



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
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NO. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18 Date of registration : 22/11/2018
Date of order : 26/12/2018
Total days : 34

COMMON ORDER IN THE MATTER OF GRIEVANCE NOS. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18 IN RESPECT HARSHAD RAY K.ACHARYA, VRUNDAVAN CO.OP.HSG.SOC., FLAT NO.1/1 A- WING, MASOLI, IRANI ROAD, DAHANU ROAD, PIN CODE-401 602 AND OTHERS REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN REGARDING SOP.

- 1] **Harshad Ray K.Acharya, K/E/1477/1738 of 2017-18**
Vrundavan Co.Op.Hsg.Soc.,
Flat No.1/1 A- Wing, Masoli,
Irani Road, Dahanu Road,
Pin Code-401 602,
(Consumer No. 005530008811)
- 2] **M/S M.P.Construction, K/E/1478/1739 of 2017-18**
At Masoli , Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602
(Consumer No. 005530009124)
- 3] **Bharat K.Shah, K/E/1479/1740 of 2017-18**
Vasuki Appt., Irani Road, Masoli,
Post-Dahanu Road,
Pin Code-401 602
(Consumer No. 005530018468)
- 4] **Vrundavan Co.Op.Hsg.Society, K/E/1480/1741 of 2017-18**
At Masoli , Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602
(Consumer No. 005530007971)
- 5] **Vrundavan Co.Op.Hsg.Society, K/E/1481/1742 of 2017-18**
At Masoli , Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602
(Consumer No. 005530008799)

GRIEVANCE NO. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18

- 6] **Rajnikant J.Shah, K/E/1482/1743 of 2017-18**
Gala No.44, Vaibhav Complex,
Irani Road Dahanu Road,
Pin Code-401 602
(Consumer No. 005520108027)
- 7] **Mamta R.Shah, K/E/1483/1744 of 2017-18**
Vaikunth Building, Irani Road,
Dahanu Road,
Pin Code-401 602
(Consumer No. 005530018832)
- 8] **N.J.Shah, K/E/1484/1745 of 2017-18**
At.Malyan, Post-Dahanu,
Dahanu Road,
Pin Code-401 602,
(Consumer No. 005520011180)
- 9] **Champaklal R.Desai, K/E/1485/1746 of 2017-18**
Shyam Plaza, Irani Road,
Dahanu Road, Pin Code-401 602
(Consumer No. 005520012747)
- 10] **Champaklal R.Desai, K/E/1486/1747 of 2017-18**
Gokul App., B/2, Irani Road,
Dahanu Road, Pin Code-401 602
(Consumer No. 005530011668)
- 11] **Vrundavan Co.Op.Hsg.Society, K/E/1487/1748 of 2017-18**
At Masoli , Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602
(Consumer No. 005531009896)
- 12] **Mahesh Kalyanji Shah, K/E/1488/1749 of 2017-18**
Vaikunth Road, House no.1,
Irani Road, Ambawadi,
Dahanu Road, Pin -401 602
(Consumer No. 005530014845)
- 13] **Neeta Deepak Shah, K/E/1489/1750 of 2017-18**
Shyam App.No.301,
Irani Road, Dahanu Road,
Pin Code-401 602,
(Consumer No. 005530023411)

GRIEVANCE NO. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18

- 14] **Vrundavan Co.Op.Hsg.Society, K/E/1490/1751 of 2017-18**
Vrundavan Co.Op.Hsg.Soc.,
Masoli, Dahanu Road,
Pin Code-401 602
(Consumer No. 005530010050)
- 15] **Vaishali Yatin Shah, K/E/1491/1752 of 2017-18**
Dev Chaya Bldg. Irani Road,
Dahanu Road, Dist- Palghar,
Pin Code-401 602
(Consumer No. 005520005686)
- 16] **Anuja Shamik Shah, K/E/1492/1753 of 2017-18**
H.N.9, Sam Plaza, Irani Road,
Dahanu Road, Dist- Palghar,
Pin Code-401 602.
(Consumer No. 005520023871)
- 17] **Anuja Shamik Shah, K/E/1493/1754 of 2017-18**
H.N.10, Sam Plaza, Irani Road,
Dahanu Road, At- Malyan,
Pin Code-401 602
(Consumer No. 005520023889)
- 18] **Shamik M. Shah K/E/1494/1755 of 2017-18**
A-4, Sam Plaza, Irani Road,
Dahanu Road, Dist-Palghar,
Pin Code-401 602
(Consumer No. 005520023919)
- 19] **M/S M.P.Construction, K/E/1495/1756 of 2017-18**
At Masoli , Mahavir Complex,
Post-Dahanu Road Tal-Dahanu,
Pin Code-401 602
(Consumer No. 005530012176)
- 20] **The Roshan ASPI Mubarak & Sons, K/E/1496/1757 of 2017-18**
At Masoli , Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602.
(Consumer No. 005530007105)
- 21] **Chandrakant Kalyanji Shah, K/E/1497/1758 of 2017-18**
Matru Ashish, Irani Road,
Above HDFC Bank, Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602.
(Consumer No. 005530013016)

