

**CONSUMER GRIEVANCE REDRESSAL FORUM  
AMRAVATI ZONE, AMRAVATI**

'Vidyut Bhavan', Shivaji Nagar, Amravati: 444603, Tel. No. 0721 2551158

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**Dt. 11.10.18**

**ORDER**

**Case No. 23/2018**

**In the matter of grievance pertaining to refund of service connection charges,  
infrastructure cost etc.**

**Quorum**

Dr. Vishram Nilkanth Bapat  
Miss.M.H.Ade, Member Secretary  
Sau. Sushama Joshi, Member (CPO)

**Complainant**

M/s Jai Balaji Oil Mills,  
Kandali , Paratwada  
Consumer o.355129005750

**Versus**

**Respondent**

The Executive Engineer ,  
MSEDCL, O&M Division, Achalpur.

**Appearances:-**

**Complainant Representative:-** Shri. Ashish Subhash Chandarana.

**Respondent Representative:-** Shri D.B.Pote, Additional Executive Engineer,  
O&M Sub Division Achalpur City II.

Being aggrieved by IGRC, Amravati's Order Dt. 09.03.18, applicant approached to CGRF, Amravati for redressal of his complaint on Dt 13.08.18 and filed his complaint as Case No 23/2018.

**The complainant submits his grievance as under :-**

- 1) LT connection to the complainant M/S Jai Balaji Oil Industries , Kandli , Paratwada was released on date 27.10.2007 and the cost of infrastructure to avail this connection was borne by himself. The estimate for the said infrastructure was prepared under 15% ORC Scheme.
- 2) The complainant has contended that he is burdened with unlawful recovery which is in violation of MERC approved Schedule of charges vide case no 70 of 2005 read with regulation 18 of supply code and Commercial Circular 43 dated 27.09.2006. While providing LT connection as per the sanctioned estimate of Rs 2,36,321/- the N.A has escaped the overheads which includes transportation- 5%, VAT- 5%, Contingencies- 3% and Plant and tools- 1.5% and thus the final amount sums up to Rs 2,67,472/-.  
On date 10.11.2016, the Hon'ble Supreme Court has dismissed the appeal of MSEDCL seeking permission for recovery of cost of infrastructure and thus MERC order dated 08.09.2006 continues to remain in force. Post the Supreme Court's decision read with MERC order dated 01.09.2010 in case 93 of 2008, it was duty of MSEDCL to refund the cost of infrastructure.
- 3) The N.A.MSEDCL didn't do it suo moto after Hon'ble Supreme Court's order but initiated process only after letter of MERC dated 20.07.2017. Subsequently MSEDCL released circulars to effect that ORC charges collected from 20.01.2005 until the release of Non DDF CCRF circular i.e. upto 20.05.2008 needs to be refunded along with interest.
- 4) The N.A.MSEDCL has recovered the following charges in violation of approved schedule of charges from applicant while granting sanction and releasing new connection.The details are as below:

**Excess Charges recovered during LT connection in violation of schedule of charges approved by MERC.**

Sr No.	Detailed description of amount	Amount	Date of Payment / Interest applicability
1	Excess Service Connection Charges	6415.00	24.07.2007

2	ORC amount as supervision charges @ 15% on labor component of estimate as mentioned in para 5 (b)	5960.00	27.07.2007
3	Infrastructure cost as mentioned in para 2	267472.00	
4	Transformer testing charges Para 5 (d)	3000.00	
	<b>TOTAL</b>	<b>282847.00</b>	

- 5) MERC in case No. 82 of 2006 order dated 17 May 2007 ordered the refund of amount collected in violation of schedule of charges up to 30 April 2007 & also for not collecting any amount in violation of schedule of charges which is not approved by MERC or not defined under supply code 2005. But MSEDCL still continued to do so even after the order of MERC till 20.05.2008 i.e. till the release of Non DDF CCRF circular dated 20.05.2008
- 6) Subsequently while hearing MSEDCL's petition challenging MERC order in case No 7o of 2005 order dated 8-9-2006 and APTELS order thereof rejecting MSEDCL's appeal, Hon'ble Supreme Court granted stay on refund on 31.08.2007. The said appeal is decided by Supreme Court on 10.11.2016 rejecting MSEDCL's appeal and so also stay order dated 31.08.2007 is quashed and applicant is entitled for refund of **282847.00** along with interest till date.
- 7) Further MERC in case no 93 of 2008 order dated 1.09.2010 also ordered to refund all the charges recovered in violation of schedule of charges from consumers except the charges for which Hon'ble Supreme Court has granted stay as such MSEDCL has submitted before MERC that supreme court has granted stay to refund of charges collected in violation of schedule of charges.
- 8) The Supreme Court has dismissed the appeal filed by MSEDCL on date **10.11.2016** and therefore it was duty of MSEDCL to comply with MERC order in case No 82 of 2006 order dated 17 May 2006 & so also MERC order in case No 93 of 2008 order dated 01.10.2010.
- 9) The N.A. MSEDCL have released a circular to this effect which is available in public domain on web site of MSEDCL giving directions to refund these charges but no effective steps appears to be taken from MSEDCL suo motu or after making representation before IGRC resulting present representation before Hon'ble CGRF.
- 10) During proceedings before IGRC, first SDO Achalpur denied the applicability of claim on ground of time bar but later with detailed analysis, IGRC ordered to refund the

amount along with interest after submission of original money receipt or indemnity bond. However, the concerned officer made unwarranted & premature communication seeking indemnity even prior to finalize the WCR.

