

**CONSUMER GRIEVANCES REDRESSAL FORUM;**  
**MSEDCL NAGPUR (RURAL) ZONE NAGPUR**  
**COMPLAINT NO. 59/2013**

Shri Ashok Laxman Burile  
At.Ladki, Po.Pardi((B)  
Tq.Hinganghat  
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 1) Shri B.V.Betal  
Respondents represented by 1) Shri M.S.Vaidya, Executive Engineer, Hinganghat.  
2) Shri V.M.Hedao, Assistant Engineer, Hinganghat

**CORAM:**

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

**JUDGEMENT**

**(Delivered on this 12<sup>th</sup> day of August, 2013)**

2. The applicant Shri Ashok Laxman Burile is an agricultural consumer. It is the contention of the application that the power supply to his agricultural pump set was discontinued from 15-06-2012 to 07-01-2013. He submitted the complaint. However his fuse off call was not attended by the respondent within the prescribed time. As such he is entitle for compensation as provided under the MERC (standards of performance of distribution licensees, period for giving supply and determination of compensation) Regulations 2005. He approached the IGRC Wardha. His application had been dismissed vide order passed under no.SE/Wardha/Tech/IGRC/3648 dated 20-06-2013.

Feeling aggrieved by this order the applicant presented instant application under the provisions of Regulation 6.4 of the MERC (CGRF & E.O.) Regulations 2006.

3. A notice was given to the respondent. The respondent submitted reply under no.EE/O&M/H'ghat/Tech/3848 dated 30-07-2013. The case was fixed for personal hearing on 07-08-2013. Shri B.V.Betal, authorized representative was present for the applicant. Shri M.S.Vaidya, Executive Engineer, Hinganghat and Shri V.M.Hedao, Assistant Engineer, Hinganghat represented the respondents. Both the parties were heard.

4. Shri Betal, argued that the applicant is an agricultural consumer. While giving power connection to the pump set of the applicant the electric poles were not fixed properly. So the poles bent and the wires broke. The power supply to the pump set was totally stopped from 15-06-2012. He submitted a complaint about this interruption on 26-06-2012. Some labourers of the respondent came to the field on 20-07-2012. Instead of bringing the new poles, they erected the broken poles. The jumpers were not fixed. The electricity supply was not restored by installing the meter.

After two days again those poles broke and fell down. Again the applicant registered a complaint. However the respondent did not pay heed to it. On 07-01-2013 the respondent erected iron poles and the power supply was restored. The meter was also fixed. The applicant made a compliance of the provisions of Regulation 12.2 on 15-02-2013. The respondents have not submitted any document showing that they approached the MERC for exemption under Regulation 11.1. The certificate issued by the Talathi of village Ladki dated 18-01-2013 has no value. The power supply to the

pump set of the applicant was discontinued from 15-06-2012 to 07-01-2013. The applicant made due compliance of all legal provisions. So he is entitle for compensation @ Rs.50/- per hour, under fuse off call provision. In addition to this he may be given a compensation of Rs.2 Lakhs towards the loss to his agricultural produce.

5. Shri Hedao, Assistant Engineer, Hinganghat replied, onbehalf of the respondent. He referred to the written reply dated 30-07-2013. Shri Hedao stated that the respondent received the complaint from the applicant on 26-06-2012. After spot inspection it was noticed that two poles were bent. The poles were erected properly and the power supply was restored on 20-07-2012. The statement of the applicant that the broken poles were erected is not correct. Broken poles can not be used again to put the wires.

Again a complaint about power interruption was received from the applicant on 29-09-2012. It was noticed that two poles were broken. It was a rainy season. The crops were standing in the field. The farmers opposed the work as there was a possibility of damage to the crops. Finally the iron poles were erected on 07-12-2012 and the power supply was restored on 15-12-2012. During this time there was a storm and heavy rain fall. The certificate of the Talathi of village Ladki is placed on record. It was not possible to erect the poles and lay the wires due to natural calamity. The provisions of Regulation 11.1 of the MERC (SOP) Regulations 2005 are applicable in the instant case. So the applicant is not entitle for any compensation. The application may be dismissed.

6. The 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 16<sup>th</sup> 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.

7. The technical member of the Forum submitted a note as under,

In present grievance application ,the applicant has demanded compensation under Fuse of Call category since his Ag pump supply had been disrupted from 15.06.2012. Despite of many complaints the respondent did not pay heed to his complaint & took around 6 & ½ month to restore the supply. According to the applicant the supply was restored on 07<sup>th</sup> January 2013 by the respondent .

After perusal of the documents on record it is seen that, the applicant had reported about alleged disruption of his Ag pump supply to the respondent on 26.06.2012. As the supply did not restore, he again made complaints on 05.07.2012 & 12.07.2012. According to the respondent the supply was restored on 20.07.2012 after erecting two poles which were damaged. It is observed from the record that the applicant stopped complaining since 12.07.2012, hence the submission made by the respondent that the supply was restored on 20.07.2012 has force.

The applicant made complaint on 29.09.2012 in which it is stated that his Ag pump supply had not been restored & further kept complaining on 27.11.2012 & 14.12.2012. In response to new complaint dtd.29-09-2012 it is the contention of the respondent that the applicant's supply was disrupted because the two poles of low tension line catering supply to the applicant's Ag pump was broken. As that was the period of rainy season & also the crops were standing in the field, the respondent could not start the work as the objections were raised by the nearby farmers. On 07.12.2012 two RSJ poles were erected & supply was restored on 15.12.2012. The respondent supported the statement of Talathi Ladki about supply disruption due to broken of poles & wires following rain at Vg.Ladki to substantiate the fact. Hence it can be concluded that the poles were broken due to natural calamity. The respondent could not restore the supply because the condition prevailing during rainy period in Agricultural field was beyond the control of distribution licensee. In view of above there is no intentional delay occurred on the part of the respondent.

