

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

Case No. CGRF(NZ)/21/2018

Applicant : Shri Yogesh P. Tandulkar,
Mangrul, Tah. Samudrapur,
Dist. – Wardha.

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, Ex.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

2. Shri Yougesh P. Tandulkar At. Post Mangrul Ta. Samudrapur Dt. 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 inspite 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/4080 dt. 5-8-17. 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/O&M/Hga/Tech/1076 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 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 22.6.2016. He received the demand note on 21.12.16. He deposited the required amount on 17.01.17. He submitted the test report on 6-3-17. In spite of the fact that the application was complete in all respect of respondent has not released the connection till today. So he is entitle for compensation as provided under the SOP Regulations.

The applicant's prayer was as under.

- 1) The respondent may be ordered to release the connection immediately.
- 2) The demand note was not issued within the specified period. The respondent has not released the connection till today. So the compensation may be awarded.

3) The respondent released the connections to the applicants whose names appear later than the applicant in the seniority list. So the action may ordered against the concerned officers.

4) The applicant may be awarded compensation of Rs.15000/- for physical harassment, compensation of Rs.10000/- for mental harassment, Rs.3000/- towards travel expenses and Rs.2000/- for the cost of this application.

6. Shri Pawade, Executive Engineer, referred to the parawise reply dt. 31-3-18. It was further stated that the applicant submitted the application on 22.6.16, a demand note was given on 21.12.16, he deposited the amount on 17-1-17, he submitted the test report on 6-3-17. To provide the connection to the applicant erection of L.T. line admeasuring 0.54 KM. is necessary. His name is entered in the paid pending list for the year 2016-17.

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. The note reads as under,

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

I heard the arguments & perused the papers on record.

- (1) The undisputed facts are that applicant submitted 'A1' application form on 22-6-2016, for New E.S. to 3 HP Agriculture Pump, Demand Note was received on 21-12-2016 and paid on 17-1-2017 (Rs.6100/-) as well as Test Report was submitted on 06-03-2017.
- (2) Applicant denied order of IGRC dated 5-8-2017. Applicant said that by passing his turn for New Service Connection, supply was given to other and departmental enquiry be done against erring engineer.
- (3) Applicant prayed for early Electric supply to his pump as well as SOP compensation for late demand and delay in supply as well as compensation for physical, mental harassment, Travelling expenses & Court Case Exp.
- (4) Non applicant said for electricity pump connection 0.54 K.M. L.T. line was required and applicant's name is included in seniority list of year 2016- 2017. Non applicant further said it was necessary to give demand on 11-7-2016 and applicant should have complained before 10-9-2016 within 60 days and 1st complaint was on 8-6-17 after 8 months and as per SOP Reg. 12.2 for late filing of grievance, application be rejected like rejected by IGRC.
- (5) The order of IGRC dated 8-6-2017 deserves to be reject on ground that, it is noted that Test report is not submitted and ordered to be submitted by applicant which is contrary to Admission of non applicant in reply dated 31-3-2018 i.e. T.R. submitted on 6-3-2017.
- (6) It is admitted by non applicant that D.N. should have been given on 11-7-2017 within 20 days from 22-6-2016 but given on 21-12-2016 i.e. late by 162 days. The application was complete on 6-3-2017 on submission of Test report. As per SOP Reg. 2014 it was manadatory to give supply within 3 months i.e. on

or before 6-6-2017 but not given till date. Applicant is entitle for compensation for late demand for 162 days as well late supply from 6-6-2017 till date of connection @ Rs.100/- per week of past thereof.

- (7) Non applicant has totally kept blind eye on order of the Electricity ombudasman, 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”.

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

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

“However, it is pertinent 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 allaged 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 late demand and delay in N.S.C.

- (9) 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 6-6-2017 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. Therefore application deserves to be allowed.

Hence the following order.

1. Non applicant is directed to pay SOP compensation of 162 days for late demand as well as for delay in Elect. Supply from 6-6-2017 till connection @ Rs.100/- per week or part thereof.
2. Non applicant is directed to pay Rs.5000/- as compensation for physical & mental harassment.
3. Order of IGRC is deserves to quashed & setaside.

Member (CPO)
Naresh Bansod

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

(i) The member stated that the demand note was given late. So the applicant is entitled for compensation.

It is true that the demand note 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 a 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 22.06.16. He received the demand note on 21.12.16. To release the connection to the applicant erection of LT line admeasuring 0.54 km. is 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 21.7.16. Since he received the demand note on 21.12.16, 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 5-6-17. The connection is not released till today. 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 21-7-16. However the demand note was given on 21-12-16. 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 21-7-16 i.e. on or before 21-09-16. However the applicant approached the Distribution Licensee on 8-6-17. 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 reveal that the application was complete on 6-3-17, 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 5-6-17. The connection is not released till today. 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. 21/2018 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