

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 14 of 2012

In the matter of
Petition filed by Shri Baban Muktaji Kale , Vice President of Shetkari Sanghatana,
Maharashtra State seeking action in respect of non replacement of Failed
Transformers and to set aside MSEDCL's Circular No. 136 dated 04.11.2011 and
letter No. 33329 dated 08.11.2011

Shri. V.P. Raja, Chairman

Shri. Vijay L. Sonavane, Member

Shri Baban Muktaji Kale,
Zunj Banglow, Surya Nagar,
Ward No. 7, Shrirampur
District: Ahmednagar

.....Petitioner

V/s

Maharashtra State Electricity Distribution Co. Limited (MSEDCL)
Mumbai

.....Respondent

Present during the hearing:

For the Petitioner: None

For the Opponent: Shri Ankush Nale, MSEDCL (Rep)
Shri U.R.Dhaygude, MSEDCL (Rep)

ORDER

Dated: 9 July, 2012

Shri Baban Muktaji Kale, Vice President of Shetkari Sanghatana, Maharashtra State submitted a Petition under affidavit before the Commission on 9 February, 2012 under Section 86 of the Electricity Act, 2003, seeking action in respect of non replacement of

Failed Transformers and to set aside MSEDCL's Circular No. 136 dated 4 November, 2011 and letter No. 33329 dated 8 November, 2011.

2. The prayers of the petitioner are as follows:

“

A. This application may kindly be allowed.

B. The circulars issued by the Company in respect of not to replace the failed transformers till the payment of 80% of the current bills may kindly be declared illegal and same may kindly be quashed and set aside.

C. Any other suitable and equitable orders may kindly be passed in favour of the applicant. ”

3. The Petitioner on behalf of Shetkari Sanghatana submitted that they are Agricultural consumers of MSEDCL having electrical connections as per the provisions of the Electricity Act 2003 and residing at Shrirampur, District: Ahmednagar.

4. It is averred in the petition that the officers of the Respondent are not replacing the failed Transformers until the Agriculture consumers pay 80% of the Bills. This action is contrary to the Electricity Act, 2003 and also contrary to the Government policy. When the Petitioner enquired about the said impugned action, the Respondent, MSEDCL had given the reference of their Circulars dated 11 November, 2011, 8 November, 2011 and 4 November, 2011, instructing all Section Officers to replace the failed transformer only after the receipt of the current dues from 80% of the Consumers connected on that DTC (Distribution Transformer Centre). The Respondent has also directed in the abovesaid circulars that necessary action will be initiated against the concerned Officer if the directions given in the said Circulars are not obeyed.

5. It is further averred in the petition that the aforesaid action of the Respondent is contrary to the Electricity Act 2003 in as much as the state Government is giving subsidy to the Agricultural consumers in respect of electricity bills and to some extent the government is paying to the Respondent Company for and on behalf of the Agricultural consumers with the obvious intention of fulfilling production from the agriculture produce for the citizens of this Country. The Agricultural Consumers in the State are getting electricity supply for 8 hours only in a day and the Government of Maharashtra is paying for the subsidy considering 24 hours of supply of Electricity, which is in excess. Considering the facts, the Respondent cannot disconnect the electric supply to the Agricultural consumers for non-payment of electricity bills nor can compel the Agriculture Consumers to pay 80% of the current bills for the replacement of the failed transformers.
6. The Petitioner also submits that one of the Agricultural associations viz, the Maharashtra Krushak Hitwardhak sanghatana, Muktai Nagar had filed a Writ Petition No 546 of 2012 before the Hon'ble High Court of Judicature at Bombay (Aurangabad Bench). The Petitioner has submitted that the Hon'ble High Court has issued a notice in the said Writ Petition granting interim protection i.e. not to disconnect the electricity supply of Agricultural consumers. The Hon'ble High Court, Aurangabad Bench directed the applicant to submit their grievance to the State Government to decide the application on merits, in accordance with law.
7. In pursuance of the directions given by the Hon'ble High Court, the Petitioner had submitted an application to the State Government and the Government admitted that the Government had given subsidy to the Respondent in respect of Agricultural consumers. The Petitioner further submitted that the impugned Circulars issued by

the Respondent, despite the aforesaid facts and circumstances causes serious prejudice to the Agricultural consumers in the State. The Respondent has forgotten the intention and object of the State Government to provide subsidy to the agricultural consumers and which is compromised by the actions of the Officers of the Respondent.

