

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

*"Vidyut Bhavan" Ratanlal Plot ,Akola. Tel No 0724.2434475*

**ORDER**

**Dt:- 20.02.2019**

**Complaint No: - 01/2019 Dated 01.01.2019**

**In the matter of grievance pertaining to refund of infrastructure cost recovered under Non-DDF CCRF Scheme.**

**Quorum**

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

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

**Shri. R.A.Ramteke, Member – Secretary**

1. Shri Ashok Agrawal for :- Complainant  
M/S Jai Gajanan Industries  
Consumer No-LT-V-  
310430003908  
At Bhaurad Tq. Akola.  
And  
M/S Shrikrupa Jinning  
Consumer No-LT-V-  
310430003916  
At Bhaurad Tq. Akola.  
% 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  
Rural Division, Akola.

## Appearances

- |                        |   |  |
|------------------------|---|--|
| 1) Shri. B. H. Somaiya | - | Representative for Complainant                     |
| 2) Shri. S. P. Kenekar | - | Dy. Executive Engineer,<br>MSEDCL, for respondent. |

1) On being aggrieved by the fact of not providing any remedy by IGRC Akola on joint complaint dated 01/11/2018, the complainant Shri. Ashok Agrawal, being one of the partners in M/S Jai Gajanan Industries Bhaurad and M/S Shrikrupa Jinning Bhaurad approached this Forum under the clause 6.4 of MERC CGRF OMBUDSMAN Regulation 2006, through their authorised representative Shri. Bhavesh H. Somaiya for resolving the grievance.

2) The Complainant's case in brief is that complainant being partners in M/S Jai Gajanan Industries and M/S Shrikrupa Jinning Industries, are consumers of N.A .M.S.E.D.C.L, having supplied electric supply to both the industries by N.A .M.S.E.D.C.L on 12/03/2012. According to complainant N.A .M.S.E.D.C.L while releasing connection, sanctioned common estimate for erection of infrastructure under Non-DDF CCRF refundable scheme for amount Rs. 3,29,227/- vide EE/R/Non-DDF CCRF/468 dated 03/12/2011. According to complainant both the industries were having 50% share as per estimated value in refund of infrastructure cost. According to complainant as per Non-DDF CCRF Scheme dated 20/05/2008 of N.A .M.S.E.D.C.L, complainant agreed to bear the cost of erection of infrastructure refundable through energy bills from 1st billing cycle after connection, and executed the work as per sanctioned estimate. According to complainant N.A .M.S.E.D.C.L sanctioned estimate considering only 10% labour and other overheads are excluded, while 30.73% overheads/centages including labour are charged to estimate when infrastructure work is executed by N.A .M.S.E.D.C.L. According to complainant estimate should be revised by N.A .M.S.E.D.C.L considering 30.73% overheads on cost of material Rs. 3,08,388.07/- amounting to Rs. 4,03,156/-. According to complainant N.A .M.S.E.D.C.L recovered Rs. 9500+1000 towards Electrical Inspector fees for Inspection and Map approval and excess amount Rs. 6,416/- for each consumer towards service connection charges and total amount refundable was Rs. 4,26,488/-. According to complainant N.A .M.S.E.D.C.L did not

refund the amount and hence complainant is liable for getting refund of Non-DDF CCRF amount with interest of 12% as per MERC case no. 23 of 2004. According to complainant SDO Akola Rural of N.A .M.S.E.D.C.L has recommended to refund the cost as per cost data as documents are misplaced and communication is enclosed with the complaint. According to complainant one connection of Shrikrupa Industries is permanently disconnected by N.A .M.S.E.D.C.L on request of a consumer. Complainant prays for refund of infrastructure cost including other charges amounting to Rs. 4,26,480/- with 12% interest by cheque by apportioning 50% share between two consumers.

3) Despite CGRF Akola notice dated 01/01/2019 to submit reply to the grievance on or before 16/01/2019 N.A .M.S.E.D.C.L did not file any reply and submitted unwanted internal communication on dated 05/01/2019 between Nodal Officer and their subordinate Dy. Executive Engineer asking Dy. Executive Engineer MSEDCL Akola to submit reply. N.A .M.S.E.D.C.L by their letter dated 23/01/2019 authorised Shri S. P. Kenekar Dy. Executive Engineer MSEDCL Akola to remain present and plead the grievance on behalf of respondent MSEDCL in scheduled hearing on 01/02/2019. N.A .M.S.E.D.C.L vide their letter EE/R/412 dated 31/01/2019 received to CGRF Akola on 31/01/2019 at 16:50 hrs requested Forum to adjourn the hearing on 01/02/2019, and sought permission to file belated reply.

