

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**

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**CASE No. 27 of 2003**

**In the matter of  
Implementation of safety measures, and regarding terms and conditions of supply.**

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

**ORDER**

Dated: 10<sup>th</sup> November, 2003

The Petition dated 12.08.2003 of Shri B.R. Khedkar of Akhil Bhartiya Grahak Panchayat (ABGP), Pune has the following prayers:

- 1. That the Pune unit of MSEB having failed to remove the Electric poles jutting on the public street in accordance with provisions of law, suitable action be taken against the guilty.*
- 2. The responsibility in regard to abrupt interruption of supply for period of two days on 9<sup>th</sup> and 10<sup>th</sup> June 2003 be fixed and the Hon. Commission be pleased to award punishment to the guilty.*
- 3. The Hon. Commission be pleased to award punishment for not updating the Booklet of "Conditions of Supply and Miscellaneous Charges".*
- 4. The Hon. Commission be pleased to order investigation in regard to the manner in which theft cases are filed and conducted by MSEB.*

2. In his Petition, Shri Khedkar contends that the Maharashtra State Electricity Board (MSEB) have failed to comply with obligations under the erstwhile Indian Electricity (IE) Act, 1910 and the Electricity (Supply) Act, 1948, and similar provisions in the Electricity Act (EA), 2003 by not taking timely action to remove hazardous

electricity poles jutting on the public road in Pune area, consequent upon road widening, resulting in several accidents recently. These accidents have cost valuable human lives. These acts of omission are in contravention of various statutory provisions. He has enclosed a press cutting from the Times of India (Pune) dated 7.5.2003 reporting the accidents.

3. Shri Khedkar's Petition also states that the Kothrud area of Pune was plunged into darkness and was deprived of electricity for two days on 9th and 10th June, 2003, apparently because of falling of tree branches on the overhead lines following pre-monsoon rains, regarding which an article in The Times of India, Pune dated 11.6.2003 is enclosed. The plight of the residents in the area can be imagined from the public commotion reported in the press. Shri Khedkar submitted that this pointed to default on the part of MSEB employees in not maintaining continuous supply vis-à-vis. the clear provisions of law which he cited. MSEB had not taken proper care in arranging the requisite pre-monsoon pruning of tree branches so as to avoid such eventualities.

4. In his Petition, Shri Khedkar has submitted that MSEB have not updated their booklet containing "Conditions of Supply & Miscellaneous Charges" after 31.7.1998, despite clear Orders contained in para 15 of the Commission's Order dated 3.4.2002. This is likely to mislead the consumers and is liable to penal action under Section 142 of the Electricity Act, 2003.

5. Shri Khedkar's Petition is accompanied by a copy of a judgement dated 8.3.2002 of the Judicial Magistrate First Class (JMFC), Saswad (Dist. Pune) (RCC No.93/2001) in a matter of theft of energy under Section 39 and 44 of the IE Act, 1910. According to Shri Khedkar, the judgement exposes the lack of valid evidence and grounds on which the accused (an ice factory owner) was charged. He submitted that there are a number of such cases filed without prima-facie evidence and, therefore, many decisions go against the Board. Given this state of affairs, Shri Khedkar has urged the Commission to order investigation into the abuse of powers by MSEB in terms of Section 128 of the Electricity Act, 2003.

6. The Petition was heard on 22<sup>nd</sup> October, 2003, when it was also admitted. At the hearing, Shri Khedkar stated that the Petition had been prompted because of the 48 hour disruption in the supply of electricity due to lapses on the part of MSEB in undertaking pre-monsoon maintenance in certain areas of Pune. He submitted that MSEB are not following their own norms for maintenance and implementing safety measures, due to which fatal accidents have been taking place. For example, poles are not being colour coated, and the extent of earthing is not adequate. He regretted the neglect by MSEB's local officials of such issues related to public safety and interest.

7. Shri Khedkar further submitted that MSEB have not re-located transmission poles jutting into public roads in Pune and drew attention to the photographs that he had also submitted. In general, MSEB are neither following their own norms and regulations with regard to safety and

maintenance nor the norms prescribed by Government of India (GoI), Central Board of Irrigation and Power and the relevant statutes. Small short-term savings are leading to hazard, loss of life and large losses in the longer term. Simple things such as checking transformers and oil, keeping substation doors locked, and maintaining distribution boxes are neglected.

8. Shri Khedkar submitted further that MSEB have not updated their 'Conditions of Supply & Miscellaneous Charges' booklet, as required by statute and under the Commission's Order dated 3<sup>rd</sup> April, 2002, nor made it available to consumers and their own field officers. Shri Khedkar submitted that, in his own individual capacity, he was denied a copy of the booklet. He pointed out that some of the charges levied under MSEB's existing conditions of supply did not correspond to the actual expenditures incurred or the requirements of the IE Act and other relevant statutes.

9. To an observation of the Commission, Shri Khedkar stated that he was pointing out that, because small maintenance expenditures were not incurred as per the requirements, power was disrupted for a long time. MSEB have not followed guidelines for maintaining their facilities, as evidenced by the Times of India article submitted by him. It was reported that irate citizens blocked the Paud road as electricity supply was not restored even after 24 hours in Kothrud after transmission wires and poles were damaged by tree branches in a thunderstorm. The supply was restored only after three days. This was because pre-monsoon pruning of tree branches had not been done, in violation of MSEB's statutory obligations under Rule 59(2) of the Indian Electricity Rules, 1956 read with Section 18 of the Electricity (Supply) Act, 1948 that requires MSEB to operate and maintain in the most efficient and economical manner the generating stations, substations, transmission & distribution lines, etc.

Rule 59(2) of the IE Rules provides that *“the supplier shall take all reasonable precautions to avoid any accidental interruption of supply, and also to avoid danger to the public or to any employee or authorised person when engaged or any operation during and in connection with the installation, extension, replacement, repair and maintenance of any works.*

These provisions are also consistent with the framework of EA, 2003.

10. Shri Khedkar pointed out that there were several instances where MSEB had alleged that some consumers had stolen power, and filed cases. He alleged that many such cases filed against consumers, for instance in the ice, dairy, and plastic industries, were fraudulent and used to extort funds from the consumers concerned. On a query from the Commission, Shri Khedkar cited the case of M/s Phadke Dairy in Pune, but submitted that the situation was widely prevalent. It also resulted in heavy legal expenses and harassment of innocent consumers.

11. Dr. Pendse of Mumbai Grahak Panchayat (MGP) (consumer representative) intervened to say that it needs to be seen as to how many such cases have been disposed and with what results. Such analysis would reduce legal expenditure, and allow focused investigations. He also mentioned the position of theft cases in Bhandup and Vashi. He pointed out that B-80 forms are not signed by the concerned Executive Engineers in view of threats.

12. Dr. Pendse further submitted that the issue of the Conditions of Supply has been pending for a long time. He noted that the MSEB loses 800 million units substantially owing to failure and non-availability of the distribution network. He also pointed out that MSEB spends proportionately much less on operation and maintenance as compared to TPC or BSES.

13. Shri Khedkar suggested that the "Conditions of Supply" booklet should not be a voluminous tome but a legible, easy to understand document for existing and prospective consumers. What MSEB are trying to do is to regularize all their past irregularities through a compilation of Commercial Circulars, without observing the statutory stipulations under the Indian Electricity Rules, 1956.

14. It was submitted on behalf of MSEB by Shri A.G. Kulkarni, Technical Director accompanied by other officials, that time be given to rectify the situation, and to file their reply. The Commission observed that MSEB had initially been given 2 weeks to respond vide its letter dated 23.9.2003. The date of hearing was also intimated at that time. However, even after nearly a month, MSEB had not filed their reply.

15. In the light of the above, the Commission disposes of the present Petition with the following observations and directions with regard to the prayers:

