

CONSUMER GRIEVANCE REDRESSAL FORUM
AMRAVATI ZONE, AMRAVATI
'Vidyut Bhavan', Shivaji Nagar, Amravati: 444603, Tel. No. 0721 2551158

Dt: 22.05.19

ORDER

Case No.4 /2019 dated 22.03.2019
In the matter of grievance pertaining to refund of infrastructure cost
of under Non DDFCC&RF Scheme.

Quorum

Dr. Vishram Nilkanth Bapat (Chairman)
Miss.M.H.Ade, Member Secretary
Sau. Sushama Joshi, Member (CPO)

Complainant

Shrikrishna Biofuel Industries, Tiwasa
Consumer no :367104953523

Versus

Respondent

The Executive Engineer ,
MSEDCL, O&M Division,
Amravati Rural.

Appearances:-

Complainant Representative :- Shri.Yogesh P.Sao

Respondent Representative :- 1)Shri. Hemraj.Dhoke. Executive Engineer
Amravati Rural Division.

2) Shri Arvind Bondre, Assistant Engineer,
Tiwasa Urban Sub Division.

Being aggrieved by non resolution of complaint, applicant Shrikrishna Biofuel Industries, Tiwasa, (Consumer number :- 367104953523) approached the Forum for redressal of the complaint on date 22.03.2019 and filed the complaint as Case No 4/2019.

The complainant submits his grievance as under:

As per Complainant's submission:-

- 1) Applicant consumer is industrial consumer of MSEDCL having contract demand of 56 KVA (60) HP.
- 2) In order to fulfil its obligation of duty to supply on request and thereby to provide required infrastructure to give electricity supply under section 43 of EA 2003, MSEDCL floated a scheme on 20.05.2008 vide its official circular which is known as Non DDF CCRF scheme wherein applicant consumer requires to spend the cost of infrastructure first on behalf of MSEDCL and then get it reimbursed through energy bill. (CCRF means consumers contribution and refund thereof).
- 3) Accordingly, the estimate for providing supply of electricity was sanctioned on 16.02.2016 vide estimate sanction no DYEE/TWS/NON-DDF/15-16/15 dtd 16.02.2016 for Rs 2,88,244/- (excluding centages) under NON- DDF CCRF followed by load sanction letter dated 04.05.2016.
- 4) By means of aforesaid sanction, MSEDCL also raised a demand note wherein unlawful recovery of service connection Charges Rs. 8000/-, Transformer testing charges Rs 3000/- and Capacitor testing charges Rs. 100/- was raised which is paid by applicant on date 06.06.16.
- 5) Applicant submits that the connection of applicant was released on date 22.04.2017. However, till the date of filing of this representation, no refund is made. On the contrary upon repeated pursual by applicant, a whatsapp communication was sent pointing out that applicant have not submitted required documents for processing of refund.
- 6) Applicant begs the attention of Hon'ble forum toward fact that vide official letter, Executive Engineer Amravati Rural Division conveyed to Dy.Executive Engineer Tiwasa to execute the work after confirming the material inspection by his office & other formalities considering rules and regulations of MSEDCL & further provided the copy of agreement along with this letter. The material inspection is done prior to commencement of construction work. Also the material inspection report signed on 04.08.2016 confirms that the material was inspected by Executive Engineer Amravati Rural Division himself. It is pertinent to point out that material inspection includes verification of its procurement from approved vendors & of prescribed standards read with clause 1 of agreement which can be ascertained only after verification of purchase bills & therefore the letter raising compliance query is afterthought attempt to justify

delay. It is brought to notice of Hon'ble forum that since the release of connection, MSEDCL never demanded any document or compliance or informed any deficiency on part of applicant & the same is demanded only after stopping payment of energy bill. Had the compliance would have been pending in reality, the same could have been apprised to applicant by responding to applicant's grievance application dated 11.10.2017 which is not the case and therefore adverse inference can be drawn against MSEDCL.

7) Applicant also wish to place on record the W.C.R. prepared by Assistant Engineer and recommended for Rs. 3,21,952/- of SDO Tiwsa on 24.02.2019.

