

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER

Dt:- 07-02-2019

Complaint No: - 61/2018 Dated 13/12/2018

**In the matter of grievance pertaining to fuse off call complaint,
restoration of supply and SOP Compensation.**

Quorum

Dr.V.N.Bapat- Chairman

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

Shri. R.A.Ramteke, Member – Secretary

1. Shri. Vitthal Vasudeo Dutonde :- Complainant
Gut No-61 Somthane,
Consumer No. AG- 310990514649
At Somthane Post-Old City Akola
Taluka and District Akola-444002

....Vrs.....

- Executive Engineer , :- Respondent
MSEDCL, O&M Akola Rural
Gorakshan Road Akola.

Appearances

1. Vitthal Vasudeo Dutonde - Representative for Complainant
With Shrikrishna V. Dutonde -
2. Shri. S. P. Kenekar - Additional Executive Engineer,
MSEDCL.

1) Complainant has filed grievance under section 6.2 of MERC CGRF OMBUDSMAN Regulation 2006, as complaint dated 30/10/2018 addressed to Executive Engineer Rural MSEDCL deemed to be complaint before IGRC Akola, has not been resolved till filing complaint to this Forum.

2) Complainant's case in brief is that complainant is Agriculture consumer of N.A M.S.E.D.C.L. from 07/02/2007, having connected 3 H.P. load to his pumpset at Gut No-61 of somthana Tq. Akola. According to complainant electric supply to his pumpset was disrupted during the period from 01/06/2018 to 05/06/2018 because of heavy storm. According to complainant he was aware of the fact that restoration of supply will take some time as losses and breakages were heavy due to storm and hence contacted Shri Hole, MSEDCL Engineer in the month of Aug. 2018 and requested orally to Shri Hole to restore the supply. According to complainant written complaint was lodged with Executive Engineer Rural Akola on 30/10/2018 as supply was not restored on oral complaint, with reminders letter on 02/11/2018 03/11/2018 and 15/11/2018. According to complainant N.A. M.S.E.D.C.L. authorities started rectification work on 15/11/2018 but did not restore the supply as Shri Vasant D. Dutonde and Shri Shantaram D. Dutonde caused hindrances in the work. According to complainant Shri Shantaram Vasudeo Dutonde has availed illegal electric supply by putting 1000 feet service wire in the farm of Shri Raju Savarkar and despite matter brought to the Notice of Shri Hole, MSEDCL authority, no action has been taken on illegal user and Shri Hole advised complainant to avail similar illegal electric supply, and supported unauthorised use of electricity. According to complainant M.S.E.D.C.L. authorities are deliberately harassing complainant, when under Electricity Act 2003 they can file criminal complaint against person causing hindrances in official work of MSEDCL and requested Forum to direct MSEDCL to restore the supply and compensate for delay in restoration of supply at Rs 50/- per Hrs as per SOP Regulation 2014. Complainant annexed copy of energy bill, copy of complaint dated 30/10/2018, 03/11/2018, 15/11/2018 addressed to Executive Engineer, Superintending Engineer, Chief Engineer MSEDCL, energy Minister, Collector Akola and Hon'ble C.M of Maharashtra, along with the complaint.

3) Reply came to be filed belatedly by N.A. M.S.E.D.C.L. on 05/01/2019. According to N.A. M.S.E.D.C.L. electric supply to Ag.

