

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 99 of 2011

In the matter of
**Complaint filed by Shri Sanjay Ankush Nikam against MSEDCL for non-compliance
of CGRF's (Kolhapur Zone) Order dated 29th Oct. 2010.**

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

Shri Sanjay Ankush Nikam

.....Complainant

V/s

Maharashtra State Electricity Distribution Company Limited
Through Executive Engineer, Circle Office, Sangli
Executive Engineer, Div. Office (Kavthemahankal)

.....Opponent

ORDER

Dated: 30th November, 2011

Shri Sanjay Ankush Nikam has filed a complaint on 11th July, 2011 against Maharashtra State Electricity Distribution Company Limited ("MSEDCL"). The Complainant has sought to invoke penal provisions against the Opponent under Section 142 of Electricity Act, 2003 ("EA 2003") on the ground that the Opponent has not complied with the Order dated 29th October, 2010 of the Consumer Grievance Redressal Forum ("CGRF" or "Forum"), Kolhapur Zone.

2. The prayers made by the Complainant, are as under:

- १) प्रतिवादी यानी मा. कोल्हापूर मंच याचे आदेशांचे त्वरीत पालन करण्याचे आदेश व्हावेत ही विनंती. पारीत झालेल्या या आदेशानुसार अंदाजपत्रकीय रक्कम व्याजासह बिलातून परत देण्याची कारवाई प्रतिवादी यानी करावी असा आदेश व्हावा ही विनंती.
- २) ग्राहक तक्रार निवारण मंच व विद्युत लोकपाल विनियम, २००६ च्या कलम २२ मधील तरतुदी -नुसार अधिनियमाच्या कलम १४२ नुसार कारवाई व्हावी ही विनंती.
- ३) इतर न्यायाचे आदेश वादी यांचे वतीने व्हावेत ही विनंती.
- ४) जरूर भासल्यास याचिकेत योग्य ती दुरुस्तीस परवानगी असावी ही विनंती.

3. The facts of the matter submitted in the complaint, are as under:
- i. The Complainant, Shri Sanjay Ankush Nikam, a resident of Rampur, Taluka Jat, Sangli District, had applied to the Opponent (**MSEDCL**) for an electrical connection of 5HP for its agricultural pump located at Gat No. 72/1 at Sangli Dist.
 - ii. The Complainant had received the supply under Dedicated Distribution Facility (“**DDF**”) Scheme against Challan No. 7013 dated 1st October, 2007 given by the Opponent. The payment made by the Complainant was acknowledged by the Opponent vide Receipt no. 4165264 dated 10th October, 2007. According to the requirement, a 2 pole LT transmission line was erected as required for providing the electricity supply, through a contractor approved by the Opponent and under the supervision of the Opponent. Thereafter, the supply was given.
 - iii. As submitted by the Complainant, the Opponent while providing supply under the DDF Scheme, has not followed the Commission’s directions contained in the Schedule of Charges and also in the Order dated 16th February, 2008 in Case no. 56 of 2007, and that, since the DDF scheme is allegedly wrongly implemented, the Opponent should refund the amount paid by the Complainant for erecting the line.

In regard to above, the following is extracted from the Commission’s order dated 16th Feb., 2008 in Case no. 56 of 2007:

At Para 7 of the Order, the Commission had observed that “- -- further, the infrastructure laid for providing a single Dedicated Distribution Facility consumer cannot be utilized to supply another consumer. It was observed that Dedicated Distribution Facility should be ‘dedicated’ to the particular consumer requiring Dedicated Distribution Facility and cannot be shared with another consumer”.