8. The Government has earlier issued various circulars in respect of giving proper service to consumers and the direction to replace the failed transformer within 48 hours so far as rural area is concerned and the same is contravened by the said Circulars issued by the Respondent, which is also contrary to the policy decision of the State Government. Therefore the same are required to be quashed and set aside.
9. The Petitioner mentioned that the Agricultural consumers are not liable to make payment of their electricity bills considering the subsidy paid, however without prejudice to their rights, some of the Agricultural consumers made regular payments and due to the impugned action great prejudice is being caused to the agricultural consumers those who are making payment of their electricity bills regularly and therefore the impugned action of the Respondent is liable to be quashed and set aside.
10. The Commission, vide notice dated 27 March, 2012 scheduled a hearing in the matter on 13 April, 2012 and directed the Petitioner to serve the copy of the Petition to the Respondent and authorized Consumer Representatives. The Commission, vide notice dated 4 April, 2012, rescheduled the hearing on 3 May, 2012.
11. The Petitioner was not present in the hearing. In the absence of Petitioner, the Respondent was heard on 3 May, 2012. During the hearing, the Respondent submitted that it has not received any grievance from any electricity consumer

regarding the issues raised in the present petition and that the Petitioner is the Shetkari Sanghatana and not an electricity consumer. It was further contended that this Commission is not the appropriate Forum to decide the case filed by an organization of consumers and therefore the Petition may not be admitted.

- 12.** The Respondent submitted that Section 56 of the Electricity Act, 2003 provides for disconnection of supply of the consumer for non-payment of energy bills by the consumer. In spite of various efforts being taken by the MSEDCL as well as the Government of Maharashtra, the arrears of agricultural consumers are increasing and therefore for recovery of arrears from agricultural consumers the directives have been given vide MSEDCL's Circular No.136 dated 4 November, 2011.
- 13.** The Respondent further submitted that there are arrears of about Rs. 6300 Crore of Agricultural consumers. Considering the present financial crunch; MSEDCL has taken various steps for recovery of the same.
- 14.** However, as none was present on behalf of the Petitioner for the hearing on 3 May, 2012, in order to comply with the principle of natural justice, the Commission vide notice dated 29 June, 2012 once again scheduled a further hearing in the matter on 6 July, 2012 and affirmed the Petitioner that if he fails to remain present at the time of hearing, the Petition would be decided in his absence.
- 15.** Further hearing was held on 6 July, 2012, the Petitioner was not appeared for this hearing also.
- 16.** Having heard the Respondent and after considering the material placed on record, the Commission is of the view that:

- a) As per submission of the Respondent, MSEDCL is presently passing through a precarious financial situation, and has hardly been able to generate sufficient revenue due to the huge arrears especially of Agricultural consumers.
- b) Section 56 of the Electricity Act, 2003 provides the procedure for disconnection of supply of the consumer on non-payment of energy bills, which is reproduced below:

“ ...

Section 56. (Disconnection of supply in default of payment): -- (1) *Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:*

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

- a) an amount equal to the sum claimed from him, or*
- b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.*

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

..”

- c) The Commission directs that MSEDCL can take all steps strictly as per the law to improve their recovery. The procedures provided by the Electricity Act, 2003 should be followed during the disconnection drives.

With the above observations and directions, the present petition stands dismissed.

Sd/-

(Vijay L. Sonavane)
Member

Sd/-

(V. P. Raja)
Chairman