

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

Case No. CGRF(NZ)/19/2018

Applicant : Shri. Hemant Laxmanrao Babulkar
Ladgaon, in Frant of Bus Stand Katol,
Tah – Katol, Nagpur - 441302

Non–applicant : Nodal Officer,
The Executive Engineer,
Katol Division, MSEDCL,
Katol.

Applicant represented by : 1) Shri. B. V. Betal,
Non-applicant represented by: 1) Shri R. K. Ghatole, Exe. Engineer,
M.S.E.D.C.Ltd., Katol

Quorum Present : 1) Shri Vishnu S. Bute,
Chairman.
2) Shri N.V.Bansod,
Member
3) Mrs. V.N.Parihar,
Member Secretary.

ORDER PASSED ON 09.04.2018

2. Shri. Hemant Laxmanrao Babulkar Ladgaon, in Frant of Bus Stand Katol, (hereinafter referred to as, the applicant) had applied to the Distribution Licensee, MSEDCL (hereinafter referred to as, the respondent) for new connection to his agricultural pump set. It is the contention of the applicant that in spite of the fact he completed all the formalities the respondent had not released the connection till today. He approached the IGRC NRC. The IGRC dismissed his application vide order no.

8376 dt. 20-11-17. Feeling aggrieved by the aforesaid order the applicant presented the instant application under the provisions contained in Regulation 6.4 of the MERC (CGRF & EO) Regulation 2006 on 13-3-2018.

3. A copy of the application was given to the respondent. The respondent was directed to submit parawise reply. The respondent submitted reply under no. EE/Katol/Tech/858 dt. 31-3-2018.

4. The case was fixed for personal hearing on 04.04.2018. Shri B. V. Betal, authorized representative was present for the applicant. Shri R. K. Ghatole, Exe. Engineer, M.S.E.D.C.Ltd., Katol represented the respondent. Both the parties were heard.

5. It was contended on behalf of the applicant that he submitted an application for connection to his agricultural pump on 02.03.2017. He received the demand note on 30.03.17. He deposited the required amount on 30.03.17. He submitted the test report on 30.03.17. The AG connection is not released to him, in spite of the fact that the application was complete in all respect on 30.03.17. Respondent did not release the connection within time limit prescribed by SOP regulation 2014. So he is entitle for compensation as provided under the SOP Regulations.

The applicant's prayer was as under.

- 1) The connection was not issued within the specified period. So compensation may be awarded.

2) The applicant may be awarded compensation of Rs.25000/- for physical as well as for mental harassment, Rs.3200/- towards travel expenses and Rs.2000/- for the judicial expenditure.

6. Shri R. K. Ghatole, Executive Engineer, referred to the parawise reply dt. 31-3-18. It was further stated that the applicant submitted the application on 02.03.17, a demand note was given on 14.03.17, he deposited the amount on 30-03-17, he submitted the test report on 30-03-17. To provide the connection to the applicant erection of L.T. line admeasuring 0.18 KM. is necessary. His name was is the paid pending list for the year 2016-17 at Sr. no.49. The connections are released as per seniority. Therefore connection is not released to applicant.

The connections to agricultural pumps are released as per the orders from Higher Authorities and the availability of funds from various sources. The applicant will be given a connection as per his seniority. Secondly the applicant's request for compensation is barred by limitation. There is no force in the application. It may be dismissed.

7. After the hearing was over the case was discussed among the Members of the Forum. The Chairman and the Member Secretary were of the opinion that the applicant is not entitle for any compensation. However the consumer representative was having a different opinion. He was requested to give a dissenting note.

8. The Member CPO gave a dissenting note. It reads as under.

Dissent/Separate Note by Member (CPO) Mr. Naresh Bansod in Case No. 19/2018 dated 09/04/2018.

Arguments of both the parties heard on 4-4-2018 & perused all the papaers on Record.

- (1) The undisputed facts in this case are, applicant submitted 'A1' application form on 2-3-2017 for 3 HP Agriculture Pump (New Connection) and Demand note of Rs.5200/- was deposited on 30-3-2017 and Test Report was also submitted on 30-3-2017 and 0.18 KM. L.T.Line was required, but till today supply is not given to applicant.
- (2) Applicant demanded SOP compensation for delay in providing the New Service Connection as well as compensation for Rs.25000/- for physical & mental Harassment and as 3200 + 2000/- for Travelling Expenses and Judicial Expenses. Applicant denied the order of IGRC dated 20-11-2017.
- (3) Non applicant stated that as per survey demand Notice is given to applicant on 14-3-2017 but applicant said Demand Note is given on 30-03-2017. On this disputed point, Mr. Rajesh Ghatole Executive Engineer during arguments agreed to produce on 5-4-18 i.e. outward register etc as it was sent by post, but no documentary proof is produced for our perusal in support of submission. On verification of demand note it is clear that Demand Note was generated on 14-3-2017 and office stamp is of 30-3-2017 which proves that non applicant made false statement before the forum.
- (3A) Non applicant admitted that as per MERC Regulation No. 4.8 supply is to be given within 3 months from date of Test Report dated 30-3-2017 i.e. on or before 30-6-2017.
- (4) Non applicant stated that applicant's name is included in seniority list for the year 2016-2017 & seniority No is 49 and further submitted that for New Electric lines, Govt provides the fund and according to seniority list supply will be given and availability of funds is out of control of Non Applicant and exempted as per SOP Reg. 11.1(iv).

