



ELECTRICITY OMBUDSMAN

BEFORE THE ELECTRICITY OMBUDSMAN

(Appointed by the Maharashtra Electricity Regulatory Commission under Section 42(6) of the Electricity Act, 2003)

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REPRESENTATION NO. 18 OF 2006

In the matter of Compensation for Delay in Restoration of Supply

Shri Tulshiram Narayanrao Darwhekar..... Appellant

V/s.

Maharashtra State Electricity Distribution Co.Ltd..... Respondent

Present:

1. Shri W.G. Gorde, Electricity Ombudsman
2. Shri S.N. Yadwad, Secretary

On behalf of the Appellant:

1. Shri Vitthal Narayanrao Darwhekar

On behalf of the Respondent:

1. Shri Umesh Bhaurao Shahare, Executive Engineer, Washim (A.R.)
2. Shri Suhas Bahurao Dahatonde, Asstt. Engineer, Karanja.

ORDER

Date: 15th June, 2006

Shri Tulshiram Narayanrao Darwhekar, the Appellant in the present case is a resident of village Bhamb Devi, Taluka Karanja, Dist. Washim and is a consumer of the Maharashtra State Electricity Distribution Co.Ltd. The Appellant filed this representation initially on 24th March, 2006 without any order from the Consumer Grievance Redressal Forum, Akola. The Forum subsequently decided the matter vide its order dated 19th April, 2006 rejecting the claim of compensation made by Shri Darwhekar. Aggrieved with the said order, the Appellant submitted his representation on 12th May, 2006 alongwith copy of the Forum's order and other documents. The Appellant, in the representation, has stated his case as under:

2. He is a resident of the village Bhamb Devi and owns agricultural land having the Gut No. 281 which is located beyond 1 km distance from the periphery of the village. He has applied to the Tahsildar, Karanja to obtain such a certificate certifying the distance of his agricultural land from the village. However, he could not obtain the said certificate and therefore obtained a letter from the official of the Public Works Department certifying the distance. The said letter issued by the Sub Divisional Officer, PWD, Karanja on 5th June, 2006 has been filed as annexure with the representation.

3. The Appellant's case is that his agricultural pump is connected to a transformer supplying electricity by the Maharashtra State Electricity Distribution Co. Ltd. (hereinafter referred to as the Respondent). The transformer got stolen on 25th January,

2005 affecting supply of electricity to 25 to 30 consumers including his pump. Despite efforts, no arrangements were made to restore the supply. The Appellant approached the MERC, Mumbai on 28th May, 2005 whereafter the transformer was installed to recommence the supply. The said transformer was faulty but was not replaced by another efficient transformer until October, 2005. This resulted in suffering heavy losses due to non-availability of electric supply since 25th January, 2005. The Appellant has put his loss at Rs. 40000/- which he had to incur in making arrangements of diesel engine for watering crop. Accordingly, he has claimed compensation of Rs. 40000/- from the Respondent.

4. The Respondent, Maharashtra State Electricity Distribution Co. Ltd was called upon to submit its say on the points raised by the Appellant. The Assistant Engineer, O&M Sub Division, M.S.E.D.C.L., Karanja filed the written statement of defence on behalf of the Respondent. The Respondent concedes that electricity supply was given to the Appellant for agricultural purpose in his field bearing Gut No. 281 of village Bhamb Devi, in the year 1998. The supply was provided from the Tarkheda Road transformer regularly to 28 consumers. Due to heavy scarcity of drinking water in the year 2004-05, District Collector, Washim issued an order on 27th October, 2004 prohibiting lifting of water except for the drinking purpose. The Collector declared 696 villages of Washim District as drought affected areas and village Bhamb Devi was included in the list. Therefore, the villagers used to fetch the water for drinking from the wells situated in the fields at Gut No. 414, 416, 417 and 419 of the said village. On 25th January, 2005, the transformer supplying electricity to the consumers was reported stolen. The well owned by the Appellant is situated within the distance of 1 km from the public drinking water source used for fetching drinking water by the villagers. The Collector's order did not allow water to be lifted from the wells in the area except for drinking purpose. Therefore the transformer was not replaced upto 30th May, 2005. The Tahsildar, Karanja had issued the orders on 6th November, 2004 to the Respondent to stop electricity supply in the area to consumers other than for the drinking water purpose. Copy of the said letter is annexed with the reply.

5. The Respondent has submitted copies of the letter from the Gram Panchayat, Bhamb Devi; Gut map of the land around the village Gaothan; copies of the Collector's and Tahsildar's orders and the statement from one Shri Moramkar in support of its say.

6. The Respondent adds that the transformer replaced on 30th May, 2005 was stolen on 9th June, 2005. Thereafter it was replaced only after the rainy season period i.e. on 1st September, 2005. The said transformer failed and was finally replaced on 12th October, 2005. The electricity supply after this date is continued without any interruption.

7. The Respondent further states that in view of the Collector's order, the Appellant should not have used the diesel engine to lift the water at all, during the period from 27th January, 2005 to 30th June, 2005. The Appellant has done this illegally by using the diesel pump. Moreover, the receipt produced by the Appellant towards hiring of the diesel engine is bogus, as one of the signatories from among the recipients of hiring charges has confirmed that he has not rented his engine to the Appellant for lifting water from the well and that he has never received any money for this purpose. The appeal is therefore devoid of substance and prayed that it should be dismissed. The Respondent says that Consumer Grievance Redressal Forum, Akola has considered all the aspects of the case and passed the correct order in the matter.

