

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievances Redressal Forum
Nagpur Zone, Nagpur**

Case No. CGRF(NZ)/52/2019

Applicant : Bharti Enterprises,
C/o Shri Ashish Subhash Chandarana,
Flat No.302, Satguru Villa Apartment,
Gorakshan Road, Shankar Nagar,
Akola-444004.

V/s

Non-applicant : Nodal Officer,
The Executive Engineer,
Mouda Division, M.S.E.D.C.L.,
Mouda.

Applicant represented by : Shri Ashish Subhash Chandarana
Non-applicant represented by: 1) Shri Amit Paranjape, Exe.Engr.,
MSEDCL, Mouda Dn.
2) Shri Abhijit Suryawanshi,
Dy.Exe.Engineer, Mouda Dn.

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

ORDER PASSED ON 30.07.2019

1) The applicant filed present grievance application before this Forum on 20.04.2019 under clause 6.4 of the Maharashtra Electricity Regulatory Commission (Consumer Grievances Redressal Forum & Electricity Ombudsman) Regulations 2006.

2) Non applicant denied applicant's case by filing reply dated 27.05.2019.

3) As stated by Applicant fact of the case is that estimate of providing 120 HP power supply to applicants establishment is sanctioned under budget head NON DDF CC&RF (Non Dedicated Distribution Facility, Consumer Contribution & Refund) scheme amounting to Rs.349232.54, wherein supervision charges of Rs.4471.86 & GST thereon Rs.804.86 were wrongly framed but not recovered later. Also, from cost data only labour charges to the extent of 15% considered in estimate, although about 42.76% centrages needs to be taken into account. Also the transformer procured by them is as per new specification, but the cost data is of old specification. As per applicant's contention NON DDF CCRF is the arrangement of MSEDCL ,applicant needs to spent first on behalf of MSEDCL to meet the obligation upon MSEDCL to provide infrastructure as per provision of the Electricity Act 2003 and subsequent regulatory orders. The expenditure done is subsequently refunded by way of adjustment in the energy bills. Due to non-receipt of refund and to get above stated deficiencies rectified, applicant approached IGRC on 21.09.2018 and submitted its grievance through registered post which is received by IGRC on 24.09.2018. IGRC fixed hearing on 12th November 2018 which could not take place due to difficulties on part of IGRC and subsequent to this nothing happened till date. As IGRC did not provide any relief,

the applicant approached this forum for its redressal. In view of these facts, applicant prayed for the following reliefs:

1. Direct Non-applicant to revise WCR by adding all centrages and by taking actual cost of transformer on account of change in specification (but no change in cost data) and refund the same along with interest @ 12% for delay in refunding amount.
2. Any other relief which Hon'ble CGRF may deem fit considering facts and circumstances of the case.

4) Non-applicant submitted their written contention that ,applicant M/s. Bharti Enterprises Prop. Atul Dilip Thakral at Village Kapsi (Bz) applied for the load of 120 HP for their industrial connection on dated 12.01.2018. The applicant had given the consent on Stamp paper of Rs.100/- that they will not ask for the refund of expenditure done by them for the electrification work required for their industrial connection in the name of r/o Bharti Enterprises. Accordingly estimate was sanctioned by the NA vide sanction No.SE/NRC/T/ESTT/MOUDA-Dn/1.3% Sup/17-18/02 dated 08.03.2018 but not under budget head Non DDF CC & RF scheme. The said estimate is sanctioned for Rs.349232.54 whereas supervision charges Rs.4471.43 & GST thereon Rs.804.86 has been taken correctly which is sanctioned under 1.3% supervision scheme. As per the provisions of scheme centrages considered as 15% labour charges & 1.3% supervision charges only. The 42.76% centrages as envisaged by applicant are applicable to 100% DDF

scheme only which is as per circular no.179 dated 09.03.2018. Cost of transformer and other material is considered as per M.S.E.D.C.L. cost data at the time preparation of estimate.

5) After completion of all formalities by applicant as per norms of M.S.E.D.C.L. connection in r/o Bharti Enterprises has been issued. As the applicant given consent that they will not ask for the refund of electrification amount, and as the estimate was sanctioned under 1.3% Supervision scheme ,applicant is not entitled for refund of electrification work amount.It is therefore, prayer to the Hon'ble Forum to please reject the application of the applicant for refund of estimate work amount.

6) Applicants representative during hearing referred Circular SE(Dist)/D-III/Circular/22197 dated 20.05.2008 and claiming refund of infrastructure cost along with centrages & GST.

7) But NA stated during hearing that at the time of sanction the applicant had submitted consent / undertaking on Rs.100 stamp paper mentioning that "I am ready to carry out the work through the Licensed Electricals Contractor at our cost & material & will not ask for refund for above said work". Hence the estimate was sanctioned under 1.3% Supervision scheme, where any refund is not applicable. Hence the Law of Estoppel will apply.