4) Shri Bhavesh H. Somaiya learned representative for complainant and Shri S. P. Kenekar Dy. Executive Engineer MSEDCL Akola were present for the hearing held on 01/02/2019 . Shri Bhavesh H. Somaiya learned representative for complainant filed on record written note of argument, CGRF Akola order No. 005 dated 01/01/2019, cost data circulated by MSEDCL vide CE/Dist/infra Man/33051 dated 26/08/2008 and MERC case no. 23 of 2004 dated 18/10/2005. Shri Bhavesh H. Somaiya learned representative of the complainant urged that IGRC order dated 01/01/2019 is received to complainant after 15/01/2019 and brought to the notice of Forum that IGRC Akola have already settled the grievance but without deciding the refund amount and rate of interest payable to complainant. Shri Bhavesh H. Somaiya learned representative urged that since N.A .M.S.E.D.C.L vide IGRC order dated 01/01/2019 have already accepted the contents of the grievance, the present complaint before CGRF Akola

is limited to deciding estimated amount with 30.73% overhead/centages and 12% interest on refund amount. Shri Bhavesh H. Somaiya referred cost data 2008-2009 and case no. 23 of 2004 filed on record and requested Forum to direct N.A .M.S.E.D.C.L to revise the estimate after adding 30.73% overheads on material cost as per cost data as agreed by N.A .M.S.E.D.C.L in their written reply before IGRC Akola; as according to N.A .M.S.E.D.C.L all related documents are misplaced and not traceable. Shri Bhavesh H. Somaiya urged Forum to allow 12% interest on refund amount from date of connection 12/03/2012 till paid to complainant as per principle Adopted by MERC case no. 23 of 2004, since N.A .M.S.E.D.C.L is charging 12% interest on arrears of consumer energy bill without time escalation.

5) Shri S. P. Kenekar Dy. Executive Engineer MSEDCL Akola in absence of any reply on record urged that case papers and related documents for refund are not traceable and misplaced and accepted to refund the infrastructure cost as per estimate. Shri S. P. Kenekar Dy. Executive Engineer MSEDCL Akola agreed to file on record on direction of Forum, cost data applicable for 2011-2012 infrastructure work on or before 05/02/2019.

6) Having heard the parties and considering material placed on record including cost-data for 2010-2011 filed on record on 05/02/2019 by N.A .M.S.E.D.C.L Forum is of the view that IGRC Akola vide their order dated 01/01/2019 already resolved the grievance partly and directed N.A .M.S.E.D.C.L to refund the infrastructure cost Rs. 3,39,227/- with other charges Rs. 23,332/- [ E.I. fees, excess service connection charges and Map fees ] and allowed interest as per MSEDCL corporate office circulars. Forum is of the view that IGRC Akola erred and not decided the rate of interest to be allowed on refund and also not dealt the grievance of inclusion of overheads such as labour charges, transportation, T&P, VAT and contingencies etc which are considered as per cost data of MSEDCL in the estimate when the work is executed by MSEDCL. Forum is of the view that there should not be any disparity in loading the overheads/centages on material cost in the estimate for infrastructure work to be executed by consumer in ORC or Non-DDF and N.A .M.S.E.D.C.L and held that overheads/centages as per cost data filed on record by both the parties needs to be considered while preparing the estimate. Forum is of the view that in the present complaint N.A .M.S.E.D.C.L have erred in considering only 10% labour charges on material cost and excluded

other overheads which needs to be considered and estimate needs to be revised for work completion report and arriving at refund amount. In absence of invoice bills filed on record as misplaced by N.A .M.S.E.D.C.L and complainant not filing duplicate copy on record, Forum is of the view that overhead cost 24.5% as per cost data issued by corporate office excluding service tax of 1.83% and price escalation 5% should be allowed and estimate should be revised to arrive at refund amount. Forum is of the view that the refund amount is excess amount utilised by N.A .M.S.E.D.C.L and should pay interest of 12% on total refund amount payable from 12/04/2012 till refunded, as per principle adopted by MERC in case no. 23 of 2004. It is also brought on record that electric supply of M/S Shrikrupa industries is permanently disconnected and hence the balance proceeds including the refund is payable by cheque.

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

### **ORDER**

1. That the Complaint No. 01/2019 Dated 01/01/2019 is hereby partly allowed.
2. That N.A .M.S.E.D.C.L is directed to revise the estimate by adding 24.5% overheads/centages of material cost Rs. 3,08,388/- and amount towards infrastructure cost as per revised estimate should be refunded with 12% interest applicable from 12/04/2012 till paid by dividing total refund amount equally between M/S Jai Gajanan Industries & Shrikrupa Jinning payable by cheque to M/S Shrikrupa industries and by adjustment in the bill to M/S Jai Gajanan Industries within one month of this order.
3. That N.A .M.S.E.D.C.L is directed to refund the cost Rs. 23,332/- recovered towards EI inspection fees, map sanction and excess service connection charges with 12% interest from 12/04/2012 till paid to M/S Jai Gajanan Industries & M/S Shrikrupa Jinning by dividing the amount equally by cheque to M/S Shrikrupa Jinning industries and by adjustment in bill to M/S Jai Gajanan Industries within one month of this order.

4. That N.A .M.S.E.D.C.L is directed to recover the revenue loss payable by way of interest to complainant from the guilty officers of MSEDCL after due enquiry as per the principle laid down by Apex court in the matter between M/S Lucknow Development Authority and M. K. Gupta in Appeal no. 6237 of 1990 issued on 5th Nov. 1993.
5. 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/47

Dt:- 20.02.2019

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

The order passed on **20.02.2019** in the Complaint No. **01/2019** 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 :-**

- 2) M/S Jai Gajanan Industries & Shrikrupa Jinning % Shri Ashish S. Chandarana  
flat No. 302, Agrasen Nagar, Satguru Villa Apartment SahkarNagar, Gorakshan  
Road, Akola 444004.