

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redresses Forum
Nagpur Zone, Nagpur**

Case No. CGRF(NZ)/19/2019

Applicant : Shri Mohan Pundlikrao Manmode,
At Village - Inzapur,
WARDHA.

Non-applicant : Nodal Officer,
The Superintending Engineer,
Wardha Circle, M.S.E.D.C.L.,
WARDHA.

Applicant represented by : Applicant's representative
Shri Prasant Daryapurkar,

Non-applicant represented by: 1) Shri Sanjay M. Wakade,
Exe.Engr., MSEDCL,
2) Shri S.V. Barahate, Jr.Law Officer.

Quorum Present : 1) Shri Arvind Jayram Rohee,
Chairperson.
2) Mrs. V.N.Parihar,
Member Secretary
3) Mrs. Asmita Avinash Prabhune,
Member(CPO)

ORDER PASSED ON 30-04-2019

1) The applicant filed present grievance application before this Forum on 22.02.2019 under Regulation 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006 (hereinafter referred to as said Regulations).

2) Non applicant denied applicant's case by filing reply Dated 12.04.2019.

3) Forum heard arguments of both the sides & perused the case record.

4) Aggrieved by the order dated 18.02.2019, passed by IGRC Wardha, holding that since the applicant has given consent to carry out the electrification work of his layout under 1.3% SOP DDF(Non-Refundable), he is not entitled for any reimbursement of the expenditure i.e. costs of laying High Tension Line(HTL), Low Tension Line(LTL) and installation of Distribution Transformer 200 KVA etc. the applicant approached this Forum in the present grievance application.

5) The facts in brief leading to filing of the present grievance application are that applicant applied to Non-applicant (NA) for new power supply for his layout which is sanctioned as per estimate no.SE/O&M/WRD/ESTT/1.3%Sup DDF (Non Refundable) no.51 Date.16.01.2017. This was supposed to be a Dedicated Distribution Facility (DDF) for which the consumer i.e. applicant is required to bear the costs of installation of line. According to applicant, in spite of the fact that he did not ask for supply under DDF non-refundable scheme nor they gave any consent for the same to bear the costs of the said line, however it was found subsequently that the said supply given was not actually a DDF as connection provided to them is not directly from the substation or a switching station i.e. the nature of connection provided to applicant

was not covered under the definition of DDF, as interpreted by the Maharashtra State Regulatory Commission (MERC) itself. Hence it could not be said to be a case of DDF.

6) On this basis, on 13.11.2018, the applicant approached Internal Grievance Redressal Cell (IGRC) under Regulation 6 of the Maharashtra State Electricity Regulatory Commission Regulations, 2016, for redressal of its grievance and a direction to the NA to refund the amount of costs incurred by him for installation of the infrastructure for aforesaid connection. By order dated 18.02.2019, the IGRC rejected the claim of applicant. Aggrieved by the said decision, applicant approached this Forum.

7) The N.A. filed reply dt. 12.04.19 in which it is stated that, the applicant's contention that there is scarcity of funds with MSEDCL and thereby unless expenditure is incurred by applicant they can not give connection to him is incorrect. It is further stated that, the estimate for providing supply to applicant is sanctioned vide no.SE/O&M/WRD/ESTT./1.3%SupDDF(NON-refundable)/no. 51 Dt. 16.01.2017. Accordingly work of erection of a 200KVA Distribution Transformer and allied work is carried out by applicant as per his own free will and that too without any undue pressure from NA. It is also submitted that NA proceeded on assumption that the connection desired by applicant was indeed DDF and hence applicant is liable to bear the cost of such connection and consequently he is not entitled to any relief in view of verbal consent

given in the process of the said facility being provided to applicant.

8) The forum heard both for the parties and perused the case record. The crucial question to be decided in the present case is, whether the connection provided to applicant could be defined as DDF. Since, it is a technical matter the interpretation placed by the Commission on such a facility is significant. The applicant relied on decision of Hon;ble High Court Bombay Bench at Nagpur in Writ petition No.468 of 2018, MSEDCL Vs. M/S Darpan Multi Polypack (India)Pvt.Ltd, Nagpur dated 16.02.2008, wherein the aspect of definition and scope of DDF has been considered. It has been held in the said order as follows:-

(1) Since, MSEDCL do not have a clear conception of Dedicated Distribution Facility and the levy of ORC in the EA 2003 regime, it is necessary to provide guidance on the same and issue necessary directions as under :

(2) As many places prospective consumers with an intention to get better quality of supply seek Dedicated Distribution Facility, though distribution network is available in nearby vicinity and it is possible to give supply by extending the existing network. Such consumers seeking Dedicated Distribution Facility will have to pay the cost incurred in providing the Dedicated Distribution Facility. As per MERC Regulation 2(g) of the Supply Code 2005 :

“(g) “Dedicated distribution facilities” means such facilities, not including a service line, forming part of the distribution system of the Distribution Licensee which are clearly and solely dedicated to the supply of electricity to a single consumer or a group of consumers on the same premises or contiguous premises”.

