



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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No. K/E/1351/1596 to K/E/1362/1606 of 2017-18

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Total days : 63

COMMON ORDER IN THE MATTER OF GRIEVANCE NOS. K/E/1351/1596 TO K/E/1362/1606 OF 2017-18 IN RESPECT OF SHRI SHANTILAL J. BHUTTA & OTHERS REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING SOP.

- 1] **Shri Shantilal J. Bhutta, K/E/1351/1596 of 2017-18**
Near P.V.S.Store, At Malyantlal-Dahanu Road,
Tal-Dahanu, Dist-Thane Pin Code-401 602.
(Con.No.005520007450)
- 2] **Shri Vikas Nagardas Bhutta, K/E/1352/1597 of 2017-18**
1-A Virandavan App., At Masoli Irani Road,
Tal-Dahanu, Dist-Palghar Pin Code-401 602.
(Con.No.005530008730)
- 3] **Smt.Mamta Vikas Bhutta, K/E/1353/1598 of 2017-18**
Virandavan App., At Masoli Irani Road,
Tal-Dahanu, Dist-Palghar Pin Code-401 602.
(Con.No.005530008721)
- 4] **Shri. Prashant Jaysukhlal Parekh, K/E/1354/1599 of 2017-18**
Anand Sagar Hsg. Society,
Tal-Dahanu, Dist-Thane, Ambewadi, Pin Code-401 602.
(Con.No.005530004254)
- 5] **Shri. Vijay J. Parekh, K/E/1355/1600 of 2017-18**
At Masoli, Tal-Dahanu, Dist-Thane, Pin Code-401 602.
(Con.No.005530018140)
- 6] **Shri. Milin J. Parekh, K/E/1356/1601 of 2017-18**
At Masoli, Tal-Dahanu, Dist-Thane, Pin Code-401 602
(Con.No.005530018158)

- 7] **Shri. Vinod T.Soni, K/E/1357/1602 of 2017-18**
3/24, Cawasjee Chawl, Near SBI, Dahanu Road,
Dist-Palghar, Pin Code-401 602.
(Con.No.005520012721)
- 8] **Savita R.Khurana, K/E/1358/1603 of 2017-18**
At Post Malyan, Tal- Dahanu,
Dist, Thane, Pin Code-401 602)
(Con.No.005520027582)
- 9] **Smt. Urmila T.Soni, K/E/1359/1604 of 2017-18**
3/30, Cawasjee Chawl, Near SBI,
Dahanu Road, Dist, Palghar, Pin Code-401 602.
(Con.No.005520001958)
- 10] **Balchandra Pathak, K/E/1360/1605 of 2017-18**
Main Road Opp.Chandrika Hotel,
Dahanu Road, Dist, Palghar, Pin Code-401 602.
(Con.No.005520001460)
- 11] **Shri.Vijay Vinod Soni, K/E/1361/1606 of 2017-18**
H.N.199, Khare Compound, Tal- Dahanu,
Dist, Palghar, Pin Code-401 602.
(Con.No.005520449240) (Hereinafter referred as consumers)

V/s

Maharashtra State Electricity Distribution
Company Limited,
Through it's Nodal Officer,
Palghar Circle, Palghar (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.V.B.Jagtap, EE, Palghar Division

For Consumer - Shri. N.R.Patel (C.R.)

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary
Mrs.S.A.Jamdar- Member (CPO)].

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressed Forum has been established as per the notification

issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Main contention of all the applicants is that, there was no supply of power for 34 hours from 30/06/2017 at 10.00 am to 01/07/2017 at 08.00 pm without any valid reason. Hence compensation is demanded as per MERC SOP Regulation.

3) Consumers approached to the officers of MSEDCL for claim of compensation within 60 days from failure of distribution Licensee from meeting the standards of performance & before IGRC on date 24/08/2017. Hearing of IGRC took place on date 08/02/2018 & issued order on date 15/03/2018. IGRC rejected the SOP claims stating that the supply was off due to incident beyond control of MSEDCL. As per MERC regulation (SOP) 2014 clause no.11 the said reason is exempted for giving SOP.

4) Individual Notices were given to Licensee, who appeared and filed common reply on date of hearing.

5) Licensee in its reply contents that Executive Engineer, Palghar had taken meeting with all the complainants on date 03/02/2018, in which he has given detailed reasons for breakdown of power during 30/06/2017 to 01/07/2017 & satisfied all the complaints. Licensee further states that on 30/06/2017 they had taken outage at 10.50 am for power Transformer maintenance work. After that the power Transformer got tripped due to Saravali feeder breaker blast.

The load of saravali feeder diverted to Dahanu Road feeder. After that jumper of that feeder broke. Then again conductor of feeder got broke. Then jumper of GOD got loose & hence again permit taken to do that work. Again the free fall on the feeder & it got tripped. After which feeder jump got broke & feeder tripped. Due to these continuous technical faults the supply of 11 Kv Dahanu Road feeder got interrupted. There was Supply to the feeder intermediately & supply was not off for continuous 34 hours.

