

**CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L., PUNE ZONE, PUNE**

Case No.38/2016

Date of Grievance : 28.11.2016

Date of Order : 17.01.2017

In the matter of getting compensation as per MERC (SOP) Regulations, 2014.

The Gateway Co-Op.Hsg. Socy. Ltd.,
S.No.6/1+2+3,
Balewadi, Pune- 411045.

Complainant
(Hereinafter referred to as Consumer)

Versus

The Executive Engineer,
M.S.E.D.C.L.,
Shivajinagar Division,
Pune.

Respondent
(Hereinafter referred to as Licensee)

Quorum

**Chairperson
Member Secretary
Member**

**Mr. S.N.Shelke
Smt.B.S.Savant
Mr.S.S.Pathak**

Appearance

For Consumer

**K.A.Rashmi Bhatia
Mr.Amit Kabra,**

For Respondent

**Mr.V.B.Pawar,.Addl.E.E.Aundh S/Dn.
Mr.Samse, AEE, Shivajinagar dn.
Mrs. Machave, AE, Aundh S/Dn.**

1. The Consumer has filed present Grievance application under regulation no. 6.4 of the MERC (CGRF & E.O.) Regulations, 2006.
2. Being aggrieved and dissatisfied by the order dated 26th Sept. -2016 passed by IGRC Ganeshkhind Urban Circle, Pune, thereby rejecting the grievance, the consumer above named prefers present grievance application on the following amongst other grounds.

3. The papers containing the above grievance were sent by the Forum to the Executive Engineer, M.S.E.D.C.L., Shivajinagar Dn., Pune vide letter no. EE/CGRF/PZ/Case No.38 of 2016/255 dtd.29.11.2016. Accordingly the Distribution Licensee i.e. MSEDCL filed its reply on 17.12.2016.
4. We heard both sides at length and gone through the contentions of the consumer and reply of the licensee and the documents placed on record by the parties. On its basis following factual aspects were disclosed.
 - i) Gateway Co-Op. Hsg. Socy. Ltd., Balewadi having 70 electric consumers had faced power outage for more than 24 hrs. during the period from 3.30AM on 3rd of July 2016 to 11.00 PM of 4th July 2016 due to continuous rainfall started from 2nd July 2016 in the evening.
 - ii) List of 70 consumers in Gateway Co-Op.Hsg.Socy.Ltd., is enclosed herewith as Annexure, 'A' which is part & parcel of this judgment.
 - iii) The Licensee received number of complaints through call centers and web portal from 2nd of July 2016 about power failure at Baner-Balewadi area (on 22KV feeder).
 - iv) The Licensee deputed Engineers ,Section Line staff, outsourcing staff & complaint vehicle & other 2 cable fault vans treating the supply failure as emergency situation for quick restoration of power supply.
 - v) Out of 35 feeders, 22KV Balewadi & 22KV Mitcon feeder, only two feeders were breakdown for more than 3 hours due to HT cable & feeder pillar faults.
 - vi) According to Licensee during said period, percentage of faulty feeder was 6 % , transformer 5.95% & the affected consumers were 7.48%. The Baner-Balewadi area was affected due to above 22KV feeders breakdown.
 - vii) The Additional Ex. Engineer, of Aundh Sub-division was monitoring the team of Licensee for restoration of supply of the complaints generated chronologically.

- viii) The Licensee noticed that the power failure at the Gateway Co-Op.Hsg.Socy.Ltd.,(consumers) was caused due to stormy weather & continuous rainfall resulting into moisture development in the LT feeder pillar and ring main unit (RMU) which eventually disturbed further period for restoration of supply.
- ix) According to Licensee due to multiple faults of ID, OD-Joint, it resulted into the stretched out of restoration process.
- x) According to Licensee in some places there were improper water drains & sanitation system which created water seepage in surrounding area and resulted into moisture problem in RMU/feeder pillar.
- xi) According to Licensee, due to frequent damages of HT/LT cables during road widening works of Municipal Corporation and less clearance between feeder pillar & RMU with road developed, it caused creation of moisture in RMU/Feeder pillar.
- xii) The consumer society had to spend amount of Rs.5000/- for diesel so as to keep the generator working for lifts & water pumps etc.
- xiii) The consumers approached to IGRC, GKUC with written complaint dated 26.8.2016 claiming SOP compensation as per rules. The IGRC rejected the grievance of the consumer vide impugned order dated 26.9.2016.
- xiv) The Licensee formed a Committee headed by Ex. Engineer, Shivainagar Division to study and ascertain the claim of compensation of the consumers against the Licensee. It submitted its report on 27.9.2016 stating that the power failure was occurred due to heavy & continuous rainfall during the said period which caused water clogging, moisture in HT breaker, feeder pillar and due to natural calamities & it was beyond the control of the Licensee to restore the supply within limit & therefore claim of compensation cannot be considered under clause 11(11.1) of SOP Regulations, 2014.

