

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 129 of 2011

In the matter of
Petition of the Akot MIDC Industries Association under Section 42 (1) of the Electricity Act, 2003, and under Regulations 22, 23 and 24 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, seeking practice directions and removal of difficulties in regard to industrial consumers who are illegally feeding from either agriculture feeder or feeder on which single phase scheme of AG–LM is implemented restricting three phase availability for 8 hours only.

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

The Akot MIDC Industries Association,
C/o. Vaishnavi Food Products,
Plot No. A – 1/1 MIDC,
Akot, Dist. Akola 444 101

..... Petitioner

Vs.

The Managing Director,
Maharashtra State Electricity Distribution Co Ltd.,
Prakashgad, Bandra (East),
Mumbai 400 051

..... Respondent

Present during the hearings:

For the Petitioner: Shri Ashish Chandarana (Rep.)

For the Respondent: Smt. Deepa Chawan (Adv.)

ORDER

Date: 23rd February 2012

The Akot MIDC Industries Association (AMIA) filed a Petition before the Commission on 7th September, 2011 under Section 42 (1) of the Electricity Act, 2003, and

Regulations 22, 23 and 24 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 for seeking practice directions and removal of difficulties in regard to industrial consumers illegally feeding from either agriculture feeders or feeders on which the single phase scheme of AG-LM is implemented and thereby restricting their three phase availability for 8 hours only.

2. The Petitioner in its Petition has prayed as follows:

“

1. *Direct Respondent not to release industrial connections from agriculture separated feeder or single phasing scheme implemented feeder which is part of ag-lm scheme.*
2. *Direct Respondent to separate all industrial consumers whose connections are released from agriculture separated feeders or single scheme implement feeders.*
3. *Direct Respondent to observe agriculture dominated load shedding protocol for the feeders of AG-LM schemes on which industrial connections are released till the work of shifting of industrial consumers to another feeder takes place.*
4. *Petitioner prays Hon'ble Commission to remove the difficulty by defining agriculture feeder, agriculture dominated feeder, and single phasing scheme implemented feeder and other region feeder and all other type of feeders.*
5. *Direct Respondent to pay cost Rs. 25000/- to petitioner*
6. *Any other relief which Hon'ble commission may find it necessary to meet the justice to industrial consumers.”*

3. The Petitioner submitted as follows:

- i. The Petitioner is an association of industrial establishments located at Akot MIDC area and surrounding rural areas where the members of AMIA are carrying out their industrial activity and thus has the right to raise issues before the Commission pertaining to difficulties faced by their members.
- ii. In compliance with Section 50 of the Electricity Act 2003, this Commission has notified Supply Code Regulations, 2005 on 20th January, 2005. However, at that time agriculture feeder, agricultural dominated feeder, single phasing scheme implemented feeder were not in existence and hence are not defined in Supply

Code Regulations, 2005 which is now causing disputes between the consumers and MSEDCL.

- iii. MSEDCL has implemented single phasing scheme in rural part of Maharashtra so that three phase availability to agriculture consumers could be restricted. The said single phasing scheme is not approved by the Commission. The Commission has advised MSEDCL to implement long term effective schemes such as separation of feeders. Thereafter, the said scheme is being funded by the Government of Maharashtra (GoM). Also, MSEDCL has stopped the said scheme since 2007 and is now implementing only feeder separation scheme as advised by the Commission.
- iv. In compliance of the Hon'ble Supreme Court Order dated 13th May, 2005 this Commission has issued various Orders pertaining to Load Shedding protocol which include feeder wise Load Shedding protocol clarifying load shedding for agriculture dominated feeders.
- v. MSEDCL has started to shift all agricultural consumers from existing mixed feeders to separate agricultural feeders so that power supply to these consumers can be restricted as per GOM policy.
- vi. However, there are many instances in rural areas of the state where MSEDCL is again utilising the infrastructure meant for agriculture to feed new industrial connections resulting in hardship to these industrial consumers. Presently, the power availability for agriculture consumers is 8 hours a day. In spite of releasing industrial connections from feeders of Ag-LM scheme (Ag Feeder separation and Single Phasing Scheme), MSEDCL is not following the Load Shedding protocol for agriculture dominated area and giving three phase availability of 8 hours per day only.
- vii. It is submitted that release of industrial connections from infrastructure meant for agricultural purposes, i.e., separated Ag feeder and Single Phasing feeder is in violation of Section 42(1) of the Electricity Act, 2003 as such it will be no longer treated as efficient distribution system due to poor three phase availability of 8 hours per day only.
- viii. MSEDCL cannot release industrial connections from the infrastructure meant for agriculture purpose. Even as a special case, if it is required to do so for the time being temporarily, the load shedding protocol applicable to such feeder will no longer remain as per exclusive Ag feeder but it will require to observe

agriculture dominated protocol due to presence of industrial consumers on the said feeders.

