

**Before Maharashtra State Electricity Distribution Co. Limited Consumer
Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, IInd flr.
Pune-11**

Case No. 14 of 2007

Date: 25/10/2007

In the matter of M/s. Durabuild Technology Pvt.Ltd., - Complainant

V/S

**Maharashtra State Electricity Distribution Co. Ltd.
Pune Rural Circle Pune - Opponent**

Corum	Chair Person	Mr. A.V.Bhalerao
	Member/Secretary,	Mrs. N.D.Joshi,
	Member,	Mr. T.D. Pore

- 1) Durabuild Technonology Pvt.Ltd. (Complainant for short) obtained high tension Electricity supply on 16/03/06 from Maharashtra State Electricity Distribution Co. Ltd., (Opponent for short) The complainant submitted an application dt. 02/08/06 to Superintending Engineer (Pune Rural Circle) Maharashtra State Electricity Distribution Co. Ltd., Pune on 08/01/07 for getting benefit of development period concession contending that it started production on commercial basis w.e.f. 08/04/06. The Superintending Engineer (PRC) Pune vide Letter dt. 13/08/07 informed the complainant that development period concession could not be given to it as connection in it's case was released on 16/03/06 and as per C.E.(Com) L.NO. PR3/COS/21917 dt. 28/07/06 development period concession was not to be given for connection released on or after 1st. Jan-2006. The complainant therefore approached to Internal Grievance Redressal Cell (IGRC) but the Internal Grievance Redressal Cell (IGRC) by letter dt. 14/09/07 informed the complainant that the reply given by

the Superintending Engineer (PRC) Pune to its Letter dt. 02/08/06 was as per the directives of the company.

- 2) Not being satisfied with the order given by Internal Grievance Redressal Cell (IGRC) the complainant made Grievance/Complaint to this Forum contending that high tension tariff-2003 was in force when supply connection was given to it and therefore it is entitled to development period concession as provided at Sr.No.7 under the caption definition in High Tension Tariff 2003 for a period of one year from the date it started production on commercial basis. It contended that the opponent has no authority to withdraw the said concession without the approval of Maharashtra Electricity Regulatory Commission, Mumbai. It was argued on its behalf that opponent made representation to the Maharashtra Electricity Regulatory Commission, Mumbai for withdrawal of said concession, however, it has not produced the order from Maharashtra Electricity Regulatory Commission, Mumbai to that effect. It is entitled to the said concession in spite of the fact that said concession was not provided for in the new high tension tariff which came in force w.e.f. 1/10/06
- 3) The opponent filed its say contending that the complainant submitted an application dt. 02/08/06 on 8/1/07 for availment of development period concession which was rightly rejected on the basis of the letter dt.28/07/06 issued by Chief Engineer (Commercial) by which direction was given not to give development period concession to any connection released on or after 1st. Jan-06 . The complainant was not given development period concession in view of the said letter as in his case, connection was released on 16/03/06 which was after 1st. Jan-06. It was further contended that development period concession was withdrawn from high tension tariff-2006 and high tension tariff 2007.
- 4) At the time of argument it was argued on behalf of the complainant that development period concession as provided under high tension tariff 2003 was denied by the opponent in case of those to whom connections were released

after 1st. Jan-06 without getting approval from the Maharashtra Electricity Regulatory Commission, Mumbai. It is further argued that as the complainant is entitled to have development period concession under high-tension tariff – 2003, the opponent has no authority to withdraw it. It was submitted that in view of the provision of development period concession, the complainant was entitled to have that benefit for the period of one year from date on which it started production on commercial basis. On behalf of the opponent it was argued that the complainant has no right to claim development period concession as it was withdrawn by the Chief Engineer (Com) by its letter dt.28/07/06 in respect of the connections which were released on or after 1st. Jan-2006. It was also argued that complainant cannot avail of the said concession as the said concession was not provided for in the high-tension tariff which came in to force w.e.f. 1/10/06 and also in the next tariff of 2007

5) In the light of rival contention raised by the parties following point arises for consideration.

1. Is complainant entitled to the development period concession provided under high tension tariff-2003

The above point is answered as per order below for the following reasons.

REASONS

In High Tension Tariff 2003 at Sr.No.7 under the head definition, the following conditions have to be fulfilled by the consumer to avail of development period concession.

1. The Industry should have been started on or after 30/07/96
2. The Industry should have commenced the production on commercial basis to be determined by Boards Chief Engineer of the concerned Zone.
3. The consumer has to make an application to the Board's concerned Chief Engineer within 3 years from the date of commencing production on commercial basis.

