



BEFORE THE OMBUDSMAN

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

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051
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REPRESENTATION NO. 25 OF 2005

In the matter of Provision of Supply from MIDC feeder to avoid Load Shedding

M/s. Mohan Trading Co., Deoli, Wardha..... Appellant

Versus

Executive Engineer, CCO&M Division,
Maharashtra State Electricity Distribution Co.Ltd., Wardha.... Respondent

Present:

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

On behalf of the Appellant:

1. Mr. Rajendrakumar B. Goenka

On behalf of the Respondent:

1. Mr. D.G. Gaonar, Ex. Engineer, M.S.E.D.C.L., Wardha
2. Mr. C.M. Khandalkar, Dy. Ex Engineer, M.S.E.D.C.L., Wardha

Date: 4th October, 2005

M/s. Mohan Trading Company, Deoli, district Wardha has filed the representation on 12th August, 2005 against the order dated 18th July, 2005 issued by the Consumer Grievance Redressal Forum, (Nagpur Zone (Rural) rejecting their application for supply of electricity from MIDC feeder. M/s. Mohan Trading Company (hereinafter called as Appellant) is aggrieved against the decision of the Forum upholding the stand of the licensee M.S.E.D.C.L in rejecting the request mainly on the ground that the factory of the Appellant is located outside the MIDC areas. The Appellant stated the facts as under:

2. The Appellant is an existing unit having Low Tension electricity supply with the sanctioned load of 65 H.P. and runs a ginning factory and oil mill, at Deoli, district Wardha. It is at present, fed from 11 KV Deoli town feeder through a 200 KVA transformer. The unit is located in the town of Deoli, but outside the MIDC area. It is a seasonal industry and works for about 4 months in a year. Since the area is covered under the load-shedding programme, the unit has to face frequent shutdowns and non-availability of power. This affects functioning of the unit, resulting into loss of business.

3. The Appellant approached the M.S.E.D.C.L. in May, 2003 with a request to sanction power supply from the MIDC feeder which is about 500m away from their unit. The Appellant is prepared to pay the cost of extending the feeder as per the rules. Despite the constant follows up, M.S.E.D.C.L. (hereinafter referred to as the Respondent) did not agree to the request. By the letter dated 16th March, 2005, Superintending Engineer, O&M Circle, Wardha, informed the Executive Engineer that the estimate for electricity supply as requested above cannot be sanctioned as the factory is located outside the MIDC area.

4. Being aggrieved, the Appellant approached the Consumer Grievance Redressal Forum at Nagpur and explained the case to seek redress. The Appellant submitted to the Forum that the Respondent has sanctioned electricity from the MIDC feeder in atleast six cases, which are located outside MIDC area and requested the Respondent not to discriminate against their unit. The Appellant reiterated its willingness to pay the cost of such extension under the ORC scheme. The Forum heard the matter at length and rejected the application. The order of the Forum is mainly based on the stand that this being a policy matter regarding load shedding, the Forum cannot interfere and that the Respondent has given sufficient reason to enforce the load shedding. The Forum also inferred that the Appellant cannot agitate the matter as it does not fall within the definition of 'grievance'. The Forum relied on the submission made by the Respondent that it is non-permissible to include the units located outside MIDC area in the non-sheddable load category.

5. The Appellant submitted that the order on load shedding issued by Maharashtra Electricity Regulatory Commission on 16th June, 2005 and the circular dated 24th June, 2005 from the M.S.E.D.C.L. do not intend to define industrial units outside the MIDC area as located in "sheddable areas". The Appellant extensively quoted paragraphs from the Maharashtra Electricity Regulatory Commission's order in this behalf. The Respondent filed its reply on 31st August, 2005 and defended its stand not to give power supply to the Appellant from MIDC feeder. It is cited that the consumer has already been given power supply from the 11 KV Deoli town feeder before establishment of MIDC area and therefore the unit is located in the area where the load shedding is applicable. Jai Bajrang Agro Processing, Deoli whose case is cited by the Respondent is very close to MIDC feeder and therefore it was given power supply from the MIDC feeder. The Respondent also states that if the Appellant is given supply from MIDC feeder, there may be several similar requests from other applicants. The Respondent also quoted the order of the Commission issued on 3rd August, 2005 to defend its stand.