In month of June-2017 there was heavy rain along with thunder storm. Due to this, there was continuous fault on feeder even though the rain was stopped. As there

was no rain on date 30/06/2017 to 01/07/2017 at station road area, there was rain in surrounding area, which was causing faults on feeders & substation.

The interruption was due to natural calamity & beyond control of Licensee. Hence as per MERC (SOP) regulation 2014 no.11 there is exemption from granting SOP under such situation. Licensee requested to reject the claim of applicant.

Licensee submitted interruption report, copy of logbook & permit book at substation in support of above claim.

6) In the hearing, Consumer representative submitted additional rejoinder in which he contends that :-

i) Respondent is trying to bring new fresh point/issue/contention of continuous non-supply of power which was not raised at any time earlier. Hence the Respondent be asked to show the provision of Law, Rules or Regulation by which the Respondent is authorized to raise a new fresh issue at this stage. The Hon'ble Forum should not take this issue on record and consider the same unless and until the Respondent shows the provision of the satisfaction of the Hon'ble Forum. It is important to note that nowhere in the MERC (Standard of performance of Distribution Licensee, Period of giving supply and determination of compensation) Regulation, 2014 (Herein after referred to as MERC Regulations) the words "Continuous power supply is found. If the contention of the Respondent without admitting the same is applied it will lead to an absurd situation. Suppose the period of 24 hours is divided on an early basis with no power for 55 minutes and power for 5 minutes in each such hourly block (e.g.6.00 hrs. to 6.55 hrs. no power and 6.55 to 7.00 power and 7.00 to 7.55 no power and 7.55 to 8.00 power and so on) there will be no power for 22.00 hours and power only for 02.00 hours in a day and hence no compensation can be claimed. The misuse of such anti-consumer situation will be resorted to by the scrupulous distribution licensee. The said MERC Regulation do not permit the same. Hence the said contention be dismissed.

*ii) The respondent has up till now not disputed 34 hours non supply of power in the matter. The Hon'ble Forum is required to see whether non-supply of power was there at the relevant time if it is yes then find out timings of non-supply of power and timing of restoration of power. It is also to be noted that the compensation payable provision is found in Annexure "A" of the said MERC Regulation under heading **Restoration of Supply**. The definition of Restoration is as under*

(a) A firm returning of full scale operation after disaster.

(b) The return of equipment to operational state after repair.

(c) The act or process of returning something to its original condition by repairing it, cleaning it etc – the act of bringing back something that existed before.

iii) The Respondent cannot deny that the restoration of power in the present case was done only after 34 hours. Hence the applicant is fully entitled for compensation for 34 hour at the rate specified in MERC Regulation (Reg.No.3.2 and Annexure "A") with interest and cost.

The Respondent is making vague statements without giving details of power failure and asking the Hon'ble Forum to reject the claim for compensation without citing provision in the MERC Regulations Earlier the claim for compensation was rejected/disallowed by the Respondent as per Regulation No.11 of the MERC Regulation. The said Regulation reads as under.

"11.1 Nothing contained in these Regulation shall apply where in the opinion of the commission the Distribution Licensee is prevented from meeting obligation under these Regulation by –

Force majeure events such as cyclone, floods, storms, war, mutiny, civil commotion, riots, lighting, earthquake, lockout, fire affecting licensee's installations and activities :

Please not the words in the opinion of the commission in the said Regulation. (The definition of commission as given in Regulation number 2.1 (h) of MERC Regulations reads as commission means the Maharashtra Electricity Regulatory Commission) No such opinion in the present case exist as the MSEDCL has not produced the same.

In addition to this it is important and funny to note that the MSEDCL is trying to fool public by claiming that a very small area in a small town of Dahanu was affected at the relevant time by wind storm and heavy rain. We have already dealt with the same in out letter at para 9 (e) of the application by giving details obtained from google and also given the temperatures during the relevant period. In the letter of Executive Engineer dated 17th February, 2018 (at para 9 (a) of the Application) it is stated in para 3 that due to repeated technical faults the power supply was affected. In the same letter in para 4 it is admitted that there was no storm or heavy rain at the relevant time but due to rains in the earlier period at other places the power supply of the small town was affected.

It can be seen that 34 hour non supply of power in the present case is a period far more that the maximum time permitted for different calamities and circumstances stated in the MERC Regulation.

iv) The earlier arguments given on 11/04/2018 also be taken on record and considered.