4. The Commission vide Notice dated 15th September, 2011 fixed a hearing in the matter on 4th October, 2011 and directed the Petitioner to serve a copy of the Petition on the Respondent and Authorized Consumer Representatives.

5. The hearing in the matter was held on 4th October, 2011. During the hearing, MSEDCL informed the Commission that the Hon'ble High Court of Bombay, Nagpur Bench, is seized with similar matters and hence the present petition should not be admitted as the same issue is pending for consideration of the Hon'ble High Court. MSEDCL submitted its written reply during the hearing wherein the following submissions were made:

- a. MSEDCL has implemented agricultural load management schemes for better demand side management and to control agricultural load during peak hours and also for flattening the load curve by shifting the agricultural load to off peak period and to ensure single phase supply to rural consumers. MSEDCL as part of its agricultural load management scheme implemented single phasing and Gaothan Feeder Separation Scheme.
- b. The single phasing scheme is implemented in Agricultural dominated region on mixed load feeder. The basic objective of the scheme is to ensure single phase supply to rural domestic consumers. In this scheme separate feeder for agriculture is not laid. Therefore, industrial connections may exist on single phasing scheme.
- c. In case of Gaothan Feeder Separation scheme, the separate feeders for agriculture and Gaothan are laid. MSEDCL has issued Circular dated 30th October, 2008 wherein the direction not to release agriculture connection on Gaothan feeder, was issued.
- d. MSEDCL has implemented the time schedule of 8 - 10 hours per day availability to agricultural load management schemes as per MERC Order dated 9th May, 2011.
- e. MSEDCL in its written submission has referred to an Order dated 4th June, 2011 passed by the CGRF, Amravati, in a similar matter wherein it was directed as follows:

“MSEDCL Rural Division Akola is directed to change the status of agricultural feeder or single phasing scheme feeder from which supply has been provided to consumer to Ag. dominated feeder and to apply the load shedding protocol

accordingly or it should provide the supply from Paptakhed Gaothan feeder or any feeder other than Ag. feeder within one month of order”.

MSEDCL filed a Writ Petition (No. 3420 of 2011) before the Hon’ble Bombay High Court, Nagpur Bench, challenging the above Order of CGRF, Amravati. The Hon’ble High Court vide Order dated 25th August, 2011 ruled as below:

“ The impugned order dt. 4.6.2011 is stayed, during the pendency of writ petition in case the respondent no.2 (Mahendra Jagadishprasad Tardeja) decides to so avail the dedicated distribution facility, the respondent no.2 is free to so avail it and seek for modification of the order passed by this court.”

- f. In a similar Writ Petition (No. 988 of 2011) challenging the Order of CGRF, Amravati wherein the consumer forum has directed MSEDCL to provide supply to three consumers from Gaothan feeder instead of existing agricultural feeder within a month, the Hon’ble Bombay High Court, Nagpur Bench vide Order dated 7th July, 2011 ruled as follows:

“In the light of the above, the impugned order dated 6/12/2010 would have to be set aside and is accordingly set aside. However, it is made clear that if the respondent no.2 desires to have a dedicated supply to his Saw Mill, which is outside the Gaothan, the same would be provided, as has been stated on behalf of the petitioner – Company before the CGRF, at the costs of the respondent. In the event, the said cost of the infrastructure is paid by the respondent, needless to say that the same would be subject to the outcome of the proceedings in the Apex Court.”

- g. As the Hon’ble Bombay High Court, Nagpur Bench is seized of similar matters in Writ Petition No. 988 of 2011 and Writ Petition No. 3420 of 2011, it is requested that the Commission may refer to and rely upon papers, proceedings and orders passed in the aforesaid matters.

