cost of the case is to be given to the applicant in view of his constant applications to the D.L. for conversion of LTP to HTP. The majority (Shri Ramteke and Shri Shrisat) do not agree with Shri Deodhar on this point. The majority is of the opinion that the provisions under Regulations 4.1, 4.3 and 4.4 are not attracted in this case as application for conversion to HTP was incomplete. The matter for load sanctioning was under process , it was referred to the Head office and the receipt of the advice of the Head Office, the load was sanctioned. .

The Superintending Engineer, MSEDCL, Bhandara received the application in prescribed form for conversion into HTP on 10.3.05 . He sent the reply to Applicant on 17.1.05 (Record page 13). Thus the Superintending Engineer took eight months to send the reply to Applicant. Can it be treated as failure in Standard of Performance as claimed by Applicant? The majority of the Forum do not feel that it is a delay on the part of the S.E. to attract the relevant provisions of Standard of Performance Regulations as the superintending Engineer has given the reasons in this letter . It has been clearly laid down under Regulation 4.2 of the Standard of Performance Regulations, 2005 that the application referred to in Regulation 4.1 shall be deemed to be received on date of receipt of duly complete application in accordance with the MERC(Supply code etc.) Regulations, 2005. On the face of the record it is clear that application was not 'duly complete' as the officials of the D.L. were insisting for the documents, layout plan etc. They have also pointed out that the Applicant first applied for 33 KV and later on he wanted it on 11 KV . In view of these reasons, Applicant is not entitled for any compensation or cost of the case.

Except the above point, the Forum come to the conclusion and decide as under unanimously.

It is not a matter of contest whether application was received on 12.4.05 or 10.3.05,. Since there is a date 28.2.05 on the prescribed application for conversion of the load into HTP , the Forum agrees with the non-applicants that it was received on 10.3.05. Applicant himself admitted that the matter is pending before the Appellate Authority and he would pay the full amount of arrears, if any, as per the decision of the Court of Law. He himself paid 20% as per the demand given by the D.L. The Forum also does not find any

fault with the reply dt. 12.5.05 (Record page 22,23) as given by the Internal Grievance Redressed Unit, Bhandara. In this reply the I.G.R.U.,Bhandara made it clear that as per advice of the Head Office, suitable decision will be taken within seven days and to be implemented accordingly. The unit also directed to issue the demand note to Applicant as per the estimate if the decision is taken for conversion into HTP.

The Applicant is relying on Regulations 4.1 etc. about demanding the compensation of Rs. 7500/- . This demand of Rs. 7500/- is not acceptable to the Forum as the matter was constantly under persuasion by the D.L. On receipt of the application the officials of the D.L. visited the spot, demanded the documents and made correspondence with Applicant. This clearly shows that the D.L. has not purposefully delayed the matter for sanction. In view of Writ Petition, reference to the Head Office, the theft of electricity, requirement of undertaking from the sister concerns of Applicant and an appeal under Section 127 of the electricity Act, 2003 , it was but natural for the D.L. to take all precautions and care to recover the outstanding dues and the current dues from Applicant. It is a matter of fact that Applicant approached the I.G.R.U. Bhandara on 9.11.05 whereas he made the payments of the arrears upto December , 05 on 30.12.05 . Applicant had made the payment of Rs.53,115 /- on 23.1.06. This is the date of hearing (23.1.06 before the Forum) Thus there is no delay on the part of the D.L. in dealing with the application for conversion into HTP.

The Nodal Officer made it clear under his letter dt.25.1.06(Record page 100) that Applicant made the payment upto 30.12.05 and now no due balance against the regular bill of Applicant . The clarification was given by the Nodal Officer as per the direction of the Forum under ordersheet dt. 23.11.06 . The Superintending Engineer, MSEDCL, Bhandara submitted a letter dt.31.1.06 to this Forum (Record Page 101). In this letter he has specifically mentioned and clarified that his office has sanctioned and issued demand note dt. 24.1.06 for Rs. 1,85,790/- in respect Applicant without insisting the undertaking from the sister concerns M/S. Jaibamleshwari Rice Mill, Fulchur. The material for this LT to HT conversion is to be procured and work to be executed by Consumer (applicant) under 15% supervision charges (on labour component only) to MSEDCL. The only liability of the MSEDCL is to provide the meter, after completion of the formalities as mentioned in this letter. Thus it is clear that the specific and clear offer is given by the D.L. to the Applicant and, therefore, the grounds for grievance do not stand . The D.L. is ready to give the connection on completion of the formalities , the demand of Applicant for conversion into HP is almost fulfilled provided the formalities as mentioned in the above letter are completed.

In view of the above position and circumstances, the Forum pass the order unanimously as under :

ORDER

1. Application is rejected
2. Applicant is not entitled for any compsnation or cost of the case.
3. The Superintending Engineer, MSEDCL,Bhandara is directed to implement the conversion into HTP within 15 days from completion of the formalities as mentioned in his letter dated 31.1.06
4. Parties to bear their own cost.

CHAIRMAN

MEMBER

MEMBER/SECRETARY

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

Certified that this is true and correct copy of the above order.

MEMBER SECRETARY/EXE.ENGR.
C.G.R.F.(NZ-R)MSEDCL,NAPERY

Copy to:

1. Shri Prakash Ramdeo Jaiswal, Amgaon Road, Gondia.
2. The Chief Engineer(NZ) MSEDCL,Nagpur
3. The Exe.Engr/N.O., IGRU, Circle Office Bhandara.
4. The Exe.Engineer,C.C.O&M Dn.,MSEDCL, Gondia

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