

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA

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

ORDER

Dt:- 16.05.2019

Complaint No :- 10/2019 Dated 25.03.2019

**In the matter of grievance pertaining to New Ag connection, SOP
Compensation for delay and penalty as per section 43 of E. A. 2003.**

Quorum

Dr.V.N.Bapat- Chairman

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

1. Shri Ramesh Shankarrao Gawai :- Complainant
Ag Consumer no. 290016030770
At post Sungaon, tq. Jalgaon Jamod
Dist. Buldana-443402.

.....Vrs.....

Executive Engineer, :- Respondent
MSEDCL, O&M
Malkapur Division.

Appearances

1. Shri P. N. Khandagle - Representative for Complainant
2. Shri. V. D. Sontakke - Dy. Executive Engineer,
MSEDCL, Malkapur.
With S. R. Gupta - Dy. Executive Engineer,
MSEDCL, Jalgaon Jamod

1) On being aggrieved by the decision of IGRC Buldana issued vide IGRC/BLD/0733 dated 21/02/2019, the complainant Shri. R. S. Gawai who is applicant for new Ag connection at Sungaon, approached this Forum under section 6.4 of MERC CGRF and OMBUDSMAN Regulation 2006 for resolving the grievance.

2) **Complainant's submission in brief is as under**

a. Shri. R. S. Gawai complainant applied for getting new Ag connection to pump set of 3 HP at Gut no. 190 of Mouje Sungaon installed in the well constructed after getting financial grant from government in Jan 2008.

b. Based on the demand note issued with Consumer No. 290016030770 on 9/1/2008, necessary charges Rs. 3000/- towards security deposit and Rs. 2500/- towards service connection are paid on 10.01.2008 as per money receipt no. 7336431 and 7336432 and submitted test report on 01.12.2008.

c. On 11.11.2013, written complaint was lodged with NA MSEDCL for non release of Ag connection and NA MSEDCL in response issued quotation for Rs. 1700/- for consumer no. 293307777786 dated 16.10.2013 which pertains to some other consumer. On being brought to the notice of NA MSEDCL regarding issue of quotation in the wrong name, no satisfactory reply was given to complainant.

d. NA MSEDCL were again requested to release Ag connection by letter dated 28.12.2017 and 30.10.2018. NA MSEDCL have released Ag connection for those consumers who have paid the charges after 10.01.2008 and thus violated supply code regulation clause 4.4 and clause 43 and 57 of E.A. 2003 in respect of chronology.

e. Ag connection was not released even after recommendation by Hon'ble Tahsildar of Jalgaon Jamod on 15.11.2018 by NA MSEDCL. Even after submitting on record the related documents; IGRC Buldana have erred and passed unlawful order. NA MSEDCL has been indulging in illegal and unlawful activities in the past regarding release of Ag connection and referred order no. 22 of 2016 and 34 of 2018 passed by CGRF Akola. Superintending Engineer, MSEDCL Buldana have taken action of suspension on concerned official of MSEDCL for such type of irregularities in releasing Ag connection as per press news appearing in different news papers on 26.02.2019. The defence of NA MSEDCL before IGRC regarding cause of action is not applicable in this matter as grievance is still not resolved.

Complainant Prays as Under

a. to set aside IGRC order and to direct N.A. to release Ag connection immediately.

- b. To grant SOP Compensation from 10.01.2008 for delay in releasing connection.
- c. To charge penalty of Rs. 1000/- per day as section 43 of E. A. 2003 and to recover this loss of public revenue from guilty officers of NA MSEDCL.
- d. Complainant annexed with his complaint before the Forum copy of IGRC order dated 21.02.2019 with copy of complaint before IGRC, paid money receipts, copy of test report dated 01.12.2008, copy of letter dated 01.11.2013, 28.12.2017, 30.10.2018 energy bill dated 16.10.2013, complaint to Tahsildar dated 06.11.2018, Nayab Tehsildar's letter dated 15.11.2018, and list of Ag applicants who have been provided Ag connection from 2011 to Nov 2013.

3) Non-Applicant's submission in brief is as under

- a. Because the installation at consumer premises was not ready, the connection could not be released.
- b. It is not known whether the consumer had paid the demand charges of Rs.1700/- on 16/10/2013. Further the site inspection revealed non-availability of ready electrical installation on site. The concerned well was also shallow and dry. Hence connection could not be released.
- c. There is no violation of chronology. As the consumer did not ready the installation on site, his name was dropped from the waiting list and informed to take refund of the money deposited with MSEDCL vide letter No. AE/Jalgaon Jamod/ 144 dated 25.01.2011 and also informed to keep installation ready otherwise his name shall be dropped from waiting list.
- d. The applicant has lodged his complaint after long period of 5 years. Hence with reference to the judgement by Hon Bombay High Court (Aurangabad Bench) in petition no. 6859/2017, the present complaint can not be heard by Hon. Forum and hence be dismissed on the grounds of time limitation.
 - e. According to NA MSEDCL as source of water was not found in the well during site inspection the electric connection could not be released and the complainants name was deleted from the chronology list and intimated to complainant vide letter no. AE/Jalgaon Jamod/144 dated 25.01.2011 asking complainant to take back his security deposit if installation is not kept ready.

The Applicant submits his rejoinder on the day of hearing. Besides his old submission, he submits additional argument as under.

- a. It is completely wrong on part of NA to say that since the installation was not ready, the connection could not be released as no record of site inspection

has been produced to substantiate this claim. It was mandatory on NA to inform consumer to be present during site inspection as per MERC Supply Code 2005 clause 5.1b and also to contact the consumer as per IE Act Clause 171.

b. According to complainant NA MSEDCL in their reply have accepted to have issued demand note of Rs. 1700/- but have not brought on record any quotation for additional demand and the energy bill dated 16.10.2013 for Rs. 1700/- against consumer no. 293307777786 is shown to be the quotation for additional demand which is completely false and NA MSEDCL is fabricating the evidences to defend the complaint.

c. According to complainant NA MSEDCL is misleading the Forum and tried to bring on record fabricated evidence as the purported letter AE/Jalgaon Jamod/144 dated 25.01.2011 is addressed to shri Kisan N. Bathe of Pimpalgaon Raje the place 30 Km away from complainant's premises and section officer of MSEDCL (Junior Engineer) is also different. According to complainant it is deliberate attempt on the part of NA MSEDCL to mislead the Forum by filing the false and fabricated record.

d. Complainant referred order No 22 of 2016 and 34 of 2018 to substantiate his say about bringing on record by NA MSEDCL false and fabricated evidence and CGRF Akola passing orders to initiate departmental enquiry against guilty officers of MSEDCL. According to complainant the consumer no. 293307777786 against which energy bill of Rs. 1700/- is issued to complaint without electric connection is consumer number for Ravindra Mahadev Navkar as can be seen from order passed by CGRF Akola in complaint no. 22 of 2016 dated 21.12.2016 and requested Forum to take suitable action against NA MSEDCL for repeated attempt on the part of NA MSEDCL in filing false and fabricated documents before Forum.

e. According to complainant NA MSEDCL have violated chronology as per regulation 4.4 of SOP Regulation 2014 and have not denied the fact of releasing Ag connections by violating chronology as per record of connections filed on record on Page no. 39 of 57. According to complainant limitation of 2 years for cause of action is not applicable in this case as per Apex Court order brought of record.

5) Shri Pramod Khandagle learned representative for complainant and Shri V. D. Sontakke, Dy. Executive Engineer with Shri S. R.Gupta, Dy. Executive Engineer were present for the hearing held on 24.04.2019. Shri Pramod Khandagale reiterated the grievance on record and submitted written

note of arguments as reproduced above at para 4 a,b,c,d, and e. Shri V. D. Sontakke, Dy. Executive Engineer with Shri S. R.Gupta, Dy. Executive Engineer learned representative for NA MSEDCL relied on submission of reply filed on record.

