

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

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**Case No. CGRF(NUZ)/65/2012**

Applicant : M/s. Chandrika Boiled Rice,  
Village Dumri, Nandgaon,  
Kanhan,  
Distt. NAGPUR.

Non-applicant : Nodal Officer,  
The Executive Engineer,  
(O&M) Division No. I,  
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 30.7.2012.**

The applicant filed present grievance application before this Forum on 26.6.2012 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 on the basis of the application of the applicant for power supply for 107HP load, the load was sanctioned as per order Dt. 13.1.2010. The applicant was also asked to carry out the work of installation

of 200 kVA Transformer along with H.T. Line, L.T. Line etc. The estimate of the work was for Rs. 4,66,560/-. The applicant carried out the work and power supply has been received by the applicant. As per Circular No. 22197 Dt. 20.5.2008, the entire cost is to be refunded to the applicant. The applicant filed the application to I.G.R.C., hearing was held by I.G.R.C. and during that hearing letter of M.S.E.D.C.L. Dt. 14.8.2011 was handed over to the applicant. As per this letter, amount as per W.C.R. was to be refunded to the applicant in the next billing cycle. Till date the applicant did not receive any refund. No order has been received from I.G.R.C. It can be seen from the Electricity Bill of the applicant that the power has been released to the applicant in January 2010. This implies that what ever infrastructure was built by the applicant has already been taken over by M.S.E.D.C.L. It is the consumer who bear the expenses of infrastructure. M.S.E.D.C.L. did not refund the amount.

2. It is further submitted that grievance application was to be filed some time in the month of September 2011. However, in three of the orders passed in case of M/s. Arihant Ispat Dt. 29.8.2011, M/s. Darpan Multi Poly Pack and M/s. Lulla Metals Dt. 8.9.2011, in case Nos. 29/12, 32/11 & 33/11 respectively, it was stated that refund cases were not under jurisdiction of C.G.R.F. and therefore grievance application was not filed at that time. However, recently the applicant came to know that as per Hon'ble Supreme Court's order, this refund is very much within the jurisdiction of C.G.R.F.

Therefore the applicant is filing present grievance application. In view of above, delay in filing the application may be condoned and case may be accepted.

3. The applicant claimed following relief namely –

i) Direct M.S.E.D.C.L. to refund the amount of Rs. 4,66,560/- for the estimated cost to the applicant.

ii) Refund through bill is unacceptable to the applicant since average monthly electricity bill of the applicant is only Rs. 25,000/- and entire refund would take more than 1 ½ year if refunded through bill.

iii) Direct M.S.E.D.C.L. to pay interest at least at the standard bank rates from the date of release of power till the date of refund.

4. Non applicant denied the case of the applicant by filing reply Dt. 17.7.2012. It is submitted that connection of the applicant was released on 21.1.2010 and work was carried out under the scheme vide estimate sanction No. SE/NRC/Tech/AAR/Non-DDF CC RF/22 Dt. 4.12.2009 and load sanction was done vide load sanction order Dt. 13.1.2010. After the completion of all work as per the estimate, release letter of L.T. I.P. Connection was issued on Dt. 13.1.2010 and connection was released on Dt. 21.1.2010 after observing all formalities as per M.S.E.D.C.L's rules. In view of above, M.S.E.D.C.L. office has sought solution for refunding amount from IT through energy bills as per M.S.E.D.C.L. rules for the charges for the work carried out under Non-DDF-CC&RF

scheme and data is submitted to IT section on 17.7.2012, for refund of amount through bills as per rule. Refund through energy bills will be implemented in forthcoming bills.

5. Forum heard the arguments of both the sides and perused the record.

6. It is noteworthy that apparently on the face of record, even as per pleadings of the applicant at the bottom of his grievance application, present grievance is barred by limitation and therefore deserves to be dismissed on this sole ground. In the column of "Details of Grievance" on Page 4 of the application at the bottom, the applicant submitted that delay in filing the application may kindly be condoned and application may be accepted. However, it is note worthy that in entire Regulations, there is no provision for condoning the delay and therefore C.G.R.F. has absolutely no powers to condone the delay as prayed by the applicant. Admittedly the grievance application is barred by limitation as per the pleadings of the applicant and therefore on this sole ground, the application deserves to be dismissed.

7. As per the pleadings of the applicant, the applicant applied for power supply for 107 HP load, the load was sanctioned as per order Dt. 13.1.2010. The applicant was also asked to carry out the work of installation of 200 KVA transformer along with HT Line, LT Line etc. The estimate of work was for Rs. 4,66,560/-. The applicant carried out the work and power has been received by the applicant.

Therefore, it is an admitted fact that load was sanctioned on Dt. 13.1.2010 and power has been released to the applicant in January 2010. According to regulation 6.6 of the said regulations, the Forum shall not admit any grievance unless it is filed within 2 years from the date on which cause of action has arisen. In this case, cause of action arose on 13.1.2010 or at least in January 2010 and therefore period of limitation of two years come to an end in January 2012, but surprisingly the present grievance application is filed on 26.6.2012 and therefore it is barred by limitation and deserves to be dismissed. There is no provision in entire regulations about condonation of delay as prayed by the applicant. Therefore application deserves to be dismissed.

8. The applicant submitted that as per the Circular 22197 Dt. 20.5.2008, the entire cost is to be refunded to the applicant. Therefore the circular Dt. 20.5.2008 was in existence even on the date of cause of action Dt. 13.1.2010 but applicant did not file any application within limitation.

9. The applicant submitted in his grievance application that he filed the application to I.G.R.C. but Case number of that matter before I.G.R.C. and date of filing the grievance application is nowhere pleaded by the applicant in his grievance application. Copy of grievance application to I.G.R.C. is not produced on record. Applicant submitted that no order has been received from I.G.R.C. But it is not the contention of the applicant that no order is passed. There is

difference between “not receiving the order” and “Not passing the order”. Applicant did not prove that he first approached to I.G.R.C. Therefore filing direct application to C.G.R.F. is untenable at law.

10. The applicant had given reference of the cases decided by this Forum – 1) Case No. 29/11 M/s. Arihant Ispat Pvt. Ltd. Vs. M.S.E.D.C.L. decided on 26.8.2011, 2) Case No. 32/11 M/s. Darpan Multi Poly Pack Vs. M.S.E.D.C.L. decided on 2.9.2011 and 3) 33/11 – M/s. Lulla Metals Vs. M.S.E.D.C.L. decided on 2.9.2011 by this Forum. The applicant is aware of the fact that all these matters are dismissed by this Forum. In all these matters, this Forum relied on judgement of Hon’ble High Court of Judicature at Bombay, Bench at Aurangabad in Writ Petition No. 2032/11, MSEDCL Rural Circle Aurangabad Vs. M/s. Kaygaon Paper Mills Ltd., “Manisha” behind Axis Bank Aurangabad, Judgement Dt. 1.7.2011 and 2) Writ Petition No. 988 of 11, MSEDCL Vs. Consumer Grievance Redressal Forum, Amravati Zone Akola, decided on 7.7.2011 by Hon’ble High Court of judicature at Bombay Nagpur Bench Nagpur.

11. Hon. High Court of judicature at Bombay appellate side, Bench at Aurangabad in writ petition no. 2032 of 2011, the MSEDCL Rural Circle, Aurangabad ---- Vs. M/s. Kaygaon Paper Mill Limited “Manisha” behind Axes Bank Aurngabad in judgment dated 01.07.2011 hold -----

*“By no stretch of imagination the grievance of respondent No. 1, mentioned above, would be covered by this definition. A consumer’s grievance contemplated under the Regulations is basically a complaint about fault or inadequacy in quality of performance of the Electricity Distribution Company. In this case, admittedly, there is no grievance that performance of the petitioner-company, as distribution licensee, had been imperfect or otherwise. The grievance of respondent No. 1 is in respect of breach of statutory obligation allegedly committed by the petitioner-company. So, the grievance would not fall within the four corners of the term “grievance” defined under the Regulations”.*

In the same authority cited supra writ petition no. 2032 of 2011 MSEDCL Vs. M/s. Kaygaon Papers Mill Limited Hon. His lordship held.- - - - -

*“Shri H.F. Pawar, learned Advocate for respondent no. 1 then tried to show me certain orders passed by the Maharashtra Electricity Regulatory Commission in the matter of complaint filed by certain consumers of the petitioner-company for refund of the amount etc. The Commission directed the petitioner-company to refund the amount to the consumer in those cases. I am afraid, even though in similar situation, the petitioner-company was directed by the Commission to refund the amount to their consumers, still such orders are not capable of being utilized is of civil nature and would not be covered by the term “grievance”. The Consumer*

*Grievance Redressal Forum, which had passed the impugned order, apparently did not have jurisdiction to entertain a complaint of this nature. Respondent No. 2 – Forum thus could not have decided the dispute of this nature. Therefore the orders passed by the Commission will be of no use to respondent No.1”.*

Facts of the present case and facts of the Judgment cited are similar and identical. Therefore relying on the Judgment of Hon. High Court, Forum holds that the dispute between the Parties, is of Civil nature and would not cover by the terms “grievance”, therefore this Forum has no jurisdiction to entertain a complaint of this nature. Therefore grievance application deserves to be dismissed.

Further more Hon. High Court of judicature at Bombay Nagpur Bench Nagpur in writ petition no. 988 of 2011 MSEDCL Vs. Consumer Grievance Redressal Forum Amravati Zone, Akola decided on 07.07.2011 hold- - - - -

*“The learned counsel for the petitioner submits that the issue as to whether the Distribution Company can recover the expenses in so far as the consumers of the kind, to which the respondent herein belongs, is subjudiced before the Apex Court and the payment therefore, even if made by the respondent for the said dedicated supply, would be contingent upon the decision of the Apex Court.*

*In the light of the above, the impugned order dated 06.12.2010 would have to be set aside and is accordingly set aside. However, it is made clear that if the respondent*



*no. 2 desires to have a dedicated supply to his Saw Mill, which is outside the Gaothan, the same would be provided, as has been stated on behalf of the petitioner – Company before the CGRF, at the costs of the respondent. In the event, the said cost of the infrastructure is paid by the respondent, needless to say that the same would be subject to the outcome of the proceedings in the Apex Court.”.*

12. Relying on judgement of Hon’ble High Court, the Forum hold that at this moment no relief can be granted to the applicant as prayed for.

13. Applicant submitted in the grievance application that recently the applicant came to know that as per order of Hon’ble Supreme Court, this refund is within the jurisdiction of C.G.R.F.and therefore applicant filed present application with a request to condone the delay in filing the case. However, it is note worthy that applicant had not given Case number, Date of Judgement and name of the parties of case alleged to have been decided by Hon’ble Supreme Court. No copy of order of Hon’ble Supreme Court is placed on record. The applicant did not produce any order passed by Hon’ble Supreme Court. There is nothing on record to show that order passed by Hon’ble High Court of judicature at Bombay, bench at Aurangabad and Nagpur are set aside and cancelled by Hon’ble Supreme Court.

14. Therefore, we find no force in the present grievance application.

15. Applicant produced order passed by Hon'ble Electricity Ombudsman, Mumbai in representation No. 36/12 in the matter of Shri Chandrashekhar Revappa Gobbi Vs. MSEDCL decided on 4.7.2012. However, facts of that case are totally difference and distinguishable from the facts of the present case and therefore this authority of Hon'ble Electricity Ombudsman is not applicable to the case in hand. In Para 7 of said order of Hon'ble Electricity Ombudsman, time period relating to refund of excess amount, other than approved schedule of charges levied upon the consumers were during the period from 9.9.2006 to 20.5.2008. Date of alleged circular of MSEDCL is 20.5.2008. Therefore facts of the present case are totally different and distinguishable from that case and therefore this authority cited by the applicant is not applicable to the case in hand.

16. Record shows that matter is temporarily stayed by Hon'ble Supreme Court and reference to that effect is noted at the bottom of Para 4 of case No. 36/12 decided on 4.7.2012 by Hon'ble Electricity Ombudsman, Mumbai in the matter of Chandrashekhar Revappa Gobbi Vs. M.S.E.D.C.L.

17. Therefore it is clear that grievance application is barred by limitation, untenable at law and deserves to be dismissed.

18. Resultantly, Forum proceeds to pass following order :-

ORDER

1) Grievance application is dismissed.

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