

**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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Dwarka, NASHIK 422011

No. / CGRF /Nashik/NUC/N.R.Dn./680/12/2018-19/  
(BY R.P.A.D.)

Date:

Date of Submission of the case : 08/06/2018

Date of Decision : 07/09/2018

To.

M/s.Nashik Ispat Pvt. Ltd.  
Plot No. E-16, MIDC, Sinnar .  
Dist. Nashik 422103.  
(Consumer No. 075949020720)

Complainant

1. Nodal Officer ,  
Maharashtra State Electricity Distribution Com. Ltd.,  
Urban Circle officeVidyut Bhavan ,  
Nashik Road.
2. Executive Engineer (R)  
Maharashtra State Electricity Distribution Com. Ltd.  
Vidyut Bhawan Nashik Road.

Distribution Company

**DECISION**

M/s. Nashik Ispat Pvt. Ltd. , (hereafter referred as the Complainant ). Sinnat Dist. Nashik is the HT consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company ). The Complainant has submitted grievance against MSEDCL for Refund of Infrastructure charges . The Complainant filed a complaint regarding this with the Internal Grievance Redressal Committee of the Maharashtra State Electricity Distribution Company Ltd. Ltd. But as the IGRC did not provide any remedy for more than 2 months, the consumer has submitted a representation to the Consumer Grievance Redressal Forum in Schedule "A". The representation is registered at Serial No.50 of 2018 on 08/06/2018.

The Forum in its meeting on 08/06/2018, decided to admit this case for hearing on 22/06/2018 at 4.00 pm in the office of the forum . A notice dated 08/06/2018 to that effect was sent to the appellant 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 I 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. Shri. A. R. Tiwari Dy.Ex.Engr. represented the Distribution Company during the hearing. Shri . Anupam Ghosh appeared on behalf of the consumer.

**Consumers Representation in brief :**

1. As per the Sanction Letter of S.E. MSEDCL and the directions of MSEDCL; M/s Nasik Ispat Pvt Ltd carried out entire work of supply, and Installation of Distribution facility from Tapping of Brook-Bond feeder from near the Substation to it's factory premise which is about 136 Km of 33 kV Transmission line. Also the work of metering cubicle was done by M/s Nasik Ispat Pvt Ltd. Further the supervision charges for the same was paid to MSEDCL, on 1.3% Normative charges basis. The Costs Incurred as per Sanction Letter to M/s New Natraj Industries is as follows :

Sr. No.	Particulars	Amount (SE/NSKR/T-2/NR-580/0017)	Amount (SE/NSKR/T-II/NR-580/02951)	Amount
1.	Cost of Material	18,96,649.38	5,87,455.80	Rs. 24,84,105.18
2.	Erection on material	1,89,664.94	58,745.58	Rs. 2,48,410.52
	Total Cost	20,86,314.32	6,46,201.38	Rs. 27,32,515.70

2. Accordingly, M/s Nasik Ispat Pvt Ltd had carried out the work by engaging the licensed electrical contractor, and completed the work. Thereafter the Distribution Company has carried out the inspection of the material and work done and after getting satisfied, connection was released on 07.06.2010
3. Now that the entire cost of laying Infrastructure had been borne by Nasik Ispat Pvt Ltd.; further that MSEDCL had supplied to other consumers from the Distribution facility Infrastructure created by Nasik Ispat Pvt Ltd.
4. Further The MER Commission has laid the Responsibility of creating Infrastructure upon the Distribution Licensee. Which is reflected In the honorary MER Commission's Ruling, for Case No. 70 of 2005 In the matter of Approval of MSEDCL Schedule of charges, the Commission clearly states in Page 16 as follows :  
*"The Commission totally rejects MSEDCL's proposal to recover Service Line Charges from the prospective consumers except in cases of consumers requiring dedicated distribution facility. As per the provisions of the Act, developing infrastructure is the responsibility of Licensee. The Commission, therefore directs that the cost towards infrastructure from delivery point of transmission system to distributing mains should be borne by MSEDCL. The recurring expenses related to the capital investment on infrastructure shall be considered during ARR determination."*
5. The Distribution Company has issued Circular no. 22197 dated 20/05/2008 by CE (Dist) and circular no. 39206 dated 21/12/2009 by CE (Dist) regarding refund of the infrastructure cost
  - a. As per circular dated 20/05/2008 *"If the consumer/ group of consumers wants early connections and opts to execute the work and bears the cost of infrastructure then the refund of the cost of infrastructure will be given by way of adjustment through energy bills."*
  - b. As per circular dated 21/12/2009 *"...Managing Director MSEDCL has accorded approval to refund the entire expenditure incurred by the prospective consumer for release of the supply under dedicated distribution facility (even though work is not dedicated ) by way of adjusting 50% of the monthly bill amount till clearance of the total expenditure."*
  - c. As per these circulars the entire expenditure incurred by the consumer is to be refunded by adjusting 50% of the monthly bill till the clearance of the total expenditure.
1. When the Matter was taken up in IGRC, MSEDCL Claimed the following "Connection to M/S. New Natraj Industries was sanctioned in 1.3% DDF Scheme...." It is not understood why the name of other Consumer has any bearing on the refund status of Cost of Infrastructure borne by M/s Nasik Ispat Pvt Ltd. However Hon. IGRC did not take into account the MERC Directives and MSEDCL Circulars on refund of Infrastructure costs.

Further even if MSEDCL Claims that the Infrastructure Cost Incurred by M/s Nasik Ispat Pvt Ltd was under DDF, further connections from this line installed by M/s Nasik Ispat Pvt Ltd was provided to M/s Advanced Enzymes & M/s Swastik Pulp, going against the principles of a Dedicated Distribution Facility (DDF). Therefore even in this case MSEDCL is required to refund the amount spent on Infrastructure.