- 22] **Shri.Rajesh Shamjibhat Bhaliya, K/E/1498/1759 of 2017-18**
A-4, Gokul Appt., Masoli,
Dahanu Road, Pin Code-401 602
(Consumer No. 005530011617)
- 23] **The Roshan ASPI Mubarak & SonsK/E/1499/1760 of 2017-18**
At Masoli , Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602
(Consumer No. 005530007148)
- 24] **Madhu B.Jaiswal, K/E/1500/1761 of 2017-18**
Dahanu Road, Malyan Plaza,
Pin Code-401 603
(Consumer No. 005520028457)
- 25] **Bharti Rajesh Bhaliya, K/E/1501/1762 of 2017-18**
Gokul App. Irani Road,
Dahanu Road,
Pin Code-401 602.
(Consumer No. 005530011609)
- 26] **Balwant K.Desai, K/E/1502/1763 of 2017-18**
At Masoli , Post-Dahanu Road,
Tal-Dahanu, Pin Code-401 602
(Consumer No. 005530011625)
- 27] **VinodRai K.Desai, K/E/1503/1764 of 2017-18**
Kati Road, Malyan,
Tal-Dahanu, Pin Code-401 602
(Consumer No. 005520007514) . . . (Hereinafter referred as consumers)

V/s

Maharashtra State Electricity Distribution
Company Limited,
Through it's Nodal Officer,
Palghar Circle, Palghar . . . (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.B.S.Dhodi, Dy.EE, Palghar Division

For Consumer - Shri. N.R.Patel (C.R.)

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary
Mrs.S.A.Jamdar- Member (CPO)].

GRIEVANCE NO. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressed Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply 2005] Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

2) Main contention of all the applicants is that, there was no supply of power for 34 hours from 30/06/2017 at 10.00 am to 01/07/2017 at 08.00 pm without any valid reason. Hence compensation is demanded as per MERC SOP Regulation.

3) Consumers approached to the officers of MSEDCL for claim of compensation within 60 days from failure of distribution Licensee from meeting the standards of performance & before IGRC on date 24/08/2017. Hearing of IGRC took place on date 08/02/2018 & issued order on date 15/03/2018. IGRC rejected the SOP claims stating that the supply was off due to incident beyond control of MSEDCL. As per MERC regulation (SOP) 2014 clause no.11 the said reason is exempted for giving SOP.

4) Individual Notices were given to Licensee, who appeared and filed common reply on date of hearing.

5) Licensee in its reply contents that Executive Engineer, Palghar had taken meeting with all the complainants on date 03/02/2018, in which he has given detailed reasons for breakdown of power during 30/06/2017 to 01/07/2017 & satisfied all the complaints. Licensee further states that on 30/06/2017 they had taken outage at 10.50 am for power Transformer maintenance work. After that the power Transformer got tripped due to Saravali feeder breaker blast.

The load of saravali feeder diverted to Dahanu Road feeder. After that jumper of that feeder broke. Then again conductor of feeder got broke. Then jumper of GOD got loose & hence again permit taken to do that work. Again the free fall on the feeder & it got tripped. After which feeder jump got broke & feeder tripped. Due to these continuous technical faults the supply of 11 Kv Dahanu Road feeder got interrupted.