8) Clause 6 of the agreement confirms that all the equipment and lines is to be handed over to MSEDCL soon after commissioning along with literature and guarantee card. The connection is released on 22.04.2017 and thus commissioning is done before 22.04.2017 and so also handover of asset is done as soon as MSEDCL started the commercial use of asset for their business. This also confirms that bills were already collected at the time of material inspection and thereafter only permission of construction is consented. Applicant humbly submits that the possession of asset with MSEDCL is enough to prove their custody of documents related to ownership of asset which includes purchase bills. Therefore, the stand taken by MSEDCL is afterthought to escape from the liability of delay and departmental action thereof against guilty officers.

9) The fact is delay took place on part of MSEDCL due to various changes in guidelines related to NDDF CCRF refund and its administrative procedure related to refund from the corporate office of MSEDCL and thus applicants legitimate claim of refund amounting Rs.2,88,244/- and centages thereon delayed abnormally by about 23 months and still it is pending and therefore MSEDCL is liable to pay it along with interest @ 12% more particularly when applicant is paying interest on delayed payment to MSEDCL @ 12%.

The details of actual refundable amount of applicant is as here under: -

No	Details	Amount
1	Excess of Service Connection charges (Rs 8000-Rs 104)	7896/-
2	Transformer testing charges	3000/-
3	Capacitor Testing Charges	100/-
4	Material cost	267269/-
5	Centages excluding VAT (Labour 10%+Transportation 5% + Contingencies 3% + T & P - 1.5%	52117/-
6	VAT	33409/-

	TOTAL	363791/-
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10) MSEDCL is recovering Electricity duty from applicant's bill though it is exempted in Vidarbha region. The same also needs to be refunded along with interest.

Prayer of the Complainant before the Forum:

1. Direct MSEDCL to not to disconnect supply till the disposal of this grievance as a Interim relief.
- 2) Direct MSEDCL to pay Rs.3,63,791/- along with interest @ 12% as per MERC order in case no 23 of 2004 in one go in upcoming energy bill.
- 3) Direct MSEDCL to refund electricity duty collected so far unlawfully along with interest @ 12% p.a. in upcoming energy bill.
- 4) Any other relief which Hon'ble CGRF may deem fit considering facts and circumstances of the case including cost. Rs. 5000/- to meet the expenditure incurred on IGRC/CGRF representations.

Reply filed by N.A. MSEDCL before the Forum:

1)It is admitted that the consumer M/s Shrikrishna Bio Fuel Industries Tiwasa has applied for new connection under LT industrial category and said connection is sanctioned under NON DDF CCRF scheme.

2) The non-applicant is ready to refund the Capacitor Testing charges & excess recovered service connection charges.

3) It is respectfully denied that the Executive Engineer has taken the custody of original purchase bill from the consumer. It is submitted that the E.E. has only inspected the material procured by consumer for execution of work.

As per normal practice after completion of work the consumer has to submit the original purchase bills of material, contractor bills after verifying these bills and inspecting the material which is used at site the MSEDCL Officials prepared the WCR, the consumer has not submitted the original purchase bills & bill of contractor hence MSEDCL officials has not able to finalized the WCR.

4) The WCR prepared by AE Tiwasa-I and recommended by Dy. Executive Engineer, Tiwasa of Rs. 3,21,952/- is submitted to division office for audit purpose & sanctioned. While scrutinizing the said WCR the MSEDCL division office has found some discrepancies & according convey to SDO to Tiwasa the rectification same vide letter no 1213 dtd 07.03.2019.

After receiving this letter from division office, SDO has informed to AE Tiwasa-I to inspect the material which are actually use at site for erection to

HT, LT DTC & LT cable and AE Tiwasa-I prepared revised WCR for Rs. 2,92,819/-

5) Since the finalizing the WCR is an administrative procedure in which involves various officials. Such as AE- SDO-EE-Account Staff – other office at various level. Hence the delay is not deliberate hence the interest on refund amount shall not be imposed in interest of justice.