- (a) Insofar as the matters referred at prayers (1) and (2) are concerned, it seems prima-facie that there have been defaults and acts of omission and commission by MSEB which have resulted in danger and loss to life and property, and also to a serious disruption in the supply of power in contravention of MSEB's obligation to supply which, it appears, could have been prevented. Chairman, MSEB should, therefore, designate a senior officer not directly concerned with the Pune area to investigate and report on the facts of both matters, the specific lapses, the persons responsible, the action initiated or proposed to be taken against them and the systemic measures being put in place to minimize or rectify such occurrences. The report should be submitted to the Commission within a period of one month, on affidavit. If MSEB had already conducted inquiry for any of the incidents occurred 5 months back, it should file the inquiry report within seven days of this order, on affidavit.
- (b) In its Order in Case No. 27 of 2001 dated 3.4.2002 of M/s Rani Sati Oil Mills which has been referred to in the Petition, MSEB had been directed to initiate an action plan to update its booklet of terms and conditions of supply, ensure that it is properly worded, is in conformity with the law, and make it available to all its field officers and interested consumers. MSEB have not shown that these directions have been complied with. MSEB having failed in their challenge in the High Court to the jurisdiction of the Commission with regard to the terms and conditions of supply, a proposal has been received by the Commission, which is being considered separately. Under Section 50 of the EA, 2003, the Commission is in the process of framing Regulations which would specify an Electricity Supply Code. At this juncture, therefore, updating the existing booklet would become an infructuous and even misleading exercise. The Commission expresses its dismay that even the existing booklet is not easily available, even though such a booklet has been prepared as a reasonably priced publication in the past. In fact, copies of the latest booklet should be available on demand to whoever asks for it across the counter at a reasonable cost upto the sub-division level in sufficient numbers, apart

- from being available with MSEB's own local officials. MSEB are, therefore, directed to do so and report compliance within a period of one month on affidavit, along with their explanation for not having complied with the Commission's directions so far, and the manner in which they have publicized to the public the availability of the booklet.
- (c) While it is imperative that effective action needs to be taken to detect, prevent and prosecute cases of theft, and that MSEB should not be fettered in this regard, it is also necessary to ensure that there is adequate investigation and evidence and other compliance with law so that such action does not give an opportunity to officials for harassment and extortion, minimize legal expenditure and also ensure high rate of conviction in genuine cases. At the Commission's request, Dr. Pendse of MGP has suggested a reporting format to enable the Commission to analyze certain types of cases and the manner in which they have been dealt with by MSEB in 3 sample Circles of Bhandup, Vashi and Pune. The reporting format is at Annexure 'A' to this Order, and the data should be furnished to the Commission within a period of one month, on affidavit.

Sd/-  
(Jayant Deo)  
Member

Sd/-  
(Dr Pramod Deo)  
Member

Sd/-  
(P. Subrahmanyam)  
Chairman, MERC

Sd/-  
(A.M. Khan)  
Secretary, MERC

**Annexure – A**  
Order dated 10.11.2003 in Case No. 27 of 2003.

S.No.	DESCRIPTION	BHANDUP	VASHI	PUNE
<b>METER TAMPERING</b>				
01	No of cases booked for seal tampering of energy meter. Hence theft.			
02	No of cases closed after adjudication of the above.			
03	The no. of claims admitted from the consumer during the adjudication on a/c of replacement of meter in less than 3 years time.			
04	No. of claims admitted from the consumer during the adjudication on account of calibration of meter by the board in last one year			
05	No. of claims admitted from the consumer during the adjudication on a/c of only one shift being run by the consumer.			
06	No. of claims admitted from the consumer during the adjudication on a/c of lesser production by the consumer with central excise duty proof.			
07	The gross value in Rs. of first demand notice of all adjudicated cases			
08	The gross value in Rs. ultimately settled of all the adjudicated cases.			
09	No. of prosecution carried out in all the theft cases stated in item 1.			

**CONNECTED LOAD**

10	No. of cases booked for Connected load violation.			
11	No. of cases where connected load has been corroborated with the help of energy meter for comparison			
12	The gross value in Rs. of first demand notice of all adjudicated cases			
13	The gross value in Rs. ultimately settled of all the adjudicated cases.			

**B-80 FORM**

14	No. of complaints regarding excess billing.			
15	No. of complaints from the above figure where billing is more than 50%			
16	The gross value in Rs. of all B80 complaints for any two months.			
17	The gross value in Rs. after settlement of the same two months stated in item no 3.			

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**CORRIGENDUM**

Dated: 20<sup>th</sup> November, 2003

At the end of the tabular reporting statement appended as Annexure “A” of the Order dated 10<sup>th</sup> November, 2003, the following should be added: “The above data / information should be given in respect of each of the last three financial years.”

Sd/-  
(Jayant Deo)  
Member

Sd/-  
(Dr Pramod Deo)  
Member

Sd/-  
(P. Subrahmanyam)  
Chairman, MERC

Sd/-  
(A.M. Khan)  
Secretary, MERC