

CONSUMER GRIEVANCE REDRESSAL FORUM,
AKOLA ZONE, AKOLA.

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

ORDER.

Dt :-12/12/2017

Complaint No. :- 32/ 2017

In the matter of grievance pertaining to wrong classification, refund of excess payment with interest, refund of Electricity duty and SOP Compensation.

Quorum

Dr.V.N.Bapat- Chairman

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

Shri. R.A.Ramteke, Member - Secretary

Shr.Rajesh Mahendrabhai Gadhiya
Consumer No. LT ii -310070529873
Gadhiya hospital H.P.O. Road Akola

:- Complainant

....Vrs.....

Ex. Engineer MSEDCL
O&M Urban Division, Akola.

:-

Respondent.

Appearances: -

Complainant Representative

:-

Shri.Ashish Chandarana

Respondent Representative

:-

Shri.A.J. Dinore ,
Adl.Ex.Engineer.

1

On being aggrieved by the decision of IGRC Akola issued vide order No. Akola /4003 dated 20/09/2017, the complainant, shri. Rajesh Mahendrabhai Gadhiya, Akola approached this Forum, under the provision of

regulation 6.4 of MERC, CGRF and Ombudsman regulation 2006 for resolving the grievance.

2

The case in brief is that, complainant who is Doctor by profession has availed electric connection for his hospital and is a commercial consumer of N.A. MSEDCL from 2009. According to complainant MERC in their tariff order 19/2012 dated 16/08/2012, have reclassified the hospitals to in new tariff category as "Public Services" effective from 01/08/2012. According to complainant MSEDCL is responsible for implementation of MERC tariff-order. According to complainant, NA-MSEDCL did not give effect of reclassification of tariff from LT- II commercial to LT-X, till complaint to IGRC on 28/07/2017, resulting in excess recovery from complainant towards energy bill. According to complainant, Electricity duty is not applicable to public services from 01/08/2012 and MSEDCL have recovered it. According to complainant N.A MSEDCL did not comply the IGRC order, regarding refund of tariff difference and IGRC Akola did not redress the grievance of interest and refund of electricity duty and rejected the claim for SOP, without giving any reasoning in the order. On being aggrieved complainant approached CGRF Akola and prays for refund of tariff difference with interest, refund of electricity duty with interest and SOP compensation for issuing wrong bills of Rs 100/month. Complainant annexed with complaint IGRC order, municipal corporation certificate, electric bill for Nov 2016 and Government of Maharashtra notification dated 21/10/2016 for payment of Electricity duty (one page extract).

3

On receipt of 15 days notice from the Forum, reply came to be filed by MSEDCL on 09/11/2017. According to. N.A. MSEDCL, the tariff category of complainant is reclassified as public services from June 17 to Aug 2017 and bill is revised giving credit of Rs. 46570/- in the bill for Sept. 2017, as per IGRC order. According to MSEDCL tariff difference of Rs 245315.19/- from 1/08/2012 to May 2017, is also calculated for crediting into the account of complainant on 17/10 /2017 and requested Forum to reject the demand for payment of interest and SOP, as grievance is solved. MSEDCL however claimed that Electricity duty for LT-X (B) category is being recovered as per Government notification. MSEDCL annexed with reply extract of tariff order 19/2012, bill revision report B-80 for Rs 245315.19/- and Installation inspection report.

- 4 Hearing scheduled on 16/11/2017 was postponed to 28/11/2017 on request of N.A. MSEDCL dated 15/11/2017. Mr. Ashish Chandarana, representative for complainant and Shri. A.J.Dinore Additional Executive Engineer for N.A. MSEDCL, were present for the hearing held on 28/11/2017. Mr. Ashish Chandarana urged that despite order from IGRC Akola, dated 20/09/2017 N.A MSEDCL revised bill from June 2017 and difference for only 3 month was credited to complainant's account and brought to the notice of Forum that IGRC Akola have erred in giving order, as no reasoning for rejection of interest and SOP is mentioned in the order and further brought to the notice of Forum that IGRC Akola have not dealt the grievance of electricity duty and claimed that "Public Services' category is not mentioned in official notification of Government of Maharashtra and no duty is payable by Public Services consumers. Mr. Ashish Chandarana referred section 62(6) of E.A. 2003 and claimed interest on excess amount recovered by N.A MSEDCL at Bank rate. Mr. Ashish Chandarana also referred MSEDCL Commercial circular No 175 dtd-5/09/2012, in where directives were given by H.O. of MSEDCL to implement tariff-order 19/2012 from 01/08/2012 to field staff, including N.A.
- 5 Mr.A.J. Dinore authorised representative of N.A, have urged that complete grievance of refund of tariff difference is resolved and revised bill for additional refund of Rs 245315.19 is calculated and will be credited to the account of complainant and requested Forum not to admit claim for interest. Mr. Dinore urged that since Public Services, is sub-category of commercial category as per tariff order 19/2012, the electricity duty is payable by complainant, as per duty applicable to commercial category and is being charged in the bill correctly. However on interrogation from Forum, Mr.Dinore A.E.E admitted the fact that for all purposes including subsidy by Government "Public services" Category will be treated as ' Commercial category except tariff rates. Mr. Ashish Chandarana in his counter argument withdrawn the claim for SOP and electricity duty exemption on being satisfied by commitment to Forum by N.A. representative that, bill revision will be submitted on 04/12/2017 with copy to complainant- considering "Public service" category as commercial

for the purpose of applicability of electricity duty as well as subsidy by the Government.

6 N.A MSEDCL have not filed on record revised bill B-80 as agreed during the course of hearing but submitted commercial circular No 218 dated 10/02/2014 issued by their H.O. commercial section on dt 04/12/2017.

