

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

“Vidyut Bhavan” Ratanlal Plot ,Akola. Tel No 0724.2434475

ORDER

Dt:- 19.01.2019

Complaint No: - 58/2018 Dated 03.12.2018

In the matter of grievance pertaining to refund of excess collected demand charges with 12% interest, SOP Compensation and interest on metering cost refunded and cost.

Quorum

Dr.V.N.Bapat- Chairman

Shri.D.M.Deshpande, Member (CPO)

Shri. R.A.Ramteke, Member – Secretary

1. M/S SHAHIN FROZEN FOODS :- Complainant
Gut No. 193 at Taroda Kasaba
Tq. Shegaon consumer no.
HT1A- 298099085890.
% shri Ashish S. Chandarana
Agrasen Nagar, satguru villa apartment
Flat no. 302, Sahakar Nagar,
Gorakshan Road, Akola 444004.

....Vrs.....

Superintending Engineer , :- Respondent
MSEDCL, O&M Circle Buldana

Appearances

1) Shri. Ashish S. Chandarana. - Representative for Complainant
2) Shri. Ganesh T. Pachpoh - Executive Engineer, MSEDCL
 With Shri A. S. Kale - AEE, MSEDCL.

1) On being aggrieved by the decision of IGRC Buldana issued vide order no. IGRC/Bld/3009 dated 06/10/2018, complainant M/S SHAHIN FROZEN FOODS, Shegaon approached this Forum under the clause 6.4 of MERC CGRF Regulation 2006 through their authorised representative Shri. Ashish S. Chandarana for resolving the grievance.

2) Complainant's case in brief is that complainant is H. T. Industrial consumer of N.A .M.S.E.D.C.L having sanctioned contract demand of 500 KVA. According to complainant the application for reduction in load to 110 KVA was submitted to N.A .M.S.E.D.C.L on 08/02/2018. According to complainant the time period for effecting the reduction in demand/sanctioned load from the date of application was within second billing cycle as per MERC SOP Regulations 2014 notified by MERC in compliance of section 57 of E.A. 2003. According to complainant N.A .M.S.E.D.C.L in violation of SOP Regulation 2014 effected reduction in load from billing month of July 2018 for which bill is issued dated 07/08/2018, instead of billing month of March 2018, resulting in billing excess demand charges for 250 KVA instead of 55 KVA and excess levy of power factor penalty. According to complainant delay on the part of N.A .M.S.E.D.C.L caused excess burden of demand charges and power factor penalty on complainant only because of negligence on the part of N.A .M.S.E.D.C.L authorities. According to complainant they are entitled for refund of excess demand charges and power factor penalty collected by N.A .M.S.E.D.C.L from March 2018 with 12% interest as per section 62(6) of E.A. 2003. According to complainant they are also entitled for SOP compensation at Rs.100/- per week from March 2018 amounting Rs. 1600/- for delay in reduction in load. According to complainant N.A .M.S.E.D.C.L compelled complainant to procure C.T. costing Rs. 82,836/- and despite refunding the cost to complainant delayed reduction in load for settlement of matter, which is subjudice under section 126 of E.A. 2003 and effected reduction only after complaint to Chief Engineer, Akola dated 13/07/2018. According to complainant IGRC Buldana erred in allowing reduction in load from next billing cycle after payment of charges on 25/04/2018 when quotation was delayed by N.A .M.S.E.D.C.L upto 23/04/2018, for which complainant cannot be held responsible. Complainant prays for refund of excess recovered demand charges and power factor penalty with 12% interest, SOP Compensation for 16 week at Rs. 100/- per week amounting Rs.1600/-, interest of 12% on refund of C.T. purchase cost of Rs. 82,836/- and cost of Rs. 10,000/- . Complainant annexed copy of IGRC order dated 06/10/2018, Superintending Engineer Buldana sanctioned letter no. 1263 dated 23/04/2018, Executive

Engineer testing letter no. 284 dated 15/02/2018, energy bill for July 2018, tax invoice copy for purchase of C.T. and letter addressed to Superintending Engineer and Chief Engineer Akola dated 13/07/2018.

