
REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/279/237 Date: 13.06.2019

Hearing Date: 26/03/2019

CASE NO.279/2018

In the matter of refund of tariff difference amount with interest

M/s. Saijyoti Hospital,
Dr. Atul Kharat,
1st floor,off no.1&2,plot No. 105,Sector-2,KK,Navi Mumbai-400709... ..
(Hereinafter referred as Applicant)

Vs

Maharashtra state Electricity Distribution Company Ltd
Through it's Nodal Officer,
Vashi Circle, Vashi (Hereinafter referred as Respondent)

Appearance

For Consumer :- Pranab Shende, M/s. Strom Losungen Pvt. Ltd.
Representative for Respondent :- Shri. Sonkusrae Additional Executive Engineer
Koperkhairne

[Coram- Dr. Santoshkumar Jaiswal- Chairperson, Shri. R.S.Avhad -Member Secretary and
Sharmila Ranade - Member (CPO)].

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with subsection 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005] Here in after referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

This application is filed by the consumer for grievances against the Respondent company MSEDCL to correct the tariff and category and refund of the amount. The Applicant Consumer above named is LT (Low Tension) having following connection of MSEDCL and drawing Electric supply from consumer No. 000227358599/PC-8 BU; 4753 Koperkhirne S/Dn and since 26-06-2008 he is the consumer of MSEDCL. The Applicant is providing health care facilities and has secured the power supply from MSEDCL for the purpose of providing health care facilities. The power supply is connected on 26-06-2008 and since then the Applicant is receiving regular energy bills without any error in meter or any complaint from the representatives of the respondent company (MSEDCL), who use to visit, inspect and record the reading of the energy consumption of the electricity, for raising energy bills and the Applicant were paying towards the energy bills raised by the respondent company (MSEDCL) from time to time without any default.

The Tariff is made applicable as per Tariff order issued by the commission from time to time. As per section 62(3) Electricity Act, 2003, tariff is based on purpose of use. Section 2(15) of the electricity act provides that the consumer means any person who is supplied with electricity for his own use. Similarly section 43 of the act also provides that distribution licensee shall give supply to the occupier of the premises, Dr. Atul Kharat is operating M/s. Saijyoti Hospital is thus the end user of electricity supplied by respondent (MSEDCL). Therefore, applicant claims that the Respondent be directed to change the tariff according to MERC orders which is applicable from 1st of June 2015. There the billing cycle of a consumer is different with respect to the date of applicability of revised tariffs, they should be made applicable for the consumption on a pro rata basis. The bills for the respective periods as per existing and revised Tariffs shall be calculate on the pro rata consumption (Units consumed during respective period arrived at on the basis of average unit consumption per day multiplied by number of days in respective period falling under the billing cycle).

In this application applicant prayed for redressal of the grievances in respect to the non compliance of the tariff order issued by the commission for health care services and its refund for 24 months which is eligible and entitle to the consumer along with interest and cost.

The Respondent appeared and filed their point wise reply that the consumer is billed in LTII tariff and the supply date is 26-06-2008. As per commercial circular no. 175 dtd. 16.08.2012, the new tariff category LT-X for public services is come into force. The said tariff category is applicable for nursing home and various public services. Now, the said consumer has applied from change in category from LT-II to LT-X, vide their application in November 2016. After receipt of the inspection report for confirmation of activities the tariff is changed to LT X (B) with effect from November 2016.

It is further say that after verification of the activities, suitable change of tariff is applied from November 2016 and as the activities prior to the application can't be ascertained, As the address of the said consumer which is mentioned on the electricity bill of consumer, does not surely state that the premises is used for hospital purpose . As per Reg.4.13 (b) of MERC Sop Regulation the change of tariff shall be effected within second billing cycle on receipt of application from consumer and the tariff shall be changed with prospective effect from the date of application. The premises was inspected and observed the hospital activity, prior to the inspection, we cannot change the tariff for the period prior to the application and as per proof of registration of hospital does not ensure that hospital started on that same day in existing premises. The consumer's pray for refund by considering retrospective effect may be disallowed.

I have gone through the contented of the grievances application and also gone through the point wise reply submitted by the Respondent. It appears admittedly that there is commercial circular no 243 of MSEDCL that as per MERC tariff order dated 26.06.2015 in the case no 121 of 2014 that the date of revised tariff is applicable from 1st June 2015 and will continue till further orders. In this circular serial No.3 the separate category for Gov. school and hospitals are come under LT X (A) and private and other category LT X(B) is made for other public services the applicability for this tariff shall be applicable to educational institutions such as schools and colleges, and Hospitals, Dispensaries, primary Health Care Centers and Pathology Laboratories and Libraries and Public reading rooms other than those of State or Central Government, Municipal Bodies, Zilla Parishads, Panchayat Samities or Gram Panchyat; all offices of Government/Municipal Bodies, Local Authority, local self Government, Zilla Parishad, and Gram Panchayat;Police Stations, Police Chowkies, Post offices, Defence establishments (army,navy and air-force),Spiritual Organizations which are service oriented, Railway/Monorail/Metro except

traction, State transport establishments,; and State Transport Workshops, Transport Workshops operated by Local Authority, Fire Services Stations, Jails, Prisons, Courts, Airports (only activity related to aeronautical operations), Ports, Sports Club/Health Club/Gymnasium/Swimming Pool attached to the Educational Institution Hospital provided said Sports Club/Health Club/Gymnasium/Swimming Pool is situated in the same premises and is primary meant for the students/faculty/employees/patients of such educational Institutions and Hospitals.