GRIEVANCE NO. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18

There was Supply to the feeder intermediately & supply was not off for continuous 34 hours.

In month of June-2017 there was heavy rain along with thunder storm. Due to this, there was continuous fault on feeder even though the rain was stopped. As there was no rain on date 30/06/2017 to 01/07/2017 at station road area, there was rain in surrounding area, which was causing faults on feeders & substation.

The interruption was due to natural calamity & beyond control of Licensee. Hence as per MERC (SOP) regulation 2014 no.11 there is exemption from granting SOP under such situation. Licensee requested to reject the claim of applicant.

Licensee submitted interruption report, copy of logbook & permit book at substation in support of above claim.

Licensee also submits that In the matter of MCGM V/s. MERC reported in 2016 (2) BOM CR 722 Bombay High Court, with regard to SOP Regulations and Licensee's obligations, has observed that to hold the Distribution Licensee absolutely to a rigid and inflexible time period irrespective of issues beyond its control, would be entirely unworkable and unjust.

In similar – Representation No. 20 of 2017 – In the matter of compensation for delay in restoration of power supply M/s Eves Garden Co. Opp. Housing Society Ltd., Pune (Appellant) V/s Maharashtra State Electricity Distribution Co. Ltd.(MSEDCL) (Respondent) Ombudsman Mumbai has rejected the SOP claim.

6) During the pendency Consumer Representative submitted common rejoinder in which he contends that :

- i) The copy of the common reply was received on 06th December, 2018*
- ii) The ever changing defence of the Respondent be noted and the documents etc. produced and/or relied be rejected and need not be taken on record.*
- iii) It is very important to note that the respondent with malice intention has suppressed the material fact that the CGRF Application Nos 93 to 170 of 2018 based on the same facts and place stands decided and compensation stand awarded and paid. It is also not disclosed that the Petition in same matter bearing Number 16 of 2018 is filed and the arguments concluded on 16th November, 2018 and the judgment is awaited. The copy of the said Petition is enclosed. The contents and points raised in the said petition be treated as Rejoinder in the present Applications.*

- iv) *The Respondent may also be directed to follow and implement the order in these Applications to other Applications for compensation received by him (around 600 applications were originally filed) based on same facts and save the valuable time of the CGRF and expenses to be borne by each applicant to file case and give four copies of all documents and travelling expenses to travel all the way to Kalyan.*
- v) *The mistake done in calculating the hours for compensation in the earlier applications Nos 93 to 170 of 2018 be avoided. The part of the hour is to be taken as full hour as per MERC (SOP) Regulations 2014.*
- 7) We have gone through the submissions made by both parties & heard the arguments in depth. The main issue is grant of compensation as per MERC (SOP) regulation 2014. Appendix 'A' clause 2 i.e. Restoration of supply is reproduced here.

2. Restoration of Supply

Supply Activity/Event	Standard	Compensation payable
ii) 33kV/22kV/11kV/400V Overhead Line breakdown	Four (4) hours (Class - I cities areas)	Rs.50 per hour or part thereof delay
	Six (6) hours (Urban Areas)	
	Twenty-four (24) hour (Rural areas)	

As per this clause supply of Dahanu road should have been restored within 6 hours as it is an urban area. Whereas supply remain affected for 34 Hours, for which Licensee claims that, it was due to Natural Calamity which lead to repeated technical faults on the line & Substation. We analyzed the interruption report given by Licensee. Abstract of report is as follows:

Date	From time	To Time	Period	Remark
30.06.2017	10:50	19:15	8:25	Supply Off for transformer work
	19:15	19:30	0:15	Supply On
	19:30	20:44	1:14	Supply off for Diversion of load
	20:44	21:15	0:31	Supply On
	21:15	1:35	4:20	Supply off for jumper work

GRIEVANCE NO. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18

01/07/2017	1:35	3:00	1:25	Supply On
	3:00	11:36	8:36	Supply off due to Breakdown
	11:36	12:20	0:44	Supply On
	12:20	12:25	0:05	Supply off for Diversion of load
	12:25	12:30	0:05	Supply On
	12:30	12:53	0:23	Supply off due to Feeder trip
	12:53	13:07	0:14	Supply On
	13:07	13:20	0:13	Supply off due to Feeder trip
	13:20	15:13	1:53	Supply On
	15:13	17:35	2:22	Supply off due to Shut down for load diversion
	17:35	18:00	0:25	Supply On
	18:00	19:10	1:10	Supply off due to Conductor Broke
	19:00	19:30	0:30	Supply On
	19:30	20:05	0:35	Supply off due to Jumper Cut
20:05	Regular Supply	-	-	

