

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.mercindia.org.in

Case No. 41 of 2011

In the matter of
Petition filed by Shri Ankush Sitaram Gayakwad, under Section 142 of the EA 2003 and Regulation 22 of MERC(CGRF and EO) Regulations, 2006, against MSEDCL, alleging non-compliance of the Order dated 28th October 2010, passed by the CGRF, Kolhapur Zone.

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

Shri Ankush Sitaram Gayakwad Complainant

V/s

Maharashtra State Electricity Distribution Co. Ltd.Opponent

Through its Executive Engineer, Circle Office, Solapur.
and
Executive Engineer, Divisional Office, Solapur.

ORDER

Date: 30th May, 2011

Shri Ankush Sitaram Gayakwad, the Complainant, a resident of Solapur city, filed a Petition, on Affidavit, against Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL), the Opponent, under Section 142 of EA2003, and, Regulation 22 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, alleging non-compliance of the Order dated 28th October 2010, passed by CGRF, Kolhapur Zone.

2. The prayers of the Complainant are as follows:

“

1 मा. कोल्हापूर मंच यांच्या आदेशाचे पालन प्रतिवादी यांनी करण्याचे आदेश व्हावा ही विनंती.
(Direct the Respondent to comply with the Order passed by the Hon'ble CGRF, Kolhapur Zone.)

2. सर्व प्रतिवादी हे वितरण कंपनीचे ज्येष्ठ अधिकारी आहेत. मा विद्युत लोकपालजी यांच्या सारख्या सर्वोच्च न्यायव्यस्थेने सुचना देऊनही त्याची दखल न घेणे यासारखा उद्दामपणा नाही. प्रतिवादी

यांनी कायदयाची योग्य ती जरब बसणे गरजेचे आहे. या साठी केवळ अपवादात्मक वापरल्या जाणाऱ्या कलम १४२ ची अंमलबजावणी या ठिकाणी होणे अत्यंत गरजेचे आहे. अशी नम्र विनंती. ”
(*The Respondents are senior officers of MSEDCL. Non-consideration of the instructions given by the Electricity Ombudsman, the highest authority, is nothing but the arrogant act of the Respondent. Hence Respondent needs to be punished to prevent them in future from committing same thing. Hence it is pertinent to invoke Section 142.*)”

3. Key points and facts of the matter, as brought out in the complaint, are hereunder:

- i The Complainant had filed an application with the Opponent, on 19th January 2008, for ‘LT-VII.TEMP.Other’ category supply, for construction of house.
- ii On 29th September 2008, the complainant submitted an application to the Opponent, to regularise the electricity supply and change the billing to domestic tariff.
- iii The Complainant has submitted that for one year the Opponent did not responded to the Application. Therefore, the Complainant filed a grievance with IGR Cell, Solapur, on 30th November, 2009, for regularization of the connection and refund of the extra amount charged by the Respondent since 29th Sept., 2008, the date of application
- iv The Order passed by the IGR Cell, Solapur, was not acceptable to the Complainant, and therefore, the Complainant, still aggrieved, filed a Grievance with the CGRF, Kolhapur Zone, on 02nd March, 2010.
- v The CGRF, Kolhapur Zone, passed an Order dated 28th October 2010, directing the Opponent, as follows:
 - a. *The Complainant’s power supply should be as per domestic supply tariff, since 29th Sept., 2008, the date of his application,*
 - b. *The extra amount collected from the complainant since 29th Sept., 2008, until the date of the Order, should be refunded, within the future three billing cycles.*
- vi It is submitted that the Opponent did not take any action on the Order passed by the Forum. The Complainant had sent a reminder letter dated 23rd Nov., 2010, requesting the Opponent to comply with the CGRF’s Order, and submitted that the Opponent has not complied with the said Order. The Complainant further submitted that on his repeated enquiries with the concerned officials, he was shouted upon that the Opponent would be appealing against the CGRF’s Order and he should remain calm till a response is received from the Court.
- vii That the Complainant had tried to ensure that the Order passed by the CGRF was complied with by the Opponent. In this respect, he had also written a letter to the Electricity Ombudsman, on 18th Dec., 2010, recommending a strict action to be taken against the officers of the Opponent, in response to which, the Ombudsman, vide his letter dated 24th Dec., 2010, had referred to Regulation 8.7 (*on compliance of the Order issued by the Forum*) of the MERC(CGRF & EO) Regulations, 2006, advising the Opponent that non-compliance of the said Regulation may attract punishment.

The Complainant has then filed this complaint against the Opponent, with prayers as above.

4. A hearing in the matter was held before the Commission, on 11th May, 2011, where the Petitioner appeared himself, and the Opponent was represented by Advocate Pravin Dhage and Shri Ravindra G. Kolap, Executive Engineer, Solapur Division, MSEDCL.
5. The Complainant reiterated his submission adding that his house was ready but the permanent supply was not given by the Opponent. The Opponent submitted that a temporary supply was given to a *Gruh Nirman Sanstha* for the construction of houses and from that supply, temporary supply was given to the Complainant among other consumers, who are occupying premises pending completion. Due to disputes between the consumers and the builder, the builder had disconnected the supply to them, and, temporary supply was provided to such consumers by the Opponent. There are dues pending from the *Sanstha*. Also, the Opponent did not have any infrastructure to provide the permanent supply, which includes underground cabling, etc. The infrastructure would be built by the builder itself.

The Opponent further submitted that it was in the process of filing a Writ Petition in the Hon'ble High Court of Bombay, against the Order passed by the CGRF, Kolhapur Zone. On enquiry by the Commission, the Opponent submitted that no stay was yet granted by the Hon'ble Court.

The Commission then observed that according to the Electricity Supply Code, the resident of premises should get the supply on completion of the construction work. In this case, since the Complainant had separate meter for construction supply, he can be provided with permanent supply.

6. The "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006", inter alia provides as follows -

"8.7 Any order passed or direction issued by the Forum shall be implemented or complied with by the Distribution Licensee or the person required by the order or direction to do so and within the time frame stipulated in the order/ directions and further intimation of such compliance shall also be made to the Forum within the time frame stipulated in that regard in the order/ directions."

"22. **Punishment for non-compliance of orders**

Without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated under the Act, non-compliance of Regulations 8.7 or 17.18 in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Commission may initiate proceedings suo motu or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Act."

7. Having heard the parties and after considering the materials placed on record, and taking into account the provisions of Regulations 8.7 read with 22 of the "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006", the Commission is of the view that since in the present case, the Opponent has not been able to give any satisfactory response as to why it has not complied with the Order of the CGRF, the Opponent would need to be directed to explain as to why penal proceedings should not be initiated against it. Accordingly, the Opponent is hereby directed to show cause, within three weeks from the date of this order, as to why penal proceedings should not be initiated against it for

not complying with/ not implementing the Order of CGRF, Kolhapur Zone, dated 28th October, 2010.

Matter to be listed after three weeks.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman