

**CONSUMER GRIEVANCE REDRESSAL FORUM,**  
**AKOLA ZONE, AKOLA.**

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

**O R D E R**

**Dt:- 03.01.2019**

**Complaint No: - 54/2018 Dated 27/11/2018**

**In the matter of grievance pertaining to refund of excess amount due to tariff difference with 12% interest and refund of Electricity duty with interest.**

**Quorum**

**Dr.V.N.Bapat- Chairman**

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

1. Shri. Govind Shrikrishna Khandelwal :- Complainant  
Amankhan plot Akola.  
Consumer-LT-X-C-310070492619  
% shri Ashish S. Chandarana  
Agrasen Nagar, satguru villa apartment  
Flat no. 302, Sahkar Nagar,  
Gorakshan Road, Akola 444004.

....Vrs.....

Executive Engineer , :- Respondent  
MSEDCL, O&M Akola Urban  
Division.

**Appearances**

- |                         |  |
|-------------------------|--|
| 1. Ashish S. Chandarana | - Representative for Complainant           |
| 2. A. J. Dinore         | - Additional Executive Engineer,<br>MSEDCL |

1) On being aggrieved by the decision of IGRC Akola issued vide IGRC/Akl/3857 dated 05/10/2018 complainant Shri. Govind Shrikrishna Khandelwal approached this Forum under the clause 6.4 of MERC CGRF Regulation 2006 for resolving the grievance.

2) Complainant's case in brief is that complainant is 'public services consumer of N.A M.S.E.D.C.L. since 30/05/2001, and Doctor by profession. According to complainant MERC by order dated 16/08/2012 in case no. 19 of 2012 changed the applicability of tariff from commercial to public services from 01/08/2012 for the purpose of dispensary and nursing home and referred regulation 13 of supply code regulation 2005. According to complainant though it was the duty of N.A M.S.E.D.C.L. to implement the tariff order 19 of 2012 as per regulation 13 of supply code 2005, N.A M.S.E.D.C.L. failed to implement the tariff order and did not change the tariff from commercial to public service till representation filed before Chief Engineer Akola on 11/08/2014. According to complainant change of tariff to LTX (public service) is effected from the year 2014, but refund due to charge of tariff from 01/08/2012 is not adjusted by N.A M.S.E.D.C.L. up till now despite reminders on record dated 04/04/2015 and 11/03/2016 brought to the notice of IGRC Akola. According to complainant due to negligence of N.A M.S.E.D.C.L. honest consumer is deprived of legitimate refund up till now and hence liable for interest at bank rate as per section 62(6) of electricity act 2003 and refund order issued by APTEI in appeal no. 47 of 2011 for interest as per prime lending rate of state bank of India. According to complainant IGRC Akola rejected the grievance of interest and shown disregard towards the provision of electricity duty act 1958. Complainant reproduced in the complaint the extract of section '4' of duty act 1958. Complainant prays for refund of Rs. 471499.02 towards tariff difference with 12% interest per annum and refund of Electricity duty with 12% interest by giving reference of aptel order in case no. 47 of 2011 and MERC order in case no. 23 of 2004. Complainant annexed letter dated 11/08/2014, letter dated 16/03/2016 IGRC order dated 05/10/2018, extract of electricity duty act, M.S.E.D.C.L. letter to IGRC dated 24/10/2018, energy bill for Dec. 2014, circular issued by D.O.P. M.S.E.D.C.L. and MERC order dated 18/10/2005 in case no. 23 of 2004.

3) Reply came to filed belatedly by N.A M.S.E.D.C.L. on 13/12/2018. According to N.A M.S.E.D.C.L. energy bills from sept. 2018 are being issued to complainant in "PUBLIC SERVICE" category. According to N.A. M.S.E.D.C.L. refund proposal for amount Rs. 4,71,499/- towards tariff difference from Sept. 2012 is already submitted to Executive Director M.S.E.D.C.L. Nagpur and after approval the amount will be adjusted in energy bill. According to N. A M.S.E.D.C.L. the electricity duty is applicable being private hospital and CGRF Akola in similar case in complaint no. 32 of 2017 dated 12/12/2017 rejected the grievance of exemption in duty. N. A M.S.E.D.C.L. prays to dismiss the claim for interest and exemption in electricity duty and accepted to refund of tariff difference on getting approval from E.D. M.S.E.D.C.L. N. A M.S.E.D.C.L. annexed IGRC order and correspondence of complainant with M.S.E.D.C.L. dated 08/08/2014, 04/04/2015 and 10/03/2016.