6. In reply to the above, the Petitioner submitted during the hearing that the matters pending before the Hon’ble High Court is related to an individual consumer whereas through the present petition general relief applicable to all consumers is being sought. Thereafter, the Petitioner reiterated its submissions made in the petition in brief and requested that industrial consumers should not be connected on separated agricultural feeders or single phasing feeders and should get maximum hours of three phase availability. MSEDCL has submitted that only in exceptional cases where no other infrastructure exists, non-agricultural connections are released on agricultural load management feeders.

7. During the hearing, the Commission observed that it has already accorded in-principle approval to a number of Capex schemes of MSEDCL for infrastructure development. In case MSEDCL requires additional capital expenditure for creating infrastructure to increase three-phase availability to industrial consumers, it can formulate a scheme and approach the Commission for in-principle approval. Meanwhile, the Commission directed the Petitioner to provide full details of all cases where industries / members of Akot MIDC Industrial Association have got connections on single phasing feeder / separated agricultural feeders and directed MSEDCL to submit factual positions regarding these cases and its action plan to create infrastructure to increase three-phase availability for these consumers. With these directives, the Commission scheduled the next hearing in the matter on 24th November, 2011.

8. Accordingly, the Petitioner vide letter dated 18th October, 2011 forwarded the list of 7 industrial consumers who are connected on agricultural load management feeder. Thereafter, the Petitioner on 24th October, 2011 submitted a rejoinder in the matter wherein it submitted as follows:

- a. As per the Hon'ble Supreme Court Order dated 13th May, 2005 in Special Leave Petition No(s). 11437-11438 of 2005, load shedding has to be finalized in consultation with MERC. Thus, any case pending before the Hon'ble High Court or decided by the Hon'ble High Court for a particular consumer based on the fact and circumstances of that case would not be applicable to MERC's jurisdiction regarding load shedding protocol.
- b. It is submitted that no industry would be remain cost effective if industrial connections are released from agricultural load management feeders where power is supplied as per the agricultural load shedding protocol.
- c. The Petitioner further submitted that in the event of temporary arrangement to release industrial connections on agricultural feeders, to mitigate the time required for creation of infrastructure, then the status of that feeder will no longer remain as Ag Load Management feeder. The said feeder will obviously become agriculture-dominated if the agricultural load is more than industrial load. Under these circumstances, the Commission may direct MSEDCL to observe Ag dominated Load Shedding protocol for the said feeder till the shifting of three phase industrial consumer to any alternate infrastructure.

9. During the hearing held on 24th November, 2011 MSEDCL submitted the status of the seven industrial consumers connected on single phasing feeder whose details were forwarded by the Petitioner. It was submitted that out of the seven consumers, for three consumers who are situated in the Telhare MIDC area, the work of laying separate industrial feeder is in progress. As regards the balance four consumers it was submitted that these are old consumers of MSEDCL and located outside the MIDC area. And hence, at the time of implementation of the single phasing scheme these consumers were connected on that feeder as there was no alternate infrastructure available.

ANALYSIS OF THE CASE

10. The Respondent has objected to the maintainability of the present petition on the principal ground that issues similar to the ones raised in the present petition are *sub judice* before the Hon'ble Bombay High Court, Nagpur Bench. Having heard the parties and after considering all the documents available on record, and on perusal of the Hon'ble High Court's Order dated 25th August, 2011 in W.P. No. 3420 of 2011 as available on the website of the Hon'ble High Court, it appears that the writ petition deals with the case of a specific individual consumer. Issues inter alia of dedicated distribution facilities have been dealt with therein by the Hon'ble High Court. Similarly, from a perusal of the Hon'ble High Court, Nagpur Bench Order dated 7th July, 2011 in W.P. No. 988 of 2011, it appears that the case of a specific individual consumer has been dealt with wherein specifically the issues of dedicated feeder service from the Gaothan Feeder/dedicated supply to the premises of the consumer outside the Gaothan/ "Gaothan Feeder Separation Scheme" have been considered by the Hon'ble High Court.

Whereas, the Petitioner in the present petition has raised the issue of release of industrial connections on agricultural load management feeders. The present petition is not a case of a specific individual consumer wherein it could be said that identical issues are pending before Hon'ble High Court. Hence, we do not sustain the objections of the Respondent. In any case, load shedding protocol is an issue intrinsic to the present petition and dealt with in this order. In regard thereto Hon'ble Supreme Court vide its Order dated 13th May, 2005 in Special Leave Petition No(s). 11437-11438 of 2005 has held that load shedding protocol should be devised in consultation with this Commission.