6. The matter was heard on 30th September, 2005. The Appellant reiterated its stand that it should be given supply from the MIDC feeder and that he is prepared to pay cost of such extension of the feeder. Shri Goenka further argued that the Commission's order, dated 3rd August, 2005, does not intend to exclude industrial units from outside MIDC areas to avail the benefit of continuous supply if they are connected through separate or dedicated feeders. He also argued that the Respondent is bound to follow the provisions of Section 43 of the Electricity Act, 2003 and Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations,

2005. The Respondent cannot take the shelter of the order issued by the Commission in the matter of principles and protocol to be adopted for load shedding of M.S.E.D.C.L. Shri Goenka, representative of the Respondent quoted paragraph 21 (d) of the order, which is reproduced below.

“The Commission agrees with the M.S.E.D.C.L. proposal to exempt industrial consumer from daily load shedding as far as practicable, in view of their importance to the States economy and to avoid any adverse direct and indirect impact on employment. Similarly, continuous supply to public water works is also necessary in order to maintain water supply. At the same time, operational practicabilities also have to be taken into account. Unfortunately, since many industrial and water works are not connected through separate or dedicated / express feeders, it is not possible to segregate them for ensuring supply.”

7. Shri Goenka further argued that it was never the intention of M.S.E.D.C.L. and also of the Commission to subject the industries to load shedding due to their contribution to economy and employment potential.

8. Having heard both the parties, the Respondent was asked to comment whether there is any directive or circular from the M.S.E.D.C.L. for not sanctioning power supply from MIDC feeder to the industrial units located outside MIDC area. He agreed that there is no such directive or circular. The Superintending Engineer, M.S.E.D.C.L., by his letter dated 16.03.2005 rejected the application solely on the ground that the unit is located outside the MIDC area. No other reason is cited for rejection of the request. In addition, the Respondent during the hearing confirmed that the MIDC feeder is not over loaded and that there is a spare capacity available. He could not give any reason for his apprehension beyond repeating that similar other requests would also follow.

9. As it appears, this is a case of dealing with an application for power under normal rules. The Appellant filed its application way back in May, 2003. This should have been considered in accordance with the provisions of the Act and the Rules, then prevailing. No plausible explanation is given to delay and deny supply for over two years. The orders of the Commission in respect of load shedding came in the month of June, 2005 and August, 2005. The request of the Appellant for granting supply from MIDC feeder falls squarely within the purview of Section 43 of Electricity Act, 2003 and the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. It has nothing to do with the principles and protocol of load shedding. The Appellant has not sought any special exemption from the policy of load shedding as is apparently understood by the Forum. Relevant portion of the Section 43 of the Electricity Act, 2003 reads as under:

“(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

PROVIDED that no person shall be entitled to demand, or to continue to receive from a licensee a supply of electricity for any premises having a separate supply

unless he has agreed with the licensee to pay to him such price determined by the Appropriate Commission.”

10. In the present case, the Respondent is duty bound to provide electric supply to the premises of the Appellant especially in view of his willingness to pay the price for such extension and fulfil the conditions for supply. The Forum, in its order has apparently misconstrued the issue in focus and discussed whether load shedding can be a cause of grievance and concluded that the applicant cannot agitate this cause as it is not covered by the definition of the “grievance”. The Forum opined that the matter of load shedding being a policy decision is not an issue to be considered by the Forum. Admittedly, the issue of load shedding as per the policy is not a “grievance” and therefore beyond the ambit of the Forum. But, the real question in the present case is not the matter of load shedding but simply an application from a consumer to be considered and dealt with in accordance with the provisions of the Act and the Regulations. Therefore, the opinion expressed by the Forum on the issue of load shedding is not an answer to the prayer made by the Appellant. Moreover, the view that the factory is not situated in the MIDC area and therefore is excluded from the benefit of non-sheddable load runs tangent to the main issue and not in consonance with the spirit of the order of the Commission. Nevertheless, the focus of the prayer is not to seek exemption or otherwise from the policy of load shedding but merely seeks supply of electricity from the MIDC feeder strictly in accordance with the provisions of the Act and Regulations.

11. In view of the above, I do not find any substance in the argument advanced by the Respondent nor it is in keeping with the provisions of the Act and Regulations. The order of the Forum in rejecting the application of the Appellant, therefore, is not correct and deserves to be set aside.

ORDER

1. The Appellant’s request to get electric supply line from the MIDC feeder is in accordance with Section 43(2) of the Electricity Act, 2003. The order of the Forum in rejecting request of the Appellant is not in consonance with the Provisions of the Act and the same is therefore, set aside.
2. The Respondent shall provide the electric line for giving electric supply in accordance with the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005.
3. Compliance of this order should be reported within a period of 3 months from this date.

Sd/
(W. G. GORDE)
Ombudsman

Sd/
(S. N. YADWAD)
Secretary