

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

Case No. CGRF(NUZ)/052/2011

- Applicant : The Executive Engineer, (E&M)
MIDC Division,
Butibori Industrial Area,
NAGPUR.
- Non-applicant : MSEDCL represented by
the Nodal Officer-
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 22.11.2011)

It is the grievance application filed by Executive Engineer, (E&M) Butibori Industrial Area, MIDC, Nagpur on dated 23.09.2011 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's case in brief is that, the MIDC is a statutory body established by Government of Maharashtra

under MID Act 1961 to develop industrial areas for which land is acquired through Government MIDC provides basic amenities like road, street light, effluent / drainage disposal etc including potable water supply to industries, residents etc. MIDC has established water works at Butibori the raw water is lifted from Jackwell at Wadagaon Dam from where after proper purification & treatment at WTP potable water is being supplied to industrial use as well as domestic use in Butibori industrial area MIDC has also provided a pump house at wareghat for water supply to industries in C,D,G,H,F, layout at Jackwell WTP and Wateghat MIDC has availed HT power supply from MSEDCL. Since MIDC is availing power supply from MSEDCL to run water works, the tariff applicable to MIDC water works shall be HT-IV category which is the only category applicable to water works as per MERC tariff (copy enclosed herewith). At present S.E., MSEDCL, O&M Nagpur Rural Circle is levying tariff HT-1N and we are requesting to levy as per tariff HT-IV as there is difference of (4.60-3.50) Rs.1.1 per unit. Therefore applicant seek relief that tariff applicable to MIDC water work is HT-IV and MSEDCL should levy the tariff HT-IV as against tariff HT-1N.

The non-applicant resisted the application of the applicant by filing the reply dated 21.10.2011. It is submitted that there are number of HT connection in r/o Executive Engineer MIDC for water work as show below who are charged HT industrial tariff.

Sr. No.	Name of Consumer	Consumer no.	Tariff applied at present	Type of feeder Express / Non-express	Date of Connection	Purpose
1)	Executive Engineer, Divisional Office	430019003544	HT-IC	Express	8/4/1994	Jackwell at Wadagaon Dam after purification water is supplied to Industrial use as well as domestic use in Butibori industrial area.
2)	Executive Engineer MIDC E&M Division	430019003552	HT-IN	Non-Express	8.4.1994	Water treatment Plant and Water is supplied to industrial use as well domestic use in Butibori industrial area. .
3)	Executive Engineer MIDC, E&M Division	430019004273	HT-1C	Express	30.05.97	Wateghat, Butibori the water is supplied to industrial use as well as domestic use in Butibori industrial area.

In the above cases Water is supplied to Executive Engineer MIDC Butibori Jackwell at Wadagaon Dam water treatment plant and Wateghat Butibori for industrial use as well for domestic use in Butibori industrial area and the tariff charged is HT-IC, HT-1N and HT-1C respectively. As the feeder is a continuous feeder and non-continuous feeder type.

Consumer are being charged as per HT industrial tariff since November 2006 and June 2006 respectively. Bills enclosed with reply at Annexure C. During this period the consumer has never complaint about the HT industrial tariff

charged to the connection no. 430019004117 and paid the monthly energy bill regularly.

MIDC is a statutory body established under Maharashtra Industrial Act 1961. It is established to provide amenities like road, street light, water supply etc. to the industry under its jurisdiction. The industrial in MIDC area use water for various purposes as follows.

- a) As a raw material e.g. manufacturing of Mineral Water, beverages, liquor etc.
- b) For various purposes industries for processing like heating and cooling e.g. steel industry, food industry etc.
- c) For general purposes like drinking water, washing etc.

Out of above, major share by water supply by MIDC is consumed by the categories “a” & “b” very small quantity of the water is utilized by category “c” for domestic purpose.

As MIDC is a statutory body established only to provide amenities to the industries it is expected that the rate of water supplied to all the industries under its jurisdiction should be the same or the water should be charged as per the quantity of water utilized by the industry so the use of the precious natural resource ‘water’ is controlled. The rates of water should not be as per the purpose of water utilization by the industry. But this is not the case. As per water tariff

structure of MIDC (Enclosed as Annexure E) and recent circular of MIDC no. 35 dated 07.10.2011 (enclosed as Annexure F). It is since that the rate of water as per use of water. The rate charged by Nagpur Hingna MIDC can be summarized as follows.

CHART – 2

	General Domestic Purpose	Process Industries	Industries using water as raw material		
			Mineral Water	Beverages	Liquor
Rates of water Rs/CuM	Rs. 5.00	Rs. 12.50	Rs. 39.50	Rs. 37.75	Rs.32.50

This proves that MIDC is selling water as raw material to these industries at rates very much higher than the rates of process industry or General purpose which is clearly a commercial activity intended to earn profit. Even MSEDCL which is registered company with commercial view for common tariff to all the industry irregularly of there production.

Now the water rates charged by local body are the considered the correct water rates NMC revised from 01.07.2011 (enclosed as Annexure G) are as follows.