(5) Non applicant totally relied on SOP Reg. 11.1 it is under.

11.1(iv) – or other occurrences beyond the control of the distribution licensee.

“provided that the distribution shall not be excused from failure to maintain the standard of performance under these regulations, where such failure can be attributed to negligence or deficiency or lack of preventive maintenance of the distribution system or failure to take reasonable precaution on the part of the Distribution Licensee”.

Non applicant should read the entire para instead of reading in piece meal wrongly and try to read its proviso which proves negligence and deficiency in service on part of non applicant.

It is necessary to advise non applicant refer Section 43 (1) of the Electricity Act 2003 and its proviso alongwith SOP Regulations 11.2 which gives the opportunity to non applicant to get exemption from standard of performance if any petition is filed, but in the absence of any general or special order by the M.E.R.C., entire attempt of non applicant referring SOP Reg. 11.4 (iv) is a futile attempt which is further needs to be rejected.

(6) Non applicant made reference to the seniority list of 2016-2017. Seniority Serial No. 49 and before IGRC they mentioned serial No. 53 and also failed to produce documentary evidence to that effect, hence entire submission of non applicant is false and baseless statement after the end of financial year 2017-2018 is further futile attempt on part of non applicant.

So for name included in seniority list, this forum has taken consistent view and it is as under.

“However, it is peritent to note that the entire MERC (SOP period of giving supply, determination of compensation) Regulation 2014, there is

absolutely nothing written about seniority list or details of procedure to be formulated by MSEDCL. If there are 1000 Applications in alleged seniority list, it does not mean that MSEDCL is authorized to delay issuance of agriculture connection beyond stipulated time period laid down in SOP regulations.

Even if office of MSEDCL has issued any circular about seniority list, said circular has absolutely no legal sanctity. It is pertinent to note that MERC (SOP etc.) Regulations 2014 is issued by Hon'ble MERC and binding on all officers of MSEDCL.

Non applicant has absolutely no right to prepare their own rules regarding the seniority that too contrary to MERC (SOP etc.) Regulation 2014. If really MSEDCL, intent to observe the seniority list, **they will have to approach Hon'ble MERC to get the approval for amendment in SOP Regulation 2014. Unless and until SOP regulations 2014, is not amended by Hon'ble MERC, alleged seniority list has absolutely no locus standi and MSEDCL cannot ask the agriculturist to stand in queue for years together till they commit suicide for not providing agriculture connection.**

Hence submission of non applicant about seniority list deserves to be rejected and applicant is entitle for SOP compensation for delay in N.S.C.

(7) Applicant prayed for refund of Rs.100/- i.e. agreement fee and non applicant is silent on it and applicant alleged that No agreement was executed, Hence non applicant is liable to refund Rs.100/- to the applicant with interest from date of receipt till its payment as per Section 62(6) of the Electricity Act 2003.

(8) Non applicant made reference to SOP reg. 12.2 and prayed for dismissal compensation for late demand as not demanded, but silent on point of delay

(9) in connection or SOP compensation for delay in supply.

Non applicant in para 6 admitted that as per MERC Regulation 4.8, supply is to be given within 3 months from submission of Test Report i.e. 30-3-2017 and it was expected to give supply on or before 30-6-2017 but failed to provide supply to his pump till pendency of case. Hence non applicant is liable to pay SOP compensation as per Appendix 'A'1 (iii) for delay from 1-7-2017 till supply @ Rs.100/- per week or part there of.

Non applicant has totally kept blind eye on order of the Electricity Ombudsman, Nagpur, in the case of their own division i.e. Representation No. 34/2016 dated 19-8-2016 between Mr. Sunil Chambhare vs The Executive Engineer, Hinganghat and as per Reg. 17.18 MERC (CGRF & EO) Regulations 2006 the order is binding on non applicant also and made incorrect submission even though that order was complied by Non applicant.

I rely on order of Hon. Justice .J. Rohi has laid the ratio as under.

“It may be noted that Clause 12.2 of SOP Regulations 2014 is applicable only when the consumer files his claim with Distribution licensee. The said limitation of 60 days does not apply when the consumer files his claim of compensation with the forum”.

This order is squarely applicable and entire submission of non applicant is baseless without application of mind and even though order is binding.