On fulfillment of the above conditions the consumer is to be billed for the maximum demand actually recorded or 50 KVA whichever ever is more for a period of 1 year from the date of commencement of production on commercial basis.

In the instant case the high-tension electricity supply connection was released to the complainant on 16/03/06. It contended that the production on commercial basis commenced from 08/04/06. The application submitted by him on 08/01/07 was within three years from the date on which he allegedly started production on commercial basis. The complainant apparently fulfilled the conditions for getting development period concession and therefore the Chief Engineer ought to have processed the application made by the complainant and determine whether complainant had started production on commercial basis and if yes from what date and accordingly should have given the development period concession.

The reason given by the opponent for rejecting the relief of development period concession to the complainant on the basis of the letter dt.28/07/06 and 13/04/06 by Chief Engineer (Comm) was illegal. As long as high tension tariff 2003 was in force up to 30/09/06 till it was replaced by high tension tariff which came into force from 1/10/06 the complainant had right to claim development period concession at least upto the date high tension tariff was application provided he had made application to claim that relief before high tension tariff-2003 expired. As per Sect. 64(6) of Electricity Act-2003 a tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order. Sect. 45(5) of Electricity Act-2003 says that charges fixed by the Distribution licensee shall be in accordance with the provision of this Act and the provision made in this behalf by the concerned state commission. From the above said provision it is clear that the opponent has to charge according to the tariff approved by MERC. Regulation 18.3 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of Supply) Regulation 2005(Electricity supply code 2005) lays down on that any deviation from the approved schedule charges shall be only with the prior approval of the commission. It is therefore clear that the opponent without approval of MERC can not withdraw the concession which is a

part of the tariff. The opponent was aware of the said fact and therefore in the letter dt. 13/04/06 by Chief Engineer to Superintending Engineer it was mentioned that request was made to Hon. Commission to grant permission to withdraw the development period concession to the newly started industry w.e.f. 1st. Jan-06 by withdrawing the departmental (Comm) 571 dt.09/08/06 and the provision of the tariff booklet. The opponent produced the representation dt. 17//03/06 made to MERC to allow it to withdraw the circular and the provision of the tariff book w.e.f. 1st.Jan-06 , however it did not produce any order passed on such representation by MERC . Without there being any order passed by MERC, the opponent has no right to withdraw development period concession available under high tension tariff 2003 at least during the period the said tariff was in force.

The development period concession as provided under high-tension tariff – 2003 was deleted from high-tension tariff which came into force w.e.f. 1/10/06 On behalf of the complainant it has been argued that though the said development period concession was deleted in the new tariff which came into force on 1/10/06 it has right to avail of development period concession as it has fulfilled all required conditions to claim it under high-tension tariff 2003.

The argument advanced on behalf of the complainant could have been valid provided, it had made an application to the opponent to claim the relief of development period concession during the period high tension tariff 2003 was in force, at least upto the date the said tariff was replaced by new H.T. tariff 2006, provided it had fulfilled requirement of commencing production on commercial basis and getting it so certified by Chief Engineer of the concerned zone. However the complainant made application to the opponent for availment of development period concession on dt.08/01/07, the date on which high tension tariff 2006 was in force in which there was no provision for development period concession. The complainant showed that the said application was dt. 02/08/06 the day on which H.T. tariff 2003 was in force in which there was a provision of availment of development period concession. Had the complainant submitted that application to

the opponent on the said date his application could have been processed as on that day high tension tariff 2003 was in force and in that tariff there was a provision for development period concession, but the complainant submitted the said application on dt.08/01/07 on which date high tension tariff 2006 was in force in which there was no provision for development period concession. The application given by the complainant on 08/01/07 has to be processed according to the provision contended in high tension tariff-2006 in which there is no provision for development period concession. The said tariff came into force w.e.f . 1/10/06. As there is no provision for development period concession in the said tariff means w.e.f. date the said tariff was made applicable the development period concession which was given in earlier tariff was withdrawn. As there was no provision for development period concession in high tension tariff 2006 the application made by the complainant after high tension tariff 2006 was made applicable was not tenable. The argument advanced on behalf of the complainant that as it was entitled to have development period concession under high tension tariff 2003 his application to claim that relief ought to have been entertained and processed by the opponent is without any substance. This forum rejects the relief claimed by the complainant in his complaint as was rejected by IGRC and the opponent, but on altogether different ground for not making an application to claim the said relief before high tension tariff 2003 was replaced by new high tension tariff 2006.

ORDER

The complaint/Grievance is dismissed.

Sign:

Mrs. N.D.Joshi,
Member/Secretary

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

Date: 25/10/2007