We cross checked the interruption report with permit book & logbook, it is matching. From the above chart it is clear that there was continuous faults on the line hence there was interrupted supply of 34 hours. From the log book it is clear that the Licensee staff was continuous in process of restoring the fault hence there is enough material on record to say that the occurrences were beyond control of the Distribution Licensee.

For which Distribution Licensee contends that it should be exempted from giving compensation as per SOP regulation clause No.11.1 MERC SOP Regulation clause no.11.1 is reproduced here for sake of brevity.

11 Exemptions :

11.1 Nothing contained in these Regulations shall apply where, in the opinion of the Commission, the Distribution Licensee is prevented from meeting his obligations under these Regulations by—

(i) force majeure events such as cyclone, floods, storms , war, mutiny, civil commotion, riots, lightning, earthquake, lockout, fire affecting licensee's installations and activities;

(ii) Outages due to generation failure or transmission network failure;

(iii) Outages that are initiated by the National Load Despatch Centre/ Regional Load Despatch Centre/State Load Despatch Centre during the occurrence of failure of their facilities;

(iv) or other occurrences beyond the control of the Distribution Licensee:

Provided that the Distribution Licensee shall not be excused from failure to maintain the standards of performance under these Regulations, where such failure can be attributed to negligence or deficiency or lack of preventive maintenance of the distribution system or failure to take reasonable precaution on the part of the Distribution Licensee.

If we consider above clause to excuse Distribution Licensee from giving compensation, then Distribution Licensee should have produce the opinion of commission in this regard, which is not done here, hence the forum cannot exempt Distribution Licensee from giving the compensation as per SOP regulation 2014.

Distribution Licensee relied on MCGM Vs. MERC reported in 2016 (2) BOM CR, page 722. We have gone through the judgment cited. There is no quarrel about the proposition sought to be put forth. There is also of provision in the regulations in that regard as we have discussed above. The question boils down to the same thing as to who has to certify about the situation at the material time. It is for the MERC as we have already discussed.

8) Now if Distribution Licensee has to give compensation, then the question is what the SOP should be? In this case the Consumer claims compensation for 34 hours. From the log sheet record the supply was interrupted from 10.50 hrs. on 30/06/2017 to 20.05 hrs. on 01/07/2017. i.e. 33 hrs. 15 min. from log sheet it is clear that the supply was not continuously off. In urban area compensation payable if the supply is off for more than six hours. There are two such incidents where the supply was off for more than six hours as follows :

Date	From Time	To Time	Period	Remark
30/06/2017	10.50	19.15	08.25	Supply Off
01/07/2017	03.00	11.36	08.36	Supply Off

Hence as per Appendix 'A' clause 2 (ii) of SOP regulation 2014, Distribution Licensee has to pay compensation for above said interruption period. The delayed period is five hrs. (2.25 hrs. + 2.36 hrs.) for restoration of supply. For the balance period the supply was not off continuously for more than 6 hours, hence no compensation allowable.

There is one point raised by Consumer Representative that while calculating hours, fractions should be taken as full hours. We accept the said proposition.

GRIEVANCE NO. K/E/1477/1738 TO K/E/1503/1764 OF 2017-18

9) The delay is due to there was lot of similar cases admitted by different consumers for the same issue. Hence hearing of all the consumers kept together. During the pendency of these cases some more cases filed by consumers hence delay.

Hence the order.

ORDER

- 1) The Grievance applications of all consumers are partly allowed.
- 2) Distribution Licensee to pay SOP compensation of Rs.300/- to each applicant Consumer. The said amount to be adjusted in next issuing bills of the Consumers.
- 3) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Dated : 26/12/2018

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(A.P.Deshmukh)
MemberSecretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan.

NOTE

- a) *The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.*
“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51”.
- b) *Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or*
- c) *delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-*
“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”
- d) *It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.*