11. The Respondent MSEDCL is implementing agricultural load management schemes to reduce the peak load by shifting agricultural load from peak hours to non-peak hours and thereby, flattening the load curve. As a part of its load management schemes, MSEDCL is implementing single phasing scheme and feeder separation scheme.

12. Under the feeder separation scheme, the existing mixed feeder is segregated into Gaothan feeder and agricultural feeder, which makes it possible to control the availability of power for the agricultural feeder and provide maximum possible availability to the Gaothan feeder. As claimed by MSEDCL, non-agricultural connections are being released only on Gaothan feeders and only in exceptional circumstances where no other infrastructure exists, non-agricultural consumers are connected on agricultural feeders. From the details of the seven industrial consumers submitted by the Petitioner and the status of these consumers submitted by MSEDCL, it is observed that all these consumers are connected on single phasing scheme and not on feeder separation scheme. As the quantum of load relief obtained from the separated agricultural feeders is substantial, the Commission is of the opinion that, changing the load shedding protocol of these separated agricultural feeders for non-agricultural consumers connected on these feeders as an exception, will distort the planned load-shedding in the State, which is not desirable. Hence, the Commission is not inclined to issue any directions as sought by the Petitioner in respect of feeder separation scheme. However, MSEDCL needs to ensure that non-agricultural consumers connected on separated agricultural feeders should be shifted to Gaothan feeders in due course of time by expanding the infrastructure.

13. As submitted by MSEDCL, single phasing scheme is implemented in agriculture-dominated areas on mixed-load feeders. The basic objective of the scheme is to ensure single phase supply to rural domestic consumers. In this scheme separate feeders for agriculture is not laid. Therefore, under the single phasing scheme, by design, all consumers irrespective of category are connected on same feeder and avail the same hours of three-phase and single-phase supply. As mentioned by the Petitioner, this Commission vide Order dated 4th March, 2005 has not accorded its approval for large scale implementation of the single phasing scheme. Thereafter, the Government of Maharashtra for achieving the goal of supplying electricity to all as stipulated in Section 6 of the Electricity Act, 2003 notified the Rural Electrification Policy on 23rd July, 2009. In the said policy, the State Government has included the single phasing scheme, relevant abstract of the same is reproduced below:

“3.7 Schemes in Rural Areas

MSEDCL is working on several schemes for strengthening distribution services in rural areas and schemes are under implementation. These schemes range from development of infrastructure, renovation and modernization, provision of agricultural connections to load management in rural areas. These schemes have been conceived, developed and implemented with the aim of improving energy services in rural areas as per needs for rural household and agricultural consumers. These scheme include:

- **Single Phasing Scheme**
- **Gaothan Feeder Separation Scheme**
- **Agricultural Pump Energisation**
- **Infrastructure Development Plan**

Details of all these schemes have been enlisted in this section.

3.8 Single Phasing Scheme

3.8.1 Objective

The objective of this scheme is to provide uninterrupted single phase power supply to the rural households consumers for lighting load and to overcome the load shedding problem in rural areas particularly during evening and night. The arrangement of Single Phasing aimed at better demand side management is helping to flatten the load curve and MSEDCL will be in position to meet demand requirement of maximum numbers of consumers of all categories. The scheme is operative on composite feeder which contains rural household load as well as agricultural load.

14. It can be seen from the above mentioned Rural Electrification Policy that the single phasing scheme by design has to operate on a composite feeder. Therefore, all consumers irrespective of category, i.e., industrial, domestic, agricultural, etc., will get same three-phase and single-phase availability. Further, in view of the above mentioned policy this Commission has accorded an in-principle approval for the implementation of extended single phasing Scheme. Therefore, the Commission is of the opinion that directing MSEDCL for not releasing industrial connections on single-phase schemes will not be in consonance with the objective of this scheme and hence, the Commission does not grant relief as sought by the Petitioner. However, as per the Govt. of Maharashtra's notification under the Electricity Act, 2003 the MIDC area is not covered under definition of 'Rural Area' and hence, MSEDCL needs to build alternative infrastructure for MIDC areas for increasing their three-phase availability. These consumers are to be connected on a separate feeder. MSEDCL is directed to submit a compliance report to the Commission in six months from date of issuance of this Order.

With the above, Case No. 129 of 2011 hereby stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman