

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER

Dt:- 08.05.2019

Complaint No :- 08/2019 Dated 19.03.2019

In the matter of grievance pertaining to refund of infrastructure cost under Non-DDF-CCRF with 12% interest and cost.

Quorum

Dr.V.N.Bapat- Chairman
Shri.D.M.Deshpande, Member (CPO)

1. M/S MAHEE INDUSTRIES :- Complainant
Prop. Gurumukh Satramdas Parwan
Plot no. M-249 opposite M-S-warehouse
Corporation, Akola - 444104.
Consumer no. LT V BII 310252023096.
% Bhavesh H. Somaiya flat no. A-2/405
Rami heritage society, opposite old
RTO office, Murtizapur road, Akola.

.....Vrs.....

Executive Engineer, :- Respondent
MSEDCL, O&M
Urban Division, Akola

Appearances

1. Mr. Ashish S. Chandarana - Representative for Complainant
2. Sunil panjabrao Upadhye - Dy. Law Officer, MSEDCL,
- Representative for Respondent.

1) On being aggrieved by the fact of not providing any remedy by IGRC Akola within period of two months from the date of intimation of grievance to IGRC Akola; complainant M/S Mahee industries Akola approached this Forum under section 6.4 of MERC CGRF (OMBUDSMAN) Regulation 2006 for resolving the grievance.

2) The Complainant's case in brief is that complainant is industrial consumer of NA MSEDCL with contract demand of 187 KVA having released electric supply on 22/01/2018. According to complainant NA MSEDCL, in order to fulfil its obligation to provide infrastructure, floated scheme Non-DDF-CCRF wherein cost of infrastructure has to be borne by consumer initially and refundable through 1st energy bill. According to complainant though the scheme was optional MSEDCL made it almost mandatory and hence with no alternative left consent letter was given to NA MSEDCL and executed the infrastructure as per Non-DDF-CCRF estimate sanctioned by NA MSEDCL amounting to Rs. 4,97,762.70/-. According to complainant NA MSEDCL agreed to refund the cost Rs. 4,55,555.67/- as per W.C.R. hence the grievance is limited to allowing 12% interest on Rs. 4,55,555.67/- as refund is delayed by 14 month as per MERC case no. 23 of 2004 and cost of grievance Rs 5000/-. Complainant annexed copy of complaint to IGRC Akola dated 10/01/2019. Reply filed by MSEDCL before IGRC dated 14/03/2019 with copy of W.C.R., copy of energy bill for Nov. 2018 and MERC order dated 18/10/2005 in case no. 23 of 2004.

The Prayer by the Complainant before the Forum

- a. Direct MSEDCL to pay Rs. 4,55,556/- as per WCR along with interest at 12% as per MERC order in case no. 23 of 2004 in one go in upcoming energy bill.
- b. Any other relief which Hon. CGRF may deem fit considering facts and circumstances of the case including cost Rs. 5000/- to meet the expenditure incurred on IGRC/CGRF representations.

3) Reply came to be filed by NA MSEDCL on 03/04/2019. According to NA MSEDCL the industrial connection of 201 HP was released to M/S Mahee Industries under Non-DDF-CCRF scheme of MSEDCL and work is executed by the complainant and amount Rs. 4,55,555/- is refundable as per work completion report dated 01/08/2018 and proposal is sent to Chief Engineer Akola for approval as per corporate office letter no. 9245 dated 23/04/2018. According to NA MSEDCL, delay in refund is due to changes in approving authority. According to NA MSEDCL infrastructure cost Rs. 4,55,555/- will be refunded on

getting approval from Chief Engineer with interest as per IGRC order and hence complainants request for 12% interest may please be disallowed. According to NA MSEDCL the claim of complainant for cost of Rs. 5000/- should be disallowed. NA MSEDCL annexed copy of letter 9245 dated 23/04/2018 from CE (Commercial), proposal for refund dated 22/03/2018, copy of W.C.R., IGRC order dated 19/03/2019, consent under Non-DDF-CCRF and estimate along with the reply

Prayer by non applicant

The non applicant has submitted two prayers in this case. First one on 4.4.2019 and the revised one on 11.4.2019.

