

**CONSUMER GRIEVANCE REDRESSAL FORUM**  
**MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.**  
**NASHIK ZONE**  
**(Established under the section 42 (5) of the Electricity Act, 2003)**

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**Consumer Grievance Redressal Forum**  
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**Room N. 115-118**  
**Dwarka, NASHIK 422011**

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**No. / CGRF /Nashik/NUC/N.U.Dn.1/640/30/2017-18/**  
**(BY R.P.A.D.)**

**Date:**

**Date of Submission of the case : 19/12/2017**  
**Date of Decision : 02/02/2018**

To.

Dr. Shri. Hemant J. Kotwal ,  
Sun Scan center (Hospital)  
Opp. Kulkarni Garden,  
Sadhu Vasvani Road.,  
Off Sharanpur Road.,  
Nashik -2  
(Consumer No. 049016801622)

Complainant

1. Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Urban Circle office, Shingada Talav,  
Nashik
2. Executive Engineer (U-2)  
Maharashtra State Electricity Distribution Com. Ltd.  
Kharbanda Park Nashik .

Distribution Company  
(Respondent)

**DECISION**

Dr. Shri. Hemant J. Kotwal , Nashik is the Commercial consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Respondent). The Complainant has submitted grievance against MSEDCL for refund of difference amount due to change in tariff . The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. Ltd. But not satisfied with the decision of the IGRC , the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.144 of 2017 on 19 /12/2017.

The Forum in its meeting on 21/12/2017, decided to admit this case for hearing on 12/01/2018 at 1.00 Pm in the office of the forum . A notice dated 21/12/2017 to that effect was sent to the appelland and the concerned officers of the Distribution Company. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Urban Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Smt. P.V. Bankar , Nodal Officer/Ex. Engr. , Addl. Executive Engineer Shri. N. P. Ghumare represented the Distribution Company during the hearing. Shri . V.G. Suryawanshi appeared on behalf of the consumer.

### **Consumers Representation in brief :**

1. Appellant is owner of the Sun Scan Center (hospital) know as Sun Scan Center. This is registered with Nasik Municipal Corporation from the year 2004. The Hospital has been supplied Electricity by respondents at commercial rate.
2. The appellant has been paying electricity tariff as commercial rate since commencement.
3. on 05/09/2012 by commercial circular No. 175 it was decided by Maharashtra State Electricity Distribution Co. to change the rate of Tariff for the establishments which came under public service categories. The rate was change from commercial to new category i.e. public service category from 16/08/2012. All the hospitals were covered under public service category. Therefore change in tariff was made for hospitals from August 2016, which lowered the tariff substantially.
4. As the change was made at Maharashtra State Electricity Distribution Co. Ltd. (Hereinafter referred as MSEDCL/Company) level, it was incumbent for the company to automatically apply this rate to all the public service, establishment which were eligible to get this benefit.
5. However company deliberately did not apply that rate to the eligible consumers. Moreover they did not even publish the circular, therefore most of the establishments remain unaware about difference in tariff and continued paying the electricity charges at the commercial rates.
6. For some of the favoured few it was intimated by the company that there is the difference in tariff and benefit was given to them, but most of the establishments were deprived of this benefit. These acts on Part of the respondent company are totally against the principal of Natural Justice.
7. When appellant came to know about this special tariff for public service establishment from the third parties, appellant applied for change in tariff in July 2016. That application was allowed and tariff was changed from August 2016. It was learned that some of the establishments namely 1. M/s. Mercury Hospital, Dr. Hemant Chaudhari, Consumer No. 049010243709 & 2. Dr. Vinchurkar, Vinchurkar Diagnostics Pvt. Ltd. , Consumer No. 049019019750, were given the refund of excess amount recovered from them by respondent company. However the difference in the tariff amount recovered from the appellant by respondent company was not refunded to him.
8. Being aggrieved by this act on the part of the respondent, appellant applied to respondent on 06/06/2017 seeking refund of the difference recovered illegally by respondent.
9. The matter was heard by Executive Engineer MSEDCL., who was pleased to partly allowed since the date of the application. The reasons given by the said engineer are not at all lawful or logical. Several establishments had preferred such type of application but all the applications came to be rejected by assigning different reasons.
10. The appellant's application was partly allowed and ordered to take the effect of the Circular from the date of the application.
11. Being aggrieved by this order, the appellant preferred this appeal on following amongst other ground.
  - A. The order of the Executive Engineer is wrong and erroneous.
  - B. The order is against the principal of Law, Justice and equity.
  - C. As the circular was in special knowledge of respondent, it is their duty to automatically apply the said tariff to establishments which are eligible for new concessional tariff.
  - D. In the alternative it was the responsibility of the respondent to inform all the establishments about change in tariff, the eligibility for claiming tariff at new reduced rate etc.

