

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
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Case No. 73 of 2009

In the matter of
Application filed by Shri Randhir Dar seeking clarification
with regard to Regulation 4.1(a) of the MERC (Consumer Grievance
Redressal Forum and Electricity Ombudsman) Regulations, 2006.

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

Shri Randhir Dar

....Applicant

ORDER

3rd February, 2010

Shri Randhir Dar filed an application on 13.08.2009 stating therein that ‘*a retired senior electrical engineer of the Government*’ is eligible to be considered for appointment as a Chairperson of Consumer Grievance Redressal Forums in accordance with Regulation 4.1(a) of the ‘MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006’ (‘CGRF Regulations’). The Applicant submits his opinion that ‘*a retired senior electrical engineer of the Government*’ should also include those persons who were in the employment of any local or other authority. In this regard, the Applicant has relied upon the explanation(i) to section 6(6) of erstwhile Electricity Regulatory Commissions Act, 1998 (‘ERC Act’) which reads as follows:-

“Employment under the Central Government or the State Government” includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any Corporation or Society owned or controlled by the Government.”.



The grievance of the Applicant is that persons who were in the employment of any local authority such as the Municipal Corporation of Greater Mumbai, are not being considered by distribution licensees for appointment as Chairperson of CGRF as the interpretation supposedly being given to the words ‘a retired senior electrical engineer of the Government’ excludes the persons who were in the employment of any local or other authority.

2. The Applicant has prayed as under:

“The petitioner hereby seeks for removal of difficulties with reference to provisions under power to remove difficulties under Regulation 25 of CGRF & EO Regulations. Furthermore, he seeks to pass an appropriate order to Licensees to consider applications for the Chairpersons from Retired Senior Engineers under the control of the Central Government or State Government or under any Corporation or Society owned or controlled by the Government.”

3. The Applicant has submitted that the words ‘a retired senior electrical engineer of the Government’ as appearing in Regulation 4.1(a) of the CGRF Regulations, need to be amplified by clarification due to the aforesaid reasons.

4. A hearing was fixed for 14th December 2009. Subsequently, an adjournment was sought until 15th January 2010 by the applicant vide his email dated 12th December 2009. Hence, a new date was fixed for the hearing on 28th January 2010 and accordingly a notice was served on the applicant vide the Commission’s letter dated 23rd December 2009 sent through speed-post.

5. However, the applicant failed to appear for the hearing on 28th January 2010. The Commission enquired about the procedure followed for serving the notice on the applicant. The notice was served on applicant vide speed-post and the Tracking ID for the same was ‘EM 09519959 8 IN’. This Number-id when tracked on the India post website <http://www.indiapost.gov.in/speednew/Track.aspx> confirmed the serving of the notice by the Commission and its receipt by the applicant.

6. However, since a clarification has been sought making the “*Explanation(i)*” appended to section 6(6) of the erstwhile ERC Act, as the basis, the Commission would like to clarify that it would not be sustainable to take support from the said provision due to the fact that Section 185 of the Electricity Act, 2003 (“EA 2003”) has repealed the ERC Act. In any case, the said explanation appended under Section 6 of the now repealed ERC Act is an explanation to Section 6(a) which provides that “*The Chairperson or any member ceasing to hold office as such shall – (a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office*”. In this regard the words “*employment under the Central Government or any State Government*” has been explained in the said “*Explanation*”. This does not help the present applicant. The said Section 6(a) of the ERC Act nor the explanation thereunder has any relevance at all to the issue raised by the applicant. Even Section 89(5) of the EA 2003 containing provisions *pari materia* to Section 6 of the ERC Act has done away with the above quoted provision under Section 6(a) of the ERC Act. The Parliament has not incorporated any provision similar to Section 6(a) or its explanation in the EA 2003. Looking at it from any angle, the case of the applicant is not sustainable. In the circumstances, the present application stands dismissed as not maintainable.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman



(P.B. Patil)
Registrar, MERC