

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

Case No. CGRF(NZ)/55/2018

Applicant : Shri Bhagwan D. Paul,
Post - Magrul,
Tah. – Samudrapur, Hinghanghat,
Hinghanghat.

Non-applicant : Nodal Officer,
The Executive Engineer
Hinghanghat Division, MSEDCL,
Hinghanghat.

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

Non-applicant represented by: 1) Shri H.P. Pawade, Exe.Engineer, MSEDCL.

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

ORDER PASSED ON 31.05.2018

The applicant presented this application under Regulation 6.4 of MERC (CGRF & EO) Regulation 2006. The applicant submitted the Xerox copy of the application in Annexure X dated 21.09.2017. He did not submit the copy of the order passed by the IGRC. However the respondent has not raised any objection. The grievance of the applicant is that the respondent has not released the connection to his pump within the stipulated period. So he demand the compensation.

The respondent submitted reply. The case was fixed for personal hearing on 28.05.2018. Both the parties were present. They were heard.

Shri B. V. Betal, a representative argued for the applicant. He stated that the applicant applied for connection to his Agricultural Pump, on 02.02.16. The respondent gave a demand note on 11.04.17. (In the application as well as in written notes the date is wrong). He deposited the amount on 16.04.16. He submitted the test report on 21.06.16. The applicant admit that he got the connection. However he did not mention the date of connection any where i.e. application to CGRF or the written notes of argument.

The applicant stated that he may be awarded the compensation as per Regulation 12.1. In addition Rs.5,000/- each may be awarded for mental and physical harassment. Rs.3,000/- each may be awarded for travel expenses and the cost of court proceeding.

In reply Shri Pawade Exe.Engineer Hinganghat stated that the applicant submitted an application on 02.02.2016. Demand note was given on 11.04.2016. The applicant deposited the amount on 16.04.16. His name was entered in paid pending list of 2016-17. To give a connection to the applicant laying of L.T. line admeasuring 0.18 km. was necessary. A connection was released to the applicant on 19.10.2017.

It is true that the demand note was not given within a stipulated period. However the applicant has not claimed the compensation within the period specified in Regulation 12.2.

The applicant was entitled for connection on or before 20.09.16. However the connections are given as per seniority of paid pending list. So a connection was released late. However the applicant should have claimed compensation on or before 19.11.2016. He claimed compensation on 21.09.2017. So there is no compliance of the provisions of Regulation 12.2. As such compensation cannot be given to him. The application may be dismissed.

After the hearing the case was discussed among the members of the Forum. The Chairperson and the Member Secretary were of the opinion that the applicant is not entitled for compensation. However the Member (CPO) gave a dissenting note. It reads as under,

Heard the arguments and perused the papers on record.

- (1) It is an undisputed fact that applicant submitted 'A' form on 2-2-2016 for 3 HP Agricultural Pump and demand note was issued on 11-4-2016 and paid on 16.04.2016 as well as submitted Test Report on 21.06.2016. The supply was given as 19.10.2017 due of erection of LT Line for 0.18 Kms.
- (2) Applicant asked for SOP compensation for late demand & electricity supply to his pump as well as compensation for harassment & mental agony and Judicial Exp., as well as Travelling Exp. Amounting Rs.16000/-.
- (3) Non applicant said that it was necessary to give demand note upto 22-2-2016 and within 60 days i.e. before 21.04.2016, Applicant should have filed the application but filed application to IGRC after 17 months and as per Reg. 12.2 of SOP 2014 for late submission, application be dismissed. In the same way for late supply compensation, application was with 10 months delay and application needs be dismissed as per above Regulations. Applicant's name was included in the seniority list of the year 2016-2017.

(4) As per MERC (SOP) Regulations 2014, Appendix 'A' – 1 (ii)(b), 30 days period is provided where extension & argumentation of distribution main. Hence it was expected to give demand note to application dated 02.02.2016 i.e. on or before 4.3.2016 but given on 11.04.2016. Hence applicant is entitled for SOP compensation for late demand i.e. 04.03.2016 to 11.04.2016 @ Rs.100/- per week of part thereof delay, but did not claim. Hence not entitled..

(5) Test Report was submitted on 21.06.2016 means the application was completed in all respects on 21.06.2016. As per Appendix 'A' 1-ii of above SOP Regulation due to extension or augmentation of distributing main is required, period of 3 months is provided, means it was mandatory for non applicant to provide supply to applicant 20.09.2016 but given on 19.10.2017. Hence non applicant is liable to pay SOP compensation for late supply i.e. 21.09.2016 to 19.10.2017 @ Rs.100/- per week or part thereof delay.