**Prayer of the complainant:-**

- 1) Direct MSEDCL to refund of Rs. **2,82,847.00** along with interest as per MERC order in relation to interest in case No 23 of 2004 @ 12% p.a.
- 2) Direct MSEDCL to collect the interest for delayed period from responsible officer of MSEDCL as per Hon'ble Supreme Court's order in the matter of Lucknow development Vs. M.K.Gupta as such any interest burden upon MSEDCL will constitute part of tariff through ARR.
- 3) Any other relief which Hon'ble CGRF may deem fit considering facts and circumstances of the case.

**Reply filed by N.A.MSEDCL before the Forum:-**

The N.A. MSEDCL has filed the reply before the Forum, however the complainant has denied the receipt of the reply till the date of hearing, before the Forum.

- 1) The N.A.MSEDCL admits that the consumer M/S Jai Balaji Oil Industries has been granted supply under L.T category and the connection was released on date 27.10.2007. The connection is released as per the agreement, rule and sanctioned estimate.
- 2) The N.A.MSEDCL denies the unlawful recovery in violation of MERC schedule of charges, and the charges recovered from the complainant at the time of release of connection was accepted by the applicant complainant. The estimate for the said connection was sanctioned in 2007 and as the case is beyond the stipulated period of CGRF & E.O Regulations 2006, regulation no 6.6 , "The Forum shall not admit any grievance unless it is filed within two years from the date on which the cause of action has arisen. The cause of action in the present case falls in the year 2007 and the time of more than 10 years has passed since the cause of action and hence it is liable to be dismissed for all the charges enumerated in the grievance.
- 3) On date 10.11.2016, the Hon'ble Supreme Court has dismissed the appeal of MSEDCL seeking permission for recovery of cost of infrastructure is a legal battle on a different count and is not applicable to the said case.
- 4) The estimate for the said connection was sanctioned vide sanction no SE/O&M/Amt/Estt/27/07-08/15%H.O.Sup.Charges/01107 dated 21.05.2007 as per the provision 3.3.8 of conditions of supply 2005 and was accepted by the complainant.

- 5) N.A.MSEDCL denies that the applicant is burdened with unlawful recovery in violation of MERC approved schedule of charges vide case no 70 of 2005 , which were circulated vide commercial circular 43 dated 27.09.2006 and the matter of refund of excess service connection charges of Rs 6415/-, ORC 15% Supervision charges Rs 5960/-, Infrastructure cost Rs 267472/-and transformer testing charges Rs 3000/- Total amount Rs 2,82,847/- does not arise.
- 6) As per IGRC order “The respondent was asked to refund the charges with interest applicable after submission of original money receipt to N.A. MSEDCL and in case of loss of original money receipt the indemnity bond with applicable stamp duty shall be submitted by the complainant in accordance with the C.E. (Distribution) Circular no 25079 dated 12.10.17 , 31793 dated 29.12.2017 and 5039 dt 07.03.2018 within 8 days and submit reply. IGRC had given the complainant the opportunity to comply with the order however the applicant complainant vide email asked to provide the work completion report.
- 7) If any grievance to complaint about the order of IGRC the complainant should have challenged within two months from the date of order, but the said appeal is filed after five months which is also bar by limitation.

The Forum heard both the parties and considering the records placed before it, the Forum is of the view that:

1. It is admitted position by both the parties that the NA MSEDCL released the supply to the complainant on 27.10.2007 and expenses for infrastructure were borne by the complainant under ORC 15% Supervision scheme.
2. N.A. MSEDCL agrees on refund of excess Service Connection Charges of Rs. 6415/- Forum feels that the rate of interest on the refund of SCC has to be in the light of the case laws in this regard namely MERC Order in case 23 of 2004.
3. With regard to the prayer of the complainant for refund of infrastructure cost Rs. 267472/- along with interest as in case no 23 of 2004 @12% p.a. In the light of the said order, the claim of N.A. MSEDCL is not justified that as the charges are not recovered by MSEDCL from the complainant consumer, same are not refundable to him in view of the MERC order in case no. 70 of 2005.
4. In regards to N.A.MSEDCL’s contention of the case being time barred by limitation, the Forum feels that the grievance admitted before the Forum is in accordance with CGRF & E.O Regulations 2006, regulation no 6.6 and is well within the time limits prescribed therein.
5. The Forum is of the view that the loss whatsoever incurred by N.A. MSEDCL on account of interest for delayed period is indeed an otherwise avoidable loss to the organization and hence to the public at large. Therefore this loss of the interest amount should be recovered by the NA MSEDCL from the concerned erring officials after due enquiry in this regard.

With above observations, the Forum passes the unanimous order as follows.

**ORDER**

1. The complaint is partly allowed.
2. N.A. MSEDCL is directed to refund the cost of infrastructure Rs.2,67,472/- , excess service connection charges Rs.6415/-, 15% supervision charges of Rs.5960/- and transformer testing charges Rs 3000/-along with interest at 12@ p.a. from the date of connection i.e. 27.10.2007 till the date of actual refund.
3. N.A. MSEDCL is directed to file the compliance report of this order to this Forum within 30 days of issue of this order.

Sd/-  
M.H.Ade)  
Member Secretary

Sd/-  
(Smt. S.P.Joshi)  
Member (CPO)

Sd/-  
(Dr.V.N.Bapat)  
Chairman

Contact details of Electricity Ombudsman appointed under regulation 10 of MERC(CGRF & EO) REGULATIONS 2006:

THE ELECTRICITY OMBUDSMAN,  
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