

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 97 of 2011

In the matter of
Complaint filed by Surya Bio Fuel against MSEDCL under Section 142 of the
Electricity Act, 2003 for non-compliance of the Order dated 4th May, 2011, passed by
the CGRF, Kolhapur Zone.

Shri V. P. Raja, Chairman
Shri Vijay L. Sonavane, Member

Surya Bio Fuel,
At Post Peth, Taluka Walwa, Dist. Sangli

...Complainant

V/s

Maharashtra State Electricity Distribution Company Limited
Through its Executive Engineer, Sangli Division

...Opponent

Present during the hearings:

For the Complainant: Smt. Jyotsna Pramod Patil, Proprietor of M/s Surya Bio Fuel,
Shri Pramod B. Patil

For the Opponent: Smt. Shweta Sharma, Advocate, M. V. Kini & Co.
Shri N. B. Barsing, E. E., MSEDCL, Islampur Division.
Shri S. K. Negalur, MSEDCL
Shri N. R. Gandhale, MSEDCL, Islampur division.

ORDER

Dated: 11th April 2012

Surya Bio Fuel, Peth, Taluka Valwa, District Sangli, filed a complaint on 4th July 2011, seeking legal action against Maharashtra State Electricity Distribution Company Limited (“MSEDCL”), the Opponent, under Section 142 of the Electricity Act, 2003 (“EA 2003”), alleging non-compliance of an Order dated 4th May 2011, passed by the Consumer Grievance Redressal Forum (“CGRF” or “Forum”), Kolhapur Zone.

2. The prayers of the Complainant are:

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- १) मा. कोल्हापूर मंच यांच्या आदेशाचे पालन प्रतिवादी यांनी करण्याचा आदेश व्हावा ही विनंती.
(*MSEDCL may be directed to comply with the order of Hon. CGRF, Kolhapur Zone.*)
- २) अनेक ग्राहक तक्रारीबाबत मा. कोल्हापूर ग्राहक मंच यांनी पारित केलेल्या आदेशांचे पालन सांगली जिल्हयात वितरण कंपनी करित नाही, असे दिसून येते, जे ग्राहक या विरुद्ध मा. आयोगाकडे धाव घेतात त्यांनाच न्याय मिळतो, असेही दिसून येते. वीज कायदा २००३ आणि मा. राज्य आयोग यांचा योग्य तो सन्मान राखणेसाठी केवळ अपवादात्मक वापरल्या जाणाऱ्या कलम १४२ ची अंमलबजावणी या ठिकाणी व्हावी अशी नम्र विनंती आहे.
(*It has been observed that the MSEDCL does not comply with many Orders passed by the Hon. CGRF, Kolhapur Zone, especially in Sangli district. Only those consumers who approach this Hon. Commission get relief. In order to respect and implement the Electricity Act, 2003 and the Hon. Commission, it is urged to invoke the rarely used Section 142 of EA, 2003 in this case.*)
- ३) ही याचिका दाखल करावी लागली, यासाठी झालेल्या खर्चापोटी मा. आयोग निश्चित करेल ती रक्कम प्रतिवादी यांनी वादी यांना देण्याचा आदेश व्हावा ही विनंती.
(*MSEDCL may be directed to pay the cost of this Petition to the Petitioner.*)
- ४) इतर न्यायाचे आदेश वादी यांचे वतीने व्हावेत ही विनंती.
(*Pass any other order which Hon. Commission may deem fit in favor of Petitioner.*)
- ५) जरूर भासल्यास याचिकेत योग्य त्या दुरुस्तीस परवानगी असावी ही विनंती.
(*Permit the Petitioner to amend the Petition adequately if required.*)”

3. The Complainant's submissions are:

- i. The Complainant had applied to the Opponent for an electrical connection of 60HP, for industrial purpose, at its premises located at Gat No.2165, Peth, Taluka Walwa, District Sangli. The electricity connection was provided to the Complainant in line with the Opponent's sanction letter No. SE/SC/DS/142/07-08 dated 31st March 2008.
- ii. The Complainant had paid an amount of Rs.69,327/- vide Receipt No. 6179482 on 11th March, 2007, against an estimated infrastructure cost of Rs.7,45,390/- as per Opponent's Challan. Subsequently, the Complainant arranged for the installation of Transformer and HT line by the Opponent's approved contractor under the Opponent's supervision and the electricity supply was released on 5th April 2008.
- iii. The Complainant has submitted that the Opponent's officials committed an error while sanctioning this supply, by wrongly implementing the MSEDCL Circular No. CE/ DIST/D-III/Circular/22197 dated 20th May 2008 wherein it is clearly specified as to how the Dedicated Distribution Facility (DDF) Scheme is to be implemented while releasing such supply. The Islampur Division of the Opponent has not released the electricity connection within the framework of the aforesaid Circular which had considered the Commission's Order giving directions for the implementation of DDF Scheme. Furthermore, the electric connection is in contradiction of the Schedule of Charges as per the Order dated 8th September 2006 in Case No. 70 of 2005 passed by the Commission, and, is also not as per the definition provided in Regulation 2(g) of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005.