6) AE Tiwasa-I has made several correspondence with consumer for submission of original bill by letter on dated 11.11.2017, 16.02.2019 & 27.03.2019 which is annex herewith till date the consumer has not submitted the original invoices within prescribed period; hence the office of MSEDCL is unable to finalizing the WCR and completes the procedure of refund within time.

The Forum is humbly requested to direct the consumer to submit the original invoice of material Contractor bill etc. expedite the process of refund considering this aspect the forum is requested not to imposed cost of Rs. 5000/- on non-applicant in the interest of justice.

7) MSEDCL has admitted that the electricity duty has been recovered from the applicant hence the non-applicant is ready to refund the Electricity Duty in forthcoming consumer bills.

N.A. MSEDCL prays before the Forum as under

1) It is humbly prayed to the Hon'ble CGRF that no interest shall be granted on the refundable amount as per revised WCR dated 02/04/2019 in the interest of justice.

2) It is humbly prayed that cost demanded by applicant shall not be granted in the interest of justice.

3) It is humbly prayed that no interest should be levied on refundable and of Electricity Duty recovered.

N.A. MSEDCL filed the reply on date 05.04.2019, one day prior to the due date in this behalf. The hearing was scheduled on date 03.05.19. During the hearing the complainant pleaded that as the nominated representative of the complainant Shri Ashish Subhash Chandarana has submitted withdrawal to plead the case due to some personal reasons the applicant needs time to study the facts of the case. On complainant's request the case was heard on date 09.05.19.

Submissions before the Forum during the hearing:

By the complainant

1) The estimate for the said connection was sanctioned by N.A on date 16.02.16 for Rs 3, 63,791 /- under Non DDF CC&RF scheme. The demand note was issued on date 04.05.16 which included the following charges:

- a) Service connection charges : Rs 8000/-
- b) Capacitor testing charges : Rs 100/-
- c) Transformer testing charges : Rs 3000/-

- 2) The complainant contended that the original documents were submitted to N.A but the same were not acknowledged by N.A and the connection was released on date 22.04.17 after 14 months from the date of application.
- 3) The complainant denies receipt of any correspondence from N.A regarding submission of original bills/documents

By N.A.MSEDCL :

The non -applicant submits additional reply as under.

1) As per jointly signed agreement condition point no 11 the applicant has not completed work within stipulated time period. i.e 3 month from the date of agreement. Hence applicant is not entitled for reimbursement of the said expenditure. Date of Agreement is 04/08/2016. The work should be completed upto 04/11/2016 but as per date of connection on bill i.e 22/04/2017. There was delay in execution of work, although MSEDCL accepted the proposal and submitted for approval in favour of applicant.

2) Submission of original invoice of material purchased.

It is to submit that MSEDCL has requested an applicant to submit the original correct invoices of purchased material for finalizing the WCR for refund of expenditure as per rule. During releasing the connection MSEDCL accepts xerox documents only and not the original. Original documents are with the consumer. It only requires when applicant claims for refund. The material bill submitted is incorrect. There is difference in material quantity and actual material used. The estimate sanction date is 16.02.2016 where as bill date is 10.02.2016 prior to the date of estimate sanction (which is overwritten by hand as 10.06.2016). Due to this it is not ascertain that the material bills submitted by applicant is against this work or otherwise. So it is requested to Hon'ble Chair that applicant should submit the original and correct bill.

This office never denied to refunding the said amount to applicant as per WCR. It is pending due to above issues only.

3) Applicant should apply online for electricity Duty refund.

The Forum observes as under

Having heard both the parties and the material placed on record before the Forum, the Forum is of the view that,

1) It is admitted position by the complainant as well as N.A.MSEDCL that L.T supply to the complainant applicant M/S Shrikrishna Biofuel Industries, Tiwasa was released on date 22.04.17 and the work to avail the said connection was carried out by the applicant complainant against which the estimate was framed and sanctioned by N.A. under Non DDF CC& RF scheme. The Forum feels that the complainant is eligible for refund of the cost expended towards development of infrastructure under the provisions of MERC order in case no 70 of 2005 dated 08.09.2006.