pump of complainant and 9 other consumers was disrupted on 01/06/2018 and 05/06/2018 due to heavy storm. According to N.A. M.S.E.D.C.L. contractor tried to rectify the disrupted supply on 26/06/2018, 12/07/2018, 12/09/2018, 02/10/2018, 27/10/2018, and 04/11/2018 but complainant did not allow because of standing crop in the field initially and then work could not be done because of conflicts between adjoining consumers. According to N.A. M.S.E.D.C.L. Dy. Executive Engineer Rural was personally deputed to spot to resolve the conflict but adjoining landowners did not allow to erect the pole and rectify the defect. According to N.A. M.S.E.D.C.L. the matter was taken up with District Superintendent of police on 05/11/2018 for police protection and on direction of Superintending Engineer Akola efforts were taken on 13/11/2018 in presence of Dy. Executive Engineer and Assistant Engineer to erect pole and rectify the supply but Shri Shantaram Devidas Dutonde and Shridhar Devidas Dutonde caused hindrances in the work and rectification work could not be completed. According to N.A. M.S.E.D.C.L. as land dispute between complainant and adjoining owner could not be resolved which resulted in delay for restoration of supply. According to N.A. M.S.E.D.C.L. even after intervention by Hon'ble Minister on 16/12/2018 the problem could not be sorted out and hence N.A. M.S.E.D.C.L. have paid necessary charges for police protection and on getting police protection rectification work will completed. N.A. M.S.E.D.C.L. Annexed letter EER/4487 dated 15/11/2018, and letter to Shridhar Devidas Dutonde EE/4649 dated 14/11/2018 alongwith the reply.

4) Shri. Vithal Vasudeo Dutonde complainant and Shri. S. P. Kenekar, Dy. Executive Engineer for N.A. M.S.E.D.C.L. were present for the hearing held on 16/01/2019. Shri Vithal Dutonde complainant urged that supply was disrupted due to heavy storm in June 2018 and first oral complaint was lodged with Shri Hole, Assistant Engineer MSEDCL in Aug. 2018 for restoration of Supply. Shri Vithal Dutonde complainant brought to the notice of Forum that despite written complaint on 30/10/2018, 02/11/2018 and 03/11/2018 and 15/11/2018, N.A. M.S.E.D.C.L. did not restore the supply and first such efforts to restore supply by replacing broken poles were carried out on 15/11/2018 after five month of cause of action. Shri Dutonde complainant brought to the notice of Forum that N.A. M.S.E.D.C.L. have not denied the fact in their reply that Shri Shantaram Dutonde and Shridhar Dutonde caused obstruction in official work and did not allow to erect broken poles in Nov. 2018 and urged that N.A. M.S.E.D.C.L. despite having protection by law did not take corrective measures such as taking criminal action against obstructor's or taken

police protection to do official work their by putting loss to the complainant by way of crop damages. Shri Dutonde complainant has brought to the notice of N.A. M.S.E.D.C.L. that broken poles were erected by N.A. M.S.E.D.C.L. under police protection on 12/01/2019 but supply could not be restored and requested Forum to direct N.A. M.S.E.D.C.L. to restore the supply immediately and allow SOP Compensation from August 2018 at Rs. 50/- per hrs with compensation for damages to the crop.

5) Shri. S. P. Kenekar learned representative for N.A. M.S.E.D.C.L. urged that the electric supply to the Ag. pump of complainant which was disrupted on 5th June 2018 could not be restored initially because of heavy rains upto Aug. 2018 and adjoining land owners because of their internal dispute obstructed the erection and restoration work after that despite efforts by N.A. M.S.E.D.C.L. Shri. S. P. Kenekar, Dy. Executive Engineer urged that even intervention of Guardian Minister during public hearing on 16/12/2018 and by MLA of the city the problem could not be sorted out and only after payment of Rs. 13,807/- on 04/01/2019 for police protection the erection of poles is completed on 12/01/2019 and supply will be released up to 21/01/2019. Shri S. P. Kenekar, Dy. Executive Engineer urged before Forum that complainant has also obstructed to erect poles beyond his Ag. premises for restoration of supply of other four Ag. consumers and requested Forum not to allow compensation as complainant himself is responsible for delay.

6) Forum directed N.A. M.S.E.D.C.L. to file on record copy of the receipt of payment to police department for Rs. 13,807/- with copy to complainant on 16/01/2019 at the time of hearing but N.A. M.S.E.D.C.L. did not file on record on 16/01/2019 but filed on record with addition submission on 18/01/2019 when grievance was closed for orders on 16/01/2019.