8) It is therefore, requested to the Hon'ble Forum to reject the application for refund estimate work amount with centrages & GST.

9) On 30.07.2019 when the matter was called out for final hearing, heard the applicant Shri Ashish Chandarana and the reply arguments of Shri Amit Paranjape, Executive Engineer, Mouda Dn. MSEDCL assisted by Shri Amit Suryawanshi, Dy.Executive Engineer, Mouda Dn. MSEDCL. We have carefully gone through the case record and also discussed fact of the case and the issue involved including law point. The only question arises for our consideration is whether the applicant is entitled to get refund of Rs.349232.54/-incurred by him for raising the infrastructure at his cost alongwith interest thereon..

10) For the purpose of his submission, the applicant strongly placed reliance on the Circular No.SE(Dist)/D-III/ Circular/22197 dated 20.05.2008, which prescribes guidelines for releasing new connection and augmentation, giving reference to various other circulars, decision of the Hon'ble Supreme Court & MERC order. The particulars and recovery of charges are given in a tabular form at Sr.No. 1 to 3. We are concerned with Sr. No. 1.1.3 for resolution of the grievance, which is reproduced here for ready reference.

Sr.No.	Particulars	Recovery ofCharges
1.	1.1 - 1,2 - 1.3 - All LT industrial individual or group consumer	a) - b) - If the consumer / group of consumers wants early connections and opts to execute the work and bears the cost of infrastructure then the refund of the cost of infrastructure will be given by way of adjustment through energy bills. c) -

11. It is obvious that since the applicant was in a hurry to get early electric connection to run the industry, he raised necessary infrastructure at his costs, for which according to him he is not required to pay amount of supervision charges to MSEDCL. In support of this content the applicant relied on para 3 of the **“Procedure to plan for electrifying areas and releasing new connections”** from the above referred circular dated 20.05.2008, for the purpose of convenience and ready reference the said provision is reproduced here :-

“However he will have to get the estimates and specifications sanctioned from the appropriate authorities and he will not be required to pay supervision charges to MSEDCL.”

12) Careful scrutiny of the record clearly reveals that the sanction was granted for Non DDF CC&RF under Non DDF CCRF scheme. Careful perusal of the above provisions of para 3 indicates that the applicant who got the work done at his cost will have to pay the Supervision Charges to MSEDCL and he will get refund of expenses incurred for raising the infrastructure through his energy bills.

13) The main contention of the Non applicant is that the applicant is not entitled to refund of charges of infrastructure incurred by him based on his undertaking dated nil executed on Stamp paper of Rs.100/- issued by Nagpur Treasury on 24.01.2018 and since the applicant consented that he will not

ask for refund of above said work, he is not justified in seeking any refund. For ready reference the entire text of the undertaking is reproduced here :-

“ I M/s. Bharti Enterprises the Undersigned have applied for new LT Power supply / enhancement of Load / Any entail works at electric connection at the premises at Kh.No.156/4 at village Kapsi (Bz) tha. Kamptee, Dist. Nagpur, in the name of M/s. Bharti Enterprises consent to Electrification the Line/pole connecting from the above Premises/Feeder for convenience purpose.

I am ready to carry out the work through the Licensed Electrical Contractor at our own cost and material under the supervision charges at NON DDF of normative charges estimate amount as per MERC regulation 2005 and the terms and conditions of MSEDCL.

I opt to execute the estimated work under the supervision of MSEDCL/ready to bear the test of infrastructure required as per MSEDCL Circular No.CE(Dist)D-III/22197, Dt.20.05.08 & will not ask for refund for above said work.”

14) It is obvious that there is a reference of circular dt.20.08.2008 referred above in the said undertaking. However, perusal of the entire circular nowhere reflects that such type of undertaking, not to claim the refund can be obtained from the consumer under Non DDF CCRF scheme.

15) During the course of argument when specifically asked, what is the basis for including the words “will not ask for

refund for aforesaid work”, the Non applicant could not reply the query nor had given any reliable justification for the same, and simply contended that the applicant is bound by aforesaid undertaking and is now estopped from contending that he is still entitled to get the refund, inspite of undertaking given to the contrary.

16) We do not find any force in the aforesaid submission of the Non applicant, which is contrary to the provisions of guidelines dated 20.05.2019, and the same is also not specifically permitted under any circular / notification / order issued by MSEDCL. Non applicant also expressed inability to prove that the aforesaid text of undertaking is prescribed by MSEDCL.

17) In view of above we reject the contention and hold that the applicant is entitled to get refund of Rs.349232.54/- by deducting Supervision charges of Rs.4471.43/- and G.S.T. there on of Rs.804.86/- therefrom.

18) Grievance application is therefore, partly allowed without relief for interest amount to be refunded, which will be adjusted in future energy bills to be issued.

19) No order as to costs.

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

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

Sd/-
(Arvind J. Rohee)
CHAIRPERSON