4) Shri Ashish S. Chandarana learned representative for complainant and Shri A. J. Dinore Additional Executive Engineer for N. A M.S.E.D.C.L were present for the hearing held on 31/12/2018. Shri Ashish S. Chandarana urged that N. A M.S.E.D.C.L reclassified the commercial tariff applicable to hospital and clinics based on the 'purpose of use' of electricity and introduced new tariff called 'Public Service' effective from 01/08/2012 as per approval of MERC in case no. 19 of 2012 dated 16/08/2012, but N. A M.S.E.D.C.L who were responsible for implementing the tariff order failed in their duty and did not apply 'Public Service' tariff from 01/08/2012 till complaint to Chief Engineer Akola on 11/08/2014 and energy bills from Sept. 2014 were issued with 'Public Service' tariff and refund due to difference in tariff from 01/08/2012 to 31/08/2014 still not adjusted despite complaint on record dated 04/04/2015 and 11/03/2016. Shri Ashish S. Chandarana requested Forum to direct N. A M.S.E.D.C.L to refund difference amount with 12% interest referring APTEL order no. 47 of 2011 and MERC case no. 23 of 2004. Shri Ashish S. Chandarana has withdrawn the grievance about applicability of electricity duty to the premises of complainant as satisfied with the reply filed on record by N. A M.S.E.D.C.L.

5) Shri. A. J. Dinore, Additional Executive Engineer learned representative for N. A M.S.E.D.C.L. urged that proposal for refund of Rs. 4,71,499.02/- towards tariff difference is already processed to competent authority of M.S.E.D.C.L. ( Executive Directive Nagpur ) and on getting approval

effect will be given by adjustment in energy bill. Shri A. J. Dinore requested Forum to disallow the claim for interest.

6) Having heard the parties and considering material placed on record Forum finds considerable substance in the grievance pertaining to applicability of 'Public Service' tariff to the premises of complainant. Forum have gone through the tariff order 19 of 2012 passed by MERC dated 16/08/2012 and satisfied that N. A M.S.E.D.C.L. were responsible for the implementation of tariff order from 01/08/2012 without any need for consumers to apply for change of tariff. N. A M.S.E.D.C.L. despite application on record dated 11/08/2014 and reminders dated 04/04/2015, 11/09/2016 failed to adjust refund which in view of Forum is negligence on the part of M.S.E.D.C.L. authorities and violation of directions issued by MERC and hence Forum is of the view that complainant is entitled for interest of 12% as section 62 (6) E.A. 2003 read with Aptel order in case no. 47 of 2011 and MERC order in case no. 23 of 2004. Forum is of the view that principle adopted by MERC in case no. 23 of 2004, "The interest rate of 12% has been determined in accordance with prevailing interest rate of 12% for arrears in payment of consumer bills without time escalation", is applicable and N. A M.S.E.D.C.L. should refund difference of tariff within one month with 12% interest payable from 01/08/2012 till adjusted in ensuing bill payable by the complainant. Forum is of the view that loss of revenue to M.S.E.D.C.L. by way of payment of interest is public revenue loss and should be recovered from concerned authorities of M.S.E.D.C.L. responsible for applicability of tariff in Sept. 2012 and drawal of difference in Sept. 2014 when tariff was revised 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 05/11/1993.

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

**ORDER**

1. That the Complaint No. 54 of 2018 Dated 27/11/2018 is hereby partly allowed.
2. That N. A M.S.E.D.C.L. is directed to adjust the difference of amount due to change in tariff to 'Public Services' from 01/08/2012 to Sept. 2014 in the ensuing bill payable by the complainant with 12% interest payable from 01/08/2012 till adjusted in forthcoming bill.
3. Parties to bear their own cost.
4. That N. A M.S.E.D.C.L. is directed to recover the revenue loss by way of payment of interest from guilty officer/employee of N. A M.S.E.D.C.L. 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" 05/11/1993.
5. That N. A M.S.E.D.C.L. is directed to submit compliance report to this Forum within one month.

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/10

Dt: 03.01.2019

To,  
The Nodal Officers  
Executive Engineer Urban  
MSEDCL O&M,  
Urban Division, Akola.

The order passed on **03.01.2019** in the Complaint No. **54/2018** is enclosed herewith for further compliance and necessary action.

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

Copy to :- 1) Superintending Engineer MSEDCL, O&M Circle, Akola.  
2) Shri. Govind Shrikrishna Khandelwal, Amankhan plot Akola.  
% shri Ashish S. Chandarana Agrasen Nagar, satguru villa  
apartment Flat No. 302, Sahkar Nagar, Gorakshan Road,  
Akola 444004.