7) Having heard the parties and after considering material placed on record Forum is of the view that to address the grievance for its redressal it is necessary to reproduce provisions of EA 2003 and supply code regulation 2005 read with SOP Regulation 2014. According to clause 6.2 of SOP Regulation 2014, "The distribution licensee shall, in the case of 22KV/11KV/415V overhead line breakdowns, restore the power supply to the consumer within six hours of receipt of a complaint in towns and cities and within twenty-four hours

of the receipt of a complaint in rural areas”, and as per clause 11.1 of Regulation 2014, “Nothing contained in these Regulations shall apply where, in the opinion of the commission, the Distribution licensee is prevented from meeting his obligation under these Regulation by cyclone, floods, storms or other occurrences beyond the control of Distribution licensee provided that the Distribution licensee shall not be excused from failure to maintain the standards of performance under these regulation 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”. and as per level of compensation payable to consumer for failure to meet standards of performance Appendix ‘A’ of Regulation 2014, Compensation of Rs. 50/- per hour or part thereof for delay is payable.

It is fact on record filed by N.A. M.S.E.D.C.L. that electric supply to Ag. pump of complainant alongwith 9 others Ag. pump was disrupted during 1st June to 5th June due to breakages of one PSC poles for extending supply to complainant and 6 No. PSC poles for restoration of supply for 9 other consumers. It is also brought on record by N.A. M.S.E.D.C.L. in their reply that after rainy season on 13/09/2018, 02/10/2018, 27/10/2018 and 04/11/2018 the restoration work of erection of poles was obstructed by Shri. Shantaram Devidas Dutonde and Shridhar Devidas Dutonde because of land dispute but application for police protection was submitted on 05/11/2018 and requisite charges were paid on 04/01/2019. Though N.A. M.S.E.D.C.L. have in their reply taken defence of efforts taken but no documentary evidence such as work order for the work, drawal of material with gate pass no, transportation of material on site are filed on record to corroborate their defence and Forum in absence of any evidence on record do not rely on the defence taken by N.A. M.S.E.D.C.L. that efforts were taken to restore the supply. Forum have taken note of the fact that no documentary evidence is filed on record by N.A. M.S.E.D.C.L. to establish that preventive maintenance of the L.T. line in dispute was carried out. Forum is of the view that N.A. M.S.E.D.C.L. were fully aware of provisions of law and action to be taken in such cases of obstruction in official work and protection provided to N.A. M.S.E.D.C.L. by law. Despite the fact N.A. M.S.E.D.C.L. have delayed the work and have not taken reasonable care and efforts to expedite police protection or initiation of criminal proceeding against obstructors, and it is on record that erection work completed immediately on 12/01/2019 under police protection. Forum is of the view that N.A. M.S.E.D.C.L. have not taken any efforts to explore the possibility of any alternate arrangement to restore supply

through cables when N.A. M.S.E.D.C.L. kept silent and not denied the allegations of the complainant that Shantaram Vasudev Dutonde was allowed to restore the supply illegally through service wire of 1000 feet with the consent of Shri. Hole, Assistant Engineer MSEDCL. In absence of denial of allegations in the complaint filed on record, Forum is of the view that adverse inference can be drawn that allegations are true and needs to be investigated by N.A. M.S.E.D.C.L. Considering the rainy season upto Aug. 2018 as brought out on record by complainant and N.A. M.S.E.D.C.L, Forum is of the view that failure to restore supply after Aug. 2018 is failure to meet standards of performance as per SOP Regulation 2014 on the part of N.A. M.S.E.D.C.L. and are liable to compensate complainant for delay as per the provisions. According to provisions of SOP Regulation 2014 SOP Compensation from 01/09/2018 is admissible only in the case of claim by the complainant for SOP Compensation filed on or before 31/10/2018. In the present grievance claim for SOP Compensation is lodged on 13/12/2018 before CGRF and hence Forum decides that SOP Compensation to the complainant is admissible from 15/10/2018 till supply is restored on 21/01/2019 as agreed by N.A. M.S.E.D.C.L, being continuing cause of action. Forum is of the view that loss of revenue due to SOP Compensation payable to complainant at Rs.1200/- per day from 15/10/2018 till restoration of supply should be recovered 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.