5. The consumer representative Mrs.K.A.Rashmi Bhatia submitted that, the Gateway Co-Op.Hsg. Socy. Ltd., having 70 electric consumers had to face power outage for more than 24 hrs. from 3rd July 2016 to 4th July 2016 due to continuous rainfall during the said period. She further submitted that due to power failure, consumers had to spend an additional amount of Rs.5,000/- for diesel to keep the generator working which was needed for lifts. She further submits that as per Regulation 6 of MERC SOP Regulations consumers claim compensation for each member.
6. Mrs. Rashmi Bhatia further submitted that the IGRC has directed the Licensee to finalize the compensation forming committee & to inform the consumers regarding their claim of compensation. The IGRC further directed that the Ex. Engineer, Shivajinagar Dn. to instruct all concerned to carry proper preventive maintenance if any, in order to avoid repetition of such incident & to take necessary action regarding the breaker maintenance and out of service transformer & to take the transformer in service as per site requirement. She further submitted that the Committee formed by the Licensee for assessment of compensation has rejected the claim of compensation of the consumer stating that power failure incidents were occurred due to the heavy and continuous rainfall for 2 to 3 days which caused water clogging & heavy moisture in HT breaker, feeder pillar & it happened due to natural calamities which was beyond the control of MSEDCL & therefore claim of compensation cannot be considered under regulation no. 11.1 of MERC (SOP) Regulations, 2014. Rashmi Bhatia further submits that refusing the claim of compensation by the said committee is the height of imagination. Heavy rain is not mentioned under Regulation 11 of SOP & therefore it cannot be treated as natural calamity. She submits that under Regulation 11 of SOP Regulations, Licensee shall not be excused from failure to maintain the standards of performance where such failure is attributable to negligence or deficiency or lack of preventive maintenance of the distribution system or failure to take reasonable precaution on the part of Licensee. The IGRC has instructed the Licensee to carry proper maintenance to avoid

repetition and to take necessary action regarding breaker maintenance, transformer which clearly means that the said power failure happened due to improper preventive maintenance & negligence on the part of Licensee. Therefore the consumers are entitled to get compensation as per Rules & Regulations. Said compensation be paid to the each 70 consumers in the society. The consumer has produced the rainfall data during the said period provided by IMD.

7. On the other hand, Mr.Pawar, Additional Ex.Engineer, Aundh Sub-division submitted on behalf of Licensee that in Baner-Balewadi area rain started in the evening of 2nd July 2016. Thereafter due to stormy weather frost interruption was occurred on 3.7.2016 at 3.44 hours & supply failed for 22 KV outgoing feeder Balewadi due to HT cable faults in Baner Balewadi area as mentioned in the say. Though pre-monsoon proper preventive maintenance schedule was implemented, supply failure occurred due to non-stop rain fall. The rainy weather was common for entire Pune area & power supply was affected in most of the parts of the City. Out of 35 feeder at Baner-Balewadi & Sus Mhalunge , only two feeders were breakdown for more than 3 hours due to HT cable & feeder pillar faults. 22KV Balewadi feeder was faulty only for 8 hours & 48 minutes. The fault percentage of feeder was 6%, transformer- 5.95% & affected consumers- 7.48%.
8. Mr. Pawar further submitted that during the above mentioned period number of complaints from consumers were generated through call centers and web portal. The Licensee formed the team at the Section office consisting of Executive Engineer & Additional Executive Engineer of Shivajinagar Division & Sub-division Aundh to supervise and satisfy the fuse off call complaints and restoration of supply. Work progress was communicated time to time to the affected societies and consumers. He further submitted that the power failure at the consumer's society (GCHSL) was caused due to continuous rainfall moisture developed in the LT feeder pillar and RMU eventually disturbed the period for restoration but which was attended immediately by the working team.

