

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER

Dt:- 10.10.2019

Complaint No :- 43 of 2019 Dated 16.08.2019

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

Quorum

Dr.V.N.Bapat- Chairman

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

1. Shri. Shaligram Totaram Jumade :- Complainant
Gut no- 121 Wadner-443404.
At post. Wadner Bholji Tq. Nandura
Distt. Buldana.
Consumer No. Ag - 293330047001.

.....Vrs.....

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

Appearances

1. Shri. Pramod N. Khandagale - Representative for Complainant
2. Shri. D. R. Misal - Dy. Executive Engineer MSEDCL, Nandura.

1) On being aggrieved by the decision of IGRC Buldana issued vide SE/BLD/IGRC/02616 dated 27/06/2019, the complainant approached this Forum under clause 6.4 of MERC CGRF and OMBUDSMAN Regulation 2006 for resolving the grievance.

2) Complainant's case in brief is that complainant is Ag consumer of NA MSEDCL of Wadner Bholji from 18/12/2015. According to complainant as NA MSEDCL did not release Ag connection within three month from the date of application 07/07/2014 the consent to execute the infrastructure was forcefully given on the direction of Shri. Kute, Assistant Engineer MSEDCL in December 2014 in the format provided by Assistant Engineer MSEDCL on Rs. 100/- stamp paper. Accordingly complainant paid to Shri. Manoj Brahmanekar approved electrical contractor Rs. 75000/- towards cost and other office expenditure and entered into the agreement with contractor as directed by Shri. Kute, Assistant Engineer. According to complainant on execution of infrastructure work the Ag connection was released on 18/12/2015. According to complainant all above activities are done on direction of Assistant Engineer who has taken the benefit of illiteracy of complainant and shown the infrastructure under 'DDF' non refundable scheme. According to complainant 'Dedicated facility' was never insisted for and executed infrastructure work is not actual DDF on site as per MERC case no. 56 of 2007 as LT line is provided by tapping to common network. According to complainant the matter was reported to MD, Chief Engineer Akola and Superinting Engineer Buldana of MSEDCL by registered letter dated 10/12/2018 for refund of infrastructure cost illegally recovered under 'DDF' .

Complainant's Prayer

1. Refund of infrastructure cost with interest of 12%.
2. Direct MSEDCL to issue reading bill in future.
3. Direct MSEDCL to recover the revenue loss from guilty officers of MSEDCL.

3) NA MSEDCL filed reply on 11/09/2019 with copy to complainant. According to NA MSEDCL it is fact on record that complainant has applied for Ag connection on 07/07/2014 and consent to bear the infrastructure cost was submitted in December 2014 but denied that complainant was forced to execute consent under DDF. According to NA MSEDCL metered supply was released on 18/12/2015. According to NA MSEDCL the connection was released in 'DDF' scheme as per corporate office direction issued vide CE/Dist/RE/Ag pump/4900 dated 12/02/2014 by sanctioning estimate by Chief Engineer Akola vide CE/AKL/624 dated 09/09/2015 under non refundable scheme hence requested Forum to dismiss the complaint.

4) Shri. Pramod N. Khandagale learned representative for complainant and Shri. D. R. Misal, Dy. Executive Engineer MSEDCL were present for the hearing held on 16/09/2019. Shri. Pramod N. Khandagale learned representative for complainant filed on record written note of argument along with information forwarded to complainant vide letter DyEE/Nandura/2482 dated 05/12/2016 by Dy. Executive Engineer MSEDCL under right to information Act. Shri. Pramod N. Khandagale learned representative for complainant reiterated grievance on record and referred section 42 and 43 of EA 2003 and urged that it was the universal obligation on the part of MSEDCL to release the connection within 3 months, failing which under compulsion consent for bearing the infrastructure cost was executed but never given consent for Dedicated facility and further brought to the notice of Forum that executed infrastructure of 0.18 KM LT line is not 'DDF' as per MERC case no. 56 of 2007 provided by tapping to existing common network and hence requested Forum to direct MSEDCL to refund infrastructure cost. Shri. Pramod N. Khandagale learned representative for complainant further urged to settle the grievance of energy bills issued without taking meter reading by NA MSEDCL which is not decided by IGRC Buldana. Shri. Pramod N. Khandagale filed on record citation of Hon'ble High Court Nagpur bench in writ petition no. 468 of 2018 to support the plea that tapping of LT Line from common network on site does not constitute dedicated facility.

