

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

Case No. 13 of 2008

Date: 13/10/2008

In the matter of S.H. Dhavale

- Complainant

V/S

M.S.E.D.C.L. Kedgaon Division

- Opponent

Corum

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. D.K.Mane,

Member,

Mr. T.D. Pore

- 1 The facts in brief of the grievance made by Shri.Dhavale (Complainant for short) are that the complainant received quotation dt. 30/08/95 for Rs. 2,320/- from Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short). The complainant made payment of the amount mentioned in the quotation on 26/09/95. He gave reminder dt. 26/02/96 to the opponent requesting it to release the connection early stating that his fruit garden was drying up for want of water. The opponent by letter dt. 20/06/96 informed the complainant that on priority supply of electricity would be given to those consumers who had paid the amounts upto 31/03/95 alongwith necessary documents. The complainant was also informed that after the list of such consumers was exhausted the connection would be released in the order of seniority. The complainant paid the additional amount of Rs. 3,790/- on 21/10/05, The complainant made application for the early release of connection in the year 1998 and 1999 thereafter for a long time he did not

make any representation to the opponent but made an application dt. 23/01/07 and thereafter in all 7 applications in the year 2007 for releasing the connection for the supply of electricity to his Ag. pump. In spite of repeated applications when he did not get the connection he made an application to the opponent to seek the information about the status of the waiting list. In spite of several attempts made by the complainant when he did not get the supply of electricity, he approached the Internal Grievance Redressal Forum (IGRC) with a grievance that though he had paid requisite amount in the year 1995 and thereafter increased amount in the year 2005 for getting connection for supply of electricity it was not released in his favour. He claimed the relief before IGRC only for getting supply of electricity. The IGRC by its letter dt. 26/06/08 informed the complainant to submit the test report and to execute an agreement and directed the opponent to release the connection thereafter forthwith, in favour of the complainant according to rules. The complainant made a grievance to this forum for connection as well as compensation for the loss he suffered in getting income from his fruit garden since 1995 amounting to Rs. 95,00,000/-

- 2 Notice was issued to the opponent to file written statement. The opponent under the signature of Executive Engineer, Kedgaon filed the written statement on 23/09/08 contending that in view of the relief given by IGRC to give supply of electricity to the complainant's Ag.pump he was directed to submit the test report, however till 18/09/08 he did not submit the test report and therefore connection for the supply of electricity could not be released . It is also stated that by letter dt. 31/07/08 the complainant was

directed to submit a test report within 15 days else his application for supply of electricity would be rejected. It was averred that on 15/07/08 the site where meter was to be fixed was inspected but as there was no wiring and meter board, the supply of electricity could not be given further on 12/07/08 when wireman Shri. Suresh Kadam approached the complainant, the complainant stated that he should first be paid compensation and he would accept the connection later on as he had no money to spend on wiring and meter box. On the date of the hearing the complainant gave an application stating that in his absence on 29/09/08 the supply line from the last pole was extended upto a tree where meter box with the meter inside was fixed. He alleged that meter box was fixed without taking any precaution for the safety and there was every danger to his life. The opponent was directed to produce the waiting list of the consumers. The said list was produced by the opponent.

- 3** Both the parties to the grievance argued their case the complainant prayed for the compensation and fixing of meter box with all safety measure by the opponent.
- 4** The opponent argued that the complainant is not entitled to any compensation for the loss caused to him in his Agricultural business as he was responsible by not submitting a test report in causing delay to get the connection.
- 5** On rival contentions following points arise for consideration.

- 1- Is complainant entitled to claim compensation on the ground that he suffered loss in his Agricultural business for the years together, as he did not get supply of electricity?
- 2- Is complainant entitled to claim compensation for the late caused in releasing the connection for the supply of electricity?
If yes what should be quantum?
- 3- Is complainant entitled to connection for the supply of electricity?

The point No.1 is answered in the negative. & point No. 2 & 3 in the affirmative

For the reasons given below

6 POINT NO.1 The main relief asked for by the complainant besides the connection for the supply of electricity is compensation Rs. 95,00,000/- which he suffered by not getting yield from his fruit garden for want of supply of water to the fruit bearing trees. It is interesting to note that when the complainant had first approached the IGRC he did not claim any compensation for the loss caused to him in his Agricultural business as he was deprived of supply of electricity for a long time. The complainant has produced the xerox copy of the grievance made by him to IGRC. From the contents of that grievance, it is clear that he did not claim relief of compensation for the damage caused to his fruit garden for want of supply of water. The complainant without first approaching the IGRC for the said relief cannot make a grievance to this forum. Forum cannot entertain such

grievance in view of regulation 6.7 (a) Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations-2006 (of MERC CGRF Reg.2006) which lays down that the forum shall not entertain a grievance unless the consumer has complied with the procedure under Reg. 6.2. The Reg. 6.2 of MERC IGRC Reg.2006 provides for a consumer to approach the IGRC with his grievance. In the instant case the complainant no doubt approached the IGRF but only for getting connection and not for compensation for the loss which he suffered in his agricultural business for want of electricity on time. The complainant's claim for claiming compensation on the ground that he did not first approach to IGRC with the said grievance is sufficient to reject it.

- 7 The complainant paid the necessary charges as per quotation on 26/09/95 thereafter he paid additional charges on 21/10/05 he was fully aware that there was no contract with the opponent to release the connection for the supply of electricity on or before a particular date. The complainant was informed by letter dt. 20/06/96 that supply of electricity would be given to him in the order of seniority. It is therefore clear that the time was not the essence of the contract and therefore the complainant has no ground to claim compensation contending that supply of electricity was not given to his Ag. Pump on time or on or before specified date. It is clear that depending upon the promise given by the opponent to release the connection for the supply of electricity the complainant did not raise the fruit garden. From the certificate dt. 02/06/94 issued by the Agricultural Officer which had been produced by the complainant himself, it is clear that fruit garden was raised

6 to 7 years before 02/06/94 means the fruit trees were planted to raised a fruit garden in the year 1998 at which time the complainant had not even made any application for getting supply of electricity. For the fruit garden the complainant had other source of water not dependant up on the motor or pump run with the electricity. The complainant asked the supply of electricity in the year 1995 at which time he was not promised the supply of electricity on or before the particular date. The complainant has no cause of action to claim compensation on the ground that supply was not given to him on or before the specified date. The complainant alleged that for want of water his fruit garden dried up and he sustained colossal loss. However, he did not adduce any reliable evidence to come to that conclusion. A mere photograph of his fruit garden with the fruit trees without leaves is no evidence of the tree being dead. Fall of leaves may be seasonal . The opponent has produced the recent photographs of the complainant's fruit garden. The complainant admitted that the said photographs are of his garden alone. In one of the recent photographs of the complainant's fruit garden the trees are laden with green leafage means fruit trees standing in the complainant's garden are not dead. The complainant has also failed to prove that the damage was caused to his fruit garden for want of water. The garden must have survived on rain water. The fruit tree of the custard apple is a naturally grown tree for the survival of which no extra water is needed. The complainant is not entitled to claim compensation as he has failed to prove any damage to his fruit garden. The compensation claimed by the complainant for the alleged loss in business is exemplary and for loss of opportunity which in no case the

complainant is entitled to as laid down under proviso to Reg. 8.2 (c)of MERC CGRF 2006. The complainant is also not entitled to claim compensation for the alleged loss caused to him as under MERC SOP Reg.2005 what compensation is to be paid in case of late caused in giving supply to the consumer is laid down. This case being a case in which liquidated damages has been prescribed. The complainant therefore can not claim more compensation than the prescribed under Regulation.

8 POINT NO.2 After informing the complainant by letter dt. 20/06/96, that the connection for the supply of electricity would be given to him in order of seniority, the opponent did not pay any attention to the complainant's request for connection. On behalf of the opponent it is argued that inspite of notice being published in the news paper on 05/02/07, the complainant did not approach and therefore he could not be given connection for the supply of electricity. There is no substance in the contention raised by the opponent for not giving supply of the electricity to the complainant on the ground that he did not approach. The complainant has produced in all 7 letters which he had written in the year 2007 to the opponent requesting him to release the connection. Those letters were received by the opponent as each letter bears the signature of the person who received them on behalf of the opponent. The opponent did not respond to these letters therefore the complainant made an application for getting information under Right To Information Act about those consumers who received

connection though they had paid the connection charges nearly about 10 years after him. Under Reg. 4.3 of Maharashtra Electricity Regulatory Commission (Electricity Supply code and other conditions of supply) Regulation, 2005 (MERC ESC Reg.2005) the opponent is under obligation to display at each office where applications are accepted for each category of applications the date upto which the applications have been cleared. Reg. 4.4 says that connections are to be released on first come first serve basis. The opponent was directed to produce the list maintained by it of the pending applications. The opponent produced the said list. The complainant is at Sr.No. 13 & the last No. in the said list is 529. Shri.G.W.Patil, Asstt.Engineer who appeared on behalf of the opponent admitted that the consumers below the complainant in the order of seniority have been given connections. It is obligatory upon the opponent under Reg.4.3 of MERC ESC Reg.2005 to display the date upto which the applications have been cleared. It is also obligatory upon the opponent to inform the consumer on request the status of his application and the reasons if any for non disposal of his application. The complainant had made an application to the opponent making request to release the connection in his favour. He had made such application in the year 1998 & 1999 and thereafter in the year 2007 & 2008, however the opponent did not inform the complainant, the date upto which the applications were

cleared and also the reason for non disposal of his application. Further after informing the complainant on 20/06/96 that connection would be released to those who had paid the charges with completed application before 31/03/95, the rest of the consumers would be given connection in the order of seniority, ought to have informed the complainant at the appropriate time when his turn had come as provided under the Reg. 5.4 of MERC ESC Reg.2005 the details of the work which complainant was expected to carry out beyond the point of supply. The opponent at no time gave intimation to the complainant about the charges which he had to bear for the work to be carried beyond the point of supply . The time period provided for giving such intimation by the opponent to the consumer is 20 days. In case the opponent fails to give such intimation it is liable to pay compensation to the consumer at the rate of Rs. 100/- per week or part thereof of delay. If the supply is not given from the date of receipt of completed application and payment of charges within one month if the connection is to be given from the existing net work then also the opponent has to pay compensation Rs. 100/- per week or part thereof of delay. If the connections were to be released in the order of seniority the opponent should not have superseded the complainant. From the seniority list of the consumers maintained by the opponent it is not clear on what date the complainant was superseded. The seniority list maintained by the

opponent is not complete and maintained as per Reg.4.6 of MERC ESC Reg.2005. The opponent showed utter negligence in providing connection to the complainant though he had paid the charges long back on 30/08/95 and increased charges on 21/10/05.

Even after the decision given by IGRC to release the connection in favour of the complainant, the opponent did not take prompt step to release the connection to the complainant and insisted upon work to be done beyond point of supply, however hastily fix the meter in a reckless manner on 29/09/08 without taking care for safety. Late in giving connection has definitely exceed a period of 2 years however, the complainant is entitled to compensation for late caused in releasing connection as provided under appendix "A" Sr.No.1 but only for 2 years which this forum is competent to award. The compensation for a period more than 2 years cannot be given as under Reg.6.6 of MERC CGRF Reg.2006 forum can not admit grievance for which cause of action has arisen two years beyond the date of application. The complainant therefore is entitled to compensation Rs. 9,600/- for the late caused in giving connection for the supply of electricity to his Ag. Pump.

9 POINT NO.3 – The IGRC directed to release the connection in favour of the complainant on complainant submitting a test report and entering into an agreement. Sanction load in the instant case is less

than 67 HP and therefore separate agreement is not required under proviso to Reg.6.1 of MERC ESC Reg.2005. The opponent did not ask the complainant what work he was required to carry out beyond the point of supply. The complainant is now provided the details of the work to be carried out. The complainant had admitted to complete the said work with required test report on or before 15/10/08. The opponent is directed to provide a neutral from the system upto consumers meter. It is hoped that opponent now will act to provide connection for the supply of electricity to the complainant speedily on complainant completing the work.

ORDER

- 1- The complainant's claim for compensation on the ground that damage was caused to his fruit garden for not having supply of electricity is dismissed.
- 2- The opponent is directed to pay on or before 31st Oct.2008 Rs. 9,600/- by way of compensation for the late caused in giving connection with interest at the rate of 6% for two years to the complainant.
- 3- The opponent is directed to release connection for the supply of electricity to the complainant's Ag.pump taking all precaution of safety within 15 days, after the complainant had

completed the work as agreed upon with test report on or before 15/10/08.

- 4- The opponent is direct to report the compliance of the above order to the forum on or before 5th November 2008.

Sign:

Mr.D.K.Mane,
Member/Secretary
Date: 14/10/2008

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

