

**Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 47 of 2009

**In the matter of
Petition of Shri. Kedar Achyut Joshi against Electricity Ombudsman's Order dated
5.6.2009**

**Shri. V. P. Raja, Chairman
Shri. S. B. Kulkarni, Member
Shri. V. L. Sonavane, Member**

Shri Kedar Achyut Joshi

..... Petitioner

Vs.

Maharashtra State Electricity Distribution Company Ltd.

.....Respondent

ORDER

Date: October 14, 2009

Shri Kedar Achyut Joshi, the Petitioner herein, is a consumer of electricity supplied by M/s. Maharashtra State Electricity Distribution Co. Ltd., Aurangabad. The Petitioner on being aggrieved by the Electricity Ombudsman's Order dated 5.6.2009 in Representation No. 42 of 2009, filed a Petition under affidavit before the Commission on 29.6.2009. The Petitioner has submitted that on 17.8.1997 he had applied to the Respondent for supply of electricity. The supply was to be for his agricultural pump at Gat No. 171, Mauje Apatgaon, District Aurangabad. He had submitted the relevant documents and paid Rs. 2320/-. Since, electricity was not supplied to the Petitioner as sought for, he approached the Sub Division No.2 (Rural) of the Respondent on 22.2.2006 when he was asked to pay additional charges of Rs. 5,650/- in accordance with the terms of an advertisement published by the Respondent, on 22.2.2006. The Petitioner paid the said amount on 16.3.2006. On 3.10.2007, the Petitioner was again asked to pay Rs.



5080/- in regard to his application. The Petitioner paid the said amount on the same day and he was provided with electricity supply on 15.1.2008.

2. Petitioner submits that after failing to get any clarification from the Respondent regarding the delay in supply of electricity, the Petitioner filed his grievance before the Internal Grievance Redressal (“IGR”) Cell of the Respondent on 2.6.2008. Petitioner further submits that since no decision was communicated to him by the IGR Cell, he approached the Consumer Grievance Redressal Forum (“CGRF”), Aurangabad Zone on 18.11.2008 seeking refund of excess amount of Rs. 10,730/- paid by him along with interest at the rate of 18% and compensation for harassment and delay in supply of electricity.

3. Petitioner submits that the CGRF, Aurangabad Zone, vide its Order dated 15.1.2009 ordered the Respondent herein to refund the aforesaid amounts of Rs. 5,650/- and Rs. 5,080/- with interest and to compensate the Petitioner with Rs. 500/- for deficiency in services and mental harassment. However, the Petitioner submits that he did not receive the copy of the said Order from the CGRF but received the same from the Respondent’s Office during his follow up visit on 23.3.2009. He further submits that the CGRF had failed to specify the rate of interest in its Order.

4. On 13.4.2009, the Petitioner made a representation to the Electricity Ombudsman asking for interest on the excess amount at the rate of 18% along with higher amount of compensation for harassment and Rs. 36,600/- as the refund of expenses incurred in follow up with the Respondent for electricity supply. The Electricity Ombudsman vide his Order dated 5.6.2009, disposed of the matter by rejecting the Petitioner’s demand for higher rate of interest but increased the compensation amount from Rs. 500/- to Rs.5000/-. The Order also entitled the Petitioner to a refund of Rs. 5650/- and Rs. 5080/-.

5. The Petitioner not being content with the Electricity Ombudsman’s Order in Representation No. 42 of 2009 has approached this Commission with the present Petition. The prayers made by the Petitioner essentially seek to claim interest at 18% which was rejected by the Ombudsman.

6. An admissibility hearing was held on 28.8.2009. The Petitioner stated the facts mentioned in the Petition and argued on the point of jurisdiction emphasising that the Commission has jurisdiction to entertain the present matter. In this regard, the Petitioner referred to the observations of the Supreme Court in *MSEDCL v. Reliance Energy Ltd.*, 2007 8 SCC 381, as under :

“There can be no manner of doubt that the Commission has full powers to pull up any of its licensee to see that the rules and regulations laid down by the Commission are properly complied with. After all, it is the duty of the Commission under Sections 45 (5), 52, 55 (2), 57, 62, 86, 128, 129, 181 and other provisions of the Act to ensure that the public is not harassed...”



The Respondent does not dispute the fact that the Petitioner submitted his application on 17.8.1997 with prescribed fee, as per the prevailing rules. However, the Respondent submitted that in January - February 2006, the Collector prepared the "Marathwada Development Package" to facilitate provision of early electricity supply to the cultivators on demand of additional charges and on submission of receipt of the payment of such additional charges. Thus, the Petitioner was advised to pay Rs. 5,650/- in the District Central Co-operative Bank. The Respondent further alleged that the Petitioner failed to produce the receipt of the said charges before the concerned officials who gave another quotation of Rs. 5,080/- to the Petitioner so as to facilitate the supply. The Respondent submitted that it offered the Petitioner refund of Rs. 5650/- and Rs. 5080/- with interest of Rs. 1795/- and compensation of Rs. 500/- as ordered by the CGRF in its Order dated 15.1.2009. Respondent submitted that under the directions of the Electricity Ombudsman, the Respondent again offered a cheque of Rs.31,000/- along with Rs. 5000/- towards compensation and but the Petitioner again refused to accept the said refund, claiming that the calculations made by CGRF and Electricity Ombudsman are not as desired by him.

7. Having heard the parties and after considering the materials placed on record, the Commission is of the view that in the present case, the CGRF and the Electricity Ombudsman have already gone into the merits of the case of the Petitioner herein, and have provided relief to him. However, the Ombudsman has rejected the claim of the Petitioner of interest at 18%. The Petitioner seeks to appeal against this decision of the Ombudsman, before the Commission. But the present case would not be maintainable before the Commission for want of jurisdiction. In this regard, the ratio laid down in the following judgements of the Appellate Tribunal for Electricity on the aspect of jurisdiction would squarely apply to the present case. The Appellate Tribunal has, in its judgement dated 30th March, 2009 in Appeal No. 180 of 2008, held *inter alia* as under:-

"14. On going through the Judgments referred to above and also the provisions under Sections 42(5) and 42(6) of the Act, it is clear that there cannot be any controversy with regard to the position of law which has already been settled to the effect that the consumer has got the remedy to get the grievance redressed by filing a complaint before the Grievance Cell and thereafter by filing the Appeal before the Ombudsman which is final and no Appeal could be filed before the State Commission."

In its judgment dated 30th March, 2009 in Appeal No. 181/08, the Appellate Tribunal held as under:-

"Even when there is no appeal provided as against the above order passed by the Ombudsman, the State Commission cannot usurp the jurisdiction of the Grievance Redressal Forum or the Ombudsman by going through the validity of the order passed by the Ombudsman."



...

This contention cannot be countenanced in view of the decision taken by this Tribunal as well as Supreme Court wherein it has specifically been held that the Consumer cannot approach the Commission for Redressal of his grievances as there is specific remedy available for the Consumer to approach the concerned authorities like the Grievance Cell and the Ombudsman whose award is final and against which no appeal will lie with the Commission."

8. In view of the above judgments, the present case raising a grievance against the impugned order passed by the Electricity Ombudsman cannot be admitted as the Ombudsman's award is final against which no appeal will lie with the Commission. The Commission holds that the present petition is not maintainable and is hereby dismissed.

Sd/-
(V.L. Sonawane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V .P. Raja)
Chairman



(Sanjay Sethi)
Secretary, MERC