The trial was taken but again due to HT cable & feeder pillar fault was occurred which was repaired but it took substantial time for restoration of supply. He further submits that treating the said supply failure as emergency situation, the other section line staffs and complaint vehicle was diverted & another two cable fault vans & jointer agency were arranged for quick restoration of supply. Team was working hard due to multiple faults in HT cable & feeder pillar etc. & which resulted into the stretched out restoration process. Due to stormy weather & continuous rain fall, moisture developed in the LT feeder & RMU therefore eventually disturbed the restoration of supply work.

9. Mr.Pawar further submits that due to frequent damages of HT/LT cables during road widening works of Municipal Corporation & less clearance between feeder pillar & RMU with the roads, it developed moisture in RMU, feeder pillar. In some places there were improper water drains and sanitation system which created water seepage in the surrounding areas and therefore there was moisture problem in RMU & feeder pillar. The said power failure was attended by the team on day & night basis taking all possible efforts for quick restoration of supply. The said power failure happened mainly due to natural calamities & due to less contribution of technical reasons. Mr.Pawar lastly submitted that the said power failure was beyond the control of the Licensee. Therefore delay was caused for restoration of supply and it may be exempted under Clause 11 of SOP Regulations. The Licensee has produced photographs showing water clogging, seepage, feeder pillar cable faults etc.
10. The Licensee had formed committee to ascertain the cause of said incidents & amount of compensation as claimed by the consumers. The said committee headed by Executive Engineer, Shivajinagar Dn. submitted its report on 27.09.2016 stating that the said power failure incident were occurred due to heavy & continuous rainfall for 2-3 days during 2nd July to 5th July 2016 which caused water clogging & heavy moisture in HT breaker, feeder pillar which resulted in power failure. It happened due to natural calamities which were beyond the control of

MSEDCL so considering clause 11.1 of MERC (SOP) Regulations, 2014 demand for compensation cannot be considered. As per said report the Licensee rejected the claim of compensation of the consumers.

11. Admittedly, there was rainfall in Pune City during the period 2nd July 2016 to 5th July 2016. According to the Licensee the said power outage was occurred due to heavy & continuous rainfall & it was natural calamity and beyond the control, therefore the Licensee is not liable to pay any compensation to the consumers under MERC SOP Regulations.

Regulation 11.1 of MERC (SOP period for giving supply & Determination of Compensation) Regulations, 2014 reads as under:

11. . Exemptions

11.1 Nothing contained in these Regulations shall apply where, in the opinion of the Commission, the Distribution Licensee is prevented from meeting his obligations under these Regulations by-

(i) Force majeure events such as cyclone, floods, storms, war, mutiny, civil commotion, riots, lightening, earthquake, lockout, fire affecting licensee's installations and activities.

(ii) Outages due to generation failure or transmission network failure.

(iii) Outages that are initiated by the National Load Dispatch Centre/ Regional Load Dispatch Centre/State Load Dispatch Centre during the occurrence of failure of their facilities.

(iv) or other occurrences beyond the control of the Distribution Licensee:

Provided that the distribution licensee shall not be excused from failure to maintain the standards of performance under these regulations, where such failures can be attributed to negligence or deficiency or lack of preventive maintenance of the distribution system or failure to take reasonable precautions on the part of the distribution licensee.

12. According to consumer there was no heavy rainfall during the said period. Moreover rain is not considered under Regulation 11.1 of SOP Regulations. Therefore the Licensee cannot get exemption from meeting his obligation to pay compensation to the consumers on the ground of natural calamity.

The consumer has produced the data of daily rainfall for the period 1.7.2016 to 5.7.2016 provided by India meteorological department (IMD), Pune OBSY (located at GAGMO, Shivajinagar), it reads as under :

Date	Total recorded rainfall (in mm)	Average Rainfall (In mm)	Expected in Pune
1.7.2016	0.2	140.9	
2.7.2016	12	147.5	
3.7.2016	73.5	154.1	
4.7.2016	42.9	162.4	
5.7.2016	10.1	168.2	

Thus it is seen that the rainfall recorded during the said period is less than average as per the information provided by IMD, Pune. Taking into consideration amount of rainfall during the said period as mentioned above it cannot be treated as heavy rainfall. Moreover the MERC has not considered the rain as ground of exemption under Regulation 11.1 of SOP Regulations for meeting obligation to pay compensation.