6) Forum opines as Under

Having heard both the parties and considering the material placed on record Forum is of the view that NA MSEDCL have violated the SOP Regulation in respect of chronology and period of giving supply. It is fact on record that Ag connection is not released within three months on payment of necessary charges on 10.01.2008 to complainant. It is also not denied by NA MSEDCL that Ag connections to other consumers are released even though they completed the payments after 10.01.2008 and thus Forum is of the view that NA MSEDCL violated the chronology and Regulation 2014. The defence brought on record by NA MSEDCL cannot be relied on as nothing is brought on record by NA MSEDCL to show that infrastructure work of two pole extension was ready and intimated to complainant for keeping installation ready and hence Forum is not inclined to accept the defence of NA MSEDCL of Non-submission of 'test report' by complainant. Forum is not inclined to accept the defence of NA MSEDCL about site inspection as nothing is brought on record to show that intimation of inspection as per supply code regulation 2005 is given to complainant and site inspection is carried out in presence of complainant. On the Contrary Forum have noted the attempt on the part of NA MSEDCL to mislead the Forum by filing on record fabricated evidence of site inspection punchnama dated 09.01.2019 after the grievance is lodged to IGRC Buldana on 13.12.2018 when NA MSEDCL should be aware of Regulation 6.19 of MERC CGRF Regulation 2006 according to which the, Forum shall not be bound by the Indian Evidence Act 1872. NA MSEDCL have also mislead the Forum by putting on record that complainants name was deleted from chronology list of Ag connection by intimation by letter AE/144 dated 25.01.2011 when the said letter is addressed to Mr Kisan N. Bathe of Pimpalgaon Raje. NA MSEDCL could not justify on record the issue of energy bill of Rs. 1700/- dated 16.10.2013 to complainant without releasing the Ag connection and tried to mislead the Forum to treat energy bill for Rs. 1700/- as additional demand charges. NA MSEDCL could not brought on record the MERC schedule of charges for recovery of additional demand of Rs. 1700/-. Forum is of the view that it is matter of concern to be investigated by higher authorities of NA MSEDCL to whom this order is marked that how a energy bill can be generated without

releasing the connection and how same consumer no. of 293307777786 be allotted to two different consumers of different period and MSEDCL revenue is deposited. Forum is of the view that there is substance in the plea of complainant that NA MSEDCL particularly from Jalgaon Jamod have indulged in irregularities and CGRF Akola ordered departmental enquiry in the order 22 of 2016 and 34 of 2018. The plea of NA MSEDCL regarding grievance after lapse of two years of cause of action is not tenable as matter referred in writ petition 6859 of 2017 before Aurangabad high court is not similar to present grievance. In the present grievance the cause of action is of continuing nature as connection is not released yet. Forum is of the view that in case of continuing breach or continuing wrong, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong as the case may be continues, as decided by Apex court in Appeal No. 5609 of 2006 dated 05.12.2006. The claim for SOP is lodged by complainant on 13.12.2018 before IGRC Buldana and as per SOP Regulation 2014 the compensation is admissible from the date prior to 60 days of claim. Forum is of the view that NA MSEDCL should be directed to compensate complainant for delay in release of connection from 14.10.2018 till release of connection at Rs. 100/- per week. Forum is of the view that NA MSEDCL should release Ag connection within 15 days of this order. The prayer of complainant of panealty at Rs. 1000/- per day as per section 43 of E.A. 2003 from 10.01.2008 is not tenable as not within the jurisdiction of CGRF Akola. Forum is of the view that NA MSEDCL should conduct departmental enquiry into the irregularities of releasing Ag connections at Jalgaon Jamod and recover the SOP Compensation payable to complainant from guilty officers/employees of NA MSEDCL as per principle laid down by Apex court in Civil Appeal No. 6237 of 1990 in the matter between M/s Lucknow Development Authority and M. K. Gupta issued on 05.11.1993.

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

ORDER

1. That the Complaint No. 10/2019 Dated 25/03/2019 is hereby partly allowed.
2. That NA MSEDCL is directed to release Ag connection of complainant within 15 days of this order.

3. That NA MSEDCL is directed to compensate complainant by SOP compensation at Rs. 100/- per week from 14.10.2018 till release of connection but limited to Rs. 5000 (twice the service connection charges) for delay in releasing the Ag connection.
4. That NA MSEDCL is directed to set aside the energy bill amounting Rs. 1700/- dated 16.10.2013 in absence of connection.
5. That NA MSEDCL is directed to conduct the departmental enquiry into the irregularities in releasing Ag connection at Jalgaon Jamod and recover the loss of revenue payable in the form of SOP Compensation from guilty officers of NA MSEDCL as per Principle Laid Down by Apex Court in Civil Appeal No. 6237 of 1990 in the matter between M/s Lucknow Development Authority and M. K. Gupta issued on 05.11.1993.
6. 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/107

Dt:- 16.05.2019

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

The order passed on **16/05/2019** in the Complaint No. **10/2019** 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, Buldana.

Copy to :-

- 1) Shri Ramesh Shankarrao Gawai , At post Sungaon, tq. Jalgaon Jamod
Dist. Buldana-443402.