

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

---

**Case No. CGRF(NUZ)/090/2010**

Applicant : M/s. AFCONS Infrastructure Limited  
A/26/2/1. MIDC, Butibori,  
NAGPUR.

Non-applicant : MSEDCL through  
the Nodal Officer-  
Executive Engineer,  
O&M Division-II, NUZ,  
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 13.01.2011)**

The applicant M/s. Afcons Infrastructure Limited A/26/2/1. MIDC, Butibori, Nagpur filed present application on dated 16.11.2010 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.

- 1) The applicant, M/s. Afcons Infrastructure Limited, has appealed to the assessing officer of the non-applicant against the assessment raised by non-applicant's Flying Squad (F.S.) Unit, under section 126, of Electricity Act 2003 for unauthorized use of Electricity. After conducting hearing on dated 13.10.2010, as the assessing officer of the non-applicant i.e. Dy. E.E. (F.S.) has confirmed that the applicant is unauthorized to utilize electricity supply from Industrial meter for commercial purpose. Therefore passed an order to recover the final bill of Rs.29,30,500/- from the applicant u/s 126 of EA 2003. The applicant being aggrieved by this order has filed a grievance application in the forum on dated 16.11.2010 and requested to the forum that ...
  - a) To quash the assessment of Rs. 29,30,500/- as raised by the non-applicant.
  - b) To direct the non-applicant to consider the unit as industrial and charge electricity usage accordingly.
  
- 2) The applicant's case in brief is that, the F.S., Nagpur Rural Circle, has conducted spot inspection of applicant's premises on 16.08.2010 and 29.08.2010. It is found that the said premises is used as stock yard. Therefore the electricity charges should be on commercial tariff rate instead of Industrial tariff. On the basis of spot inspection the non-applicant has issued a final bill of Rs.29,30,500/- to the applicant as recovery u/s 126 of EA 2003 for unauthorized use of electricity.

3) In grievance application, the applicant has mentioned that, the applicant owned number of construction equipments. The applicant has set up its workshop cum store at Butibori, MIDC area, Nagpur. The applicant's activities are industrial in nature not commercial ones. Therefore the applicant has prayed that the bill of Rs.29,30,500/- may be quashed and instead of commercial tariff, industrial tariff should be applied to the applicant.

4) The non-applicant has filed his say in the forum on dated 03.12.2010. It is submitted that applicant has appealed to Dy. E.E. Flying Squad, Nagpur Rural Circle, on dated 16.09.2010. Accordingly an hearing was hold on dated 11.10.2010 and passed an order dated 13.10.2010.

As per the hearing proceedings, the electric connection no. 410565525194 was issued for manufacturing, assembling, fabrication, repairing ,servicing of specialized construction machinery and equipment for captive use on industrial tariff rate on dated 03.10.1994 on the basis of provisional registration certificate for small scale industries which was valid for two years.

5) However on inspection by F.S. Unit, it is found that no industrial activities was going on in the premises as mentioned in the application. But the applicant was found using power supply from industrial meter for the Central Stock Yards and Training Centre of M/s. Afcons,

which are commercial activities. Hence consumer was booked for un-authorized use of electricity from industrial meter used for commercial purpose. This is an unauthorized use of electricity for the purpose other than it was authorized as per section 126 of Electricity Act, 2003.

- 6) Therefore an assessment charges for unauthorized use of electricity as termed in section 126 of Electricity Act, 2003 amendment Act, 2007 is calculated for 296352 units and amount Rs.29,30,500/-. Also during the hearing, the applicant has failed to produce any documents to justify his claim.
- 7) The matter was heard on dated 04.12.2010. Both the parties were present. On behalf of non-applicant Shri Bhagat, Assistant Engineer, Butibori sub-division and Shri Lande, Dy.E.E., F.S. were present.

The applicant's representative Shri D. Das, has pleaded the case. He has informed to the Forum that the workshop and stores at Butibori, Nagpur has obtained an allotment letter in 1993 from MIDC as industrial unit for repairing and servicing of equipments, fabrication and machining work. The SSI registration certificate was also granted to the unit in 1993 for assembling, fabrication, repairing & servicing of specialized construction machineries and equipments and for captive use. A license was also obtained in 2007 under Factory Act.

- 8) Accordingly the activities of fabricating, assembly, repairing and servicing of the specialized construction equipment and machinery for their use, reuse at other sites have undertaken in this workshop. These are industrial activities, for which factory license has been obtained by the company for the said premises. The F.S. has erred and treated these activities as commercial. Also the electric supply since 1993 till date is being used for these industrial activities only.
- 9) The applicant's representative has admitted that there is an office and small training Centre for the staff in the workshop. But this cannot be treated as commercial activity. Therefore the assessment made by the F.S. is liable to be set-aside.
- 10) The non-applicant has clarified the points as raised by the applicant. He has informed to the Forum that on inspection, it is found that the premises is mainly used for office work and training activity. This is also confirmed by the staff. Therefore the purpose of electricity usage is commercial in nature. Also no manufacturing or other industrial activity was found in the premises. Hence the assessment under section 126 for unauthorized use of electricity is correct.
- 11) The Forum has heard both the parties and carefully gone through the documents on record. It is noteworthy that only provisional registration certificate as a small

scale is issued for a period of only two years on dated 12.10.1993. It is issued by the Directorate of Industries and District Industries Centers of Government of Maharashtra. The time limit of this provisional certificate is expired on 12.10.1995. The applicant did not produce any revenue registration certificate issued by District Industries Centers Government of Maharashtra. Therefore since 1995 applicant is not doing any manufacturing or industrial work within meaning of law.

12)The Forum carefully persuaded spot panchnama prepared by Flying Squad. At the bottom of this panchnama representative of the applicant Shri Vijay Raghwan, an Engineer, has signed this panchnama. It is specifically written at the bottom of panchnama that all contents of the panchnama are true and correct. In the body of panchnama, it is specifically mentioned that no manufacturing or industrial activities is found on the spot but connection for industrial purpose is illegally used for commercial purpose. Therefore it is an offence u/s 126 of the EA 2003.

13)On closed scrutiny of entire records, it appears that it is a matter u/s 126 of E A, 2003. It is noteworthy that the according to the Regulation 6.8 (a) MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006, this forum has absolutely no jurisdiction to entertain this case, because prime-facie record shows that present grievance referred to it falls

within the purview of the provision of Electricity Act, 2003 regarding unauthorized use of Electricity as provided under section 126 of the Act. Therefore as per Regulation 6.8 (a) of the said Regulation, this Forum has no jurisdiction to entertain this grievance and therefore has to be excluded from the consideration.

### **ORDER**

The applicant's grievance application is hereby dismissed.

Sd/-	Sd/-	Sd/-
<b>(Smt K.K.Gharat)</b>	<b>(Smt.Gauri Chandrayan)</b>	<b>(ShriShivajirao S.Patil)</b>
Member-Secretary	MEMBER	CHAIRMAN