- iv. The Complainant submitted that the Islampur Division of the Opponent, while releasing the supply, has not followed the instructions of the MSEDCL's aforesaid circular and thereby has also not complied with the directives contained in the Commission's Order dated 16th February 2008 in Case No. 56 of 2007, wherein the Commission has clearly stated that *"It is clear from the defined term that mere extension and tapping of the existing line (LT or HT) cannot be treated as Dedicated Distribution Facility."*
- v. Referring to the MSEDCL's Circular of 20th May 2008, the Complainant further submitted that if a consumer's demand of LT load is above 500kVA, then supply may be given under the DDF Scheme, and for loads below 500kVA, in case the consumer needs the supply on urgent basis, the cost for installing the line should be refunded through the energy bills, as specified in the Circular. Further, the Complainant submitted that the Opponent vide its aforesaid circular has directed its officials that *'A separate account of such connections shall be maintained for official purpose'*.
- vi. Aggrieved by the Opponent's aforesaid action, the Complainant filed a complaint, (No.518) before the Internal Grievance Redressal (IGR) Cell on 13th September, 2010. The IGR Cell vide its order dated 26th November, 2010, (referring to its letter No. 12283 dated 15th November 2010 at reference No. 2 of its order), directed the Opponent *"अशा प्रकारच्या तक्रारींचा निपटारा कसा करावा यासाठी कृपया या कार्यालयाचे संदर्भ क्रमांक २ वर नमूद पत्राचे अवलोकन करावे व तक्रारदाराची रक्कम त्याचे विज बिलातून समायोजित करावी (to settle the cases of this type, the communication under reference No.2 from this Office may be referred to, and the Complainant's amount may be adjusted against the electricity bills)".*
- vii. Not satisfied with the said Order, since the amount to be adjusted was not mentioned, the Complainant approached CGRF, Kolhapur Zone, on 3rd December, 2010.
- viii. The CGRF, Kolhapur Zone, heard the Complainant alongwith two similar cases, and on 4th May, 2011, issued a common Order for all three cases. In the present, the Forum had issued directions taking into account the cost of infrastructure based on the Work Completion Report(WCR) as hereunder:

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- ३) तक्रार क्र. ३०७/२०१० मधील ग्राहक यांना वि.प.ने. परताव्याची रक्कम रु.३,९७,१००/- व त्यांना दि. ०५.०४.२००८ रोजी विद्युत पुरवठा सुरु झालेल्या दिनांकापासून सदर रकमेचे बिलातून समायोजन सुरु होईपर्यंतच्या कालावधीसाठी १२% व्याज द्यावे. परतावा रक्कम व व्याजाच्या रकमेचे समायोजन वीज देयकातून सदर रक्कम पूर्णपणे फिटेपर्यंत करण्यात यावे.
(Complaint No.307/2010: To adjust the refundable amount Rs.3,97,100/- against the electricity bills, and to pay the interest on the same from the date of supply i.e. 5th April 2008 at the rate of 12% till the full amount including the refund and the interest, is adjusted.)”

The Member-Secretary of the Forum, however, had an opinion different from the other two Members of the Forum. The Member-Secretary took the view that the said Order directing refund of the said infrastructure cost would be inappropriate considering the fact that the Hon'ble Supreme Court had granted a stay on refund

of amounts in CA No.20340 of 2007 filed by the Opponent before the Hon'ble Supreme Court

- ix. Subsequently, the Complainant, aggrieved by the Opponent's inaction on complying with the aforesaid Order of CGRF, filed the present complaint before the Commission on 4th July 2011 seeking legal action as per the provisions under Section 142 of the EA 2003. The Complainant has also submitted that on repeatedly approaching the Opponent, asking for compliance of CGRF Order, the Opponent told him that the Opponent will challenge the aforesaid CGRF Order in Court and the Complainant should ask for his money only after the final order is issued by a Court where the Opponent files his appeal from the CGRF's order.
4. During the first hearing held before the Commission on 3rd August, 2011 the Complainant reiterated its submissions. The Opponent then submitted that the aforesaid Order of CGRF was being challenged before the Hon. High Court of Judicature at Bombay. A copy of its reply in the matter alongwith a copy of the Writ Petition filed before the Hon. High Court, was also submitted. A copy of the same was also handed over to the Complainant. The Opponent further made a submission that an admissibility hearing before the Hon. High Court of Bombay was scheduled on 4th August, 2011. The Opponent further submitted that the refund of the expenditure incurred would be made through the bill for the month of August 2011 but the interest thereon would not be refunded as the matter is subjudice before the Hon. High Court of Bombay.
5. Two more hearings were held before the Commission, on 24th August 2011 and 24th November 2011. It was submitted by the Opponent that the CGRF's Order has been complied with, by adjusting the total amount in the Bill for the month of July 2011. The Opponent has also submitted an affidavit to this effect. In response, the Complainant stated that its grievance has been resolved, but nevertheless it was still aggrieved due to the harassment caused by the Opponent's action and pleaded that adequate compensation towards the cost of the Petition should be re-imbursed to it.
6. Nothing survives in the present matter as the Complainant has stated that its grievance has been resolved. As regards the claim for costs / compensation, certain facts are necessary to be considered. The Complainant filed the Complaint on 4th July 2011. The Opponent gave a "Total Credit Adj Rs. – 556170.34" in the Electricity Bill for the month of July 2011.
7. Hence, the Opponent has quite promptly given a "Total Credit Adj Rs.556170.34" in the Electricity Bill for the month of July 2011. No case for costs / compensation arises therefore.

Accordingly, Case No. 97 of 2011 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman