

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

“Vidyut Bhavan” Ratanlal Plot, Akola. Tel No 0724.2434475

ORDER

Dt:- 24.06.2019

Complaint No :- 20/2019 Dated 24.04.2019

In the matter of grievance pertaining to abrupt reclassification and change of tariff to commercial.

Quorum

Dr.V.N.Bapat- Chairman

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

Shri. R.A.Ramteke, Member – Secretary

1. Shri. Pravinchand C. Ranghan :- Complainant
Consumer no. LTII
A-300310391119
KRUSHNA HOTEL, SANE LAYOUT
Chikhali Road Near PNB Buldana.

.....Vrs.....

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

Appearances

1. Shri. Promod N. Khandagle - Representative for Complainant
2. Shri. Ashok Lahode - Dy. Executive Engineer, Buldana
MSEDCL,

1) On being aggrieved by the decision of IGRC Buldana issued vide SE/BLD/IGRC/1119 dated 15.03.2019 the complainant Shri. Pravinchand Ranghan for Krushna Hotel approached this Forum under section 6.4 of MERC CGRF and OMBUDSMAN Regulation 2006 for resolving the grievance.

2) a) Complainant's case in brief is that NA MSEDCL released Industrial connection for Krushna Hotel for preparing and sale of Ice cream, sweets and Khara mixture and other eatables in the name of Pravinchand Ranghan and complainant is user and occupier of the business.

b) According to complainant there was no dispute about the applicability of industrial tariff and NA MSEDCL have not taken any objection about it upto Nov. 2017.

c) According to complainant Flying Squad of NA MSEDCL visited the Krushna Hotel premises on 19.12.2017 and as per the inspection report, NA MSEDCL vide their letter no. 1611 dated 16.10.2018 issued bill of Rs. 1,10,930/- towards tariff difference of industrial to commercial.

d) Complainant disputed the assessment bill of Rs. 1,10,930/- and intimated to NA MSEDCL vide their letter dated 29.10.2018.

e) According to complainant NA MSEDCL justified the assessment bill for Rs. 1,10,930/- as correct as per tariff order; which according to complainant is issued by violating the provisions of supply code regulation 2005.

f) According to complainant NA MSEDCL have exceeded the powers of reclassification which otherwise is a prerogative of MERC. According to complainant Krushna Hotel is registered as industry with DIC Buldana on 25.10.2018 and submitted the certificate no. A MHO7D0005100 and hence assessment for period Aug 2016 to July 2018 towards tariff difference is illegal.

g) According to complainant the purpose of connection as Krushna Hotel is not deviated by complainant and hence reclassification is not within the purview of NA MSEDCL as per clause 13 of supply code regulation 2005. Complainant referred MERC case no. 24 of 2001 and APTEL case no. 131 of 2013 for disallowing retrospective recovery effected by MSEDCL.

h) **Complainant Prays:-**

i) To set aside assessment bill of Rs. 1,10,930/- towards tariff difference.

ii) To restore the original Industrial tariff to Krushna Hotel.

iii) To direct MSEDCL to issue all future energy bills as per industrial Tariff. Complainant annexed Udyog Aadhar certificate, IGRC complaint, Industrial tariff with processing and order, energy bill for Feb, April 2018 and Jan 2019 along with the complainant.

3) Reply came to be filed by NA MSEDCL on 09.05.2019. According to NA MSEDCL the complainant's premises Krushna Hotel was inspected by Flying Squad of MSEDCL on 20.06.2018 and found that complainant is using electric supply for commercial purpose of Hotel as against Industrial sanctioned by MSEDCL and carried out site inspection report signed by complainant. According to NA MSEDCL as per Flying Squad report assessment bill for tariff difference of industrial to commercial for Aug 2016 to July 2018 amounting to Rs. 1,10,930/- was issued to complainant for payment. According to NA MSEDCL as complainant did not use the electric supply for the purpose for which it was sanctioned, the assessment bill for tariff difference and applicable commercial tariff is correct and requested the Forum to dismiss the complaint. NA MSEDCL annexed copy of CPL for April 18 to March 2019; complaint dated 30.05.2018. MSEDCL letter 576 dated 15.04.2019, IGRC order, Commercial circular no. 311 dated 01.10.2018, spot inspection report 20.06.2018, and IGRC complaint with proceeding along with the reply.