(10) Applicant filed the copy of order of CGRF (Nagpur Rural) in complaint No. 18/2015 dated 17-3-2015 (present president decided in favour of complainant) and order of E.O. Nagpur in Rep. No. 87/2005 order dated 19-1-2016. In case of Laxman G. Durve vs E.E. Hinganghat and CGRF case, in both the cases are identical on facts & Law & Regulation to the present case

and ordered to pay compensation for late supply as per 'Appendix 'A'.

I rely on the order of the E.O. Nagpur as in para 8 above and entire contention of non applicant is deserves to be rejected and the present complaint is within limitation.

(11) Applicant demanded compensation on various other heads as per para 2 above, In facts of the situation, it can be inferred that due to nn providing supply timely, the applicant has suffered due non utilization of available water in the well from 1-7-2017 for extra crops till today causing serious physical & mental harassment & loss etc. and as per 8.2 (c&e) of MERC (CGRF & EO) Regulations 2006, I feel awarding compensation of Rs.5000/- will meet the end of justice to some extent and non applicant violated section 43(i)(3) of The Electricity Act 2003.

In view of the above observations, the present application deserves to be allowed and IGRC order is without application law & Reg. deserves to be quashed.

Hence the following order.

ORDER

- 1) The order of IGRC is quashed & setaside.
- 2) Non applicant is directed to refund Rs.100/- agreement fee with interest from 1-4-2017 till its payment as per Section 62(6) of the Electricity Act 2003.
- 3) Non applicant is directed to pay SOP compensation from 1-7-2017 till supply of electricity to the applicants pump, @ Rs.100/- per week or part thereof.
- 4) Non applicant is directed to pay Rs.5000/- as compensation for physical &

Mental harassment.

5) The compliance of this order shall done within 30 days from the date of order.

**Naresh Bansod
Member (CPO)**

9. We have perused the note given by Member (CPO).

(i) The member stated that as connection is not yet given as per SOP regulation 2014, hence applicant is entitle for SOP compensation from 1-7-2017 till supply of electricity to the applicants pump. It is true that the connection is not released as per SOP regulation 2014. However there is no compliance of proviso to regulation 12.2. So the applicant is not entitle for compensation.

(ii) The member also proposed compensation of Rs.5000/- for physical & mental harassment.

However in absence of any cogent evidence, we are not inclined to accept the proposal.

So we disagree with the note.

10. We have perused the record. We have heard the arguments of both the parties.

It is admitted position that the applicant submitted an application in the prescribed form. He deposited the amount as per rule. He submitted the test report. His name is also entered in the seniority list prepared by the respondent. So it is clear that the application submitted by the applicant was

Complete in all respect.

The applicant claimed compensation for late connection only. As stated in the aforesaid paragraph to release connection augmentation to the existing network is necessary. So as per the provisions contained in Regulation 4.8 the applicant was entitle for connection within a period of three months i.e. on or before 30-06-17 but the connection is not released. So it is clear that the respondent failed to release the connection within the prescribed time limit.

Regulation 12 of the 2014 Regulations discuss about the determination of compensation. Proviso the Regulation 12 reads as follows.

“Provided that any person who is affected by the failure of the Distribution Licensee to meet the standards of performance specified under these Regulations and who seeks to claim compensation shall file his claim with such a Distribution Licensee within a maximum period of Sixty (60) days from the time such a person is affected by such failure of the Distribution Licensee to meet the standards of performance”.

On perusal of the record, it reveals that the application was complete on 30.03.2017, when the applicant submitted the test report. Augmentation to the existing network was necessary. So as per the provisions of Regulation 4.8 he was entitle for connection on or before 30-06-17, but the connection is yet not released. As discussed in the forgoing para as per the provisions contained in proviso to Regulation 12.2 he should have claimed compensation within a period of 60 days. On perusal of the record it reveal that the

applicant failed to comply the provisions of proviso to Regulation 12.2.

The applicant also prayed that he may be given a connection immediately. However Regulation 4.1 of the SOP Regulation 2014 reads as under.

4.1 The Distribution Licensee shall on an application made by post or by hand by the owner or occupier of any premises give supply of electricity to such premises after receipt of the application by chronological order of receipt of its complete application requiring such supply.

In view of the above provision the request of the applicant is not acceptable.

As per the provisions of Regulation 8.1 of the MERC (CGRF & EO) Regulations 2006 the Forum has to take a decision by majority of votes of the members of the Forum. In the case in hand we record our decision by majority of votes.

So we pass the following order, by majority.

ORDER

1. Application no. 19/2018 is hereby dismissed.
2. No order as to cost.

Sd/-
N.V. Bansod
MEMBER

Sd/-
Mrs.V.N.Parihar
MEMBER SECRETARY

Sd/-
Vishnu S. Bute,
Chairman