Dissenting opinion of Member Secretary (Shri R.A.Ramteke)

Having heard the parties and considering material placed on record, Member Secretary is of the opinion that necessary required efforts are taken by N.A. M.S.E.D.C.L. after rainy season on 13/09/2018, 02/10/2018, 27/10/2018, 04/11/2018, 13/11/2018 and 15/12/2018 for restoration work of erection of poles and the same was obstructed by Shri. Shantaram Devidas Dutonde and Shridhar Devidas Dutonde because of land dispute and application for police protection submitted on 05/11/2018 and paid on 04/01/2019 and erection work completed on 12/01/2019.

It is also brought on record by N.A. M.S.E.D.C.L. representative that even intervention of Guardian Minister during public hearing 16/12/2018 and by MLA of the city, the problem could not be

resolved. It is also brought on record by N.A. M.S.E.D.C.L. that complainant himself also obstructed to erect poles beyond his Ag. Premises for restoration of supply. During the hearing, upon asking by the Member Secretary to the complainant, that maintaining and restoration of the supply is the sole duty of the N.A. M.S.E.D.C.L. and how to restore the supply, is the duty of the N.A. M.S.E.D.C.L. The N.A. M.S.E.D.C.L. is bounded for it, being their duty to supply the electricity, so why he has obstructed for erection of poles beyond his Ag. Premises the complainant remained silent.

With these above observations and detailed study of the case, Member Secretary came to the conclusion that necessary efforts are taken by the N.A. M.S.E.D.C.L. for restoration of the supply including intervention of Guardian Minister and MLA of the city. As per provisions of EA 2003 and supply code regulation 2005 read with SOP Regulation 2014, According to clause 6.2 of SOP Regulation 2014, "The distribution licensee shall, in the case of 22KV/11KV/415V overhead line breakdowns, restore the power supply to the consumer within six hours of receipt of a complaint in towns and cities and within twenty-four hours of the receipt of a complaint in rural areas" and as per clause 11.1 of Regulation 2014, "Nothing contained in these Regulations shall apply where, in the opinion of the commission, the Distribution licensee is prevented from meeting his obligation under these Regulation by cyclone, floods, storms, **civil commotion, riots** or other occurrences beyond the control of Distribution licensee, provided that the Distribution licensee shall not be excused from failure to maintain the standards of performance under these regulation, 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" and as per level of compensation payable to consumer for failure to meet standards of performance Appendix 'A' of Regulation 2014, Compensation of Rs. 50/- per hour or part thereof for delay is payable. Hence in the opinion of Member Secretary necessary sufficient efforts are taken by the N.A. M.S.E.D.C.L. and hence complainant is not entitled for SOP Compensation as per Regulation 2014.

S/d/-
Member/Secretary

With these observations, Forum proceeds to pass following order by majority votes 2 Vs 1 with dissenting opinion of Shri. R. A. Ramteke, Member/Secretary on record.

ORDER

1. That the Complaint No. 61 of 2018 dated 13.12.2018 is hereby partly allowed.
2. That the N.A. M.S.E.D.C.L. is directed to restore the electric supply to the Ag. pump of complainant within seven days of order.
3. That the N.A. M.S.E.D.C.L. is directed to compensate complainant by SOP Compensation at Rs. 50/- per hour ie Rs. 1200/- per day from 15/10/2018 till restoration of supply and adjust the amount in the forthcoming bill payable by complainant.
4. That the N.A. M.S.E.D.C.L. is directed to recover the loss of revenue payable as SOP Compensation from guilty officers of 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.
5. Parties to bear their own cost.
6. That the N.A. M.S.E.D.C.L. is directed to submit the compliance report to this Forum within one month of issue of this order.

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/41

Dt :- 07.02.2019

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

The order passed on **07-02-2019** in the Complaint No. **61/2018** is enclosed herewith for further compliance and necessary action.

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

Copy s.w.r. to:- 1) Chief Engineer, MSEDCL, Akola Zone, Akola.

2) Superintending Engineer MSEDCL, O&M Circle, Akola.

Copy to :- 1) Shri. Vitthal Vasudeo Dutonde Gut No-61 Somthane, At Somthane Post-Old City Akola Taluka and District Akola 444002.