

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

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

Dt. 12.10.18

ORDER

Case No. 26/2018

**In the matter of grievance pertaining to refund of metering cubicle cost
and infrastructure cost etc.**

Quorum

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

Complainant

M/s Sachin Fibres,
GAT no 119/2, Abai Fata,
Velabai, Tq. Wani.
Consumer No. **370019007320**

Versus

Respondent

The Superintending Engineer ,
MSEDCL, O&M Circle, Yavatmal.

Appearances:-

Complainant Representative:- Shri. Ashish Subhash Chandarana.

Respondent Representative:- Shri Y.P.Warke, Executive Engineer (Adm),
O&M Circle , Yavatmal.

Being aggrieved by IGRC, Yavatmal's Order Dt. 10.07.18, applicant complainant approached to CGRF, Amravati for redressal of his grievance on Dt 13.08.18 and filed his complaint as Case No 26/2018.

The complainant submits his grievance as under :-

1. The complainant approached IGR Cell Yavatmal and IGRC passed the order on 10.07.2018 without considering the facts of the grievance and the ruling passed by MERC in relation to DDF facility.
2. The Grievance of complainant is related to refund of metering which needs to be provided by MSEDCL but MSEDCL compelled the complainant to procure under Non DDF CCRF. (Consumers Contribution and refund thereof) & refund of 11 KV line which is sanctioned under Dedicated Distribution Facility (DDF) but the single line diagram proposed, estimate framed and executed do not constitute DDF arrangements at site read with MERC order dated 16.02.2008 in case no 56 of 2007.
3. Complainant has never disputed that MSEDCL is not empowered to recover infra cost when infrastructure is demanded under DDF and subsequent sanctioned estimate and diagram constitutes DDF arrangements. However, the grievance of the complainant is that infrastructure proposed, approved and erected does not constitute DDF arrangements and hence being NON DDF nature of infrastructure, the complainant is entitled to get refund of Non-Dedicated 11 KV line erected by the complainant. Further IGRC failed to consider that the original purchase voucher of cubicle was taken into custody by MSEDCL at the time of issuing release order and hence there is no need of seeking original invoice again and again. IGRC also failed to direct interest as prayed due to delay on part of authorities.
4. The claim of refund of cubicle will be as hereunder: -

Sr No	Description	Estimated	Actual
1	Metering Cubicle	94765.00 (excluding VAT)	101250.00((Including VAT)

2	Labor 10%	9676.50	9000.00 (10% of before VAT amount)
3	Contingencies	2000.00	2700.00 (3% as per cost data)
4	Transportation 5%	NIL	4500.00 (as per cost data)
5	Tool and Plant	NIL	1350.00
6	VAT	NIL	Included in item no 1
7	Total		118800.00

5. The estimate of 11 KV is framed rightly and there is no escape in overheads and the complainant claims the aforesaid amount as per estimate only i.e. Rs 1,11,473 /- and supervision charges thereof Rs. 1207/- as such in case of NON DDF, supervision charges are not applicable and thus the total claim on amount of erection of 11 KV line comes to Rs. 1,12,680/-
6. The connection of complainant is released on date 07.11.2016 and therefore consumer is entitled to receive interest @ 12 % as per MERC order cited herein in the matter of Lloyd Steel Vs. MSEDCL.

Prayer of the complainant:

1. Direct MSEDCL to Refund Rs. 1,18,800/- and Rs. 1,12,680/- i.e. total Rs. 2,31,480/- along with interest @ 12% p.a. from 07.11.2016
2. 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:

At the outset this respondent submits that, IGRC Yavatmal Circle has rightly passed the order on 10/07/2018 in Complaint No.08/18 filed by the present complainant. The said order has directed the complainant Consumer to submit the original receipt of Cubicle Purchase to HT Section at Circle Office in order to facilitate the refund through energy bill. Now the complainant consumer in his complaint at para No.3 last but one line has said that the original purchase voucher is taken into custody by MSEDCL at the time of issuing release order and hence there is no need of seeking original invoice. This is totally an afterthought and Hon'ble forum is hereby requested to note that this is totally a new submission and is totally false. Consumer has to put strict proof of the same and just by merely saying that the original purchase voucher is handed over will not suffice. If that could have been the fact the refund would have been already initiated by the company. On this count alone the present complaint is liable to be dismissed straightaway by this Hon'ble forum since the consumer is not coming with clean hands before the forum. This false assertion of the consumer shows that he wants to initiate the refund by hook or crook without following due procedure.

Further the 11 KV line which is sanctioned under DDF is still dedicated to the consumer and the refund of the estimated amount claimed herein cannot be allowed since the consumer has undertaken the activity willfully knowing that the said work is essential for the new connection and now he cannot claim the refund of the same on any of the grounds since the same has been done on contractual basis. He cannot retract now from the agreed terms and conditions at the time of seeking the new connection.

2) Point wise reply to the complaint. Contents of Para No.1 of the complaint are denied in toto. It is specifically submitted that IGRC Yavatmal Circle has rightly passed the order and instead of complying the order by way of submission of Original Receipt of purchase of cubicle the present complainant has preferred to file complaint before this hon'ble forum without any cause of action and making false allegations in this regard in order to misguide the forum and hence this complaint is liable to be dismissed.

3) Contents of Para No.2 of the complaint are totally false and not according to the facts of the case and therefore are denied. The 11KV Line which is sanctioned under DDF is still dedicated to the consumer and hence the refund claimed on this regard is liable to be dismissed.

4) Contents of Para No.3 of the complaint are totally false and hence denied specifically by this answering respondent. The point is discussed elaborately in Para No.1 of this reply and the same is applicable.

