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

Case No. CGRF(NUZ)/15/2012

Applicant : Shriram Natthuji Raut,
C/o Narendra Raut,
Dehankar Layout, Jankinagar.
Katol, Tq. Katol, Distt. NAGPUR.

Non–applicant : Nodal Officer,
The Executive Engineer,
(O&M) Division
Nagpur Rural Circle, MSEDCL,
KATOL.

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

2) Adv. Smt. Gouri Chandrayan,
Member,

3) Smt. Kavita K. Gharat
Member Secretary.

ORDER PASSED ON 4.4.2012.

The applicant filed present grievance application before this Forum on 8.2.2012 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as Regulations).

1. The applicant's case in brief is that the applicant is a consumer bearing No. 429240273540. Electric supply to Agricultural Motor Pump on the well in the field of the

applicant was failed due to failure of distribution transformer during the period 28.6.2011 to 5.10.2011. Meanwhile, as the electric supply was failed, the applicant complained to Executive Engineer, M.S.E.D.C.L. Katol from time to time that the electric poles are bent, electric wires are hanging and there is damage to crop due to non replacement of transformer. On that electric line, it is only agricultural pump of the applicant. The applicant also complained to one Shri More, Lineman for restoration of electric supply but no action was taken. Ultimately, the applicant filed an application Dt. 30.9.2011 under Right to Information Act 2005 and seek the information. As a reply to this application under the provisions of R.T.I. Act 2005, Asstt. Engineer, M.S.E.D.C.L. Jalalkheda had supplied the information as per the letter outward No. 973 Dt. 1.11.2011 and informed that due to failure of transformer, there was no electric supply during the period 28.6.2011 to 5.10.2011.

2. The applicant filed the application to I.G.R.C. and demanded compensation of Rs. 1,09,200/- but no compensation is given. Therefore the applicant filed present Grievance Application and claimed the compensation in accordance with the regulation of MERC (Standard of performance of distribution licencee – period for giving supply and determination of compensation) Regulation 2005, amounting to Rs. 1,15,000/-.

3. Non-applicant denied the case of the applicant by filing reply Dt. 27.2.2012. It is submitted that there was failure of electric supply to Agricultural Motor Pump of the applicant situated at village Kharbadi due to mechanical defects in the transformer w.e.f. 28.6.2011. Due to continuous raining, it was not possible to take the vehicle on the spot. After rainy season, the transformer was replaced on 5.10.2011 and electrical supply was restored. Information was given to the applicant under R.T.I. Act 2005 on Dt. 1.11.2011. During the period July to September, there used to be rainy season and there is very less electrical load on Agricultural pump set. Therefore, it is not proved that there was loss to the consumer. First letter of the applicant was received on 28.6.2011. Second letter was received on 30.9.2011. Therefore, it is clear that there was no necessity of electric supply to the applicant and there was no economical loss. Therefore no compensation should be given.

4. Forum heard arguments of representative of the applicant Shri Harish Dhapodkar. Forum also heard the arguments of Executive Engineer / Nodal Officer Shri Mohod. Forum perused the entire record.

5. So far as this matter is concerned, there is difference of opinion amongst members of the Forum. Decision is based on the majority view of Hon'ble Chairperson and Hon'ble member of the Forum, whereas descending note of

Hon'ble Secretary / Member of the Forum is noted at the bottom being part and parcel of the order.

MAJORITY VIEW OF HON'BLE CHAIRPERSON AND HON'BLE MEMBER OF THE FORUM

6. On behalf of the applicant, it is argued that there was failure of electric supply to the applicant during the period 28.6.2011 to 5.10.2011. There was no prior notice about failure of electric supply. No detail particulars are given by the Non-applicant as to when there was rain and thunderstorm. There is tar road up to this village and bus going to the village daily. Field of the applicant is adjacent to the village. In spite of the application there was delay in rectification of the deficiency. Therefore there was damage to Orange crop and applicant is entitled for compensation.

7. On behalf of the Non-applicant M.S.E.D.C.L., Shri Mohod Nodal Officer/ Executive Engineer admitted that there was failure of transformer for the period 28.6.2011 to 5.10.2011. It was not possible to take truck to the spot due to rainy season. When the road was clear the transformer was replaced. He further argued that during the above said period, 1) Shri Vinchurkar, was incharge J.E. for some period, 2) From June and August 2011 Shri Giripunje was J.E. and 3) in September 2011 Shri Bhaturkar was J.E. However, he did not disclose as to who was the Assistant Engineer concerned during the relevant period.

