

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

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**Dt: 22.04.2019**

**ORDER**

**Case No. 2/2019 dated 22.02.2019**  
**In the matter of grievance pertaining to refund of infrastructure cost**  
**developed for providing supply to flat scheme .**

**Quorum**

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

**Complainant**

Shri.Lalit Dwarkaprasad Gokulka  
Ganesh Vihar,Swapnapurti Nagar,  
Yavatmal

**Consumer No- No Number**

**Versus**

**Respondent**

The Executive Engineer ,  
MSEDCL, O&M Division,  
Yavatmal.

**Appearances:-**

**Complainant Representative :-** Shri. Prashant Daryapurkar.

**Respondent Representative :-** 1) Shri.S.M.Shrungare,Additional Executive  
Engineer,Urban Sub Division,Yavatmal.  
2) Shri Bommi Reddy. Junior Law Officer,  
Yavatmal Circle.

Being aggrieved by IGRC, Yavatmal's Order Dt.22.01.2019 applicant complainant approached C.G.R.F, Amravati under clause 6.4 of MERC( CGRF & OMBUDSMAN) Regulations 2006, for redressal of his grievance dt 22.02.19 and C.G.R.F Amravati filed his complaint as Case No 02/2019.

**The complainant submits his grievance as under:**

As per Complainant's complaint and verbal submission during hearing before the Forum, Complainant submitted that:-

- 1) Complainant applied for electricity connection. However non applicant expressed its inability to erect required infrastructure (augmentation of distribution mains) due to paucity of funds and connection cannot be released unless consumer agrees to spend for the infrastructure cost. This compelled the applicant to bear the infrastructure cost having been left with no alternate remedy. The estimate for was sanctioned for Rs. 5,17,772/- vide N.A.MSEDCL's estimate sanction no. EE/YTL / T/ Est / ARR DDF 1.3% /2016-17 / No.25 dated 15.11.2016 under DDF scheme. Applicant also submitted that it has paid security deposit Rs. 6,645/- vide MR No. 4992772 dated 19.11.2016 as per demand issued by N.A.
- 2) Applicant submitted that as per the provisions of EA 2003 vide section 42 and 43, creating infrastructure for providing electricity supply is non applicants responsibility.
- 3) Reference of MERC case No 56 of 2007 is made in support of claim that infrastructure at site does not constitute DDF arrangements and also reference of Hon'ble Supreme Courts order in case No 7572/2011 is made in support of submission that creating infrastructure for providing electricity is non applicants responsibility. Reference of Hon'ble Supreme courts order in in civil appeal No. 35067/2013 is made to substantiate that the signature took under pressure can not be treated as consent. The complainant says that in MERC case No 70 of 2005 is also made for relying on schedule of charges followed by references of dismissal of appeal of non-applicant before APTEL vide appeal No 22 of 2007 and before Hon'ble Supreme Court in civil appeal No 4305/2007. To sum up with, applicants claim is his infrastructure constitutes non DDF arrangements which is created by himself, though it was duty to provide the same by non-applicant and accordingly sought relief as stated below.

**Prayer of the complainant before the Forum:**

- 1) The compliant of the complainant should be allowed.

- 2) The case papers related to the complainant's complaint submitted at IGRC Yavatmal should be brought before the Forum for detailed observation.
- 3) The amount collected from the complainant should be refunded along with interest @18% in a single stroke, through cheque.
- 4) Permission may please be granted to amend, alter the representation of so required
- 5) Any other relief which Hon'ble CGRF may deem fit considering facts and circumstances of the case in favor of applicant

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

The case was admitted to the Forum on date 22.02.19 and a copy of the grievance was forwarded on date 26.02.2019 to the Nodal Officer, MSEDCL, O&M Circle Yavatmal for submitting para-wise reply to the Forum on the grievance within 15 days under intimation to the complainant. However N.A. MSEDCL vide letter dated 14.03.2019 to the Forum, requested the Forum to grant extension of time limit to file the reply and the same is extended to 30.03.2019. N.A. MSEDCL filed the reply on date 03.04.19 before the scheduled hearing on date 04.04.2019. The copy of the reply was handed over to the complainant on date 03.04.19, however the complainant refused to accept the reply. The reply was accepted and acknowledged on date 04.04.19 at the time of the hearing. As per N.A. MSEDCL's say the reply was filed belatedly due to exigencies of work.

**The Non Applicant submits the reply as below:-**

- 1) The estimate for supply to 11 nos DLF connections at Ganesh Vihar, Swapnapurti Nagar, Dist Yavatmal was sanctioned under DDF scheme. It cannot be said that due to unavailability of funds N.A. MSEDCL expressed inability to provide supply to the layout and asked the complainant to carry out the works. The consent to carry out the works under DDF scheme was given by the complainant and accordingly N.A. sanctioned the estimate for Rs 5,17,772/- under DDF scheme. The complainant has paid 1.3% supervision charges Rs 6,645/- vide M.R no.4992772 dated 19.11.2016 as per demand issued by N.A. The consent to carry out the works under DDF scheme was given by the complainant and had paid the requisite supervision charges to carry out the said works.
- 2) As per the provisions of MERC order in case no 70 of 2005 dated 08.09.2006 it was the responsibility of N.A. to develop the infrastructure and provide supply to the complainant's residential flat scheme. However the complainant had opted for DDF facility and submitted the consent for the same. MERC order in case no 70/2005 dated 08.09.2006 "The Commission totally rejects MSEDCL's proposal to recover Service

Line Charges from the prospective consumers except in cases of consumers requiring dedicated distribution facility. As per the provisions of the Act, developing infrastructure is the responsibility of the Licensee. The Commission , therefore directs that the cost towards infrastructure from delivery point of transmission system to distribution mains should be borne by MSEDCL”.