It is specifically denied that the consumer has handed over original purchase voucher of Cubicle to MSEDCL at the time of issuing release order and hence there is no need of seeking original invoice. Consumer is making this statement for the first time and the same is false.

5) The contents of the Para No.4 of the complaint are true to the extent of cost of the cubicle for Rs.1,01,250/- and the rest of the contents of the claim are denied herewith specifically by this answering respondent. The centages claimed cannot be refunded as there is no document produced by the Consumer at the time of release of connection and therefore the claim of refund of Rs. 1,01,250/- can be effected on submission of original voucher as ordered by IGRC Yavatmal in its order dated 10/07/2018.

6) The contents of Para No. 5 of the complaint are totally false and not as per standard principles of contract and hence denied herewith by this answering respondent. It is important to note that the consumer has willfully erected the 11KV line as per requirement for his new connection which constitutes the DDF and still the line is dedicated to the consumer and hence the refund claim is liable to be dismissed. The entire claim of Rs.112680 is specifically denied by this answering respondent.

7) The contents of Para No.6 of the complaint are specifically denied herewith by this answering respondent. Here it is specifically submitted that the consumer has not complied as per standard rules and therefore claim of interest thereon is uncalled for and the same is liable to be dismissed.

Submission during the hearing:

By the Applicant:

Since MSEDCL did not apprise the complainant prior to scheduled hearing before IGRC about the demand of original bill, and complainant came to know about this demand only through a order of IGRC, therefore informing the custody of bill with MSEDCL would not be claimed as afterthought version. On the contrary, as per practice , directions of MSEDCL in relation to execution of work, all the material needs to be inspected and bills needs to be taken into

custody prior to execution of work and therefore the stand of MSEDCL seeking original bill again seems to be afterthought.

1. The schedule of charges approved by MERC prohibits MSEDCL to recover meter cost. Paucity of funds with MSEDCL and monopolistic status of MSEDCL leaves consumer helpless & having been left with no option, consumer required to bear the burden of responsibility of MSEDCL. Subsequently pursuing for the refund of financial assistance extended cannot be said that the consumer is adopting hook or cook.
2. There cannot be estoppel against the law. Any agreement or contract which is founded on unlawful conditions is bad in law and is not binding.
3. Cause of action arose when IGRC rejected the claim of infrastructure cost recovered under DDF head which is in fact NON DDF at site. Cause of action arose when IGRC without considering the fact that purchase bills are required to be taken into custody prior to release of supply. Therefore, it cannot be said that representation is without cause of action.
4. MSEDCL have referred standard rules stating that applicant have not complied with. No such copy of rules is placed on record or in sanction letter pointing out non-compliance and therefore a submission without supporting can not be accepted.
5. MSEDCL has denied the liability of 11 KV HT line of 0.05 Km which is not sustainable in view of MERC order cited on page No 8 to 15 and the order of Hon'ble EO in representation no review 20/2016 which confirms vide para 9 that a DDF has to be a separate feeder or line emanated from transformer or substation or switching station exclusively for giving supply to the consumer or group of consumers. In present matter it is on record that existing feeder is tapped by laying down 0.05 KM HT line & thus do not constitute DDF. Therefore, applicant is liable to get refund of Rs. 1,12,680/- as claimed. Further when line stands as NON DDF, supervision charges 1207.00 will also be refundable being asset of MSEDCL or will constitute part of WCR.
6. Thus, applicant is entitled for refund of Rs. 1,18,800/- as per claim made toward cubicle metering and Rs. 1,12,680/- toward HT line of 0.05 Km amounting total

Rs. 2,31,480/- along with interest @ 12% p.a. as per MERC order cited on page No 29 to 33 in case No 23 of 2004.

By N.A. MSEDCL:

Nil

Having heard both the parties and examining record placed before this forum, the Forum holds the following opinion.

1) The issue of time limitation on account of cause of action raised by the N.A. MSEDCL does not hold good in the opinion of this Forum in the light of 6.6 of MERC (CGRF & EO) Regulations 2006. The cause action arises only after the decision of IGRC i.e. 10-7-2018. Hence with reference to this date, the applicant has approached CGRF well within the time limit of 2 years.

2) It is admitted position by both the parties that the N.A. MSEDCL released the supply to the complainant on 07.11.2016 and expenses for erection of 11KV line and metering cubicle were borne by the complainant. The 11KV line erected to give supply to M/s Sachin Fibres, Wani is a mere extension of the existing line and cannot be treated as DDF facility read with provision 12 (1) in MERC case no 56 of 2007 dated 16.02.2008. The supervision charges are inconsistent with the approved schedule of charges and hence cannot be recovered from the complainant.

3) N.A. MSEDCL agrees for the refund of metering cost expenses of Rs 1,01,250/- done by the applicant to avail the load of the said connection only after submission of the original money receipt by the applicant. The Forum opines that providing the metering equipment is the responsibility of the N.A. MSEDCL and hence such precondition for submission of original money receipt cannot be justified after release of the connection. Moreover the complainant cannot be denied the refund of the expenses he incurred on the centages for the commissioning of the metering cubicle on any pretext.

In view of the proceedings before the Forum and on the basis of the records placed before, the Forum unanimously passes the following order.

- 1) The complaint in case no. 26 of 2018 is partly allowed.
- 2) The MSEDCL is directed to refund the metering cubicle cost Rs.1,18,800/-, infrastructure cost Rs. 1,11,473/-, supervision charges Rs 1207/-, total of Rs.

231480/- along with interest at the rate of 12% p.a. from 07-11-2016 till the date of actual refund.

- 3) MSEDCL is directed to submit compliance of this order within one month of the date 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:

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