7) We have gone through the submissions made by both parties & heard the arguments in depth. The main issue is grant of compensation as per MERC (SOP) regulation 2014. Appendix 'A' clause 2 i.e. Restoration of supply is reproduced here:

2. Restoration of Supply

Supply Activity/Event	Standard	Compensation payable
ii) 33kV/22kV/11kV/400V Overhead Line breakdown	Four (4) hours (Class - I cities areas)	Rs.50 per hour or part thereof delay
	Six (6) hours (Urban Areas)	
	Twenty-four (24) hour (Rural areas)	

As per this clause supply of Dahanu road should have been restored within 6 hours as it is an urban area. Whereas supply remain affected for 34 Hours, for which Licensee claims that, it was due to Natural Calamity which lead to repeated technical faults on the line & Substation. We analyzed the interruption report given by Licensee. Abstract of report is as follows:

Date	From time	To Time	Period	Remark
30.06.2017	10:50	19:15	8:25	Supply Off for transformer work
	19:15	19:30	0:15	Supply On
	19:30	20:44	1:14	Supply off for Diversion of load
	20:44	21:15	0:31	Supply On
	21:15	1:35	4:20	Supply off for jumper work
01/07/2017	1:35	3:00	1:25	Supply On
	3:00	11:36	8:36	Supply off due to Breakdown
	11:36	12:20	0:44	Supply On
	12:20	12:25	0:05	Supply off for Diversion of load
	12:25	12:30	0:05	Supply On
	12:30	12:53	0:23	Supply off due to Feeder trip
	12:53	13:07	0:14	Supply On
	13:07	13:20	0:13	Supply off due to Feeder trip
	13:20	15:13	1:53	Supply On
	15:13	17:35	2:22	Supply off due to Shut down for load diversion
	17:35	18:00	0:25	Supply On
	18:00	19:10	1:10	Supply off due to Conductor Broke
	19:00	19:30	0:30	Supply On
	19:30	20:05	0:35	Supply off due to Jumper Cut
20:05	Regular Supply	-	-	

We cross checked the interruption report with permit book & logbook, it is matching. From the above chart it is clear that there was continuous faults on the line hence there was interrupted supply of 34 hours. From the log book it is clear that the Licensee staff was continuous in process of restoring the fault hence there is enough material on record to say that the occurrences were beyond control of the Distribution Licensee.

For which Distribution Licensee contends that it should be exempted from giving compensation as per SOP regulation clause No.11.1 MERC SOP Regulation clause no.11.1 is reproduced here for sake of brevity.

11 Exemptions :

11.1 Nothing contained in these Regulations shall apply where, in the opinion of the Commission, the Distribution Licensee is prevented from meeting his obligations under these Regulations by—

(i) force majeure events such as cyclone, floods, storms , war, mutiny, civil commotion, riots, lightning, earthquake, lockout, fire affecting licensee's installations and activities;

(ii) Outages due to generation failure or transmission network failure;

(iii) Outages that are initiated by the National Load Despatch Centre/ Regional Load Despatch Centre/State Load Despatch Centre during the occurrence of failure of their facilities;

(iv) or other occurrences beyond the control of the Distribution Licensee:

Provided that the Distribution Licensee shall not be excused from failure to maintain the standards 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.

If we consider above clause to excuse Distribution Licensee from giving compensation, then Distribution Licensee should have produce the opinion of commission in this regard, which is not done here, hence the forum cannot exempt Distribution Licensee from giving the compensation as per SOP regulation 2014.

8) Now if Distribution Licensee has to give compensation, then the question is what the SOP should be? In this case the Consumer claims compensation for 34 hours. From the log sheet record the supply was interrupted from 10.50 hrs. on 30/06/2017 to 20.05 hrs. on 01/07/2017. i.e. 33 hrs. 15 min. from log sheet it is clear that the supply was not continuously off. In urban area compensation payable if the supply is off for more than six hours. There are two such incidents where the supply was off for more than six hours as follows :

Date	From Time	To Time	Period	Remark
30/06/2017	10.50	19.15	08.25	Supply Off
01/07/2017	03.00	11.36	08.36	Supply Off

Hence as per Appendix 'A' clause 2 (ii) of SOP regulation 2014, Distribution Licensee has to pay compensation for above said interruption period. The delayed period is five hrs. (2.25 hrs. + 2.36 hrs.) for restoration of supply. For the balance period the supply was not off continuously for more than 6 hours, hence no compensation allowable.

9) The delay is due to there was lot of similar cases admitted by different consumers for the same issue. Hence hearing of all the consumers kept together. During the pendency of these cases some more cases filed by consumers hence delay.

Hence the order.

ORDER

- 1) The Grievance applications of all consumers are partly allowed.
- 2) Distribution Licensee to pay SOP compensation of Rs.250.00 to each applicant Consumer. The said amount to be adjusted in next issuing bills of the Consumers.
- 3) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Dated : 04/07/2018

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(A.P.Deshmukh)
MemberSecretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) *The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.*
- “Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Bldg, Bandra Kurla Complex, Mumbai 51”.*
- b) *Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or*
- c) *delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-*
- “Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”*
- d) *It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.*