Para 12:

“It is clear from this defined term that mere extension or tapping of the existing line (LT or HT) cannot be treated as Dedicated Distribution Facility. Such extension or tapping being part of the common network will be affected due to any fault or outages on the common network and cannot be considered as a facility solely or clearly dedicated for giving supply. - - -”

- iv. The Complainant approached the first tier grievance redressal cell of the Opponent by filing its case with the Internal Grievance Redressal Cell (**IGRC**) at Sangli Circle Office, Kolhapur on 10th December, 2009. The Complaint had asked the IGRC for refund of the cost of infrastructure erected by the Complainant. The IGRC passed its Order on 7th May, 2010 directing the Opponent to follow the Commission’s Orders in the matter of provision of DDF and to take appropriate action on the same.
- v. However, the Complainant was aggrieved with the Order passed by IGRC and hence, the Complainant decided to initiate proceedings before the second tier grievance redressal mechanism viz., the CGRF, Kolhapur Zone. Accordingly, the Complainant filed a statement of his grievance on 14th October, 2010 before the CGRF in Grievance no.150/2010. The CGRF passed its Order on 29th October, 2010. The directions of the CGRF are as follows:-

“

- २) वितरण कंपनीने तक्रारदार यांस त्यांनी केलेला संपूर्ण खर्च प्रचलित पध्दतीप्रमाणे वितरण कंपनीचे परिपत्रक क्र. ३९२०६ दि. २१.१२.२००९ जे की वि.प.चे परिपत्रक क्र. २२१९७ दि. २०.०५.२००८ च्या आधारे परताव्याबद्दल आदेश दिले आहेत, त्यानुसार परताव्याची रक्कम वीज बिलातून परत करावी.
 - ३) तसेच तक्रारदारांनी भरलेली नॉर्मेटिव्ह चार्जेसची रक्कम रोखीने / चेकने त्वरीत द्यावी. ज्या ग्राहकांनी मिटरचा खर्च स्वतः केलेला असेल त्यांची पावती हजर केल्यानंतर किंवा वि.प.ने रेकॉर्ड तपासणी करून ग्राहकाने मिटरचा खर्च केला असेल तर तो ग्राहकास रोखीने / चेकने द्यावा.
 - ४) ग्राहकाने खर्च केलेली परताव्याची रक्कम परतावा सुरु होईपर्यंतच्या कालावधीसाठी १२% (बारा टक्के) व्याजाने ग्राहकाच्या बिलात समायोजित करण्यात यावी.
4. Subsequently, the Complainant had made application to the CGRF conveying that the CGRF's Order did not clarify about the amount which was to be refunded by the Distribution Company, and, the same needed to be clarified by the CGRF. The CGRF had accepted the said clarificatory application as tenable. During the process of hearings in the matter, by the CGRF, the issue of the basis for deciding the amount to be refunded as based on the Estimated Cost given by the Distribution Company was raised by the Complainant, besides the mode of refunds to be made. The CGRF, in its Order on 23rd Feb., 2011, taking into account the arguments submitted during the hearing, and saying that in the name of asking for clarifications the applicant cannot ask for a corrigendum to the original Order, had rejected the Complainant's request of issuing clarification in the matter.
 5. Hence, it can be seen from the above that the Complainant had asked for refund of the estimated cost which came to be rejected by the CGRF. The Complainant has alleged in his present complaint that the Opponent has failed to comply with the said Order of the CGRF, Kolhapur Zone dated 29th October, 2010 in Grievance no.150/2010 inasmuch as the estimated cost (Rs.34,596/-) and the interest on the same has not been given, though refund by the Opponent has commenced based on the *normative charges* (Rs.22,980/-). According to the Complainant, non-payment of the estimated cost (Rs.34,596/-) and the interest thereupon is a failure on the part of the Opponent to comply with the direction given in the CGRF's Order dated 29th Oct., 2010. The Complainant has also raised the issue that though the Opponent has initiated refund of the amounts through electricity bills the same is as per its own calculations and is not in line with the CGRF's direction.
 6. The Commission vide Notice dated 15th July, 2011 fixed a hearing in the matter on 3rd Aug., 2011.
 7. A letter dated 28th July, 2011 was received by the Commission's office on 2nd Aug., 2011, wherein the Opponent made some submissions, which are briefly stated as under:-
 - (i) As per the Complainant's request, the Opponent vide its letter No. EE/SGL/T/DDF/481/07-08 dtd. 26th September, 2007 gave an estimated cost for infrastructure work. The Complainant had made payment on 10th Oct., 2007 for electricity connection under DDF Scheme. After the completion of infrastructure work by the Complainant, the electricity connection was released on 22nd May, 2008.