13. It is seen from the record that power failure at Gateway Co-Op.Hsg. Socy. Ltd., has occurred due to HT/LT cable faults & due to continuous rainfall causing moisture developed in Ring Main Unit, feeder pillar which was attended immediately by the Licensee. Though the Licensee repaired the above mentioned faults, it took substantial time for restoration. It is further seen that due to multiple faults at various places, it resulted into the stretched out of restoration process. It is further seen that due to continuous rainfall during the said period moisture developed in the LT feeder pillar & RMU which disturbed further, time for restoration of supply. It is also seen that Municipal Corporation had undertaken road widening works in that area due to which there were frequent damages of HT/LT cables & since there was less clearance between feeder pillar and RMU with road developed, it caused creation of moisture in RMU & feeder pillar. The Licensee's work of restoration of supply was further affected due to improper water drains in some places & improper sanitation

system of Municipal Corporation due to which it created water seepage in surrounding area and created moisture problem in RMU & feeder pillar. It is further seen that the Licensee has attended power failure as emergency situation by deputing additional staff, vehicles, equipments etc. The team of Licensee was working hard on day & night basis. But due to repeated cable faults and moisture problem in RMU & feeder pillar problem was aggravated which took substantial time for restoration of supply. According to the consumer they suffered power outage for more than 24 hrs. but MRI data provided by the Licensee for the period 3.7.2016 to 5.7.2016 (disputed period) discloses that total power failure duration was about 13 hours.

14. As per Regulation No.6.3 of MERC SOP Regulations, 2014 the distribution Licensee shall restore the power supply caused by underground cable faults including service connection within eight (8) hours in Class I cities, within Eighteen (18) hours in the Urban Area and within forty eight (48) hours of the receipt of a complaint in the Rural area. The Baner-Balewadi area is the urban area & power failure was relating to underground cable faults. Therefore the Licensee should have been restored the power supply within 18 hours. But as per MRI data the Licensee required 13 hours for restoration of supply. The Licensee has given reasonable grounds as to why such time was required for restoration of supply. Said power failure was occurred due to continuous rainfall for 2-3 days as mentioned above. The Licensee has restored the power supply within the prescribed limit as per Regulation 6.3 of MERC SOP Regulations. Therefore we find that the consumers are not entitled to get compensation as claimed for.

15. Lastly, we proceed to pass following order:

ORDER

1. Grievance of the consumer stands dismissed with cost.

Delivered on: - 17.01.2017

Sd/-	Sd/-	Sd/-
S.S.Pathak	B.S.Savant	S.N.Shelke
Member	Member/Secretary	Chairperson
CGRF:PZ: PUNE	CGRF:PZ:PUNE	CGRF:PZ:PUNE

Encl: Annexure 'A'

Note :- The consumer if not satisfied may filed representation against this order before the Hon.' ble Ombudsman within 60 days from the date of this order at the following address.

Office of the Ombudsman,
Maharashtra Electricity Regulatory Commission,
606/608, Keshav Bldg.,
Bandra Kurla Complex,
Bandra (E), Mumbai-51.

THE GATEWAY CO OPERATIVE SOCIETY LTD BALEWADI

Flat No	Member	Consumer no	Meter no
A 101	Mr. Anup Mayank	160221129838	3223924
A 102	Mr. Vijay Menda	160221129846	3223925
A 103	Mrs. Savita Mathkar	160221129854	3223930
A 201	Mrs. Smita Borwankar Vardya	160221129862	3223929
A 202	Mr. Anudeep Jain & Mrs Preksha Jain	160221129871	3223928
A 203	Mr. Sanjeev Sindgikar / Mrs. Shubhangi	NO METER	
A 301	Sanjiv Bokil	160221129897	3222369
A 302	Mr. Milind Badkundri	160221129901	3222368
A 303	M/s. Softcare Consultant Pvt. Ltd.	160221129919	3222370
A 401	Sachin (Yogesh Khadikar)	160224598979	6458539
A 402	Mr. Ashutosh Khosla		5091708
A 403	Mr. Atul Jain	160220350942	3222362
A 501	Mr. Rakesh Shinde	160221129951	3222361
A 502	Mr. Umesh Thombre	160221129960	3222363
A 503	Mr. Madhav Sonthali	160221129978	3222366
A 601	Mr. Malojirao Patil	160221129986	3222367
A 602	Mr. Raghvendran	160221129994	3223521
A 603	Mr. Kartik Nagda	160221130003	3223525
A 701	Mr. Dnyanoba Chame	160221130011	3223526
A 702	Mr. Ravi Wattamwar Mrs. Megha Ravi Wattamwar	160228845784	4809358
A 703	Mr. Hiralal Dalal (Ramesh Dalal)	NO METER	
A 801	Mr. Mandar Kadam	160221130046	3223524
A 803	Mr. Ramesh Dalal	160221130054	3223528
A 901	Mrs. Sunita Nevatia	160221130062	3223527
A 902	Ms. Mrunalini & Mr. Amitabh Sawant	170010131769	5091706
A 903	Mr. Deepak Arya & Mrs. Gargi Mukharjee	160221130089	3223523
A 1001	Mrs. Aditi Latthe	160221130097	3223530
A 1002	Mrs. Aditi Latthe	160220349800	13218426
B 101	Dr. Rakesh Trivedy		5091709
B 102	Ms. Shalan Giramkar & Mr. Bhushan Giramkar	170010132056	69806
B 103	Mr. Bhushan Giramkar & Mrs. Shalan Giramkar	170010132064	357055
B 201	Mr. Rajiv Dev & Vandana Deo	170010132072	5402670
B 202	Mr. Dilip Lodha		7009726
B 203	Mr. Vivek Naiknavare	170010132099	7412338
B 301	Mrs. Shaila Dhavan	170010132102	13219063
B 302	Mrs. Shaila Dhavan	170010132129-8	15392340
B 303	Mrs. Shaila Dhavan	170010132129-pc-8	13220541
B 401	Mr. Shreerang Mandlekar	170010132137	7004260
B 402	Mr. Jayant Mandlekar	170010132145	1861384
B 403	Mr. Sharan Sirur	170010132153	1772223
B 501	Mrs. Sarika Rajani / Amit Aeron	160221132321	238221
B 502	Mr. Amod Shrikant Manohar, Mrs Medha Amod Manohar	160221130241	3223921
B 503	Mrs. Jai Kedar Karmarkar	160221130259	3223922

B 601	Mr. Shantanu Rajan Ghate, Mrs Shubha Shantanu Ghate	160221130267	3223923
B 602	Mr. Rahul Govind Godbole, Mr. Govind Vinayak Godbole	160221130275	3223926
B 603	Mr. Anantbhushan Kanade / Mrs Suchitra Kanade	160221349273	3223927
B 701	Mr. Harit Nanavati	170010132170	6115955
B 702	Mr. Anand Desai		5091707
B 703	Mr. Sudhir Vahal		5091705
B 801	Mr. S. K. Sharma		7027127
B 802	Mr. P S Kulkarni	170010132196/8	60168141
B 803	Mr. Avinash Sinha		5100017
B 901	Mr. Gadekar		5404861
B 902	Mr. Lokesh Jain		7018270
C 101	Mrs. Anuj S. Baronía & Mrs Uma Baronía	160221130372	3222212
C 102	Mr. Harish Israni	160221130381	3222215
C 201	Mr. Goyal & Jindal	160221130399	3222216
C 202	Mr. Sanjay Bableswhar	160221130402	3222213
C 301	Mr. Anil Chhabriya	160221130411	3222219
C 302	Mr. Saiprasad Raut	170010131815	5100020
C 401	Mr. Prashant Sale	160221130437	3222217
C 402	Mr. Vikas Jain	170010131823	5100016
C 501	Mr. Rajesh Bhatia	160221130453	3222220
C 502	Mr. Vinod Chugh / Vijay Chugh		5100019
C 601	Mrs. Bakul Revalkar	160221130470	3222218
C 602	Mrs. Kiran Mediratta	160221130488	3222214
C 701	Mrs. Bakul & Mr. Sanjay Revalkar	160221130496	3222415
C 702	Mr. Ashish Kabra	160220349494	6477311
C 801	Mr. Uday Bhaskarwar	160221130518	3222418
C 802	Mr. Sameer Kale		5100018
A BLDG LIFT NO1	ASTRIX PROPERTY	160221129773	10044778
A BLDG LIFT NO2	ASTRIX PROPERTY	160220349435	3222411
B BLDG LIFT NO1	ASTRIX PROPERTY	160221129790	5404864
B BLDG LIFT NO2	ASTRIX PROPERTY	160221129803	3222417
C BLDG LIFT NO1	ASTRIX PROPERTY	16022112911	10045152
C BLDG LIFT NO2	ASTRIX PROPERTY	160221129820	3222420
WATER PUMP	ASTRIX PROPERTY	160221129765	5096596

