

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

Case No. CGRF(NUZ)/106/2013

Applicant : M/s. Hardoli Paper Mills Ltd.,
Krishna Kunj, Bhavsar Chouk,
Central Avenue Road,
Nagpur : 440 002.

Non-applicant : Nodal Officer,
The Superintending Engineer,
Nagpur Rural Circle,
MSEDCL,
NAGPUR.

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

2) Adv. Subhash Jichkar,
Member,

3) Shri B.A. Wasnik,
Member Secretary.

ORDER PASSED ON 21.8.2013.

1. The applicant filed present grievance application before this Forum on 25.6.2013 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

2. The applicants' case in brief is that applicant is H.T. Consumer of Superintending Engineer, Nagpur Rural Circle, M.S.E.D.C.L. since 26.3.1996 connected on 33 kV **Express**

Feeder, utilizing electricity for their industrial activity by name M/s. Hardoli Paper Mills Ltd. at Hardoli with applicable tariff under code 55 HT-I-C. On 27.8.2012 applicant submitted an application for change of tariff w.e.f. 1.8.2012 from HT-I-C to HT-I-N. Applicant submitted reminder Dt. 20.9.2012, 1.10.2012, 19.10.2012 & 18.4.2013 to Superintending Engineer, Nagpur Rural Circle, MSEDCL, Nagpur, but no cognizance is taken. Therefore the applicant filed present grievance application. Despite exercising choice for change of tariff within first month, i.e. 27.8.2012 and further reminders, Superintending Engineer, NRC, Nagpur did not give effect of change of tariff in the energy bill till filing of the application. Therefore applicant filed present grievance application and claimed following reliefs :-

- a) To implement change of tariff from 55 HT-I-C to 56 HT-I-N from 1.8.2012.
- b) To credit the amount of difference in tariff recovered from 1.8.2012 to June 2013 in ensuing bill.
- c) To credit the amount of difference of tariff with interest @ 15% p.a. in ensuing bill.
- d) To compensate the applicant for 45 weeks @ Rs. 100/- per week for Rs. 4500/-.
- e) To pay cost of the application Rs. 5000/-.

3. Non applicant M.S.E.D.C.L. denied applicant's case by filing reply Dt. 10.7.2013. It is submitted that M/s. Hardoli Paper Mills Ltd., Hardoli Nagpur is H.T. Consumer under Nagpur Rural Circle, Nagpur having C.D. of 1400 kVA and connected load 1400

kW. Erstwhile M.S.E.B. sanctioned the load and released the connection on 26.3.1996. As per requirement of the consumer being **continuous process industry, working in 3 (three) shifts** and condition prevailing, the connection is given by tapping 33 kV Kondhali – Bazargaon feeder. This feeder is inter-connected feeder between two sub-stations. Supply to the applicant is given through 33 kV interconnected sub-station feeder which is feeding **continuous supply without any load shedding**. So it is not possible to isolate a particular consumer seeking non continuous tariff by observing load shedding. As per option exercised by the applicant, proposal was sent to Chief Engineer (Commercial), Mumbai for according approval as per letter dated 5.10.2012. Chief Engineer (Commercial) Mumbai asked for few clarifications in above said proposal. Reply and compliance of the above said letter was submitted on 4.7.2013. Chief Engineer (Commercial) Mumbai in reference to letter dated 5.10.2012 had accorded approval to some cases and stated that all the cases of similar matter like change of tariff will be dealt with by Commercial Section, Head Office, Mumbai. After receipt of approval from Competent Authority (Head Office), necessary change in the tariff as exercised by the applicant can be effected.

3. Forum heard arguments of representative of the applicant Shri D.M. Deshpande on behalf of the applicant so also heard arguments of Mr. Shetty, Asstt. Engineer for Nagpur Rural Circle. Forum perused entire record carefully.

4. Initially it is pertinent to note that in detail typed application of the applicant it is submitted that it is “application under clause 3.1, 6.2, 6.7 and 6.10 of MERC (CGRF & E.O.) Regulations 2006. However, it is noteworthy that grievance application can be filed before this Forum only under Regulation 6.4 or 6.5 of the said regulations. This Forum can entertain and admit grievance only under regulation 6.4 & 6.5 of the said regulations. In present grievance application, it is nowhere mentioned by the applicant that it is grievance either under regulation 6.4 or under regulation 6.5 and therefore grievance application filed under regulation 3.2, 6.2, 6.7 and 6.10 is untenable at law and on this sole ground deserves to be dismissed.