For the implementation of this circular as per serial no 4 the field officers are directed to ensure that where ever the tariff category is redefined or newly created by the commission, the existing / prospective consumer should be properly categorized by the actual field inspection immediately and the data to be immediately update in the IT data base.

All the field officer shall sensitize staff about various aspect of the tariff order and give proper guidance to all the officers and the staff members working under them. These are only important guidelines and for the actual implementation, the filed officers are requested I have gone through the application filed by the consumer regarding grievances and also gone through the point wise reply of the Respondent. It appears admittedly that the connection of the electric supply of the consumer is covered under the educational institute that is in the category of LT X (B) as the respondent had visited the premises and carried out inspection and accordingly change the tariff. It is then contended that Section 42 (5) mandates the petitioner to establish a Forum within 6 months from the appointed date or the date of grant of license, whichever is earlier, for the redressal of the grievances of the consumers. Section 42(6) enables a consumer to approach the Ombudsman if he is aggrieved by the decision of the Forum.

Regulation 2(2.1)(c) of the 2006 Regulations defines a “Grievance” as under :-

“Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and grievances in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.”

Regulation 2(2.1)(d) defines the “Cell” as under :-

“Internal Grievance Redressal Cell” or “IGR Cell” means such first authority to be contacted by the consumer for redressal of his/her Grievance as notified by the Distribution Licensee.”

Regulation 2(2.1)(e) defines a “Forum” as under :-

“Forum” means the forum for redressal of grievances of consumers required to be established by Distribution Licensees pursuant to sub-section (5) of section 42 of the Act and these Regulations.”

Regulation 6 (6.1 till 6.6) read as under :- “6. Procedure for Grievance Redressal

6.1 The Distribution Licensee shall have an Internal Grievance Redressal Cell to record and redress Grievances in a timely manner. The IGR Cell of the Distribution Licensee shall have office(s) in each revenue district in the area of supply.

Provided that where the area of supply is the city of Greater Mumbai and

adjoining areas, the IGR Cell of the Distribution Licensee shall have at least one (1) office for the area of supply. The Distribution Licensee shall endeavour to redress Grievances through its IGR Cell.

6.2 A consumer with a Grievance may intimate the IGR Cell of such Grievance in the form and manner and within the time frame as stipulated by the Distribution Licensee in its rules and procedures for redressal of Grievances.

Provided that where such Grievance cannot be made in writing, the IGR Cell shall render all reasonable assistance to the person making the Grievance orally to reduce the same in writing:

Provided also that the intimation given to officials (who are not part of the IGR Cell) to whom consumers approach due to lack of general awareness of the IGR Cell established by the Distribution Licensee or the procedure for approaching it, shall be deemed to be the intimation for the purposes of these Regulations unless such officials forthwith direct the consumer to the IGR Cell.

6.3 (a) The office of the IGR Cell shall issue acknowledgement of the receipt of the Grievance to the consumer within five (5) working days from the date of receipt of a Grievance. Where the Grievance has been submitted in person, the acknowledgement shall be provided at the time of submission :

Provided that where the Grievance is submitted by email to the IGR Cell acknowledgement of the receipt of the Grievance to the consumer shall be provided by return email as promptly as possible :

Provided further that the IGR Cells shall keep such electronic records in hard form for ease of retrieval :

Provided further that where the Grievance is submitted by email hard copies of the same shall be submitted forthwith separately to the IGR Cell. (b) Notwithstanding sub-clause (a), the written acknowledgement of receipt of grievance provided by

officials (who are not part of the IGR Cell) shall be deemed to be the acknowledgement for the purposes of these Regulations.

6.4 Unless a shorter period is provided in the Act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his Grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the consumer may submit the Grievance to the Forum. The Distribution Licensee shall, within the said period of two (2) months, send a written reply to the consumer stating the action it has taken or proposes to take for redressing the Grievance.

6.5 Notwithstanding Regulation 6.4, a Grievance maybe entertained before the expiry of the period specified therein, if the consumer satisfies the Forum that prima facie the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made there under or any order of the Commission, provided that, the Forum or Electricity Ombudsman, as the case may be, has jurisdiction on such matters.

Provided further that no such Grievance shall be entertained, before the expiry of the period specified in Regulation 6.4, unless the Forum records its reasons for the same.

6.6 The Forum shall not admit any Grievance unless it is filed within two (2) year from the date on which the cause of action has arisen.

It appears admittedly that there is commercial circular no 243 of MSEDCL that as per MERC tariff order dated 26.06.2015 in the case no 121 of 2014 that the date of revised tariff is applicable from 1st June 2015 and will continue till further orders. In this circular

serial No.3 the separate category for Gov. school and hospitals are come under LT X (A) and private and other category LT X(B) is made for other public services the applicability for this tariff shall be applicable to Hospitals . The vide publicity of tariff order given in news paper and its in public domain. It is duty of the respondent to change tariff as per their own circular and also it duty of the applicant to submit the application within 2 years from date of cause of action i.e when tariff category LTX(B) come into existence to the Forum if respondent did not taken any action on tariff order.

The applicant had applied for tariff change in November 2016 accordingly respondent changed it. The applicant then remain salient for more than 2 years then filed grievance at Forum on dated 01/02/2019 .This grievance clearly time barred as provision of Regulation 6.6. Hence Consumer grievance is not tenable as per provision .Hence, I proceed to pass following order.

ORDER

This application in case no 279 of 2018 is here by dismissed.

No order as to the cost.

I Agree/Disagree

I Agree/Disagree

**MRS. SHARMILA RANADE,
MEMBER
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

Note:

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order

at the following address. " Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"

- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non-compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission (consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13th floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.