(6) Whether Non Applicant's submission regarding release of connection on basis of Agriculture pump seniority list of the year 2016-2017 is as per The Electricity Act. & MERC (SOP) Regulations 2014. ? - No

It is very surprising that before 59 days, the financial year 2017-2018 ended and Non Applicant failed to execute seniority list of 2016 - 2017 and Non Applicant also failed to explain why seniority list of 2016-2017 is not completed and given connection to Applicant.

The forum has taken consistent view in all cases 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 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 standy and MSEDCL cannot ask the agriculturist to stand in queue for years together till they commit suicide for not providing agriculture connection.

Hence contention about seniority list deserves to be discarded.

(5A) Supreme Court of India in iota of Judgements held as under.

MSEDCL – A state within article 12 of the constitution of India must act fairly and bonofide. It cannot act for a purpose which is wholly unauthorized not germane for achieving the object it professes whether under a statute or otherwise.

I am of the firm opinion that forum is not interested or inclined to put financial burden on Distribution Licensee which is ultimate burden on common consumers by way of tariff, Hence Disciplinary inquiry be held in order to ascertain as to who was responsible and suitable action be taken against the officers if they are found guilty of negligence and amount awarded in order shall be recovered from the salary of negligent persons as per ratio laid down by Supreme Court of India in petition reported in AIR 1994 Supreme Court 787 between Lucknow development Authority v/s M.K. Gupta.

In land mark Ruling of Madras High Court.

“The Madras High Court has said electricity supply is a legal right and denial of power supply is voilation of human rights.

Justice Hon. Manikumar said “Lack of electricity supply is one of the determinative factors, affecting education, health and a cause of economic disparity and consequently inequality in society leading to poverty.

Electricity supply is an aid to get information and knowledge, Children without electricity supply cannot even imagine competing with others.

“Right to electricity of a person is recognized in the distribution code and it is integral to the achievement of socio-economic rights.

(10) Lastly it is necessary to mention that Non Applicant generally raise objection on clause 12.2 of SOP Regulations 2014. Which is baseless that claim is no filed within 60 days with the distribution licensee.

“I rely on the order of Electricity Ombudsman, Nagpur in Representation No. 34/2016 dated 19-8-2016 in case of Sunil Shankar Chambhare V/S The Executive Engineer, Hingaghat Hon Justice K.J. Rohee 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 the Distribution Licensee. The said limitation of 60 days does not apply when the consumer files his claim compensation with the forum”.

Hence applicant is entitle for the compensations as above.

(6) In view of the above observations, the application deserves to be allowed and order of IGRC if any deserves to be quash & set aside as without application of minds, appreciation of facts & moto as well as settle principles of law & Regulations.

ORDER

1. Non applicant is directed to pay SOP compensation for late supply for period 20.09.2016 to 19.10.2017 @ Rs.100/- per week or part there of delay.
2. The order of IGRC if any is quash & setaside.
3. The compliance of this order shall be done be within 30 days from the date of this order.

**Naresh Bansod
Member (CPO)**

We have perused the note. In our opinion the applicant is not entitled for compensation as there is no compliance of the provisions of Regulation 12.2.

The Member (CPO) referred to the judgement given by Hon. Ombudsman Nagpur is case no. 34/2016 on 19.08.20116.

In the instant case firstly the applicant did not mention the date of release of the connection. So it raises doubt about the genuineness of the application. Secondly the applicant did not refer to case no. 34/2016 anyway. Naturally the respondent has no opportunity to put forth their say. So in our opinion it is not proper to refer the case on our own. We disagree with the Ld. Member.

We have perused the record. The respondent say that the applicant submitted the test report on 21.06.2016. An augmentation to the existing net work was necessary. So he was entitled for connection within 90 days i.e. on or before 20.09.2016. He was given the connection on 19.10.17. It is true that the connection was not released within the stipulated period. However as per provisions Regulation 12.2 the applicant should have claimed compensation within 60 days from 20.09.2016. In other words the applicant should have claimed compensation on or before 19.11.2016. However the applicant claimed compensation on 21.09.2017. We are of the considered opinion that there is no compliance of the provision of Regulation 12.2. So the applicant is not entitled for compensation.

So we pass the following order by majority.

ORDER

The application no. 55/2018 is hereby dismissed.

Sd/-
N.V. Bansod
MEMBER

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

Sd/-
Vishnu S. Bute,
Chairman