5. Bear perusal of the grievance application shows that it is not the case of urgency as provided under regulation 6.5 of the said regulations and therefore as the applicant insisted forcefully for registration of the grievance application, was prima-facie registered by the Forum under Regulation 6.4 and it is specifically mentioned in Rojnama / Order sheet Dt. 25.6.2013 that the grievance application is admitted under regulation 6.4 of the said regulations.

6. It is specifically mentioned in the regulation 6.4 of the said regulations that “Unless a short period is provided in the Act, in the event that the consumer is not satisfied with the remedy provided by the I.G.R.C. to his grievance within the period of 2 months from the date of intimation or where no remedy has been provided within such period, consumer may submit the grievance

to the Forum”. Therefore according to regulation 6.4, it is incumbent on the part of the consumer to approach first to I.G.R.C. and if he is not satisfied with the order of I.G.R.C. or if no order is passed within a period of 2 months, then only he can approach to C.G.R.F. under regulation 6.4. So far as regulation 6.5 is concerned, it is regarding urgent matter and this clause 6.5 is not applicable to the present case.

7. So far as regulation 6.4 is concerned, it is true that certain exceptions are laid down under regulation 6.2 of the said regulations and applicant reproduced that exception in para 4, page 4 of his grievance application but the applicant has to satisfy the Forum whether the exception is applicable to the applicant.

8. It is noteworthy that regulation 6.2 (2nd proviso) of the said regulations reads as under : -

“Provided also that the intimation given to officials (who are not part of I.G.R.C.) to whom consumer approaches due to lack of general awareness of I.G.R.C. established by Distribution Licensee or procedure for approaching it, shall be deemed to be the intimation for the purpose of this regulation unless such officials forthwith direct the consumer to the I.G.R.C.”. It is the contention of the applicant that case of the applicant falls under regulation 6.2 (2nd proviso). However, we do not agree with this argument of the applicant because in regulation 6.2 (2nd proviso) it is specifically mentioned that intimation given to the officials who are not part of the

I.G.R.C. to whom consumer approaches due to lack of general awareness of the I.G.R.C. established by the Distribution Licensee or the procedure for approaching it, shall be deemed to be the intimation for the purpose of this regulation unless such officials forthwith direct the consumer to I.G.R.C. It is noteworthy that the applicant is not the person who has lack of general awareness of I.G.R.C. established by Distribution Licensee or the procedure for approaching it. It is rather surprising to note that the applicant is a big Paper Mill named and styled as “Hardoli Paper Mills Ltd., Hardoli” and the applicant is H.T. consumer since 26.3.1996 i.e. since last 17 years continuously. From the name and style of the applicant i.e. M/s. Hardoli Paper Mills Ltd. Hardoli, it is clear that either it is Partnership firm or proprietary concern. Documents produced by the applicant vide Annexure A-2, A-3, A-4, A-5, A-6 show that this paper mill has even “M.D.”. Entire correspondence to Superintending Engineer is made by the applicant on their own letter head showing there in several land line numbers, fax numbers & even e-mail I.D. Entire correspondence made by the applicant to Superintending Engineer, Nagpur Rural Circle is not hand written but in computer typing. Therefore there are many experts and legal advisor engaged by this big paper mill. Furthermore, applicant had engaged Shri Dilip M. Deshpande, Representative and during the course of arguments it was told to the Forum that representative of the applicant Shri D.M. Deshpande is retired Executive Engineer from M.S.E.D.C.L. Akola. Therefore it is clear that the applicant and his learned representative are not the consumers who has lack of general awareness of the I.G.R.C. established by the Distribution