In the MERC order in case no 70 of 2005, the MERC stated in para 6.4 that “Development of infrastructure is the responsibility of the Licensee. The Commission therefore, directed that the cost of infrastructure from said point of transmission system to distribution main should be borne by the MSEDCL.”

With regard to the argument by N.A. MSEDCL that the Applicant has not submitted the original bills of the materials procured and therefore the WCR could not be finalized and further refund is not done, the Forum feels that in the light of the mutual agreement between the Applicant and the N.A. as the copy thereof placed on record, as per clause no.6, the original literature and guarantee cards of the procured material is supposed to be handed over to NA MSEDCL after execution and commissioning of the whole infrastructure, there is substantial reason is there to presume that the original bills have been handed over to N.A. by the applicant. The NA has presumably prepared the WCR and revised WCR for Rs. 292819/- on the basis of these documents and actual material used at site. The Applicant expressed his willingness to accept this amount of refund. In the light of MERC Case No. 23 of 2004, the Forum feels that the interest is payable by the NA to the consumer.

2)The complainant has laid the service connection at his own cost. N.A.MSEDCL has recovered the total SCC wherein the complainant was required to pay only 1.3% of the normative charges applicable towards supervision charges under provision 6.5.11 (Schedule of charges) of MERC case no 19 of 2012 dated 16.08.12. Hence the N.A. MSEDCL is entitled to recover only 1.3% of Rs 8000/- i.e.Rs.104/- as supervision charges for S.C.C. This Forum is of the opinion that NA MSEDCL needs to refund excess SCC collected from the complainant i.e. Rs. 7896/- (Rs.8000-Rs.104) which N.A. has readily agreed to refund.

3) As per the MERC Order in case no 70 of 2005 the Forum feels that NA should refund the transformer testing charges of Rs.3,000/- Capacitor testing charges Rs. 100 collected from the complainant, as agreed by N.A.

4) The non-applicant is ready to refund the Electricity Duty to the applicant in the light of their Commercial Circular 268 dt. 27-09-2016 for which the applicant consumer has to apply online.

Hence the Forum proceeds to pass the following unanimous order.

ORDER

1. The complaint in case no. 4 of 2019 is partly allowed.
2. The NA MSEDCL is directed not to disconnect the supply of the Applicant in want of dues.
3. N.A. MSEDCL is directed to refund Rs.2,92,819/- on account of infrastructure expenses borne by the applicant along with the interest at

the rate of 12% from date of release of connection i.e. 22-04-2017 till the date of actual refund and should be adjusted in forthcoming energy bill.

4. NA MSEDCL is directed to refund the amount of Transformer testing charges Rs 3000/-, Capacitor testing charges Rs 100/-, Balance of Service connection Charges Rs 7,896/- (after deduction of 1.3% supervision charges Rs. 104/-) along with interest at the rate of 12% per annum from the date of release of connection i.e. 22-04-2017 till the date of actual refund and should be adjusted in forthcoming energy bill.

5.No order as to cost.

6.NA MSEDCL is directed to submit compliance of this order within one month of this order.

Sd/- (M.H.Ade) Member Secretary	Sd/- (Smt.S.P.Joshi) Member (CPO)	Sd/- (Dr.V.N.Bapat) Chairman
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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, Shrikripa, Vijai Nagar, Chhaoni,
Nagpur- 440013.

NO. EE / CGRF/AMZ/ Amravati/ No./ 23

Dt. 22.05.19

To,
The Nodal Officer /
The Executive Engineer,
MSEDCL, O&M Rural Division,
Amravati.

The order passed on in the Complaint No. 4/2019 is enclosed herewith for further compliance and necessary action.

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

Copy f.w.c.to:-

The Chief Engineer, MSEDCL, Amravati Zone, Amravati.

Copy to :-

- 1) M/s Shrikrishna Biofuel Industries, c/ o Prabhakar Sao, Near Adaneshwar Mandir, Yashodanagar, Amravati
- 2) The Executive Engineer (Adm),O&M Circle , Amravati.