Original prayer

- a. That the refund along with interest as per company norms shall be effected upon approval from higher authorities and shall be adjusted in the ensuing electricity bill of the complainant. Also as per the circular from the higher office under Non DDF & CCRF scheme and due to delay in receipt of original purchase bills from the complainant lead to delay in refund. Hence the complainant's demand of 12% interest on refund amount may please be rejected.
- b. Demand made by the complainant consumer for Rs. 5000/- towards cost complaint may please be rejected.

Revised Prayer

- a. The prayer of the complainant, based on the invalid MERC order no. 23/2004, which was set aside by Hon. Supreme Court may please be rejected. Appropriate cost may be saddled for misleading the Forum.
- b. The claim of amount of Rs. 4.55 Lakh may please be rejected.

4) Rejoinder by the Applicant in response to revised prayer of the non applicant

The Applicant submits that

- a. In the first reply, the NA MSEDCL admits refund of Rs. 4.55 Lakh along with interest as per MSEDCL norms. However seeks to reject 12% rate of interest and cost to complainant.
- b. In the revised reply, NA MSEDCL seeks to reject part of the refund claimed on the grounds of Supply Code regulation 3.3.4 and interest outright on the grounds of the decision by Hon. Supreme Court in relation to MERC case no. 23/2004.

- c. In response, the applicant presents counter to both a and b above by arguing that the present case does not qualify as augmentation of the distribution system as mentioned in clause 3.3.4 of Supply Code and that the principle of interest on refund at bank rate has been established in several judgements from Hon. APTEL, Hon. EO and Hon. MERC and also that the said judgement of the Hon. Supreme Court in the matter of MERC case no. 23/2004 directs that entertaining consumer grievances is in the jurisdiction of CGRF & EO and not of MERC.

5) During hearing that was held on 24.04.2019,

- a. Both the parties presented their respective lines of argument before the Forum.
- b. In the result, the representative of NA MSEDCL agreed for the refund of the amount of Rs. 4,55,556.00/- and requested the complainant through the Forum to accept the rate of interest for the delay period at the admissible rate which MSEDCL pays to the consumers on refund of security deposit as per relevant Tariff Order passed by MERC.
- c. The complainant's representative agreed to the request by the NA MSEDCL for payment of interest at the rate that is admissible on SD refund by the NA MSEDCL.

6) The Forum observes as under in the present case no. 08/2019.

- a. That the IGRC clearly failed to decide the case in time as per the requirements of MERC (CGRF and EO) Regulations 2006.
- b. The IGRC decided the case after 2 months and 9 days and allows refund of the claim of the complainant as per WCR along with interest as per the norms of MSEDCL.
- c. The non applicant in its two replies before the Forum takes complete U turn in the matter of refund of the cost and interest thereon. This indicates severe lack of responsibility and awareness on part of the non-applicant about the rules and regulations that they themselves work under.
- d. The Forum is of the opinion that claim of refund by the complainant of Rs. 4.55 Lakh as per the WCR prepared by the NA MSEDCL is legitimate in the light of the facts brought out before the Forum. The complainant has applied for revised load before actual release of connection and even the original estimate was kept unchanged by NA MSEDCL for additional load request. Hence augmentation of distribution system is not at all the case as argued by the NA MSEDCL.

- e. The Forum also feels that in the light of several past decisions with regard to interest payable on delayed refund, demand of 12% interest by the complainant holds substance. However in view of the the applicant agreeing before the Forum during hearing to the rate of interest to be paid at the admissible rate that is being paid on refund of security deposit by MSEDCL, the Forum is inclined to allow that rate of interest instead of 12%.

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

ORDER

1. That the Complaint No. 08/2019 Dated 19/03/2019 is hereby partly allowed.
2. That NA MSEDCL is directed to refund Rs. 4,55,556.00/- along with interest at the admissible rate of interest that is being paid by MSEDCL on refund of security deposit from the date of release of connection till the date of actual refund to the complainant within 15 days and pass on credit to the complainant to be adjusted in his ensuing electricity bills.
3. That NA MSEDCL is directed to submit compliance report to this Forum within one month 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/97

Dt:- 08.05.2019

To,
The Nodal Officer
Executive Engineer,
MSEDCL, O. & M.
Urban Division Akola.

The order passed on **08.05.2019** in the Complaint No. **08/2019** 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 :-

- 1) M/S MAHEE INDUSTRIES, Plot no. M-249 MIDC Akola, % Bhavesh H. Somaiya flat no. A-2/405 Rami heritage society opposite old RTO office Murtizapur road Akola-444001.