- 3) In light of the Hon’ble Supreme Court’s decision in civil appeal no 35067 /2013 the charges deposited under pressure cannot be considered as consent by the complainant. However it is to submit that the applicant complainant has paid the necessary supervision charges and has carried out the work to develop the infrastructure through a licensed electrical contractor. In the said grievance the consumer has not denied that the supply given to 11 nos DLF connections at Ganesh Vihar, Swapnapurti Nagar, Dist Yavatmal is DDF. In the grievance the term DDF is not defined completely by the complainant. MERC case no 56/2007, “Thus, in the distribution system, Dedicated Distribution Facility means a separate distribution feeder or line emanating from a transformer or a substation or a switching station laid exclusively for giving supply to a consumer or a group of consumers”.
- 4) N.A.MSEDCL denies to refund the infrastructure cost to the complainant as the work carried out to develop the infrastructure constitutes a DDF arrangement as per MERC order in case no 70/2005 wherein it is clear that, “The Commission totally rejects MSEDCL’s proposal to recover Service Line Charges from the prospective consumers except in cases of consumers requiring dedicated distribution facility. As per the provisions of the Act, developing infrastructure is the responsibility of the Licensee. The Commission , therefore directs that the cost towards infrastructure from delivery point of transmission system to distribution mains should be borne by MSEDCL”.
- 5) The complainant has paid the supervision charges Rs 6,645/- on date 19.11.2016 and in the present status the case should be barred on ground of time limitation. NA takes the reference of clause 6.6 of MERC (CGRF & EO) Regulations 2006 and has also cited the judgement in the WP No. 6859/2017 MSEDCL Vs Jawahar Shetkari Sut Girni Limited decided by Hon. Bombay High Court, Aurangabad Bench on 21-08-2018.The N.A.MSEDCL admits that the complainant is not a consumer of N.A. MSEDCL hence the complaint cannot be registered. N.A. reiterates that the complainant does not fall in the definition of a consumer and is only a builder /developer of the said premise at Ganesh Vihar, Yavatmal.

**Submission during the hearing before the Forum:**

**By the Applicant:**

Representative of applicant did not made any additional submission and relied on written submissions made during the hearing.

**By the Non Applicant-MSEDCL:**

Non applicant MSEDCL reiterated in its written submission claiming that the applicant complainant is not a consumer on record and had contended that the complainant is merely a developer /builder who had carried out the work of providing the supply to flat scheme at Ganesh Vihar, Swapnapurti Nagar, Yavatmal and the actual occupants of the tenements are billed on regular basis

The Forum examined the record submitted by both the parties during hearing itself and found that insufficient documents are placed on record by both the parties in support of their submissions. To decide the case correctly forum directed the complainant to submit the following documents by 6<sup>th</sup> of April 2019 by E-mail.

- 1) The deed of declaration of the apartment wherein 11 DLF connection estimated was sanctioned under DDF.
- 2) The sanctioned map of the scheme to ascertain the number of flats/shops

Forum directed N.A. to submit:

- 1) The energy bills of the actual owners / occupiers of the flat scheme at “Ganesh Vihar” Swapnapurti Nagar.
- 2) The standard procedures to frame and sanction the estimate on the Builder/developer’s request.

Complainant did not submit the deed of declaration whereas N.A MSEDCL submitted energy bills of 4 nos. consumers of the said apartments at Ganesh Vihar, Swapnapurti Nagar, Yavatmal.N.A MSEDCL also filed a circular in relation to revised guidelines of requirement of adequate land which has no relevance in the present matter as the issue is related to land is not dispute.

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

The complainant had initially approached the distribution licensee as a developer and not as a consumer. Further as on date, the said complainant is not a consumer of NA MSEDCL on the premises in question. Therefore at the outset, the Forum is of the opinion that Shri. Lalit Dwarkaprasad Gokulka not being a direct consumer of the NA MSEDCL, the complaint before the Forum does not constitute any grievance as per definition under clause 2.1(c) of MERC (CGRF and EO) Regulations 2006. Hence the Forum feels that it has no jurisdiction to examine the merit in this case.

Hence the Forum proceeds to pass the following unanimous order.

**ORDER**

- 1) As the complaint no. 2/2019 does not constitute any grievance, the complaint is disposed off.

Sd/-  
(M.H.Ade)  
Member Secretary

Sd/-  
(Smt.S.P.Joshi)  
Member (CPO)

Sd/-  
(Dr.V.N.Bapat)  
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, Shrikripa, Vijai Nagar, Chhaoni,  
Nagpur- 440013.