- E. General Public is not expected to be informed or aware about the internal circular issued by the MSEDCL.
  - F. The respondent has taken different stand in similar complaints to reject the demand of refund.
  - G. The respondent has given refund to 1. . M/s. Mercury Hospital, Dr. Hemant Chaudhari, Consumer No. 049010243709 & 2. Dr. Vinchurkar, Vinchurkar Diagnostics Pvt. Ltd. , Consumer No. 049019019750 establishments.
  - H. Giving the benefit to some of the establishment and denying the other by quoting different reasons is against the principal of Natural Justice.
  - I. The order of the Executive Engineer is perverse and against the principals of Natural Justice and needs to be set aside and reversed.
12. The order was passed on 09/10/2017 date, the copies are received on 20/09/2017 dated, hence the appeal is filed within limitation.

**Prayer:**

- 1. The order of the Executive Engineer be set aside and reversed.
- 2. The appellant be awarded refund between commercial rate and rate applicable to public service establishment from 05/09/2012 August 2016.
- 3. The cost of this appeal be awarded to the appellant.
- 4. Any other just and equitable relief as the Hon'ble Court may be deem fit be granted in the favour of the appellant.

**Arguments from the Distribution Company.**

The Distribution Company submitted a letter dated 11/01/2018 from the Addl. Executive Engineer , MSEDCL, City Sub Divn and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

- 1. As per Reference Under 5 ( Case.No.111of 2009 MERC order for MSEDCL for Apr of Fy 2009-10 and Tariff for Fy 2010-11.) there was no separate tariff given by MERC for private hospital and dispensaries and all these consumers were billed as per LTII (COMERCIAL) Category.
- 2. As per Reference Under 6 ( Case No. 19 of 2012, MERC order for Tariff determination of Fy 2012-13 ) the new tariff LTX (Public Services) was introduced for the first time and was applicable from 01/08/2012 and it was customary to declare the consumer voluntarily about their type of use of premises for applicability of required tariff.
- 3. As per Reference Under 7 ( Case no 121 of 2014, MYT order of MSEDCL for the period from FY 2013-14 to FY 2015-16 ) the existing LTX (Public services) tariff was bifurcated as LTX (A) Government Educational Institute and hospital and (LTXB)- others and was applicable from 1/06/2015. Here again MERC has separated the private hospitals and educational institutes (LTX B) from government hospital and Government Educational Institutes (LTX A).
- 4. As per MERC regulation 2006's article 6.6  
 "The forum shall not admit any grievance useless it is filed within two(2) year from the date on which the case of action has arisen" (enclosed h/w under ref.No.09) "  
 In our case the cause of action arisen for first time on dtd. 01/08/2012 and for the second time on dtd. 1/06/2015 and it was customary for the consumer to file the grievance in the Hon'ble Forum on or before 31/07/2014 or 31/05/2017 respectively.  
 Unfortunately the MSEDCL received consumers application for the first time on dtd. 07/07/2016. Hence it is humble request to the Forum to submersibly reject the application of the consumer as per the provision in the clause No. 6.6 of MERC regulation 2006.
- 5. The MSEDCL has changed the tariff of consumer from the date of application of the

consumer i.e. from 07/07/2016 i.e. from July 2016 and we have already complied the order of Hon. IGRC of giving tariff difference from the date of complaint application obtained from the consumer. The required details through CPL as pre ref. No. 8 are attached herewith.