CHART – 3

Billing Slab	Rate per CuM
1-20 Units	Rs. 5.25
20-30 Units	Rs. 8.40
31 to 80 Units	Rs. 11.55

The consumption of majority of the consumers under NMC is below 50 units i.e. the avg rate is below Rs. 8/- per CuM where as the avg rate at which water is supplied by MIDC water works is more than Rs. 12.50. These rate are charged by NMC and the rates charges by other local bodies, Nagarparishad and Grampanchayat are even less than NMC. The major proportion of water supplied by local bodies is for public domestic use where as the major proportion of water supplied by MIDC Water Works is for industrial use. Hence it will not be appropriate to compare MIDC water works to the water works under the local bodies like Gram Panchayat, Nagar Parishad & Municipal Corporation of water who supply water to fulfill the basic water requirement of each and every common man only for the betterment of the society that too at No profit No loss basis so charged as per HT-IV tariff category for HT Public Water Works & Sewage Treatment Plant.

From the above fact it is clear that MIDC Water work cannot be categorized as Public Water Works as in supplying water for Industrial Purpose at much higher rates. Hence the MIDC Water works under Hingna MIDC are correctly charged as per HT-Industrial Tariff which is confirmed vide the letter from Chief Engineer (Commercial) circular on dated 23.06.2010.

Forum heard arguments from both the sides. The Executive Engineer, MIDC Division Nagpur argued. On behalf of the applicant. Mr. Nagrare, Executive Engineer, (Adm.)

NRC and Mr. Setty, Assistant Engineer, NRC were present on behalf of the non-applicant. Forum perused the record.

After carefully perusal of the record it appears that consumers are being charged as per HT industrial tariff since November 2006 and June 2009 respectively for a period more than two years as per bills enclosed with reply of the non-applicant Annexure "C". Therefore for November 2006 it was necessary for applicant to file grievance application within the period of two years limitation i.e. on or before November 2008 but the present grievance application is filed in the year 2011 and hence barred by limitation. Even then after considering another date June 2009 even then for these bills it was necessary for the applicant to file the present grievance application within the period of two years i.e. on or before June 2011 but present grievance application filed on 23.09.2011. According to Regulation 6.6 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulation 2006.

"Forum shall not admit any grievance unless it filed within two years from the date on which the cause of action has arisen."

Therefore, according to this grievance application is barred by limitation and therefore deserves to be dismissed.

The applicant is relying on order passed by Hon. Electricity Ombudsman Mumbai.

- 1) Case no. 55/2011 decided by on dated 07.06.2011 in the matter of Executive Engineer MIDC V/s. MSEDCL
- 2) Case no. 309A/22A/2011 alongwith case no. 309B/22B/2011 dated 13.05.11. MIDC Nanded V/s. MSEDCL Nanded.
- 3) Order passed by Hon. Electricity Ombudsman Mumbai dated 26.08.2011 in MSEDCL V/s. MIDC Sangli.
- 4) Order passed by CGRF Nasik Zone dated 02.08.2011 Dy. Executive Engineer MIDC Ahmednagar V/s. MSEDCL.
- 5) Order pass by Electricity Ombudsman Mumbai in review application no. 105/11 MSEDCL V/s. MIDC dated 25.08.2011.

Forum has carefully perused these orders. However it is noteworthy that fact of the present case are total different and distinguishable from the facts of all these case. It is noteworthy in all above said matters grievance application was filed without statutory limitation to two years and it was not barred by limitation. However, in the case in hand applicant consumer did not file application within limitation of two years and therefore present case is barred by limitation as per mandatory provision of said Regulation. Therefore these cases are not applicable to the present case.

Further note MIDC is statutory body Maharashtra Industrial Development Act 1961. It is established to provide

amenities like Road, Street light, water supply to the industry, under its jurisdiction. The Industry in MIDC area are using the Water for various purpose namely -----

- 1) As a raw material e.g. manufacturing of mineral water beverages water, liquor etc.
- 2) For various purposes industries for processing like heating, cooling e.g. steel industry, food industry etc.
- 3) For general purpose like drinking water etc. Out of above, the major share of water supplied by MIDC is consumed by categories no. 18 to i.e. for raw material e.g. manufacturing of mineral water, beverages, liquor etc and for various process industry for processing like heating and cooling e.g., steel & food industry etc and very small quantity of water is utilized by category “c” for domestic purpose.

Needless to say that MIDC is a statutory body established only to provide amenities to the industries it is expected that the rate of water supplied to all the industries under its jurisdiction should be the same or the water should be charged as per the quantity of water utilized by the industry so the use of the precious natural resource ‘water’ is controlled. The rates of water should not be as per the purpose of water utilization by the industry. But this is not the case. Record shows that as per water tariff structure of MIDC (Enclosed as Annexure E with reply of non-applicant) and recent circular of MIDC no. 35 dated 07.10.2011 (enclosed as Annexure F). It is since that the rate of water as per use of

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Considering these aspect it appears that MIDC water work cannot be categorized, as Public Water Work as is supplying water for industry purpose at much higher rates. Hence MIDC Water Work under Hingna-MIDC are correctly charged as per HT-Industrial tariff which is confirm by letter from Chief Engineer (Commercial) dated 23.06.2011.

For these reason Forum hold that grievance application filed by applicant consumer is barred by limitation. It is also untenable at law and deserves to dismissed.

Considering the fact and circumstances of the present case. Hence Forum proceed to pass the following order.

ORDER

The grievance application is dismissed.

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

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