8. The matter was heard on 14th June, 2006. The Appellant reiterated the sequence of events that led to filing of the Representation. He stated that dates of theft of transformers, defective transformer and its replacement are given out of his memory. The Tahsildar, Karanja orally, declined to give the certificate showing the distance of his well from the village and hence the certificate is obtained from PWD that his well is situated beyond 1 k.m. from the boundary of Gaothan. As per Maharashtra Electricity Regulatory Commission's Standards of Performance, electricity supply has to be restored within 48 hours in case of Distribution Transformer failure after which compensation is payable at the rate of Rs. 50/- per hour. The Appellant alleged that Shri Nemikumar Moramkar has given a false statement to the Respondent under pressure as his application for power supply is pending with the Respondent. However, on query, he conceded that he has no evidence or document to substantiate this allegation.

9. The Respondent pleaded during the hearing that as per the collector's orders the ban on drawing water except for drinking purpose, is applicable to all wells situated within 1 km from the public water source. Accordingly, the sarpanch notified wells situated in Gut nos. 416, 417, 419 and 414 as public source of water for drinking purpose and villagers used the wells for fetching drinking water. As per the true copy of the map to scale 1:8000, the well of the Appellant in Gut no. 281 is situated within 1 km of the well in Gut no. 414 and hence the ban is applicable to the Appellant's well also. The Appellant has not produced any certificate from the competent authority to substantiate his claim that his well is situated beyond 1 km from the source of drinking water.

10. The transformer supplying electricity to Appellant's well was stolen on 25th January, 2005. Due to the directive from TahsildaPr to cut off power supply during ban period, the transformer was not replaced immediately. The transformer was replaced on 30th May, 2005 as rains were expected shortly and it was not possible to transport new transformer to the site due to inaccessibility during rains. The transformer was again stolen on 9th June, 2005. It was replaced on 1st September, 2005. This transformer failed for some reason and hence was replaced on 12th October, 2005. During rainy season around 250 transformers failed which were replaced as per seniority and availability depending upon the road and accessibility of the locations in the wet agricultural lands.

11. Documents on record and proceedings during the hearing show that supply of electricity to the Appellant got interrupted on 25th January, 2005 due to theft of transformer. Before that, the Collector Washim issued order on 27th October, 2004, prohibiting lifting of water except for drinking purpose for the period from 27th October, 2004 to 30th June, 2005 within 1 km from any drinking water source. Accordingly, Tahsildar Karanja issued instructions on 6th November, 2004 to stop electricity supply to the concerned. The Sarpanch Bhamb Devi declared wells situated in Gut nos. 416, 417, 419 and 414 as the drinking water source, which were indeed used by the villagers for drinking water. The map to the scale of 1:8000 endorsed by the Sarpanch shows that the well of the Appellant is situated within 1 km from the drinking water source i.e. the well in Gut no. 414. The Appellant initially made efforts to get a certificate from Tahsildar stating that his well is situated beyond 1 km from public drinking water source but apparently did not get the same. He then approached PWD and obtained a certificate from the sub divisional officer PWD sub division Karanja, stating that his field is situated outside 1 km from the periphery of Bhamb Devi village and it does not say anything about the distance of the Appellant's well from the source of drinking water used by the

villagers during the scarcity. It is clear that this certificate is of no help to substantiate his claim in this representation.

12. The Appellant has prayed for award of compensation towards the cost of making alternative arrangement for watering by diesel pumpsets from 3rd February, 2005 to 30th June, 2005. To substantiate the costs incurred on providing diesel pumpsets, he has produced four stamped money receipts of Rs. 12300/- dated 15th March, 2005, of Rs. 10800/- dated 25th April, 2004, Rs. 9300/- dated 31st April, 2004 and Rs. 9000/- dated 30th June, 2004 totalling Rs. 41400/- and prayed to award of compensation of Rs. 40000/- only. As against this, the Respondent has produced a statement from one of the signatories Shri Nemikumar Motiraji Moraskar stating that he has a diesel engine but he never let it to the Appellant and he has not received any amount from the Appellant. The Appellant took his signature on a blank paper for some other purpose. In any case, the Appellant was not entitled to draw water for irrigating his agricultural land during the prohibitory period of scarcity of drinking water.

13. Perusal of Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period of giving Supply and Determination of Compensation) Regulations, 2005 shows that compensation is payable to the consumer in case of delay of more than 48 hours in restoration of supply after Distribution transformer failure in rural areas. In the instant case, the distribution transformer had not failed on 25th January, 2005, but the same was stolen. Although such a situation is not specifically covered in the Regulations, it should be understood that getting a new transformer and its installation would require some time. Moreover, the Respondent has clarified that it did not replace the transformer to restore the supply due to the directions from the revenue authorities not to supply power for purpose like irrigation (other than drinking water). Therefore, the act of the Respondent in not restoring power supply to the Appellant cannot be treated as intentional, or of negligence, but more in the nature of observance of the directions from the revenue authority to help tide over the scarcity of drinking water. The situation resembles the occurrence beyond the control of the Respondent, as stipulated under Section 44 of the Electricity Act, 2003. Under such circumstances, the Respondent cannot be said to have violated the provision under the Act or the Regulation in restoration of supply. In this background, it is neither required nor useful to go through the claim and counter claim of the Appellant and the Respondent on correctness of the statements in respect of the expenses incurred, if any, by the Appellant. The Appellant, is therefore, not entitled to any compensation on this account. Therefore, his prayer to award compensation towards cost of using diesel engines during this period is liable to be rejected. The Forum has dealt this issue and rightly rejected the claims for any compensation. I do not find any reason to interfere in the said order

14. The Representation is disposed off as elaborated in the preceding paragraphs.

Sd/
(W.G. Gorde)
Electricity Ombudsman

Sd/
(S.N. Yadwad)
Secretary