Considering the various facts and prima-facie evidences due to non declaration of use of the premises by the consumer within stipulated time frame, the MSEDCL was unable to apply the required tariff and it was mandatory for the consumer to apply in black and white to MSEDCL for change of tariff in earlier period. We has change the tariff as soon as receipt of application from the consumer i.e. from July 16 and now it is very difficult for us to refund the earlier tariff difference due to system constraint and also due to the late submission of grievance by the applicant.

**Action by IGRC :**

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 26/09/2017 for the complaint submitted on 1/09/2017 .
2. After hearing both the parties IGRC gave decision as per letter dated 09/10/2017 as under .

*"rdtkjnkj xtkgdkus vtz dsy; k fnukdklkl u njl dsr cnykrhly Qjd ns; kr ; kok"*

**Observations by the Forum:**

- A. Consumer Representative pointed out the..
1. As per Commercial Circular No. 172 dtd. 05/09/2012 the distribution Co. should change the tariff by its own automatically without application by the consumer for the same and should give credit of tariff difference to the consumer, but distribution company has not given the effect of revised tariff nor published the theme of circular , hence the consumer in question was unaware of the facts, hence deprived from the benefit of revised tariff .
  2. Also representative pointed out that the said benefit of tariff difference & application of public service tariff was given to 2/3 consumers namely a) Mercury Hospital b) Vinchurkar Diagnostics (P) Ltd. Etc.
  3. On application by the consumerson06/06/17 in IGRC, the IGRC ordered to change the tariff from date of application & did not raised the issue of difference in tariff from date of issue of Circular, hence consumer requested to reverse the order of IGRC.
- B) The Dist. Company representative cleared that....

On and average there are thousands of commercial connection which includes may types of business activities, so to apply LTX to applicable consumers automatically without any application by the consumer is not practically possible also pointed out that such liable consumers should voluntarily apply to get the benefit of LTX tariff. Also he pointed out that it will not be correct to say that said consumer is unaware, as the distribution Company conducts the public hearings in Regional Head quarters with vide publicity in newspapers before submitting any proposal of new tariff to MERC . MERC will also conduct Public hearings & then considering all objections from the public, MERC issues / passes new tariff orders.

The Distribution Company representative said that any wrong tariff if applied/ given to 2/3 consumers as mentioned will be revoked & necessary action will be taken.

The Distribution Company representative also said that the tariff is changed as per circular No.175 is the very month as applied by consumer for the same. He also pointed out that the application made by consumer is beyond time limit (i.e. beyond two years) as per MERC regulation 2006 Art. No. 6.6.

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is decided with the observations and directions as elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

**ORDER**

1. The Distribution Company should apply the LT-X tariff category from August 2012 upto May 2015 and LT-X (B) tariff category from June 2015 till July 2016 and refund excess amount collected from the complainant during August 2012 to July 2016 along with interest at the bank rate under Section 62 (6) of the Electricity Act, 2003 on the amounts of refund till the date of refund.
2. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within one month and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum.
3. As per regulation 22 of the above mentioned regulations, non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings *suo motu* or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
4. If aggrieved by the non-redressal of his Grievance by the Forum, the Complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

**(Chandrakant M. Yeshirao)**

Member

**(Prasad P. Bicchal)**

Chairman

**Consumer Grievance Redressal Forum Nashik Zone**

Copy for information and necessary action to:

- 1 Chief Engineer, Nashik Zone, Maharashtra State Electricity Distribution Company Ltd., Vidyut Bhavan, Nashik Road 422101 (For Ex. Engr.(Admn)
- 2 Chief Engineer, Nashik Zone, Maharashtra State Electricity Distribution Company Ltd., Vidyut Bhavan, Nashik Road 422101 ( For P.R.O )
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd., Urban Circle office, Nashik.