8. We heard arguments of both the sides at length and perused the record.

9. It is an admitted fact that that electric supply to the Agricultural motor pump of the applicant was failed due to failure of transformer during the period 28.6.2011 to 5.10.2011. Record shows that applicant filed application to Executive Engineer, M.S.E.D.C.L. Katol Division on 28.6.2011 itself. It is noteworthy that the applicant produced zerox copy of the said application Dt. 28.6.2011 and in the margin / column of the said application there is stamp so also endorsement of receiving clerk of M.S.E.D.C.L. Katol under his signature Dt. 28.6.2011. Therefore, it is clear that this fact was brought to the notice of concerned Executive Engineer, M.S.E.D.C.L. Katol on 28.6.2011 itself that there is a failure of electric supply. In this application, it is also mentioned that complaint is filed on complaint booth situated in the village and prior to that it was complained to Shri More, L.M. but even then electric supply was not restored.

10. According to Appendix 'A' Sr. No. 2(iii) of MERC (SoP of distribution licencee – period for giving supply and determination of compensation) regulations 2005, specific period is given for restoration of supply and for distribution transformer failure, time limit is given 48 Hrs. (Forty eight hours) in rural areas. Village Kharbadi, Tq. Narkhed, Distt. Nagpur is in rural area and therefore according to Appendix 'A' there is 48 hrs. time limit for rectification. Though this fact

was brought to the notice of various persons right from Shri More, L.M. up to the Executive Engineer, Katol, even then nobody took cognizance. It is a great surprise that electric motor pump was not working due to failure of transformer during the period 28.6.2011 to 5.10.2011. It shows to what extent the concerned officers of M.S.E.D.C.L. are negligent. This attitude of concerned officers of M.S.E.D.C.L. is behavior of in-disciplinary manner, not performing the duties in accordance with the regulations knowingly, unbecoming of public servant and highly negligent. Therefore, it is desirous that it is necessary to initiate strict departmental action against the defaulters whosoever he or they may be, without fear and favour, otherwise such type of unpleasant incidences will continue in future causing inconvenience and injustice to various consumers. In such circumstances, it is necessary to take serious view and to initiate departmental enquiry against defaulter for not performing duty properly and in a gross negligent manner.

11. However, so far as compensation claimed by the applicant is concerned, the applicant had given calculation as under :-

i) July – 31 days x 24 hours = 744 hrs. x 50 = Rs. 37200/-

ii) August- 30 days x 24 hrs. = 720 hrs. x 50 = Rs. 36000/-

iii) Sept. – 30 days x 24 hrs. = 720 hrs. x 50 = Rs. 36000/-

Total…… Rs.1,09,200/-

12. However, it is well known fact that in rural areas for Agricultural pump set, 24 hrs. electric supply is neither permissible nor provided. However, as per various circulars of M.S.E.D.C.L. hours of load shedding for agricultural pump set in rural areas differ from time to time. There is only 6 to 8 hours electric supply in a day to agricultural pump sets in rural areas. Therefore claiming the compensation for failure of 24 hrs. daily by the applicant is not only excessive but attempt to extract unreasonable and illegal amount from M.S.E.D.C.L. Therefore, such compensation of Rs. 109200/- (Rs. One Lac Nine Thousand Two Hundred), calculated by the applicant is wrong and cannot be granted. In present grievance application, the applicant again exceeded the compensation in Para No. 5 of application and claimed compensation of Rs. 11500/- (Rs. One Lac Fifteen Thousand). However, it is excessive and baseless. Therefore, the compensation claimed by the applicant Rs. 1,09,200/- or Rs. 1,15,000/- can not be granted.

13. It is noteworthy that Hon'ble M.E.R.C. passed initial order about load shedding in case No. 5/05 Dt. 16.6.2005 in the matter of Principals and Protocol to be adopted for load shedding as under :-

7. The detailed Order in these proceedings will be issued shortly. In the meantime, the Commission has decided to issue this summary, operative Order. The Commission's substantive directions with regard to the principles and protocol to be adopted for load shedding are briefly set out as follows:

(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.

(c) In its proposal, MSEB has considered Circles (comprising several Divisions) as the area unit to which such principles should be applied. However, MSEB also stated that-

"Division-wise categorization based on loss levels would ideally be most suitable. Although Division-wise loss statistics are available, Division-wise load data is not yet available and hence it would be difficult at the moment to work out the load shedding programme on that basis. This refinement can be incorporated subsequently."