Licensee or the procedure for approaching it. On the contrary the applicant and its representative have more than sufficient knowledge and have awareness of I.G.R.C. established by the Distribution Licensee and they are aware of the procedure for approaching it. Not only this, the applicant and his representative have adequate knowledge of entire regulations framed by MERC (CGRF & E.O.) Regulations 2006 so also, all other regulations. In prayer clause of grievance application even compensation is claimed as per S.O.P. and various regulations are laid down at various places in grievance application. Therefore it is proved beyond shadow of doubt that the applicant and his representative are not the consumer / representative who has lack of general awareness of I.G.R.C. or procedure for approaching I.G.R.C. and hence mere intimation to Superintending Engineer by such type of clever, learned and studied applicant can not be treated as intimation as laid down under regulation 6.2 (2nd proviso) of the said regulation and hence these regulations laid down under regulation 6.2 (2nd proviso) of the said regulations are not applicable to the present case. Therefore it is bounden duty of the applicant to approach first to I.G.R.C. and if applicant is not satisfied with the order of I.G.R.C. or if no order is passed, thereafter applicant can approach this Forum under regulation 6.4 of the said regulations. Present application is admittedly filed before this Forum without filing application before I.G.R.C. and therefore this Grievance application is untenable at law under regulation 6.4 of the said regulations and on the sole ground application deserves to be dismissed.

9. Learned representative of the applicant Shri Dilip M. Deshpande relied on order passed by Hon'ble Electricity Ombudsman Nagpur in representation No. 44/12 –Gajanan P. Gangane Vs. Executive Engineer Rural Division Akola decided on 14.8.2012 and argued that there is no necessity to file an application to I.G.R.C. We have carefully perused order passed by Electricity Ombudsman Nagpur in representation No. 44/12 decided on 14.8.2012. It is noteworthy that facts of that matter are totally different and distinguishable from the facts of the present case and therefore this authority is not applicable to the case in hand. In representation No. 44/12 decided on 14.8.2012, Hon'ble Electricity Ombudsman Nagpur in Para 5 of the order held as under :-

“A bare perusal of the impugned order dated 14.5.2012 shows that the same is passed only by the Member-Secretary and not by the Forum. Under MERC (CGRF & EO) Regulations, 2006, all the powers about Redressal of the Grievance of the consumer are vested in the Forum and no individual Member can pass any order. In the present case, there is nothing in the impugned order to show that it is passed by the Forum. The Secretary seems to have assumed jurisdiction not vested in him. Hence the order is passed without jurisdiction. On this ground alone, the impugned order deserves to be quashed and set aside”.

10. Therefore as the facts of representation No. 44/12 impugned order Dt. 14.5.2012 was passed only by the Member / Secretary and not by the Forum, therefore Hon'ble Electricity

Ombudsman held that Member / Secretary alone can not pass such type of order and because it is not the order passed by the entire Forum, it was set aside as order passed by the Secretary without jurisdiction. In the case in hand, our Member / Secretary alone did not reject the grievance application by his own signature at initial stage. On the contrary though the application was untenable at law under regulation 6.4 our Member / Secretary due to insistence of the applicant, prima facie registered the grievance application under regulation 6.4 of the said regulations. Thereafter opportunity of being heard is sufficiently given to both the parties. Matter was heard by the entire Forum and we are deciding it on merit by entire Forum. Therefore in our opinion our order is not the order without jurisdiction but Forum has definitely powers to hold that regulation 6.2 (2nd proviso) is not applicable to the present case and therefore we are dismissing the grievance application. Therefore facts of the present case are totally different and distinguishable from the facts of representation No. 44/12 and hence the said order passed by Hon'ble Electricity Ombudsman Nagpur is not applicable to the present case.

12. For these reasons, in our opinion, without filing the application to I.G.R.C. present grievance application filed by the learned and clever applicant is untenable at law and deserves to be dismissed. Therefore the applicant is at liberty to approach first to I.G.R.C. and if he is not satisfied with that order he is at liberty to file fresh application before this Forum if the circumstances and regulations permit.

13. Further more, name of the applicant is M/s. Hardoli Paper Mills Ltd. Hardoli. At the bottom of grievance application there is one stamp of M.D. for Hardoli Paper Mills, Ltd. However, on entire record, name of the M.D. of the applicant is nowhere mentioned. In fact applicant should have mentioned name of M.D. who signed for and on behalf of Hardoli Paper Mills Ltd. on grievance application, for this reason also grievance application deserves to be dismissed because there is nothing on record to show that signatory of this applicant is really M.D. of the applicant or not.