(ii) That there is no failure to comply with the CGRF's Order dtd. 29th October, 2010. The details of the compliance of the said CGRF Order, as furnished, are below:

(a) Out of the total Infrastructure cost of Rs.22,980/-, the first installment of Rs.100/- was refunded in the bill for March 2011. The refund amount has to be based on maximum expenditure incurred and not on the basis of initial estimates.

(b) Interest payment of Rs.7872.38 calculated @12% on Rs.22,980/- for period between 22-05-2008 to 31-03-2011 (when the refund started), has been adjusted in the bill for June, 2011.

8. During the hearing held before the Commission on 3rd August, 2011. Shri A. D. Khapare [authorized representative of the Complainant] appeared on behalf of the Complainant. Shri S. V. Kshirsagar, Executive Engineer and Nodal Officer, Shri V. R. Kamble, Executive Engineer, and Shri A. K. Kulkarni, appeared on behalf of the Opponent. Both the sides reiterated their submissions. The Opponent submitted that it was complying with the Order passed by the CGRF.

9. Subsequently, the Opponent submitted a letter ref. no. 6460 dated 2nd Nov., 2011 with the Commission's Office, wherein the submissions made, briefly stated, are as follows:-

१. श्री संजय अंकुश निकम रा. रामपुर यांचे नॉरमेटिव्ह चार्जेस रु.४५०/- ध-नादेश [१]. ८२५८९९ दि-तां [१] २१/१२/२०१० नुसार परत केलेले आहे.
२. मिटर वितरण कंपनीचे मालकीचे आसल्यामुळे मिटर खर्च देणे लागत नाही.
३. व्याजाची रक्कम रु.७८७२.३८ + रु.१५०.०० व्याज रु.२५००.०० च्या डिपॉजिटवर असे एकुण रु.८०२२.३८ माहे जून २०११ च्या बिलामधुन समायोजित (Credit) केलेले आहे.
४. हा ग्राहक शेतीपंप प्रकारातील असल्यामुळे यांची बिलींग सायकल तिमाही आहे. माहे मार्च २०११ च्या बिलामध्ये रु.१००/- माहे जून २०११ च्या बिलामध्ये रु.५७६/- माहे सप्टेंबर २०११ च्या बिलामध्ये रु.८५/- असा परतावा देण्यात आलेला आहे. तसेच येणाऱ्या त्यांच्या तिमाही प्रत्येक बिलातुन परतावा रक्कम रु.२२९८०/- संपेपर्यंत समायोजन करण्यात येईल.

The Opponent submitted that with above it has complied with the Order passed by the CGRF, Kolhapur Zone.

10. Further hearing was held on 3rd Nov., 2011, wherein the Opponent adverted to the aforesaid submissions contained in its letter dated 2nd November 2011. The Commission asked the Complainant whether he was aware of the said letter dated 2nd November 2011 and hence as to whether the Complainant was satisfied with the compliance of the said CGRF's Order. The Complainant submitted that it was satisfied with the actions taken by the Opponent and that therefore the Order of CGRF was complied with.

11. Having heard both the parties and after considering the materials placed on record, the Commission is of the view that the case of the Complainant is essentially the Complainant's request in its prayer #1 for refund of the amount based on estimates given by the Respondent, which came to be rejected by the CGRF, Kolhapur Zone vide its Clarificatory Order dated 23rd Feb., 2011. Although the Complainant has requested in its prayer#1 for compliance of the CGRF's Order, as per Complainant's own

submission in the Petition, the Opponent had commenced with the compliance of the CGRF's Order.

12. The Commission is of the view that with the latest submissions made by both the parties, as above, nothing survives in the present complaint.

In view of the above, Case No. 99 of 2011 stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman