

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

Case No. CGRF(NUZ)/033/2011

- Applicant : M/s. Lulla Metals
Khasra No. 17/4,
Salai Mondha
Pachgaon, Tahsil Umrer,
Dist. NAGPUR.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
The Superintending Engineer,
Nagpur Rural Circle,
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 02.09.2011)

It is the grievance application filed by M/s. Lulla Metals, Khasra No. 17/4, Salai Mondha Pachgaon, Tahsil Umrer, Dist. Nagpur on dated 08.07.2011 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.)

The applicant case in brief is that, as per application of the applicant for power connection, MSEDCL

had sanctioned HT power with contract demand of 120 KVA as per order dated 26.05.2010. In accordance with this order applicant purchased the metering cubicle and paid various other charges. Alongwith this, MSEDCL had also asked the applicant to erect a HT line about 1 Km. for which estimate having total cost of Rs.5,69,420/- was given to the applicant. This line was also erected by the applicant at his cost. As per order of Electricity Ombudsman in case no. 46 of 2008 dated 28.08.2008 and order of CGRF Nagpur Urban Zone, CGRF/NUZ/119 dated 14.05.2008. It has now become cleared that metering cubicle should have been supplied by MSEDCL free of cost instead of asking the consumer to purchase it from the market. It is also clear that testing fees for metering cubicle incorrectly collected by MSEDCL are also not as per norms from schedule by approved by MERC. Further the work of HT line erection which MSEDCL has got done through the applicant is not a part of service connection, but an infrastructure created to provide power supply to the applicant. As per order of MERC in case no. 70 of 2005. This cost is to be borne by MSEDCL. Subsequently as per the order in case no. 56/2007 dated 16.02.2008, MERC has reiterated that infrastructure development is the responsibility of MSEDCL, and the consumer should not be burdened with it. The applicant filed the application to Internal Grievance Redressal Cell, Nagpur Rural Circle, Nagpur but no relief granted and therefore applicant filed the present grievance application for following reliefs namely.

- 1) Refund the cost of agreement of Rs.200/-
- 2) Refund the testing fee cubicle of Rs.5000/-
- 3) Refund the cost of testing fee for transformer of Rs. 3000/-
- 4) Refund the cost of metering cubicle of Rs.67,958/-.
- 5) Refund the cost of HT line work as per estimate of MSEDCL, but excluding the cost of metering cubicle of Rs.4,59,420/-

Thus claim of total refund of amount of Rs.5,35,578/- with interest from MSEDCL.

The non-applicant denied the claim of the applicant by filing reply on dated 30.07.2011. It is submitted that M/s. Lulla Metals is a consumer of MSEDCL having contract demand of 120 KVA on 11 KV line vide load sanction order dated 26.05.2010. MSEDCL admitted certain amounts to be refunded but specifically denied that applicant is entitled to recover the amount of Rs.5,35,578/- from MSEDCL.

MSEDCL denied that the applicant is entitled for cost of agreement charges as it non regulatory and mandatory charges. It is submitted that the work of 1 Km. line is carried out by the applicant through the Licensed, Electrical Contractor by paying 1.3% charges of estimate towards the supervision of the work, including both the work of Service line charges and Service connection charges. According to the Commission order in case no. 70/2005 “Service line charges basically covers the cost of infrastructure between the delivery points on the transmission lines and the distributing mains.

Whereas, service connection is interpreted as a link between licensee's nearest distribution points (i.e. Distributing Main) to the point of supply at consumer's premises, which also includes other accessories, i.e. any apparatus connection to any such line for the purpose of carrying electricity & SCC covers cost involved in providing service connection from distributing mains".

From the above definition it is clear that the service connection is a link between Distributing Main to the point of supply at consumer's premises.

Regulation 3.3.2 of Electricity Supply Code authorizes the Distribution Licensee to recover all expenses reasonably incurred in laying down line from Distributing Main to the point of supply at consumer's premises as per Schedule of Charges.

MSEDCL further denied the claim of the applicant towards Transformer testing fees for Rs.3000/-. Testing of transformer is mandatory before sanctioning the estimate and load to the consumer. If there is any internal defect in the transformer, it will hamper the whole system and also cause damages to the equipment of the consumer. It further gives rise to tripping / interruption in the system of other consumers. It is also necessary to decide the losses of Transformers within permissible limit and also to check quality of Transformers before and after transportation. Testing of transformer is beneficial to both, the licensee and the consumer. Timely testing of transformer and its

maintenance is an integral process for maintaining the safety of the equipments and one cannot avoid these safety measures. Also the question of consent of the consumer does not arise in it as, it is a mandatory procedure. Moreover, the Commission in its order date 08.09.2006 in case no. 70 of 2005, has specifically mentioned that, the charges for testing of equipment belonging to consumer are non regulatory items generating other income for licensee. The Commissions therefore does not include these items in Schedule of Charges.

It is further submitted that 11 KV HT line, 1 km. which is laid down by the applicant, through the Licensed Electrical Contractor, is line tapping from the existing 11 KV Pachgaon-II Industrial Feeder to the point of Supply at consumer's premises. The applicant has opted for carried out above work HT line through Licensed Electrical Contractor for being 1.3% supervision charges. Further refunding of charges involved for carried out the infrastructure of service line being financial aspect. It has been referred to Head Office. It is submitted that claim of the applicant may be rejected in the interest of justice.

Forum heard the arguments of Mr. Khandekar, representative of the applicant. So also heard the argument of the Nodal Officer, Mr. Randive, Superintending Engineer, Nagpur Rural Circle, MSEDCL, Nagpur. Forum had perused entire record carefully.

In this matter, applicant is claiming the cost of infrastructure created to provide power supply to him by MSEDCL. Initially, we have to considered whether claim,

prayer and relief claimed by the applicant can be fall within the definition of “Grievance” as contemplated under provision of Regulation 2.1 (c) of the said Regulation.

Regulation 2.1 (c) defined “Grievance” as under.

“Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a license, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and (b) grievance in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.”

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. Kaygoan 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 petitioner no. 2032 of 2011 MSEDCL Vs. M/s. Kaygaon Papers Mill Limited Hon. His lordship hold.- - - - -

“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 adjudged 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 Gaathan, 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.”

Relying on the judgment of Hon. High Court, the Forum holds that at this moment no relief can be granted to the applicant as prayed for .

Therefore Forum holds that present grievance application is untenable before this Forum. This Forum has no jurisdiction to decide present grievance application and grievance of the applicant deserves to be dismissed.

The forum proceed to pass the following order.

ORDER

The grievance application is dismissed.

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

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