7 Heard shri.Ashish Chandarana, the learned representative of the complainant and shri. A.J.Dinore A.E.E. the learned representative of N.A MSEDCL. This Forum have gone through complaint on record with annextures , reply filed by N.A. with annextures and additional submissions on record. The grievance of the complainant pertaining to interest on tariff difference on reclassification to 'Public Services' from 01/08/2012 and SOP compersation of Rs 100/- week has been rejected by IGRC Akola, without giving proper reasoning and grievance of applicability of Electricity duty to 'Public services' category has not been dealt by IGRC. Complainant is aggrieved on these counts alongwith non-compliance of IGRC order in respect of refund of excess tariff difference from 1/08/12.

8 N.A. MSEDCL have not disputed the refund of excess recovery on account of tariff difference between commercial and Public services from 01/08/12 and refunded Rs 46570/- for the period June 17 to August 17 in the energy bill of complainant, for the month of Sept.2017 after IGRC order and submitted before Forum that Rs. 245315.19 towards difference in tariff for the period from 01/08/12 to May 2017 will be credited shortly. Complainant's representative disputed the correctness of revision bill by MSEDCL in respect of levy of Electricity duty from 01/08/12 and withdrawal of concession /subsidy given to commercial category from 01/02/2014 as per Government notification in the revision bill. In support, complainants representative brought on record Government of Maharashtra Notification dated 21/10/2016 regarding payment of Electricity duty applicable from Sept-2016, for seven categories 1)Residential 2)Commercial 3)Agriculture 4)Temporary connection 5)Hoardings 6) Industrial and 7) Metro-Railways, and specifically brought to the notice of Forum that 'Public Services' category is excluded from payment of electricity duty and N.A. MSEDCL in

revision bill, have charged, electricity duty from 01/08/12, in contravention to Government notification, considering 'Public Services' as commercial category, at the same time N.A. MSEDCL withdrawn Concession/Subsidy given to commercial category considering 'Public Services' as separate category. Forum finds considerable substance in the submission of complainant and have gone through tariff order 19/2012, chapter 8 and satisfied that 'Public Services' is sub-category of commercial category as proposed by MSEDCL at clause 8.10 page 276 of tariff order and approved by MERC. Forum is of the view that considering public services category as sub-category of commercial category, N.A. MSEDCL has correctly recovered electricity duty as per commercial category. At the same time Forum is of the view that N.A. MSEDCL is not allowed to draw preferential interpretation as separate category, for withdrawal of concession and levy of electricity duty. Forum is of the view that 'Public Services' is sub-category of commercial category as per MERC tariff order 19/2012 and accordingly electricity duty is recoverable, as per rate applicable to commercial 'category, so also concession/subsidy given to commercial category is also applicable to 'Public Services' as per concessions/subsidy given to commercial category. Learned representative of N.A during argument admitted the fact and revision of bill and hence Forum directed N.A MSEDCL to file on record revision of bill on 04/12/17. N.A MSEDCL instead of submission of revised bill, brought on record commercial circular no. 218 dtd 10/07/2014 and referred Government notification No 278 dated 29/01/2014 without giving copy to complainant. Forum is of the view that admission of documents without giving opportunity to complainant will be a denial of natural justice, though documents filed on record are not of any use to N.A as Government of Maharashtra in their notification have given concession/subsidy to 'Commercial category' and is applicable to sub category 'Public Services' as per commercial category, effective from 01/02/2014. Forum is of the view that N.A MSEDCL should carryout revision of bill from 01/08/2012 considering above observation. Forum finds considerable substance in the submission of learned representative of complainant that N.A MSEDCL have recovered excess payment towards

energy bill from 01/08/12 and as per section 62 (6) of E.A. 2003 entitled for interest at Bank rate, on difference payable to complainant. Forum is of the view that complainant is entitled for SOP compensation of Rs 100/week as per SOP regulation 2005 read with amendment in 2014 as implementation of MERC tariff order 19/2012 effective from 01/08/12, was the responsibility of N.A MSEDCL and they failed in performance. Forum noted the fact brought on record during argument by complainants representative that claim for SOP compensation is withdrawn, so also the levy of Electricity duty considering public services as sub category of commercial category. With above observation, Forum proceeds to pass following unanimous order.

ORDER

- 1) That complaint No 32/2017 is hereby partly allowed.
- 2) The N.A MSEDCL is directed to carryout energy bill revision for the period 01/08/12 to Sept. 2017, for tariff difference as per 'Public Services' category considering 'Public Services' as sub-category of commercial category, for the purpose of levy of electricity duty and concession /subsidy given by Government, from 01/02/2014 and difference in amount payable to complainant be credited in ensuing bill along with interest at the rate payable on security deposit by MSEDCL for the respective period.
- 3) SOP Compensation is not payable, as withdrawn.
- 4) No order as to costs.
- 5) The N.A MSEDCL is directed to submit compliance report to the Forum within one month of issue of this order.

Sd /-
Member/Secretary

Sd/-
Member (CPO)

Sd/-
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/166

Dt. 12/12/17

To,
The Nodal Officer,
The Executive Engineer MSEDCL,
O&M Division, Akola Urban


The order passed on 12/12/2017 in the Complaint No. 32/2017 is enclosed herewith for further compliance and necessary action.


Secretary,

Consumer Grievance Redressal Forum,
MSEDCL, Akola Zone, Akola.

Copy fwcs to:

1. The Superintending Engineer, MSEDCL, O&M Circle, Akola
- 2) Shr.Rajesh Mahendrabhai Gadhiya
Gadhiya hospital H.P.O. Road Akola


13/12/17