3) Reply came to be filed by N.A .M.S.E.D.C.L on 19/12/2018. According to N.A .M.S.E.D.C.L it is fact that complainant has applied for load reduction on 08/02/2018 and after joint inspection on 15/02/2018 and receipt of estimate dated 28/03/2018, sanction was accorded on 23/04/2018. According to N.A .M.S.E.D.C.L after payment of charges Rs. 2996/- on 25/04/2018 by the complainant and agreement on 15/06/2018 and replacement of C.T. on 20/07/2018 the effect of load reduction along with refund of excess demand charges from 25/04/2018 to June 2018 Rs. 1,14,075/- adjusted in the billing month of July 2018 so also the cost of C.T. Rs. 82,836/- adjusted. According to N.A .M.S.E.D.C.L after complaint to IGRC on 05/09/2018 excess power factor penalty/incentive is calculated and Rs.18,954/- towards excess recovery of power factor penalty is approved for refund on 24/09/2018. According to N.A .M.S.E.D.C.L demand charges refunded to complainant from 25/04/2018 are correctly credited and for delay in processing application, show cause has been issued and action as contemplated in MERC SOP Regulation 2014 read with section 57 of E.A. 2003 is already proposed on concern Dy. Executive Engineer. According to N.A .M.S.E.D.C.L complainant agreed to purchase C.T. under 'DDF' and accordingly refunded the cost. According to N.A .M.S.E.D.C.L the grievance has been attended in time. N.A .M.S.E.D.C.L annexed office note dated 07/08/2018, 24/09/2018, and 06/08/2018 with the reply.

4) Shri. Ashish S. Chandarana learned representative for complainant and Shri. Ganesh T. Pachpohe Executive Engineer with Shri A. S. Kale Dy. Executive Engineer for respondent N.A .M.S.E.D.C.L were present for the hearing held on 16/01/2019. Shri. Ashish S. Chandarana reiterated the grievance on record and brought to the notice of Forum that payment advice towards processing fee is issued by N.A .M.S.E.D.C.L on 25/04/2018 and paid on same day, when application for reduction of load / demand is acknowledged by N.A .M.S.E.D.C.L on 08/02/2018. Shri. Ashish S. Chandarana specifically brought to the notice of Forum provision 4.14 of SOP Regulation 2014 and urged that N.A .M.S.E.D.C.L were responsible for reduction in load/demand before expiry of second billing cycle from 08/02/2018 and as they failed and violated SOP Regulation 2014, complainant is entitled for refund of demand charges from 01/03/2018 with SOP Compensation for delay and requested Forum to direct N.A

.M.S.E.D.C.L to recalculate the refund of demand charges from 01/03/2018 instead of from 25/04/2018. Shri. Ashish S. Chandarana has brought to the notice of Forum that N.A .M.S.E.D.C.L in their reply have already accepted liability of SOP Compensation for 12 weeks at Rs. 100/- per week which needs to be corrected for 16 weeks at Rs. 100/- per week.

5) Shri. Ganesh T. Pachpohe, Executive Engineer and Shri A. S. Kale, Dy. Executive Engineer MSEDCL urged before Forum the delay for issuing demand note attributed to the fact of preparation of estimate and procurement of C.T and relied on defence that refund is applicable only from the date of payment of charges and since MSEDCL have already refunded excess demand charges collected and adjusted in the bill for July 2018 requested Forum to disallow the refund from 01/03/2018 to 25/04/2018.

6) Having heard the parties and after considering the material placed on record Forum finds considerable substance in the grievance filed on record. The provision regarding reduction in load is provided in SOP Regulation 2014 clause 4.14 which is "Upon receipt of a request by a consumer for reduction of contract demand/sanctioned load of such consumer, the Distribution Licensee shall, Unless Otherwise agreed, so reduce the contract demand/sanctioned load of such consumer before the expiry of the second billing cycle after the receipt of such request. Provided that Distribution Licensee and consumer should execute fresh agreement for such revised load before the second billing cycle". Forum is of the view that the defence taken by MSEDCL for delay in issue of demand note as preparation of estimate and procurement of C.T and applicability of refund from date of such payment against demand note, is not acceptable as not supported by the provisions of SOP Regulations 2014. Forum is of the view that regulators have already taken into consideration all the contingencies while making the regulations. Forum is of the view that the violations of SOP Regulation 2014 are already brought to the notice of Nodal Officer MSEDCL by Assistant Engineer H.T. MSEDCL Buldana in his Office note dated 06/08/2018 filed on record by N.A .M.S.E.D.C.L wherein it is admitted that the agreement dated 15/06/2018 is delayed and so also the demand note with submission that the reason for delay is Unknown. Forum is also of the view that the need for replacement of C.T has not been brought on record by N.A .M.S.E.D.C.L. Forum is of the view that N.A .M.S.E.D.C.L should recalculate the refund of demand charges as per new demand of 110 KVA from 01/03/2018 and should adjust the difference of amount due to revised demand charges in the

