

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/093/2010

Applicant : M/s. Digital Photo Systems
Near Dena Bank,
W.H.C. Road, Dharampeth,
NAGPUR.

Non-applicant : MSEDCL represented by
the Nodal Officer-
Executive Engineer,
Congressnagar Division,
Nagpur.

Quorum Present : 1) Shri Shivajirao S. Patil
Chairman,

2) Adv. Smt. Gouri Chandrayan,
Member,

3) Smt. Kavita K. Gharat
Member Secretary.

ORDER (Passed on 01.02.2011)

The applicant, M/s. Digital Photo Systems, W.H.C. Road Dharampeth, Nagpur filed his grievance application on dated 01.12.2010 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 here-in-after referred-to-as the said Regulations.

1. The applicant's say in brief is that, the applicant, M/s. Digital Photo Systems is, registered as a Small Scale Industry. He has electricity connection with category of consumer as industrial. The electricity tariff applied was also industrial.

On 09.07.2010 Dy. E.E. Flying Squad, Wardha, has inspected the premises of above Colour Lab and opined that tariff applied should be commercial. He has instructed to the area in-charge to charge difference of tariff for one year and tariff category to be changed from industrial to commercial. Accordingly provisional assessment bill of `26,244/- is issued to the applicant. The applicant has filed his grievance in IGRC, Nagpur Urban Circle on dtd. 13.9.10. But IGRC has rejected the applicant's grievance application vide letter dtd. 30.11.10. Therefore the applicant being aggrieved and filed present grievance application in the forum on dtd. 1.12.10 and requested to the forum that...

1. To set-aside the assessment amount of Rs.26,244/-
 2. To direct the non-applicant to charge as per industrial tariff.
2. The non-applicant has filed the reply on dated 16.12.2010. It is submitted that, on 09.07.2010, Dy. E.E. Flying Squad, Wardha has inspected the premises of the applicant having consumer no. 410016011961 for change of tariff from LT-Industrial to Commercial tariff and accordingly assessment for one year of tariff difference

charged for `26,244/- as per report received from Dy. E.E. Flying Squad, Wardha. After finalization of tariff clubbing of meter will be examined.

3. The matter was heard in the Forum on dated 01.01.2011. Both the parties were present on behalf of non-applicant Shri B. Khandait, Executive Engineer, Congressnagar Division, was present. Shri Banait, the consumer's representative has reiterated the points as mentioned in the grievance application.

During hearing, a query was raised by the forum regarding SSI registration. The applicant's representative has informed to the forum that he would submit the required document related to SSI certification. Therefore, forum has directed to the applicant to file related documents from concerned department. So the hearing was adjourned.

4. The hearing was continued on dated 13.01.2011. The applicant's representative has filed the documents related to SSI registration downloaded from the website of Development Commissioner (MSME). The applicant's representative has highlighted in the documents that

“PRC is normally valid for 5 years and permanent registration is given in perpetuity”

“Permanent registration of Tiny units should be renewed after 5 years.”

Thereby pointed out that, since applicant's unit is not being a Tiny unit, there should not be any renewal of permanent registration.

5. On non-applicant's behalf, Shri.. Dy. E.E. (F.S.), Wardha, has clarified that in the inspection of the unit no manufacturing process was spotted by the squad. Therefore the proposal for conversion of tariff from industrial to commercial is proposed and that is correct.
6. Forum heard the arguments of both parties and carefully gone through the documents on records.

It is noteworthy that the applicant has a separate commercial meter for commercial activity and in addition to disputed meter which is for industrial purpose.

7. Record shows that the applicant is registered as a Small Scale Industry. On the reverse side on this certificate, condition no. 3 is given, to the effect...

“conformant of the status as a Tiny Enterprises is to be valid / renew every five years as per procedure prescribed”.

However on the date of the hearing the applicant produced certificate from District Industry Centre that the applicant's registration is a Small Scale Industry and its validity remain in force till the industry is going. This unit does not fall within the category of Tiny Enterprises but it is a Small Scale Industry.

8. We must mention here that merely because somebody has a nominal registration with its unit as a Industry, but does not proceed any industrial activity and may obtain a registration simply for minimizing the electric charges. It is definitely not permissible. In other words mere pocketing a nominal certificate of industry without doing any activity of industrial aspect but do commercial work does not sufficient to change the commercial tariff into industrial tariff. Therefore the important question is going to the root of the case ---- “Whether applicant is carrying out industrial activity on the spot or not”.
9. According to the non-applicant, Dy. E.E., Flying Squad, Wardha, inspected the site on 09.07.2010 and found that no industrial work is going on. But connection is being used for commercial purpose.

It is rather surprising to note that learned, Dy. E.E., Flying Squad, Wardha or the non-applicant, Nodal Officer, did not produce any documentary evidence on record to show that commercial activity is going on in the unit. Also no panchnama is prepared in presence of Pancha and representative of the applicant. If Flying Squad has really found that the connection is used for commercial purpose, it was incumbent on the part of the Dy. E.E., Flying Squad, Wardha, to prepare a proper and detailed Panchnama with graphic narration of the actual position on the spot, but there is nothing on record to shows that any such panchnama was prepared.

Further there is nothing on record to show that section 126 of Electricity Act 2003 was applied and neither written in the panchnama nor in other documents. In the opinion of the Forum, in absence of spot panchnama mere word of Flying Squad is not enough to come to the conclusion that no industrial work is going on the spot.

10. In the certificate of registration, items of manufacturer's activity is given as (1) Developing and printing photo (2) Processing of Film. In the opinion of the Forum, it is a industry within the meaning of section (2) (j) of Industrial Dispute Act as there is processing of films and registration as a Small Scale Industries. This much evidence is sufficient to hold that the applicant is registered as a Small Scale Industry.

Now it is for non-applicant to prove that actually no industrial work is going on but commercial work is going. The Forum has already pointed out that no such panchnama is produced to show actual position. Therefore forum finds no legal force in the contention of the non-applicant that industrial connection is used for commercial activity specifically when there is already separate commercial connection with the applicant in addition to the disputed connection.

11. Therefore in Forum's opinion grievance application of the applicant must be allowed. Hence Forum proceeds to pass following order.

