

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 8 of 2007**

In the matter of  
**Petition filed by Shri Ravindra K. Choudhary seeking reduction in load shedding  
for agricultural consumers engaged in banana cultivation**

**Dr. Pramod Deo, Chairman  
Shri A. Velayutham, Member  
Shri S. B. Kulkarni, Member**

**ORDER**

**Dated: 30<sup>th</sup> May, 2007**

Shri Ravindra K. Choudhary, a banana cultivator and social worker from the Raver Taluka of Jalgaon district filed a Petition on May 7, 2007. The Petition seeks to represent the interests of the agricultural consumers of Raver Taluka engaged in the cultivation of banana, for reduction in load shedding by the Maharashtra State Distribution Company Limited (“MSEDCL”). MSEDCL have been impleaded as a party respondent in the Petition. It is averred in the Petition that Raver Taluka, is the main banana and cash crop producing taluka in the district of Jalgaon. It is submitted that owing to the initiatives taken by the Government of Maharashtra towards irrigation facilities, 22 water storages have been established in Raver Taluka. It is further averred in the Petition that banana production is carried on in about 75000 hectares of land in Maharashtra. The quantum of banana production is about 31 to 45 lakhs metric tons. Particularly in Raver Taluka, banana cultivation is carried on in about 29000 hectares. Therefore, agricultural consumers engaged in banana cultivation in Raver Taluka contribute to 40% of the total banana production in Maharashtra amounting to a turnover of Rs. 1030 Crore. Approximately, 1000 quintals of bananas are sold throughout the country every day from Raver Taluka, through railways and commercial trucks. It is submitted that apart from such a huge contribution to the agricultural production in the State, the Commission should also consider that banana is a chief fruit for consumption all over the country. Further, various parties are dependent on banana cultivation, i.e., *inter alia* transporters that carry bananas throughout the country. The Commission should specifically consider the plight of banana farmers whose only means of livelihood is banana farming and who have taken loans to carry on their cultivation. The other odds faced by these farmers, such as floods, cyclone, etc., multiply with the increased hours of load shedding beyond planned load shedding hours.



2. It is averred in the Petition that due to the existing load shedding protocol of MSEDCL, agricultural consumers engaged in banana cultivation in Raver Taluka are not being supplied with the extent of power that is required for energising agricultural pumpsets in order to draw water continually from storages. Owing to the intense rise in temperature in the district of Jalgaon to about 47.7 degree Celsius, atleast 20 to 22 litres of water is required for each banana tree. However, due to continuous load shedding for 16 hours, sufficient water cannot be drawn from storages and each banana tree is receiving only 8 to 10 litres of water per day as against the requisite quantity. A large number of banana trees are on the verge of drying up. Thus, while there is availability of water, the agricultural output of Raver Taluka, to the extent it relates to banana cultivation, is under severe threat. Unless continuous supply of electricity is provided, water cannot be drawn from the storage reserves by using agricultural pumpsets.

3. With the aforesaid contentions, the Petitioner has sought the grant of the following prayers:

- (a) The entire district of Jalgaon, especially Raver Taluka, should enjoy continuous power supply for 15 hours which entails a reduction of 3 to 4 hours of load shedding from the existing load shedding protocol;
- (b) MSEDCL should be directed to refrain from additional load shedding in Raver Taluka;
- (c) Directives to MSEDCL to submit their load shedding plan for the ensuing year, atleast 4 months prior to its implementation, so that the farmers can pre-plan for irrigation in banana farms.

4. At the hearing held on May 15, 2007, Shri Ravindra K. Choudhary, the Petitioner herein appeared along with several consumers engaged in banana cultivation from Raver Taluka. Shri Gaurav Joshi, Counsel, appeared on behalf of MSEDCL together with officials of MSEDCL. No consumer representatives were present, though invited. Shri Choudhary reiterated the submissions made in the Petition, as aforesaid. Further, Shri Choudhary submitted that the lift irrigation scheme which is essentially applicable in the cultivation of sugarcane, if implemented for 15 hours in Raver Taluka, the banana growers may be in a position to efficiently utilise the supply of water for banana cultivation. However, Shri Ramesh Nagraj Patil, an agricultural consumer from Raver District, submitted that banana trees require 20 to 22 litres of daily watering. Since banana cultivation requires continuous supply of power supply for atleast 15 hours per day, the implementation of lift irrigation scheme may not be helpful in this regard. Shri V.K. Thadvi, another banana cultivator from Raver District, submitted that the Commission should at least ensure that MSEDCL provides continuous power supply for 12 hours in Raver Taluka upto mid-July 2007, considering the plight of the agricultural consumers engaged in banana cultivation in the said area. Shri Choudhary submitted that various agricultural consumers/farmers have already set up diesel generators. These diesel generators are used as a last resort since the generators consume at least 8 to 10 litres of diesel (amounting to Rs. 400/-) for per hour supply of electricity. Shri M.K. Deore, MSEDCL, submitted that MSEDCL would be able to complete feeder separation in Raver Taluka by December 2007, and this would reduce distribution losses in that area if power is generated through DG sets.



5. Shri Gaurav Joshi, Counsel for MSEDCL, submitted that the issues raised by the Petitioner are generic in nature considering the huge demand-supply gap that is prevailing in Maharashtra, which has affected every sector in general. He pointed out that although he is not arguing the legal point involved but the interests of the applicants were considered by the Commission at the time the load shedding protocol was revised by the Commission.