It is clear from this defined term that mere extension or tapping of the existing line (LT and HT) cannot be treated as Dedicated Distribution Facility. Such extension or tapping being part of the common network will be affected due to any fault or outages on the common network and cannot be considered as a facility solely or clearly deducted for giving supply. Thus, in the distribution system, Dedicated Distribution Facility means a separate distribution feeder or line emanating from transformer or a substation or a switching station laid exclusively for giving supply to a consumer or a group of consumers. The transformer or the substation can also form a part of Dedicated Distribution Facility if it is provided exclusively for giving supply to these consumers and no other consumer is fed from the said transformer/substation. Also, Dedicated Distribution Facility cannot be shared in future by other consumers. Such facilities cannot be imposed on a consumer. IF the consumer does not seek Dedicated Distribution Facility the licensee has

to develop its own infrastructure to give electric supply within the period stipulated in Section 43 of the EA 2003 read with the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005. In fact, the licensee should take advance action to develop the distribution network, based on the survey of growth pockets and demand projections so as to fulfill 'Universal Service Obligation' as per the spirit envisaged in the EA 2003 and the Regulations made thereunder."

9) The above quoted portion of the order shows that a facility cannot be said to be a DDF, if there is mere extension or tapping of the existing line. In this context, the submission made during hearing on behalf of the Non applicant assumes significance, wherein the Non applicant has stated in response to the claim of applicant as follows :-

10) *The 11 KV HT Line, 0.28 km which is laid down by the applicant, through the Licensed Electrical Contractor, is a line tapping from the existing 11 KV Borgaon Feeder emanating from 33 KV Borgaon Sub-station to the point of supply at consumer's premises.*

11) " The aforesaid specific statement made on behalf of the Non-applicant makes it clear that the connection provided to applicant was a line tapping from the existing feeder to the point of supply at the premises of applicant. Therefore, it is necessary to

have a clear demarcation or limit of SERVICE LINE CHARGES & SERVICE CONNECTION CHARGES. The service line is extended up to the Double Pole Structure, erected near the premises of the applicant, which is the nearest distribution main. The service connection starts from this Double Pole structure and is extended upto the premises of the applicant. MSEDCL is entitled to recover the charges under the head SCC as per the approval of the commission or 1.3% in case MSEDCL permits applicant to carry out work through Licensed Electrical Contractor, of the normative charges.”

12) Also it is categorically stated as per MERC Regulation (3.3.3) of Supply Code 2005 *“Where the provision of supply to an applicant entails works of installation of Dedicated Distribution facilities, the distribution Licensee shall be authorized to recover all expenses reasonably incurred on such works from the applicant based on the schedule of charges approved by the Commission under Regulation 18.*

13) “In this case the applicant contended that he never demanded DDF facility nor agreed to carry out the work voluntarily. In such circumstances of the cases the Non-applicant should have carried out the work under Non-DDF scheme.

14) Once this factual aspect stood established, it could not be said that the claim raised on behalf of applicant is without any merit. Having paid attention to this aspect of the matter, it has been correctly found that DDF was not provided to applicant in the

present case. Therefore, it cannot be said that any error has been committed by applicant while requesting the refund of amount along with interest.

15) In this regard, perusal of the representations made on behalf of applicant reveal that prayer for grant of interest was made from 07.01.2019. It appears reasonable that the applicant has raised grievance about grant of interest from the date when the applicant incurred the costs. To that extent, relief can be granted to the applicant by directing that the cost of infrastructure incurred by him with interest on the amount to be reimbursed to the applicant shall be payable from date of payment of demand note.

16) Accordingly, the grievance application is allowed on the basis that the connection provided to applicant is not directly from the substation or a switching station, it could not be said to be a case of DDF, as It is found that the nature of connection provided to applicant is not covered under the definition of DDF, as interpreted by the MERC itself. Therefore while holding that the applicant neither wanted DDF supply nor was given to him by NA, hence the Non-applicant is directed to refund amount towards expenditure of estimated cost incurred by him along with @ interest of 6% P.A. after deducting 1.3 % supervision cost.

17) The impugned order of IGRC dated 18.02.2019, is set aside. Grievance application is allowed in above terms. No order as to costs.

Sd/-
(Mrs. Asmita A. Prabhune)
MEMBER(CPO)

Sd/-
(Mrs. V.N.Parihar)
MEMBER SECRETARY

Sd/-
(Arvind J. Rohee)
CHAIRPERSON