14. M/s. Hardoli Paper Mills Ltd. Nagpur is H.T. consumer under Nagpur Rural Circle Nagpur having C.D. of 1400 kVA and connected load 1400 kW. Erstwhile M.S.E.B. sanctioned load and released connection on 26.3.1996. As the requirement of applicant consumer being the **continuous process industry working in 3 shifts** and conditions prevailing connection is given by tapping 33 kV Kondhali – Bazargaon feeder. This feeder is interconnected feeder between two sub-stations. It is pertinent to note that supply of the applicant is given through 33 kV inter connected sub-station feeder which is feeding **continuous supply without load shedding**, so also it is not possible to isolate particular consumer seeking non continuous tariff by observing load shedding. It is even nowhere case of the applicant that applicant is observing weekly holiday. Record shows that as per option exercised by the applicant, proposal was sent to C.E. (Commercial) Mumbai for according approval vide Letter No. SE/NRC/HT/Billing/5458 Dt. 5.10.2012 and copy of this letter is annexed with reply of the non

applicant as Annexure – 1. It is also apparent from the record that Chief Engineer (Com.) asked for clarification in the above said proposal. Reply and compliance of the above said letter was submitted vide letter No. SE/NRC/ NGP/Tech/3049 Dt. 4.7.2013 and copy of this letter is annexed with reply of the non applicant as Annexure – 2. It is also apparent from the record that Chief Engineer (Com.) Mumbai in reference to letter dated 5.10.2012 had accorded approval to some cases and stated that all the cases of similar matter like change of tariff will be dealt by the commercial section, Head Office Mumbai. Copy of the letter is Annexed with reply of the non applicant as Annexure – 3. There is nothing on record to show that applicant made any correspondence to Chief Engineer (Com.), by filing single application or letter. Even single intimation is not given by the applicant to Chief Engineer (Com.) Mumbai. Without giving such intimation to Head Office, Mumbai and without filing application to I.G.R.C. applicant filed present grievance application which untenable at law and deserves to be dismissed.

15. Applicant relied on the order passed by Hon'ble Electricity Ombudsman, Mumbai in representation No. 49/11 – Shiva Steel Industries Nagpur Ltd. Vs. M.S.E.D.C.L. decided on 16.5.2011. However, facts of that matter are totally different and distinguishable from the facts of the present case and hence the said order is not applicable to the present case.

16. It is an undisputed fact that in original application of the applicant for new connection filed in the year 1996 applicant

has specifically mentioned that his industry is “**Continuous Process**” Industry. In other words applicant needed continuous power for his Industry. As per requirement of the applicant being a continuous process industry working in 3 shifts and conditions prevailing, the connection is given by tapping 33 kV Kondhali – Bazargaon feeder. This feeder is interconnected feeder between two sub-stations. Supply of the applicant is given through 33 kV inter connected sub-station feeder which is feeding continuous supply without any load shedding, so it is not possible to isolate a particular consumer seeking non continuous tariff by observing load shedding. Entire record shows that the applicant is H.T. Industry connected on **express feeder and demanding continuous supply** and therefore will be deemed as H.T. continuous Industry and given continuous supply. In non continuous supply, load shedding has to be observed but industry of the applicant is continuous process industry working in 3 shifts and therefore entire labours and manufacturing are continuously working who need continuous supply without any load shedding. Therefore it appears that applicant is intending to misinterpret relevant provisions with intent to have wrong gain to the applicant and wrongfull loss to M.S.E.D.C.L. Therefore it is not permissible.

17. For these reasons in our considered opinion, prayer of the applicant can not be granted. There is no negligence on the part of the officials of M.S.E.D.C.L. and there is no breach of any of the regulations, therefore applicant is not entitled for any compensation and can not claim any difference amount much less any interest.

18. As present application is filed without approaching to Learned I.G.R.C. and therefore grievance application is premature and deserves to be dismissed. Resultantly Forum proceeds to pass following order : -

ORDER

- 1) Grievance application is dismissed.
- 2) However, applicant is at liberty to approach to Learned I.G.R.C. with his grievance and if applicant is not satisfied with order passed by learned I.G.R.C., applicant is at liberty to approach this Forum again, if the circumstances and relevant regulations permit. In that eventuality this Forum shall decide said grievance applicant independently uninfluenced by reasoning and findings given by this Forum in this order.

Sd/-
(Shri B.A. Wasnik)
MEMBER
SECRETARY

Sd/-
(Adv.Subhash Jichkar)
MEMBER

Sd/-
(ShriShivajirao S.Patil)
CHAIRMAN