forthcoming bill payable by the complainant. The effect of charges in demand should be considered for payment of power factor penalty/Incentive from 01/03/2018 and should be adjusted in forthcoming energy bill. Forum is of the view that interest of 12% should be allowed by N.A .M.S.E.D.C.L on refund amount as per MERC case No 23 of 2004 as N.A .M.S.E.D.C.L is charging 12% interest on arrears of energy bill. The claim for SOP Compensation is already accepted by N.A .M.S.E.D.C.L for 12 weeks amounting to Rs.1200/- but should be revised to Rs. 1600/- for delay in executing agreement for 16 weeks from March 2018 till 15/06/2018 as per office note filed on record by N.A .M.S.E.D.C.L. Forum is of the view that N.A .M.S.E.D.C.L should conduct enquiry and recover the loss from guilty officer of the MSEDCL as per principle laid down by Apex court in the matter between M/s Lucknow Development Authority VS M. K. Gupta in Civil Appeal No. 6237 of 1990 issued on 5th Nov 1993. Forum is of the view that parties should bear their own cost.

With these observations, Forum proceeds to pass following unanimous order.

ORDER

1. That the Complaint No. 58 of 2018 Dated 03.12.2018 is hereby partly allowed.
2. That is N.A .M.S.E.D.C.L is directed to recalculate the refund of demand charges from 01/03/2018 as per new demand of 110 KVA and difference of amount should be adjusted in forthcoming bill payable by the complainant.
3. That is N.A .M.S.E.D.C.L is directed to revise bill from 01/03/2018 for the purpose of power factor penalty/Incentive as per new demand 110 KVA and adjust the amount in forthcoming bill payable by the complainant.
4. That N.A .M.S.E.D.C.L is directed to compensate the complainant by SOP Compensation at Rs. 100/- per week for 16 week amounting to Rs. 1600/- and adjust the amount in forthcoming bill payable by the complainant.
5. That is N.A .M.S.E.D.C.L is directed to refund demand charges with 12% interest calculated from 08/04/2018 till adjusted in the bill. Interest is applicable on total refund against demand charges.

6. That N.A .M.S.E.D.C.L is directed to recover the loss of revenue payable to complainant by way of SOP Compensation and interest from guilty officers of MSEDCL after due enquiry as per principle laid down by Apex Court in the matter between M/s Lucknow Development Authority VS M. K. Gupta in Civil Appeal No. 6237 of 1990 issued on 5th Nov 1993.
7. Parties to bear their own cost.
8. That N.A .M.S.E.D.C.L is directed to submit compliance report to this Forum within one month of this order.

S/d/-
Member Secretary

S/d/-
Member (CPO)

S/d/-
Chairman

Contact details of Electricity Ombudsman appointed by
MERC (CGRF&EO) Regulations 2006 under Regulation 10:

THE ELECTRICITY OMBUDSMAN,
Office of Electricity Ombudsman (Nagpur)
Plot No.12, Shrikrupa, Vijaynagar,
Chhaoni, Nagpur-440 013. Phone:- 0712-2596670

No. CGRF/AKZ/Akola/27

Dt: 19.01.2019

To,
The Nodal Officers
Superintending Engineer ,
MSEDCL O&M, Circle
Buldana.

The order passed on **19-01-2019** in the Complaint No. **58/2018** is enclosed herewith for further compliance and necessary action.

Secretary,
Consumer Grievance Redressal Forum,
MSEDCL, Akola Zone, Akola.

Copy to :- 1) Chief Engineer MSEDCL, Akola Zone Akola.
2) M/S SHAHIN FROZEN FOODS, Gut No. 193 at Taroda Tq. Shegaon %
Shri Ashish S. Chandarana Agrasen Nagar, Satguru villa Apartment Flat
No. 302, Sahkar Nagar, Gorakshan Road, Akola 444004.