6. The Commission had issued an Order dated 10<sup>th</sup> January 2006 (Case No. 35 of 2005) on the principles and protocol to be adopted for load shedding by MSEDCL, in view of the prevailing shortage of electricity in the State of Maharashtra in continuation of its earlier Order dated 3<sup>rd</sup> August 2005 issued in Case 5 of 2005. Thereafter, on MSEDCL's representation to increase the planned load shedding programme for urban and industrial agglomerations, other regions, and agricultural dominated regions, as a temporary emergency measure, in view of increase in the demand-supply shortage, the Commission after publication of Public Notice and hearing around 121 individuals/organisations through written or oral submissions, issued an Order dated 20<sup>th</sup> February 2007 (Case No. 78 of 2006) with the revised protocol to be implemented by MSEDCL. Reasonable opportunity of being heard was provided to accommodate the interests of all consumers across sectors, while revising the load shedding protocol for MSEDCL. The agricultural consumers engaged in banana cultivation had all reasonable opportunity to point out the issues raised in the present petition during the public hearing before the aforesaid Order was issued.

7. As the Petitioner has prayed for exemption from the revised load shedding protocol as issued under the Order dated 20<sup>th</sup> February 2006 (Case No. 78 of 2006), and for certain accommodation to agricultural consumers engaged in banana cultivation, in effect, seeking a modification to the said Order, the Petition for all purposes has to be treated as a review petition. Having heard the parties and after considering the material placed on record, the Commission is of the view that the present matter requires to be tested against the requirements laid down under Regulation 85 (a) of the MERC (Conduct of Business) Regulations, 2004 which provides as under :

*“85. (a) Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.”*



Therefore, the submissions made by the Petitioner and as averred in the Petition would need to be viewed in a manner as to whether they satisfy the requirements of the aforesaid Regulation 85 (a). The Petitioner has essentially contended that due to the load shedding protocol of MSEDCL it is difficult for them to cultivate their banana crops as electricity is required continuously to pump in water from storages and therefore agricultural consumers engaged in banana cultivation in Raver Taluka, Dist Jalgaon should be exempted from the load shedding protocol to a certain extent. The Petitioner has submitted that although there is availability of water, but due to additional load shedding, the agricultural consumers engaged in banana cultivation are not able to utilize the water for irrigation through electricity pumpsets. The Petitioners apprehend that consequently there is a possibility of reduction in the production of bananas. However, such a contention cannot be a ground for review of the Order dated 20<sup>th</sup> February 2007. On first principles, a review of any order, direction or decision is permitted, under the regulations governing the conduct of business of the Commission, only upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by the applicant at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons. The Commission is unable to sustain the contentions advanced by the Petitioner since in the present case, the contentions advanced by the Petitioner in their petition are not the discovery of any matter which could have resulted in the determination of the load shedding protocol under the Order dated 20<sup>th</sup> February 2007 in a different manner, nor is there any mistake or error apparent from the face of the record of the said Order. The increase in the demand-supply gap, has to be apportioned across different categories and regions in an equitable manner. There is no denying that when the situation has reached such critical proportions, all the consumer categories, including agricultural category, have to share the load shedding impact equitably. Therefore, there is also no sufficient reason for the Commission to consider a review as sought for by the Petitioner. When tested against the requirements of the aforesaid Regulation 85 (a), the contentions advanced by the Petitioner that there will be social impact of the revised load shedding protocol, cannot be sustained. It is an accepted fact that orders passed by judicial or quasi-judicial bodies and courts do have a social impact. These matters cannot be considered for granting review. Effect on social conditions cannot be a ground for seeking review. Also, an appeal cannot be disguised as a review.

8. As regards the prayer that MSEDCL should submit a plan for the coming year, as to how much electricity supply they would provide, atleast four months prior to their implementation, so that the farmers can pre-plan for agriculture production, as these issues cannot be taken up under a review petition, the Commission is of the view that the Petitioners should directly interact with MSEDCL regarding the same. In the passing, the Commission observes that agricultural consumers engaged in banana cultivation may take recourse to generation through DG sets and may use such generated electricity supply feeder-wise, during the load shedding period. The Commission notes the submission made in this regard by Shri M.K. Deore, that MSEDCL would be able to complete the feeder separation in Raver Taluka by December 2007. Generation through DG sets, after feeder separation, will minimise losses. Agricultural consumers engaged in banana cultivation may approach concerned authorities for availing subsidy while incurring expenditure for diesel generation. Alternatively, the banana cultivators of Raver Taluka



may explore the possibilities of distributed generation or acquire electricity supply through franchisees. The banana cultivators may also opt for a Lift Irrigation Scheme (LIS), availing supply at HT voltage from MSEDCL. As stated in the Commission's Order on MSEDCL's MYT Petition for the first Control Period, MSEDCL has committed continuous supply for at least 16 hours at a stretch for LIS connections, during the regulatory process on MSEDCL's MYT Petition.

9. The Commission therefore rejects the petition since the grounds sought for by the Petitioner are not within the purview of review under Regulation 85(a) of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 and consequently the review petition is not maintainable since no grounds for review are made out.

Accordingly, the Commission dismisses the present petition with the aforesaid observations.

Sd/-  
(S.B. Kulkarni)  
Member

Sd/-  
(A. Velayutham)  
Member

Sd/-  
(Dr. Pramod Deo)  
Chairman



(Secretary, MERC)