

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

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**Case No. CGRF(NUZ)/67/2012**

Applicant : M/s. Jadhav Engineers,  
J-22, MIDC, Butibori,  
Distt. NAGPUR.

Non-applicant : 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 14.8.2012.**

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 the applicant is a consumer of M.S.E.D.C.L. having sanctioned load of 350 kVA. The load was sanctioned vide Order No. SE/NRC/Tech/1321 Dt. 18.2.2010. As per this order, the applicant paid various charges, procured the metering cubicle

and also carried out the work of erection of HT Line as per estimate of M.S.E.D.C.L. The cost of metering cubicle, inspection charges for transformer and cubicle have already been refunded to applicant. As per order of MERC in case No. 56/07, cost of infrastructure has to be borne by M.S.E.D.C.L. Further, the cost of agreement charged by M.S.E.D.C.L. is not approved by MERC in its schedule of charges and should also be refunded amounting to Rs. 8,14,574/-. No response has been received from I.G.R.C. This grievance application was to be filed some time in the month of August 2011. However, in 3 of the orders passed by this Forum in case of M/s. Arihant Ispat Dt. 26.8.2011, M/s. Darpan Multi Poly Pack and M/s. Lulla Metals Dt. 2.9.2011, in case No. 29/11, 32/11 and 33/11 respectively, it is ordered by this Forum that refund cases were not within the jurisdiction of CGRF and therefore at that time grievance application was not filed. Recently the applicant learnt that there is order of Hon'ble Supreme Court and as per this order this refund is within the jurisdiction of CGRF. Therefore delay in filing the grievance application may kindly be condoned and case be accepted.

2. The applicant claimed following relief namely -
- i) Refund of cost of infrastructure amounting to Rs. 8,14,574/-.
  - ii) Interest at standard rate from the date of application to IGRC till the date of refund.
  - iii) To issue statement showing calculation of refund amount.

2. Non applicant M.S.E.D.C.L. denied the case of the applicant by filing reply Dt. 21.7.2012. It is submitted that applicant is a consumer of M.S.E.D.C.L. having Contract Demand of 350 KVA on 33 kV line vide Sanction order No. SE/NRC/Tech/1321 Dt. 18.2.2010. M.S.E.D.C.L. denies the claim of applicant towards cost of agreement charges as it is not regulatory and mandatory charges. For getting supply and release of connection, the applicant had given consent on Stamp Paper of Rs. 100/- that applicant is ready to bear the cost of infrastructure on non refundable basis. Accordingly, M.S.E.D.C.L. had prepared an estimate under 1.3% supervision charges. In above said estimate, the applicant was supposed to carry out the work of infrastructure through Licensed Contractor paying 1.3 % supervision charges to M.S.E.D.C.L. Work of 0.5 K.M. Line on 33 kV is carried out by the applicant through licensed electrical contractor as per consent given by the applicant to M.S.E.D.C.L. so M.S.E.D.C.L. denies the claim of refund of cost of infrastructure amounting to Rs. 8,14,374/-. The grievance applicant may be dismissed.

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

4. It is note worthy that in the grievance application in Column “details of grievance”, the applicant submitted that the delay is caused in filing the application and therefore delay may be condoned and case may be accepted. Therefore the

applicant admitted in clear terms that the case is barred by limitation. It is note worthy that there is no provision of condonation of delay in the Regulations and hence grievance application along with request for condonation of delay deserves to be dismissed.

5. The applicant has pleaded that date of sanction is 18.2.2010. This date is also admitted in reply of the non applicant. Therefore it is admitted fact that date of sanction order is 18.2.2010. 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 the cause of action has arisen. In this case sanction order is Dt. 18.2.2010 and therefore cause of action arose on 18.2.2010. Further more the applicant had given copy of estimate on record. It is the estimate for supply of 350 kVA H.T. supply on 33 kV line to M/s. Jadhav Engineers. This estimate is Dt. 5.5.2010 signed by Superintending Engineer. Therefore, at the most, it can be said that cause of action arise on 5.5.2010. Hence at the most applicant was required to file grievance application on or before 5.5.2012. But present grievance application is filed on 26.6.2012 and therefore it is not within limitation period of 2 years and hence applicant admitted in grievance application that application is barred by limitation and delay may be condoned. Therefore it was necessary for the applicant to file the application on or before 18.2.2012, but present grievance application is filed on 26.6.2012 and therefore it is barred by limitation as admitted by the applicant in his grievance

application and hence delay can not be condoned and grievance application can not be accepted.

6. In this matter the applicant is claiming the cost of infrastructure created to provide power supply to the applicant by M.S.E.D.C.L. Initially we have to consider whether claim, prayer and relief claimed by the applicant can fall within the definition of “Grievance” as contemplated under the provisions of Regulation 2.1 (c) of the said Regulations.

7. 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 licence, 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 *interalia* (a) safety of distribution system having potential of endangering of life or property, and (b) grievances 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”.

8. 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 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 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.”.*

9. Relying on judgement of Hon'ble Bombay High Court, bench at Aurangabad and Nagpur, this Forum holds that at this moment no relief can be granted to the applicant as prayed for.

10. In Grievance application, the applicant submitted that in the matter of case No. 29/11, M/s. Arihant Ispat Vs. MSEDCL decided on 26.8.2011 2) Case No. 32/11 M/s. Darpan Multi Poly Pack decided on 2.9.2011 and 3) Case No. 33/11 M/s. Lulla Metals decided on 2.9.2011, this Forum held that CGRF had no jurisdiction to refund the cost of infrastructure. The applicant further submitted that recently applicant came to know that as per order of Hon'ble Supreme Court, this refund is very much within the jurisdiction of CGRF and therefore the applicant filed present grievance application. However, it is noteworthy that the applicant had not given the



Case Number, Name of parties and Date of order of Hon'ble Supreme Court. The applicant also did not produce any copy of Hon'ble Supreme Court's order on record. Therefore we find no force in contention of the applicant. There is nothing on record to show that order passed by Hon'ble High Court, bench at Aurangabad, bench at Nagpur (cited supra) are set aside or cancelled by Hon'ble Supreme Court and therefore these authorities of our Hon'ble High Court has a binding force. As per our information and knowledge, matter is still subjudice and pending before Hon'ble Supreme Court and therefore at this moment applicant is not entitled for any refund.

11. Along with reply of the non applicant Dt. 21.7.2012, the non applicant had produced copy of the undertaking given by the applicant on Stamp Paper of Rs. 100/- vide Annexure '1'. In Column No. 2 of this document, applicant had given in writing to the effect that "expenditure for release of such connection will be borne by the applicant on non refundable basis". As the applicant had given in writing on Stamp Paper of Rs. 100/-, now the applicant is estopped from claiming the said refund.

12. For this reason also, grievance application is untenable at law. In our opinion, grievance application deserves to be dismissed.

13. From all angles in our opinion grievance application is untenable at law and no relief can be granted to

the applicant specially when the matter is pending before Hon'ble Supreme Court.

14. Hence Forum proceeds to pass the 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		