4) Shri. Pramod N. Khandagale learned representative for complainant and Shri. Ashok Lahode, Dy. Executive Engineer Buldana for NA MSEDCL were present for the hearing held on 14.06.2019. Shri Pramod N. Khandagale reiterated the complaint on record and submitted written note of argument and filed on record Aptel order in Appeal no. 131 of 2013 and MERC order in petition no. 24 of 2001. Shri Pramod N. Khandagale referred MERC tariff order 195 of 2017 and MSEDCL commercial Circular no. 311 dated 01.10.2018 and urged that as Ice cream manufacturing unit has been included under LT V Industrial tariff the industrial tariff should be applicable to our Hotel as activity of Ice cream along with other eatables are prepared and sold at Hotel premises, and further urged that recovery if any for the abrupt reclassification of a consumer though the same might have been pointed out by their vigilance should be prospective only as held by MERC in case no. 24 of 2001 and APTEL case no. 131 of 2013 and hence requested Forum to set aside the assessment of Rs 1,10,930/- for the period prior to detection on 20.06.2018.

5) Shri. Ashok Lahode, Dy. Executive Engineer present for the hearing for NA MSEDCL could not defend the complaint as was not prepared and studied and could not bring on record the assessment copy and vigilance report and even was confused about the date of detection and inspection. Shri. Ashok Lahode, Dy. Executive Engineer MSEDCL brought on record that proposal for reclassifying complainant again in industrial tariff has been initiated and sent to Superintending Engineer Buldana for approval from the date of registration under DIC as per 'Udyog Aadhar' from 25.10.2018. Shri. Ashok Lahode, Dy. Executive Engineer MSEDCL failed to bring on record original A1 application to ascertain the purpose for which supply was obtained by the complainant on insistence of Forum, on the contrary, Shri. Ashok Lahode, Dy. Executive Engineer brought on record that original A1 application record has gone missing and untraceable.

6) Having heard the parties and considering the material placed on record, Forum finds no substance in the plea of complainant that MERC have classified hotel under Industrial tariff category and Forum is of the view that MERC in tariff order no. 195 of 2017 and earlier tariff orders have included hotel under commercial category for application of tariff. It could not be established on record either by complainant or NA MSEDCL that purpose of supply at the time of release of connection in the year 1997 was Industrial or commercial as original A1 application has not been filed on record and according to NA MSEDCL argument, original A1 application is not traceable so Forum could not verify whether NA MSEDCL have applied wrong tariff as industrial in year 1997 or complainant has changed the purpose of use. It is admitted fact on record that at the time of detection on 20.06.2018 as per spot inspection report of vigilance filed on record the purpose of use is Hotel, which is commercial activity and NA MSEDCL is correct in classifying complainant in commercial category for tariff from 20.06.2018. Forum finds no substance in plea of NA MSEDCL that complainant has changed the purpose of use as no document to establish the fact has been filed on record by NA MSEDCL and Forum is of the view that why the provisions of E. A. 2003 are not invoked by MSEDCL if according to MSEDCL purpose of use is changed by complainant. Forum sees the point in the argument of complainant that recovery of arrears can be allowed prospectively and not retrospectively as observed by the commission in case no. 24 of 2001.

Commission Directs the following:-

“No retrospective recovery of arrears can be allowed on the basis of any abrupt reclassification of a consumer, even though the same might have been pointed out by auditor. Any reclassification must follow a definite process of natural justice and recovery if any would be **prospective only** as the earlier classification was done with a distinct application of mind by the competent people”. Forum is of the view that APTEL in their decided order in Appeal no. 131 of 2013 upheld the verdict of state commission and allowed reclassification from the date of detection of error and so Forum is inclined to allow the reclassification of complainant’s tariff category as commercial from the date of detection by vigilance of MSEDCL on 20.06.2018 and disallow the recovery of arrears effected by NA MSEDCL from Aug 2016 to July 2018 amounting Rs. 1,10,930/-. Forum is of the view that NA MSEDCL should be directed to set aside the assessment bill of Rs. 1,10,930/- issued towards tariff difference for the period Aug 2016 to July 2018.

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

ORDER

1. That the Complaint No. 20/2019 dated 24/04/2019 is hereby partly allowed.
2. That the NA MSEDCL is directed to set aside the assessment bill amounting to Rs 1, 10,930/- towards tariff difference of industrial to commercial for Aug 2016 to July 2018.
3. That the NA MSEDCL is directed to reclassify the complainant under commercial tariff category from the date of detection of error on 20.06.2018 and directed to recover arrears towards tariff difference from 20.06.2018.
4. NO order as to the cost.
5. That the NA MSEDCL is directed to submit a compliance report to this Forum within one month of this order.

S/d/-
Member Secretary

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/ 134

Dt:- 24.06.2019

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

The order passed on **24-6-2019** in the Complaint No.
20/2019 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. Pravinchand C. Rangan, Krushna Hotel, Sane Layout Chikhali Road near
PNB Buldana 443001.