

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

Case No. CGRF(NZ)/20/2018

Applicant : Shri. Tanaba Bisan Aatram,
57 Chapapur, Tah. Samudrapur,
Dist. – Wardha, 442305

Non-applicant : Nodal Officer,
The Executive Engineer,
O&M Division Hinganghat,
MSEDCL, Hinganghat.

Applicant represented by : 1) Shri. B. V. Betal,

Non-applicant represented by: 1) Shri H. P. Pawade, Exe. Engineer,
M.S.E.D.C.Ltd., Hinganghat

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

1. Shri Tanaba Bisan Aatram, 57, At. Post Chapapur Tah. Samudrapur Dist. Wardha (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 Wardha. The IGRC dismissed his application vide order no.

SE/Wardha/Tech/IGRC/934 dt. 19-03-18. 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/O&M/Hga/Tech/934 dt. 19-3-2018.

4. The case was fixed for personal hearing on 04.04.2018. Shri B. V. Betal, authorized representative was present for the applicant. Shri Hemant P. Pawade, Executive Engineer, Hinganghat Division 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 21.01.2014. He received the demand note on 12.11.14. He deposited the required amount on 17.12.15. He submitted the test report on 21-12-15. The AG connection was released to him on 15.04.2017. In spite of the fact that the application was complete in all respect on 21.12.15, 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 demand note as well as the connection was not issued within the specified period. So the compensation may be awarded.

2) The applicant may be awarded compensation of Rs.25000/- for physical as well as for mental harassment, Rs.5000/- towards travel expenses and Rs.5000/- for the cost of judicial expenditure for this application.

6. Shri Pawade, Executive Engineer, referred to the parawise reply dt. 19-3-18. It was further stated that the applicant submitted the application on 21.01.14, a demand note was given on 12.11.15, he deposited the amount on 17-12-15, he submitted the test report on 21-12-15. To provide the connection to the applicant erection of L.T. line admeasuring 0.54 KM. was necessary. His name was in the paid pending list for the year 2015-16 and therefore connection is released to applicant on 24.01.2017.

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 dated 7-4-2017 by Member (CPO) Mr. Naresh Bansod in Case No. 20/2018.

Heard the arguments and perused all papers on record.

(1) The undisputed facts are as under.

“A1” Application form for 3 HP. Agriculture Pump was submitted on 21-1-2014 and as per SOP Regulations Demand Note should have been given on 10-2-2014 and Demand Note was given on 12-11-2014 late by 274 days after 10-2-2014. Demand Note paid on 17-12-2015 and Test Report submitted on 21-12-2015. Regulations 4.8- there was requirement of 0.54 Km. LT. Line, connection was expected within 3 months on or before 20-3-2016 but supply was given on 24-3-2017 i.e. lately 367 days. Applicant disputed date of connection i.e. 15-4-2017 but on bill date appears to be 24-3-2017 and I accept the same.

(2) On perusal of reply of Dy.Ex.Engineer dated 9-2-2017 in para 1 noted that Test report is not submitted where as Ex.Engr. vide reply dated 19-3-2018 admitted that Test Report was given on 21-12-2015, this proves the wrong way of working of the non applicants and no regards for truth.

(3) In reply non applicant raised the issue of Reg. 12.2 of SOP 2014 and application was filed complaining with non applicant on 18-1-2017 i.e. late by 8 month and also stated that after 2 year 11 months of ‘A1’ form grievance was filed and hence as per CGRF & EO. Regulation 2006, application should be dismissed.

(4) So far presumption of non applicant regarding Reg. 12.2 of SOP 2014, Non applicant has totally kept blind eye on order of the Electricity ombudsman, Nagpur of their own division i.e. Representation No. 34/2016 dated 19-8-2016 between Mr. Sunil Chambhare vs The Executive Engineer,

Hinganghat and Reg. 17.18 MERC (CGRF & EO) Regulations 2006 and made false & incorrect submissions even though that order was complied by Non Applicant.

I rely on order of Hon. Justice K.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”.

(5) Non applicant in para 5 of reply diverted the attention towards Reg. 6.6 & stated it was late by 2 year 11 months & prayed for dismissal of the application.

The Hon’ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur in W.P. No. 3997 of 2016 order dated 18-7-2017 “MSEDCL Nagpur v/s M/s. Shilpa Steel & Power Ltd. Nagpur has laid the ratio as under.

I rely on the Judgment dated 18-7-2017 of the Bombay High Court in Writ Petition No. 3997/2016 wherein the Hon’ble Court has upheld the view that “grievance of respondent no. 1 was well within limitation, as cause of action has arisen from the date of rejection of grievance of IGRC”. Also the Division Bench of the Principal Bench of the Bombay High Court in M/s. Hindustan petroleum Corporation Ltd. ..VS.. MSEDCL and others in Writ Petition No. 9455/2011 had accepted that ‘cause of action for submitting the grievance would arise when the IGRC rejects a grievance of a complainant’.

and W.P. of MSEDCL was dismissed.

As per MERC (CGRF & EO) Regulation 2006, IGRC is duty bound to decide

the grievance within 60 days from 18-1-2017 but no order was passed and hence period of limitation starts from 18-3-2017 and the present application is within limitation. Entire contention of non applicant deserves to be rejected as even though fully aware of Judgement of High Court & EO Nagpur, they raise the contention unnecessarily.

(6) It is worth to note that applicant applied for 3 HP connection but non applicant in reply noted that 5 HP Agriculture connection was applied which proves the Blunder of non applicant as they do not have regards for the truth.

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

In view of the above observations, non applicant is liable to pay SOP compensation for late Demand Note i.e. 274 days & late supply by 367 days, @ Rs.100 per week of part thereof.

It can be inferred that due to non providing supply timely, the applicant has suffered due non utilization of available water in the well from 20-03-2016 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. Therefore the application deserves to be allowed.

Hence the following order.

1. Non applicant is directed to pay SOP compensation of 274 days for late demand note & 367 days for late supply @ Rs.100/- per week or part thereof.
2. Non applicant is directed to pay Rs.5000/- as compensation for physical &

mental harassment.

3. Compliance of this order shall be 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 the demand note as well as connection was given late. So the applicant is entitle for compensation.

It is true that the demand note as well as connection was given late. However there is no compliance of proviso to regulation 12.2. So the applicant is not entitled 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 on two counts. Firstly it is stated

that the respondent failed to issue a demand note within the prescribed time limit. It is admitted position that the applicant submitted the application on 21.01.2014. He received the demand note on 16.09.2014. To release the connection to the applicant erection of LT line admeasuring 0.54 km. was necessary. So as per the provisions contained in Regulation 4.5 the applicant was entitle to receive the demand note within a period of thirty days i.e. on or before 21.02.14. Since he received the demand note on 16.09.14, it is clear that that the demand note was not given within the prescribed time limit. The demand was issued late.

As stated in the aforesaid paragraph to release connection augmentation to the existing network was 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 20-03-16 but the connection was released on 24.01.2017. 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”.

In the case in hand the Distribution Licensee was expected to issue a

demand note on or before 21-02-14. However the demand note was given on 12-11-14. Naturally the Distribution Licensee failed to meet the standards of performance. As such the applicant should have file his claim with the Distribution Licensee within a period of sixty days from 21-02-14 i.e. on or before 21-04-14. However the applicant approached the Distribution Licensee on 18-01-17. Naturally the claim is barred by limitation.

The applicant further claim that the Distribution Licensee failed to release the connection within the stipulated time limit.

On perusal of the record, it reveals that the application was complete on 21-12-2015, 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 20-03-16, but the connection is released on dt 24.01.17. 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 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. 20/2018 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