#### **Arguments from the Distribution Company.**

The Distribution Company submitted a letter dated 21/06/2018 from the Nodal Officer, MSEDCL, Urban Circle Office Nashik and other relevant correspondence in this case. The representatives of the Distribution Company stated that:

1. The sanction to the consumer is given under 1.3% normative charges supervision scheme, so work is carried out by the consumer only for the required infrastructure to this consumer.
2. The consumer has given written consent to do the required work at his own cost, accordingly MSEDCL has given sanction under 1.3 % normative charges supervision scheme.

3. In written undertaking given by consumer, it is clearly accepted by the consumer (point No. (12) that expenditure done by me will not be demanded for refund in any complication.
4. The consumer has given reference of MSEDCL circular no. 22197 dated 20/05/2008, whereas in this circular LT consumer is mentioned. There is no HT consumer is mentioned in this circular.  
So the refund demanded by consumer is not correct. Hence, It is requested for reject the consumer's application herewith.

**Action by IGRC :**

1. Internal Grievance Redressal Cell Nashik Urban Circle conducted hearing on 15/02/2018 for the complaint submitted on 22/12/2017 .
2. After hearing both the parties IGRC gave decision as per letter dated 27/03/2018 as under .  
" 1. The consumer has given the written consent to purchase all the required material at his own cost & execution of work through private licensed electrical contractor .  
2. Meter was installed MSEDCL & meter cost is not recovered from the consumer. So the demand of refund is not correct."

**Observations by the Forum:**

1. Commercial circular No. 43 dated 27/09/2006, specifically mentions that MSEDCL shall not recover any cost towards meter and meter Box except where the consumer opts to purchase meter from MSEDCL or in case of lost and burnt meter. However, in some cases meter and cubicle costs might have been recovered unintentionally during the intervening period circular No. 34207 dated 3/09/2007 has specifically been circulated to refund the cost of meter in such cases and it has been directed therein not to recover cost of meter on any pretext However, in some cases, stock of meters and meter cubicles is not readily available in store and the consumer is in a hurry to get the connection . In such cases, he/she is allowed to purchase meter/cubicle from outsider, the cost of which is refunded afterwards as per local arrangements.

The above reference has been found in case No. 148 of 2011, in the matter of complaint filed by Shri. Haribhau D. Khapre, Sangli alleging that terms and conditions & for grant of New connection are in violation of Act and Regulations.

2. As per circular No. CE(Dist.)/D-III/NSC/10992 dated 15<sup>th</sup> May 2018 of MSEDCL when ever providing supply to the premises requires extension of distribution or commissioning of 33/11 KV or 22/11 KV substation and/or augmentation /Extension of DTC, HT/LT line etc. The work for this infrastructure is to be carried out by MSEDCL (Except in case of DDF) as per the provision of sections 43 and 46 of the Electricity Act 2003 and the sub ordinate regulation see 5.5. To 5.7 of the supply code Regulations and also the provision of the Development control . Rules of the planning Authority of that particular area.

**Opinion of the Member secretary :**

Though it is the responsibility of dist. Co. to provide infrastructure required to release power supply to prospective consumer in case urgency & if the consumer submits/ application to get execute the infrasture required at their own under 1.3% normative charges as supervision charges then on Rs. 100/- Bond paper also stating that the consumer will not apply for refund of infrastructure charges in future, the Dist. Co. can sanction the estimate accordingly & in this case as per applicants application / agreement of willingness for execution of infrastructure the estimate sanction is accorded. And after execution of infrastructure , handing the assets to dist. Co, and on release of power supply , request for refund of infrastructure charges is not justified.

From the case paper submitted during hearing (Case No. 148 of 2011 of MERC) it is clear that the case is no way connected with the case in & question, also the case seems to be regarding lacunas/procedural lapses in according sanction power supply to new prospective consumer also elaborates regarding provision of MERC regulations (Electricity Supply code & other conditions of supply) 2005, which clearly states that Dist Co. Should correct/ modify & update the terms & conditions of supply & all circulars , orders & any other documents or communications relating to power supply & make them consistent with regulation within a period of four months which in turn is disposed off by MERC.

Also in the said case 148/2011, there is a mentioned of case No. 56/2007, which is also no way connected with case, as the case No. 56/2011 is in respect of tariff revision and there lacunas which is filed by various association in MERC which is also disposed of by Hon. MERC.

On execution of agreement with Dist. Co. Regarding execution of infrastructure work under normative charges & handing over of assets to Dist. Co. The Dist. Co. Can release power supply to new consumers

either from the said line erected by the consumers in quotation or extends the line from the said line, but in that case if the Dist. Co. Extends power supply from said line then the garentee of said line for two years for workmanship expires and it becomes responsibility of Dist. Co. For maintain P.S. In such case, so claiming refund only on extension of power supply from the said line is also not justified.

Also during hearing the consumer quote the circular No. 22197 dt. 20/05/2008 is their support stating that if any new connection is released from the infrastructure erected by consumer under 1.3% normative charges (as in this case) then the consumer is liable to get refund of infrastructure charges incurred by him for their connection, but it is to bring to notice that said circular is restricted to only LT Consumers & not for HT consumers, so also the consumers request for refund of infrastructure charges cannot be accepted.

Also as per MERC regulation 6.6 of 2006 clause no. 6.6 the case stands time barred so also this can be disposed off on time limitation. So is my opinion case should be rejected.

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 MSEDCL shall refund the cost of infrastructure charges incurred for getting power supply with bank interest to the consumer.
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 the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
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.

**(Smt. Vaishali V.Deole )**  
Member

**(Prasad P. Bicchal)**  
Member Secretary

**(Dr. Bhaskar G.Palwe )**  
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 .

