

**CONSUMER GRIEVANCE REDRESSAL FORUM,**  
**AKOLA ZONE, AKOLA.**

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

**ORDER**

**Dt:- 22.08.2019**

**Complaint No :- 34 of 2019 Dated 26.06.2019**

**In the matter of grievance pertaining to refund of infrastructure cost with 12% interest.**

**Quorum**

**Dr.V.N.Bapat- Chairman**

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

1. Shri. Ramdev Cot. Yarn Pvt. Ltd.        :-        Complainant  
Consumer no. 318734596752 LT  
Industries Gut No - 125 Wadali Satwai,  
Hiwarkhed Road Akot.  
C/o RITA AJEET GUPTA, Ambikanagar  
Akot Dist.Akola.

**.....Vrs.....**

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

**Appearances**

1. Shri. Ashish S. Chandarana                -        Representative for Complainant  
2. Shri. R. J. Umbarkar                        -        Dy. Executive Engineer,  
MSEDCL, Akot.

1)                                On being aggrieved by the fact of not providing any remedy within two months by IGRC Akola on grievance complaint dated 09/04/2019, the complainant approached this Forum under clause 6.4 of MERC CGRF and OMBUDSMAN Regulation 2006 for resolving the grievance.

2) The complainant's case in brief is that Shri. Ramdev Cot. Yarn pvt. Ltd. Akot is Industrial consumer of NA MSEDCL with connected load of 150 KW and contract demand 187 KVA having supplied with electricity by NA MSEDCL on 17/12/2018. According to complainant A1 form for this new connection was submitted to NA MSEDCL on 21/09/2018 mentioning new connection under Non-DDF Scheme, which is filed on record as Annexure A-1. According to complainant the Non-DDF CCRF Scheme was introduced by NA MSEDCL from 20/05/2008 which was subsequently withdrawn from 15/05/2018, wherein consumers were required to spend for infrastructure cost and get the cost reimbursed through energy bills. According to complainant NA MSEDCL is duty bound to provide infrastructure for new connection as MSEDCL lost before Apex Court. The complainant relied on section 43 of EA 2003. According to which it is universal obligation on the part of MSEDCL to provide infrastructure. According to complainant NA MSEDCL sanctioned estimate vide EE/Akot/Tech/Infra/New Connection/18-19/01 dated 06/11/2018 and issued demand note for Rs. 1,01,076/- which is paid by cheque on 06/11/2018. According to complainant option Dated 22/11/2018 under DDF (Annexure A-4) was exercised in compulsion but under protest as no alternative was left considering the huge investment in plant and machinery. According to complainant proviso to section 43 (2) of EA 2003 does not permit licensee to thrust dedicated facility on consumers unless express consent is exercised by consumers. According to complainant the supply is extended from existing network and network falls within the meaning of Non-DDF Scheme and hence insisting for consent for Infrastructure cost by letter dated 2nd Nov 2018 is illegal and arbitrary. According to complainant infrastructure cost be refunded as per WCR treating it as Non-DDF. complainant annexed copies of Annexure A-1 to A-4 with IGRC Akola letter dated 12/04/2019 with the complaint.

### **Complainant's Prayer**

Direct MSEDCL to refund infrastructure cost spent by complainant as per WCR though bills with 12% interest.

3) Reply came to be filed by NA MSEDCL belatedly on 15/07/2019 with request to condone the delay in filing the reply. According to NA MSEDCL estimate under DDF was sanctioned vide EE/Akot/1819/DDF/20 dated 27/11/2018 as per option exercised by complainant. According to NA MSEDCL work executed as per estimate and agreement between NA MSEDCL and director of Shri. Ramdev Cot. Yarn Pvt. Ltd. According to NA MSEDCL refund of

infrastructure cost under DDF incurred with consent of complainant is not admissible as per circular of corporate office issued vide CE/Dist/9245 dated 23/04/2018 and CE/Dist/14747 dated 15/06/2018 and requested Forum to dismiss the complaint. NA MSEDCL annexed copy of consent dated 28/11/2019 exercised by complainant, letter NA MSEDCL/2811 dated 27/11/2018, copy of agreement between MSEDCL, complainant and contractor, copy of demand note with paid receipt, online A-1 application dated 19/09/2018, copy of letter EE/Akot/Letter/2959 dated 12/12/2018, copies of invoices, approval of Electrical Inspector dated 11/12/2018 and copy of CE/Dist/9245 dated 23/04/2018 alongwith the reply.

4) Shri. Ashish S. Chandarana representative for complainant and Shri. R. J. Umbarkar, Dy. Executive Engineer Akot for MSEDCL were present for the hearing held on 14/08/2019. Shri. Ashish S. Chandarana representative for complainant reiterated the grievance complaint on record and specifically brought before Forum the A-1 application dated 21/02/2018 acknowledged by NA MSEDCL for new industrial connection with remark of "Requirement of connection in Non-DDF Scheme" and also referred firm quotation dated 06/11/2018 issued by NA MSEDCL sanctioning estimate under 'INFRA' scheme vide EE/Akot/Tech/Infra/Connection/18-19/01 dated 06/11/2018 and also brought on record circular issued by corporate office of NA MSEDCL dated 15/05/2018 directing field staff to release new connection under Non-DDF scheme to be implemented from 01/10/2018 which was further deferred for its implementation from 01/01/2019. Shri. Ashish S. Chandarana complainants representative further urged that due to uncertainty on the part of NA MSEDCL to execute the infrastructure work under Non-DDF which is mandatory as per section 43 of EA 2003 and MSEDCL oral directions to submit 'Undertaking' for new connection in the format available on the website of MSEDCL the complainant was forced to submit undertaking on stamp paper of Rs. 200/- with addition of condition no. (7) as, "Anything under this undertaking which is inconsistent with the constitution of India, EA 2003 and regulations made there under and various judicial and regulatory binding orders shall be deemed to be invalid", which is acknowledged by MSEDCL on 22/11/2019. The undertaking was forcefully submitted by complainant, to avoid delay and probable loss of huge investment in installation of industry. Shri. Ashish S. Chandarana representative for complainant further urged that the reply filed by NA MSEDCL is received to complainant on 13/08/2019 and MSEDCL filed misleading reply about consent dated 28/11/2018 for 'DDF' which is infact a letter for utilising available

infrastructure and brought before Forum that NA MSEDCL never acted on request letter dated 28/11/2018 as date of issue of quotation and even sanction of revised estimate EE/Akot/Tech/18-19/1.3%/DDF/20 dated 27/11/2018 are earlier to the letter dated 28/11/2018 to which MSEDCL is treating a consent under 'DDF'. Shri. Ashish S. Chandarana representative for complainant requested Forum to direct NA MSEDCL to refund the infrastructure cost with interest as per WCR , as MSEDCL forced complainant to incur infrastructure expenditure under 'DDF' which even does not constitute 'DDF' as per supply code regulation 2005 read with SOP Regulation 2014 and MERC case no. 56 of 2007 dated 16/02/2008. Shri. Ashish S. Chandarana urged before Forum to allow the interest as per practice directions issued by MERC by order dated 22/07/2019. Shri. Ashish S. Chandarana representative for consumer filed on record (1) Practice directions order of MERC dated 22/07/2019. (2) MSEDCL circular no. 9245 dated 23/04/2018, 10992 dated 15/05/2018, no. 23264 dated 19/09/2018 and CE/Dist/26088 dated 31/10/2018.

5) Shri. R. J. Umbarkar, Dy. Executive Engineer and authorised representative for MSEDCL urged that since the infrastructure work is executed by complainant under 'DDF' as per consent dated 28/11/2018 the refund is not admissible and requested Forum to dismiss the complaint. On being asked by the Forum to depose about the ownership of executed asset by complainant. Shri. R. J. Umbarkar, Dy. Executive Engineer brought on record that the ownership of asset executed by complainant belongs to MSEDCL as per undertaking filed on record by the complainant. Shri. R. J. Umbarkar, Dy. Executive Engineer urged that during the period no scheme other than DDF was available for releasing the connection.

6) On conclusion of the hearing, the Forum directed NA MSEDCL to file on record work completion report of infrastructure work executed by complainant for releasing the connection on or before 19/08/2019 duly acknowledged by complainant.

7) However NA MSEDCL did not file on record WCR as directed by Forum.

8) Having heard the parties and considering material placed on record Forum is of the view that dispute to be resolved is whether 'DDF' Facility extended by MSEDCL is in accordance with various provisions under Electricity Act

2003, supply code regulation 2005 read with SOP Regulation 2014 and MERC guidelines issued in case no. 56 of 2007 dated 16/02/2008. The various provisions are reproduced below.

**Dedicated Distribution Facility (DDF) as per Regulation 2 (g) of supply code Regulation 2005**

2(g) “Dedicated Distribution facilities means such facilities, not including a serviceline, 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 group of consumers on the same premises or contiguous premises”.

**As per MERC guidelines in case no. 56 of 2007 dated 16/02/2008.**

1. The commission observed that consumers should not be burdened with infrastructure cost which are the liability of MSEDCL.
2. It was observed that Dedicated Distribution Facility should be provided on specific request by the consumer and not as per direction of MSEDCL DDF cannot be shared or imposed. DDF shall remain as dedicated connection forever.
3. DDF asset ownership remain with consumer and shall be entitled to the depreciated value of such DDF on termination of agreement or May be retained by consumer.
4. Mere extension or tapping of the existing line (L.T or H.T) cannot be treated as DDF.
5. DDF means a separate distribution feeder or line emanating from a transformer or a substation or a switching station laid exclusively for giving supply to a consumer or a group of consumers.
6. The commission observed that if paucity of funds is the actual reason behind burdening consumers for DDF MSEDCL May seek the recovery of the same as an annual revenue requirement.

