

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th floor, Cuffe Parade, Mumbai 400 005.

CASE No.18 of 2002

**In the matter of applications filed by
Electricity Consumers Association (ECA), Kanjurmarg, Mumbai dated 6.8.2002,
and Bombay Small Scale Industries Association (BSSIA), Goregaon, Mumbai dated
26.8.2002 for action against MSEB having violated I.E. Rules, 1956.**

**Shri P. Subrahmanyam, Chairman
Shri Jayant Deo, Member
Dr Pramod Deo, Member**

ORDER

Dated: January 07, 2003

The Commission has received two Petitions (i) Electricity Consumers Association (ECA), Kanjurmarg, Mumbai dated 6.8.2002, and (ii) Bombay Small Scale Industries Association (BSSIA), Goregaon, Mumbai dated 26.8.2002 on similar grounds in the matter of violation, misuse and abuse of rule 50(b)(ii) of Indian Electricity Rules 1956 and in respect of unreasonable, unnecessary and unwarranted purchase of Distribution box fitted with Single Pole Moulded Case Circuit Breaker (MCCB) in lieu of Distribution box fitted with Kit Kat fuses by MSEB authority.

2. The admissibility hearing, before the full Bench, was held on 27th November 2002. During the admissibility hearing the Applicant BSSIA, while explaining the background of their petitions, submitted that the design, drawings and housing arrangement of single pole MCCB in LT Distribution Box are not approved by the Chief Engineer (Electrical), PWD, Government of Maharashtra, Mumbai, who is the competent authority in the matter. The main issue is that the design of L.T Distribution Box procured by the Board, violates the provisions of rule 50(b)(ii) of IE Rules, 1956. A copy of the letter No.CE (Elec)Desk-4/342/2002 dated 6th September 2002 has been referred (attached with the petition) to justify this contention. .

3. Further, the Applicant ECA submits that though the concept of distribution box provided with single pole MCCB and Isolator has been introduced as a modern technology, yet in reality, the entire purpose has been defeated [as indicated in page

5 of its petition]. The Applicant further alleged that inspite of the MSEB's in-house committee's recommendations, and also the non-approval of the design modifications by the Chief Electrical Inspector, [the inference based on C.E. letter of dated 23.7.2002 addressed to Chief Engineer (Commercial), MSEB], the Board has awarded the contract for the procurement of these equipments, to a group of 4/5 bidders.

4. In clarifying the queries as to how the MSEB has breached any provision of the I.E. Rule, 1956, the Applicant referred to Rule 50(b)(ii) of the IE Rules, 1956, which states as follows:

Quote

50(b) In case of every transformer the following shall be provided:

50(b)(ii) On the secondary side of transformers of capacity 100 KVA and above transforming HV to MV or LV, a linked switch with fuse(s) or circuit breaker of adequate capacity capable of carrying and breaking full load current and for transformers transforming HV to EHV, as the case may be, a circuit breaker:

Provided that where the transformer capacity exceeds 630 KVA a circuit breaker of adequate capacity shall be installed on the secondary side." Unquote

He submitted that the MSEB has not used linked switch with fuse, thereby violating the rule and defeating the objective of safety for both Distribution Transmission Centre (DTC) and person.

5. The BSSIA has sought the Commission's intervention through its submission of evidence in the form of photographs in a newspaper (Times of India dated 5th July 2002). The Applicant further submitted that such unnecessary, undesirable and unwarranted purchases would only result in an increase in loss by the Board, which in turn shall be passed on to the consumers by way of higher tariff.

6. Shri G.S. Limaye, SE (Works), MSEB submitted that the crux of the Applicants' complaint is to get the award of the tenders floated by the MSEB in respect of LT distribution boxes set aside. The MSEB has been purchasing and using the Distribution Box with Single Pole Moulded Case, Circuit Breaker for the last ten years. Calling the tenders, etc., is within the administrative jurisdiction of the Board and if any person is aggrieved by such actions of the Board, the aggrieved person might seek appropriate legal remedy from a Civil Court. Therefore, the Petitions are not maintainable and be rejected.

7. The Commission queried whether the Board has made any reply to the letter dated 23rd July 2002 of the CE (Elect.), PWD, and if so a copy of the same be placed

before the Commission. In reply, Shri Limaye, referred to paras 2-5 of his affidavit dated 5th October 2002. He further submitted that in 1965 itself the approval for the method of construction and the drawing for the transformer installations, etc., were obtained from the CE (Elect). The Electrical Inspector does not go into the details of the distribution boxes, except for the safety aspects, clearances, etc., which is provided on the secondary side of the transformer. Hence, the MSEB does not observe the practice of seeking routine approval regularly from the Chief Engineer (Electrical), PWD. He further submitted that one such approval was obtained in 1989, and submitted a copy of the said letter dated 4th January 1989 from the CE (Elect.) in respect of compliance of IE Rules 1956 for perusal of the Commission. In fact, he submitted that the letters relied upon by the Applicants to base their allegation are (i) No.CE (Elec.)/Desk-4/308/2002 dated 14th August 2002 and (ii) No.342 dated 6th September 2002.

8. In respect of the letter dated 23rd July 2002 from the CE (Elect.), Shri Limaye submitted that matter was discussed with the officials from the Chief Engineer (Electrical)'s office, when they visited the MSEB on 29th July 2002 itself and all the related correspondences, including that of approval letter dated 4th January 1989, were handed over to them. Therefore, it was felt that no separate communication is required and their signatures were obtained on the said letter itself. A copy of the letter was placed before the Commission for its perusal. He submitted that a minor deviation in recent drawings has been proposed, as the same is not approved. Except for this, the MSEB does not see any non-observation of I.E. Rules.

9. Further, in response to the Commission's directive [refer para 14 of Record of Proceedings], the MSEB vide its affidavit dated 24th December 2002 submitted that *"It is not mandatory to take approval, even though the approval for the design of distribution box with linked switch and moulded case circuit breaker was obtained from the Chief Engineer (Electrical), PWD vide letter No. CE(E) Desk-3/10489 dated 4.1.1989. ... The Board has not made any substantial modifications/changes in the drawings, which is approved by the Chief engineer (Electrical) in the present distribution box."*

10. The Commission observed that it is not the appropriate legal authority to seek redressal of violation of I.E, Rules. It further observed that the appropriate legal

remedy for any person, seeking relief in such administrative matters as procurement through public tenders of the utility, is available in the form of Civil Court. Therefore, it does not see any merit in the applicants approaching with Prayers as follows:

- (i) *Chairman of MSEB may kindly be directed to recall its orders of purchasers of Distribution box with single pole MCCB and rescind the resolution to that effect.*
- (ii) *New tender to be called after getting the design and drawings approval from the office of Chief Engineer (Electrical), PWD, Government of Maharashtra, Mumbai.*
- (iii) *A enquiry need to be made by a independent authority towards the whereabouts of these stolen or missing parts fitted in the LT Distribution Box that were worth about Rs.150 crores (Excluding left over empty distribution box of scrap value).*

11. The Commission declines to admit both of the following applications:

- (i) Electricity Consumers Association (ECA), Kanjurmarg, Mumbai dated 6.8.2002,
- (ii) Bombay Small Scale Industries Association (BSSIA), Goregaon, Mumbai dated 26.8.2002

Thus ordered.

Sd/-
(Jayant Deo)
Member

Sd/-
(Dr Pramod Deo)
Member

Sd/-
(P. Subrahmanyam)
Chairman, MERC

Sd/-
(Sanjay Kumar)
Secretary, MERC