Many participants in the public process stressed that, for obvious reasons, the application of such principles would be more meaningful the greater the level of disaggregation and the smaller the unit. This would also help to focus awareness and accountability better. The Commission's interactions with MSEB indicate that it is now possible to consider the Division as the unit, and it has accordingly decided to adopt it for the present. An exception has been made in the metropolitan and other major cities, where it is more appropriate to consider the city as a compact unit, clubbing the Divisions comprising it in case there are more than one.

(d) MSEB had proposed the ranking of Circles or other units on the basis of their Aggregate Technical & Commercial (AT&C) losses. However, the Commission believes that it is necessary to separate the two components, being essentially different in nature, and also to give greater weightage to Distribution losses (after excluding transmission losses as described below). It is worth recalling that, in an earlier Tariff Order dated January 10, 2002, the Commission had decided that the burden of Transmission &

Distribution losses above a benchmark level of 26.87% should be shared equally by consumers and MSEB, and the resultant charge to consumers shown separately in their bills. This dispensation was challenged in various Writ Petitions, but the Bombay High Court upheld it. In its judgement dated February 11, 2004, the High Court observed, inter alia, that

"the Commission has adopted an unorthodox and innovative method in dealing with T& D losses…The Board and the consumers are pari delecto in preventing T&D losses on account of theft…The Commission has also noted that it will be improper to require the consumers in areas which show better compliance to pay for the thefts by consumers in other areas which show less compliances and higher thefts… We are inclined to ignore the criticism that the Commission has proposed to do something which has not been done before."

(Subsequent to that Tariff Order, the Commission exempted Circles with T&D losses below the benchmark level from the charge. Separate T&D loss charges were discontinued altogether from December 1, 2003.) Although there may be correlation between some of the factors responsible for losses as well as low recovery (such as organizational inefficiency and malpractices, local social ethos and paying culture, etc.), the emphasis for the present purpose has to be on the losses criterion considering the primary objective of managing the load, and this is reflected in weightage in the ratio of 70:30 for the Distribution loss and collection inefficiency, respectively, adopted now by the Commission.

(e) Only Distribution losses have been taken, considering that Transmission losses are at the higher levels of voltages and outside the control of the Divisions. For the time being, for want of a better alternative, the loss figures considered for this purpose are as assessed by MSEB. Validation of the data has not been undertaken by the Commission, and is not in a form comparable to the data submitted earlier on energy accounting and merit order despatch in compliance of various Tariff Order directions. Further exercises required of MSEB will be outlined in the detailed Order.

(f) Distribution loss has been computed from EHV Sub-station output levels, after excluding the segregatable industrial load in order to give a more representative picture, since it tends to skew the loss levels. Moreover, since HT industry is largely excluded from the load shedding mechanism based on the criteria and rankings adopted (but not altogether from load shedding per se), it is appropriate to exclude the HT industrial load from the Distribution loss computations. The broadly representative MIDC feeder loss levels assessed by the Commission in its Tariff Order for FY 2003-04 have been considered to estimate the corresponding HT input from the HT sales, so as to derive the balance LT input (including unavoidably, some HT input on mixed feeders) from the total energy input to the Division. Collection efficiency has also been computed excluding HT recovery for the application of the 70:30 criterion, since the Commission finds that such recovery is generally very high, requires little effort to maintain, and is likely to give a misleading picture of such efforts even in Divisions where there may be a few large consumers of this type, and skew the overall collection efficiency figures. For the time being, both

Distribution loss and collection efficiency have been considered taking into account the period from April, 2004 to March, 2005, so that seasonal and other variations are captured.

(g) Weightage has also been given to the fact that the technical Distribution losses in rural areas will generally be higher than in urban areas, given the wider spread of the LT network in the former and other factors. The Commission has for the moment considered a difference of 3% for the purpose of this Order, based on discussions with MSEB. However, this difference will be reassessed after further data and analysis is submitted by MSEB.

(h) The Divisions have been ranked on the basis of the weighted average loss levels, computed as described earlier. The contribution of the Divisions in each of three types of areas, viz. major urban areas, other urban areas, and rural areas (as categorized by MSEB) to the daily total load has been segregated. Analysis of the sheddable load (after excluding the HT industrial load and public water works connected to separate/express feeders) shows that the contribution of the major urban, other urban and rural Divisions to the sheddable load is 1063 MW, 2227 MW, and 5100 MW, i.e. approximately in the ratio of 1:2:5. In effect, 1 hour of load shedding in rural areas will give load relief equal to that achieved by 5 hours of load shedding in major cities and 2 hours of load shedding in other urban areas. Hence, the desired load relief can be achieved by shedding load in proportion to the contribution to the total load of these different types of areas.

(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 first bracket is upto 25%/28%, for which a parallel can be drawn with the benchmark T&D Loss level of 28.67% considered in the Commission's first Tariff Order, although the components of these percentages are of course somewhat different.)

(j) All Divisions in the MSEB area of supply will be subject to load shedding as and when it is required, but the number of hours of load shedding in one Division as compared to another would differ on the basis of the above principles and the total load required to be shed.

(k) The maximum hours of planned load shedding during any day in any Division should not be more than 8 hours. In circumstances in which the application of the principles in this Order would result in this ceiling being exceeded in any Division category (e.g. rural), the load shedding in the same category in the next higher Group will be increased upto the ceiling of 8 hours. For example, if rural Divisions in Group D require 10 hours of load shedding as per these principles, they would be subject only to 8 hours. The load equivalent to the excess 2 hours will be shed by adding to the load shedding in rural Divisions of Group C to the extent necessary (subject also to the ceiling of 8 hours), and so on till the load can be met. This will ensure that, in such circumstances, the load ratio between categories is still followed, but not Group-wise.

(l) When it is found that the quantum of load relief actually required is less than planned, it should be distributed by pro-rata reduction in the hours of load shedding in Group A Divisions.

(m) MSEB should not shed load for more than 4 hours at a stretch in any Division. If the total load shedding to be carried out is more than 4 hours, it should be undertaken in two or more blocks.

(n) MSEB will have to ensure that, taking its supply area as a whole, the load shedding programme is drawn up in such a way that the load withdrawal or addition related to load shedding should not result in frequency jerk endangering grid security.

(o) The above principles will not apply to Railway traction loads, and those public water works (including MIDC, CIDCO, and Maharashtra Jivan Pradhikaran, etc. as may be relevant) and continuous process industries which are on separate feeders, nor will these be subject to load shedding. They will also not apply to those industries and industrial areas which are supplied through dedicated/express feeders. However, such industries and industrial areas (excluding continuous process industries) will be subject to load shedding for 16 hours on the day of the area-wise staggered weekly-off set out in GoM's Maharashtra Electrical Energy (Regulation of Distribution, Supply, Consumption or Use) Order, 1995 dated 1st December, 1995. In this context, it will be recalled that, in its Order dated May 4, 2005, the Commission had stated that

"In order to remove any doubt or uncertainty, the Commission directs that the contents of that Order, as amended to date, will remain protected and shall continue to be in force until further orders".

With the Commission's present Order, the rest of the GoM dispensation will not survive.

(p) Based on the above Grouping and principles, and in consultation with MSEB, the Commission has simulated the different levels of load shedding across these Groups, with further differentiation between major urban, other urban, and rural areas according to the rationale discussed earlier, to achieve the load relief desired. An illustrative simulation using a shortfall level of around 2500 MW during the evening peak, given purely

as an example for providing greater clarity on the application of the principles adopted by the Commission, is at Annexure 1. Annexure 2 lists the MSEB Divisions Group-wise considering the criteria set out above. The Annexures also set out the meanings of the relevant terms used, as defined by MSEB. As noted elsewhere in this Order, the figures are as presented by MSEB and have not been validated by the Commission, for which further data and analysis may be necessary subsequently.

(q) The Commission would like to make it clear that this dispensation is intended for planned load shedding. Even in this case, some rounding off (particularly to the advantage of Divisions in Group A) may have to be resorted to in micro-planning while adhering broadly to the load ratio differentiation in the number of hours of load shedding in different Divisions and types of areas. There may also be exigent situations such as forced outages, etc., in which the State Load Despatch Centre would require deviations from these principles in actual operation. <u>However, while the detailed load shedding programme itself may change from time to time depending on changes in estimates of expected load or the shape of the daily load curve due to seasonal or other factors, planned load shedding should be undertaken in accordance with these principles.</u> The concerned Division officials must be held accountable for deviations, and action taken against them. At the same time, it is necessary to recognize consistent and sustained improvements in loss and collection efficiency parameters beyond a benchmark level through an incentive scheme for the concerned Division personnel. Similarly, consistently poor performance should be penalised through the instrument of the Annual Confidential Reports and other means. MSEB should report the mechanism adopted for the purpose by it within 2 months.

(r) <u>MSEB should publicize (including hosting it on its website) and implement its load shedding programme on the basis of this Order within a week</u>

13. It is noteworthy that after issuance of order Dt. 16.6.2005 in case No. 5/05, Hon'ble MERC, there were various subsequent orders issued by Hon'ble MERC regarding load shedding in rural area. On the basis of these various orders of Hon'ble MERC, Director (Operation) M.S.E.D.C.L. issued various circulars from time to time regarding Revised Load Shedding programme. All these programmes used to be published in news papers and on Website of M.S.E.D.C.L. and widely circulated. As per recent revised load shedding programme of M.S.E.D.C.L., there is only 8 hours availability of supply in 24 hours in rural area. It means daily there is 16

hours load shedding in rural area and during load shedding hours M.S.E.D.C.L. is authorized not to give electric supply. Therefore no compensation can be claimed in load shedding period (i.e. 16 hrs. daily) in rural area. M.S.E.D.C.L. publicized such programme on its website also. If we read various orders of MERC and various circulars issued by M.S.E.D.C.L. carefully regarding load shedding in rural area, it is crystal clear that the calculation of compensation given by the applicant amounting to Rs. 1,09,200/- and for 24 hrs. daily is unjustified and untenable at law and can not be granted.

14. Furthermore, there are many "proviso" to regulation 12.2 of MERC (SoP of distribution licensee – period of giving supply and determination of compensation) regulations 2005. **According to "Third Proviso" to regulation 12.2 MERC(SoP) regulations 2005, it is specifically mentioned as under :-**

"Provided also, that no claim for compensation shall entertained if the same is filed later that a period of 60days from the date of rectification of deficiency in performance standard".

Therefore, there is 60 days limitation to claim compensation from the date of rectification of deficiency in performance standard according to these provisions. It is an admitted fact that transformer was replaced, supply of electricity was restored and there was rectification of deficiency in

performance standard on 5.10.2011. Therefore, the applicant aught to have filed present grievance application before this Forum within 60 days from 5.10.2011 i.e. on or before 5.12.2011. However, present grievance application is filed before this Forum on 8.2.2011 and therefore, it is not filed within 60 days and hence no compensation can be given as per the Proviso No.3 of regulation 12.2 of MERC (SoP of distribution licensee – period of giving supply and determination of compensation) regulations 2005.

15. According to Section 57(2) / Electricity Act 2003, "If a Licensee fails to meet the standards specified under Sub-Section 1, without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the appropriate commission". Therefore, according to this provisions, there is right of penalty and even prosecution can be initiated against the defaulter. As we have already pointed out that calculation of the compensation given by the applicant is incorrect, excessive and untenable at law. It is also not within limitation and therefore, such compensation can not be granted.

However, there is severe and gross negligence knowingly on the part of officer concerned in this matter and therefore it is necessary to initiate departmental enquiry by the Competent Authority of M.S.E.D.C.L. against the defaulter and to take action in accordance with rules, regulations and law & to

impose departmental punishment, so that in future nobody will dare to act negligently.

16. DESCENDING VIEW OF HON'BLE MEMBER / SECRETARY OF THE FORUM

1. The applicant's Grievance application is for compensation as the Non-applicant has failed to observe the standards as specified in Standard of Performance (SoP) regulations. The applicant in his Grievance Application has demanded compensation of Rs. 1,15,000/-, for the period 28.6.2011 to 5.10.2011 i.e. for 96 days, as no supply was available to his Agricultural pump. The non-applicant in his reply submitted that the reason for non availability of supply to the applicant's connection was due to transformer failure. The transformer was failed due to some technical fault on Dt. 28.6.2011 and replaced on 5.10.2011. The reason for such inordinate delay is mentioned as due to continuous rain fall, it was not possible to take the vehicle up to the transformer installation site and the atmospheric conditions were also not suitable for the same.

2. After perusal of the documents on record, I have observed that the applicant submitted the Grievance to I.G.R.C. for compensation as per SoP for restoration of supply. But no reason was mentioned for failure of supply that means whether failure was due to non-attendance of fuse off call or some other reason. However, from the Non applicant's

reply and pleadings of the applicant's representative, the Forum came to know that the failure of supply was due to failure of transformer.

In this grievance matter, it is very important to know the reason for such inordinate delay. As per submissions, non applicant has mentioned that due to heavy rain fall, the vehicle was not approachable to the installation position. Therefore, in such situation, regulation 11 of MERC (SoP of distribution licensee, period for giving supply and determination of compensation) regulations 2005 clarifies that -

"*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 Regulations by cyclone, floods, storms or other occurrences beyond the control of the Distribution Licensee……

The above regulation specifies that the occurrences which are beyond the control of distribution licensee are exempted from paying compensation. Due to heavy rain fall, the field becomes muddy and the vehicle, in such condition can not approach the installation position. Also from the technical point of view, the atmospheric condition plays very important role during the transformer replacement. Therefore, in my opinion, the non applicant

can not be held responsible for the delay and the condition prevailing during that period was beyond its control. In other words, there is no deficiency in service by the non-applicant and the regulation 11 is applicable in this case. Hence, the non-applicant is not liable for providing compensation as per SoP regulations.

3. In this case, it is very essential to consider the load shedding criteria. In other words for how much hours the applicant is liable to receive supply. The Hon'ble Commission vide order Dt. 16.6.2005 in case No. 5/2005 has given principal and protocol of load shedding by M.S.E.D.C.L. in view of the prevailing shortage of electricity in the state of Maharashtra. Few key features of Commission's order behind the concept of load shedding protocol introduced in the system are mentioned below : -

ii) *The thrust of the E.A. 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.

iii) The Commission decided to adopt the Division as the basis for the present. An exception has been made in the metropolitan and other major cities, where it is more appropriate in consider the city as a compact unit, clubbing the Division comprising it in case there are more than one….

vii) 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 specify that Hon'ble Commission has approved load shedding as per average loss and collection efficiency of Divisions in the M.S.E.B. Area of supply. This planned load shedding was initially has ceiling of 8 hours but it was time to time increased to 12 to 14 Hrs. as per the prevailing of condition of supply – demand of M.S.E.D.C.L. The same was approved by Hon'ble Commission vide order

Dt. 10.1.2006 in case No. 35/05, order Dt. 20.2.2007 in case No. 78/2006 and order in the matter of revision of principles of load shedding in case No. 77/08 & 78/2008 with order Dt. 28.11.2008. All these orders have approved the load shedding in order to tackle power shortage scenario based on the consumer behaviour with respect to energy utilization and load management scheme available in the region of operation.

In this case also, the region is agriculturally dominated. Being the agriculturally dominated region, the some or the other load management scheme may be operating in this region. Therefore the applicant is liable to receive supply maximum for 10 hrs only depending upon consumer behaviour with respect to energy utilization and load management scheme existing in the particular division. Hence the applicant's request for compensation considering the period of failure for continuous 24 hours is illegal and unjust. Since the consumer is not approved for getting supply for 24 hrs., he can not claim compensation for the same. Therefore in my opinion, the applicant's demand of compensation for considering supply period as 24 hrs is unjust.

4. Therefore from above explanation it is clear that the Non applicant is not responsible for delay in transformer replacement, but the condition which was beyond the

control of non-applicant and the applicant's demand for compensation is unjust and not as per regulations. Therefore, in my opinion, the applicant's Grievance application should be dismissed.

17. For these reasons, in the majority view of the Forum, we hold that calculation of compensation claimed by the applicant is improper, unjustified and barred by limitation and therefore no compensation can be granted to the applicant. However, it is necessary to take departmental action against defaulter. Hence, in majority view, the Forum proceeds to pass following order :-

ORDER

1) Grievance application is partly allowed.

2) Competent Authority of M.S.E.D.C.L. is hereby directed to initiate departmental enquiry against concerned Engineers, defaulter officers /officials of M.S.E.D.C.L. for gross negligence, for not performing official duties in accordance with rules and regulations and to take suitable action in accordance with law.

3) Claim of compensation of the applicant is hereby dismissed.

4) M.S.E.D.C.L. to submit compliance report of this order within 30 days from the date of this order.

Sd/-	Sd/-	Sd/-
(Smt.K.K.Gharat)	**(Adv.Smt.GauriChandrayan)**	**(ShriShivajirao S.Patil)**
MEMBER SECRETARY	MEMBER	CHAIRMAN