5) Shri. D. R. Misal, Dy. Executive Engineer MSEDCL, Nandura for MSEDCL urged that since the infrastructure work is executed under 'DDF' scheme with consent of complaint the cost cannot be refunded. On being asked by Forum Shri. D. R. Misal, Dy. Executive Engineer however admitted that LT line of 0.18 KM is erected as per sanctioned estimate of Chief Engineer Akola by tapping the common available network of LT line and expenditure is borne by complainant as per agreement between contractor and complainant and work completion report is posted to MSEDCL asset. Shri. D. R. Misal, Dy. Executive Engineer however denied that unmetered supply was released on 18/12/2015.

6) On concluding the hearing Forum directed NA MSEDCL to file following documents on record.

1. Work completion report posted to asset of MSEDCL.
2. Certificate of expenditure borne by complainant.
3. Details of meter reading actually recorded.

7) NA MSEDCL filed on record following documents on 19/09/2019.

1. WCR for Rs. 23,935.67/- posted to asset of MSEDCL.
2. Certificate DyEE/Nandura/2301 dated 18/09/2019.
3. MERC case no. 105 of 2014 dated 08/12/2014.

8) Having heard the parties and considering material placed on record Forum is of the view that following issues needs to be considered for resolving the present grievance.

1. DDF (Dedicated Distribution facility) according to clause 2 (g) of supply code regulation 2005, clause 4.6 of SOP regulation 2014 and MERC guidelines in case no. 56 of 2007 dated 16/02/2008.
2. Whether complainant has requested for 'DDF' facility as per law.
3. Whether infrastructure on field is DDF according to guidelines given by MERC in case no. 56 of 2007.

Forum have gone through the consent letter executed by complainant and filed on record by both the parties. The said consent is executed on Rs. 100/- stamp paper in the month of December 2014 and submitted to NA MSEDCL. On perusal of undertaking given on stamp paper it reveals that complainant has agreed to bear the cost of infrastructure with service connection after purchase of material as per direction of MSEDCL and execution by approved contractor and further agreed to abide by the decision of the Apex Court pending in similar matter. Forum is of the view that complainant has never requested for Dedicated facility within the meaning of supply code regulation 2005 or SOP regulation 2014 however he has agreed to bear the cost of infrastructure subject to decision of the Apex Court in the matter of refund of infrastructure cost filed by NA MSEDCL. It is on record that Apex Court by order dated 10th Nov 2016 dismissed the Civil Appeal no. 4305 of 2007 filed by MSEDCL in respect of refund of infrastructure cost recovered in whatever scheme name and MERC by letter MERC/Tech/2017-18/3955 dated 20/07/17 directed M. D. of MSEDCL to comply the order within two weeks. Forum is of the view that MSEDCL were directed to refund the infrastructure cost recovered from the date of notification of regulation i.e from 20/01/2005 except in dedicated facility. Considering the material filed on record by NA MSEDCL the facility provided by NA MSEDCL by tapping of L.T line 0.18 Km from common network does not amount to Dedicated facility on field within the meaning of guidelines issued by MERC in case no. 56 of 2007. From the above observation it is fact on record that complainant in present grievance neither seeks dedicated facility nor such facility is provided by NA MSEDCL on field and therefore, Forum is of the view that the infrastructure cost must be refunded to

complainant with interest as it is already certified by NA MSEDCL that infrastructure cost expenditure is incurred by complainant and cost Rs. 23,935.67/- is accounted to MSEDCL asset. As regards dispute of unmetered supply according to complainant and metered supply according to NA MSEDCL, and issue of overage consumption bills Forum is of the view that progressive reading be recorded by NA MSEDCL in presence of complainant and bill revision should be carried out by dividing consumption quarter wise from the date of connection.

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

ORDER

1. That the Complaint No. 43 of 2019 Dated 16/08/2019 is hereby partly allowed.
2. That the NA MSEDCL is directed to record progressive reading in presence of complainant and revise Ag bills from date of connection 18/12/2015 to Sept 2019 by dividing consumption quarter wise after taking into consideration the intervening payments effected by complainant within 30 days of this order.
3. That the NA MSEDCL is directed to refund the infrastructure cost amounting Rs. 23,935.67/- incurred by complainant under the name 'DDF' as per work completion report with interest from 18/12/2015 of rate equivalent to Bank rate declared by Reserve Bank of India prevailing during the relevant period till adjusted in the ensuing energy bill after revision payable by complainant.
4. Parties to bear their own cost.
5. That the NA MSEDCL is directed to submit a compliance report to this Forum within 30 days 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/225

Dt :- 10.10.2019

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

The order passed on **10.10.2019** in the Complaint No. **43 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 Buldana.

Copy to :-

Shri. Shaligram Totaram Jumade, Gut no- 121 Wadner-443404. At post.
Wadner Bholaji Tq. Nandura Distt. Buldana, % Shri Pramod Narayan Khandagle,
at post Nimgaon, tq. Nandura, distt. Buldana 443404.