**As per SOP regulation 2014 clause 4.6**

Where an applicant seeks Dedicated Distribution Facilities (DDF), the distribution licensee shall intimate the charges to be borne by applicant within 30 days.

On going through the various provisions as above Forum is of the view that first condition for extending the DDF is that consumer should seek or request for such facility at the time of application for new connection and in present grievance, complainant has submitted A-1 application for new

connection with specific remark 'Non-DDF' connection which is not denied by MSEDCL, but further acted on it and issued firm quotation dated 06/11/2018 sanctioning estimate under infra scheme which is Non-DDF and further revising estimate under DDF for paucity of funds during the period as deposed by MSEDCL representative before Forum after insisting for undertaking as per format uploaded on the website of MSEDCL. Forum finds substance in the plea taken by complainant that undertaking was forceful and conditional because while giving undertaking complainant added clause no. (7) and submitted with specific letter dated 22/11/2018 under protest, acknowledged by MSEDCL on 22/11/2018. The fact is not denied by MSEDCL in their reply but defended the grievance on consent dated 28/11/2018 purporting to be consent for DDF but it is fact on record that, MSEDCL never acted on letter dated 28/11/2018 as date of quotations and sanction estimate are earlier to so called consent under DDF dated 28/11/2018 and cannot be relied on. Forum do not find any substance in the plea taken by MSEDCL that no scheme other than DDF was available for releasing new connection as, paucity of funds cannot be a reason for burdening consumers with infrastructure cost as observed by MERC in case no. 56 of 2007. Forum have gone through the various circulars filed on record issued by corporate office of NA MSEDCL. According to circular no. CE/9245 dated 23/04/2018 at serial no. 3, DDF scheme is made compulsory for RCI connections and shifting of HT/LT lines. Forum is of the view that provisions of law and guidelines issued by MERC in case no. 56 of 2007 dated 16/02/2008 are violated while extending the facility of DDF for new connection, without verifying whether actual infrastructure on site constitute DDF or not. Forum is of the opinion that extending the facility for shifting of HT/LT line under DDF is revenue loss of MSEDCL in form of depreciation as shifting of HT/LT line cannot be a dedicated facility though the cost has to be borne by the consumer. Forum is of the view that said circular dated 23/04/2018 is issued in violation of MSEDCL board resolution no. 1055 dated 21/11/2017 incorporated in the circular no. 10992 dated 15/05/2018 issued by CE(Dist) vide which Board of Directors of MSEDCL resolved that, "A-1 the electrical infrastructure to supply electricity to a person up to distribution mains will be developed by MSEDCL at its own cost except in DDF and will claim the expenditure in ARR as per governing regulations. NA MSEDCL vide their circular CE/Dist/10992 dated 15/05/2018 have taken the corrective action as per their resolution no. 1055 dated 21/11/2017 commensurate with existing provisions under Act and supply code regarding DDF facility and universal obligation in releasing the new connection but deferred the implementation till

01/01/2019 as brought on record compelling NA MSEDCL in present grievance to impose DDF on complainant which in the opinion of forum is unlawful and infrastructure cost incurred by complainant under forceful DDF scheme should be refunded to complainant with interest. Forum is also of the view that corporate office of NA MSEDCL should review the applicability of circulars which are in violation of EA 2003, supply code regulation 2005 read with SOP regulation 2014 and MERC guidelines issued in case no. 56 of 2007 dated 16/02/2008, so that unnecessary litigations could be avoided. As complainant filed on record the practice directions issued by MERC dated 22/07/2019 regarding applicability of interest on excess refund amount, Forum is of the view that NA MSEDCL should refund the infrastructure cost as per WCR with interest rate equivalent to the Bank rate declared by the Reserve Bank of India prevailing during the relevant period

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

### **ORDER**

1. That the Complaint No. 34 of 2019 Dated 26/06/2019 is hereby partly allowed.
2. That the NA MSEDCL is directed to refund the infrastructure cost incurred by complainant as per work completion report with interest at a rate equivalent to Bank rate declared by Reserve Bank of India prevailing during the relevant period and total refund amount be credited in the ensuing energy bill payable by the complainant.
3. That the NA MSEDCL is directed to submit a 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/186

Dt :- 22.08.2019

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

The order passed on **22/08/2019** in the Complaint No. **34 of 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) Shri. Ramdev Cot. Yarn Pvt. Ltd., Industries Gut No - 125 Wadali Satwai,  
Hiwarkhed Road Akot, C/o RITA AJEET GUPTA, Ambikanagar Akot Dist.Akola.