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. The respondent can not be held responsible for the delay which was beyond his control & is not liable for compensation to the applicant as per SOP regulation.

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 16<sup>th</sup> 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 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.

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 MSEDCL. Therefore the applicants demand for compensation is unjust & untenable at law.

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

8. We have heard both the parties. We have perused the record. As per the applicant the power supply was discontinued on 15-06-2012. He registered a complaint on 26-06-2012. As per the applicant the labourers came to the field of the applicant on 20-07-2012. However they erected the broken poles. The supply was not restored by affixing the jumpers and the meter. The applicant has not produced any oral or documentary evidence in support of his aforesaid contentions.

The respondent replied that the power supply was restored on 20-07-2012. The contention that the broken poles were used to lay the lines is not true because broken poles can not be used to fix the wires thereon.

It appear that the statement of the respondent has a force. So we confirm that the respondent got the information about power interruption on 26-06-2012. The respondent restored the supply on 20-07-2012.

It is true that supply was restored after about 24 days. However there is no compliance of the provisions of Regulation 12.2 of the MERC (SOP) Regulations 2005. As such the applicant is not entitle for any compensation.

According to the applicant after two days i.e. on 20-07-2012 again the power supply discontinued. The respondent also admitted that the complaint about the interruption was received on 29-09-2012. So it is clear that the respondent got the

knowledge of interruption on 29-09-2012. As per the applicant the power supply was restored on 07-01-2013. The respondent stated that the power supply was restored on 15-12-2012. The contention of the applicant is not acceptable as he has not mentioned the date of the restoration of supply either in annexure X or in annexure A. Secondly there is no evidence on record in support of his say. So the statement based on the record of the respondent can be believed that the supply was restored on 15-12-2012. The applicant made compliance of the provisions of regulation on 15-01-2013. So it can be properly concluded that there was no power supply to the pump set of the applicant during the period from 29-09-2012 to 15-12-2012.

The respondent also accepted this position. However their defence is that the present case is covered by Regulation 11.1 of the SOP.

The aforesaid Regulation reads as under,

*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 Regulations by cyclone, floods, storms or other occurrences beyond the control of the distribution licensee.*

Provision in the said Regulation 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. In absence of any such exemptions in this behalf, it has to be concluded that the distribution licensee was required to meet the standards of performance and the time limits for restoration of supply.

The member of the forum recorded her opinion that the applicant is entitled for compensation. However the commission has approved load shedding protocol. It increased upto 13 to 16 hrs. a day. Hence the applicants request for compensation considering the period of failure for continuous 24 hrs. is improper and illegal.

Hon. Electricity Ombudsman, Nagpur in representation no.54 / 2012, Shri Sitaram Natthuji Raut u/s Executive Engineer, MSEDCL, Katol, decided on 19-10-2012, recorded finding as under,

*“17. It is true that MERC by certain orders permitted MSEDCL to undertake load shedding in urban as well as rural areas. However, this would not affect the consumer’s right to claim compensation for non supply of electricity on account of failure to meet standard of performance prescribed by SOP. It may be noted that no exemption from payment of compensation on account of load shedding is granted by MERC in SOP. Had it been so, SOP would have contained specific provision for exemption in the absence of such provision, it will have to be held that the respondent is liable to pay compensation for all the 24 hours though load shedding for certain hours during 24 hours is permitted by MERC”.*

From reading of the pronouncement made by Hon. Electricity Ombudsman, it reveals, the decision has full application in the instant case. So the applicant is entitled for compensation @ Rs.50/- per hour for the period from 30-09-2012 to 15-12-2012.

As per the provisions contained in Regulation 8 of the MERC (CGRF & EO) Regulations 2006, the decision is to be taken by majority of votes of the members. In the instant case the Chairman is of the opinion that the applicant is entitled for

compensation under Regulation 12.1 read with item 2 (ii) of appendix A. The compensation is payable for the period from 30-09-2012 to 15-12-2012 at the rate of Rs.50/- per hour. The member recorded her opinion that the applicant is entitled for compensation excluding the period of load shedding. The technical member say the applicant is not entitled for any compensation. So we pass the order, by majority.

In absence of any cogent evidence we are not inclined to accept other prayers of the applicant.

In view of the facts and circumstances discussed above we pass the following order, by majority.

**ORDER**

- i) Application No.59 of 2013 is partly allowed.
- ii) The respondent to pay compensation @ Rs.50/- per hour for the period from 30-09-2012 to 15-12-2012 excluding the period of load shedding.
- iii) The respondent shall make payment within ninety days from the date of receipt of this order..
- iv) No order as to cost.

Sd/- (Adv.Gauri D.Chandrayan) <b><u>MEMBER</u></b>	Sd/- (Ms.S.B.Chiwande) <b><u>MEMBER SECRETARY</u></b>	Sd/- (Vishnu S. Bute) <b><u>CHAIRMAN</u></b>
<b><u>CONSUMER GRIEVANCES REDRESSAL FORUM; NAGPUR ZONE NAGPUR</u></b>		
<b><u>(Nagpur Dtd.12<sup>th</sup> day of August, 2013)</u></b>		

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

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cgrfnz@gmail.com

**(O) 0712- 2022198**

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NO. CGRF/NZ/

Date :

Certified copy of order dated 12<sup>th</sup> August, 2013 in Case No.59 / 2013 is enclosed herewith.

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

To,  
Shri Ashok Laxman Burile, At.Ladki, Po.Pardi(B), Tq.Hinganghat , Dist.Wardha

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.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