

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai – 400 005
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Case No. 32 of 2008

In the matter of
Complaint filed by Maharashtra Electricity Consumers Association for filling up
post of Member Secretary at MSEDCL's CGRF at Bhandup

Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

Maharashtra Electricity Consumers Association
H. No. 27, Pall's Comp,
1st Flr., Opp. Aasbibhi, Kalyan Road
Bhiwandi 421 302, Thane

... Complainant

Versus

Managing Director
Maharashtra State Electricity Distribution Company Ltd
Prakashgad, Bandra (E),
Mumbai 400 051

... Opponent

ORDER

Dated: September 2, 2008

The Maharashtra Electricity Consumers Association ("MECA") submitted a complaint before the Commission on 5.6.2008 alleging that the post of Member Secretary is lying vacant at MSEDCL's CGRF Bhandup Zone for the last 17 months. It is stated by the complainant that the said post is lying vacant since 31.1.2007 i.e. after retirement of one Shri. G.B. Singh. It is also stated that additional charge for the said post is held by one Shri. S.B. Wahane, Executive Engineer, MSEDCL, Bhandup. Complainant states that due to such vacancy, there is delay in hearing and disposal of cases by the CGRF to the detriment of consumers. The Complainant has submitted that the post of Member Secretary is of judicial nature. Complainant has pointed out by way of examples that one Case No.147 in respect of one consumer Shri. Sonumal Sunilkumar was filed and



admitted by the CGRF on 19.11 2007 but the order was issued on 5.4.2008 i.e. after a period of five months when the order should have been issued within a period of two months. It is also pointed out that the order was delivered to the consumer on 15.4.2008 i.e. ten days after the passing of the order. In another Case No.154, grievance by one consumer Shri. Fateh Mohamed Shaikh was filed and admitted by the CGRF on 21.1.2008, however no order has yet been passed. Complainant has stated that MSEDCL is liable for action under Section 142 of the Electricity Act, 2003 (“EA 2003”). Complainant has prayed for immediate filling up of the post of Member Secretary at CGRF Bhandup Zone and has also sought penal action against MSEDCL for non-compliance of Commission’s directives.

2. A hearing was held on 22.7.2008. Shri Akhtar Usmani, Chairman of Maharashtra Electricity Consumers Association appeared on behalf of the complainant association. Shri Abhishek Khare, Advocate appeared for MSEDCL.

3. Shri. Akhtar Usmani, submitted that inspite of repeated applications under the Right to Information Act, only recently it has been informed to them by MSEDCL that the post has been filled up. Because of this post having been kept vacant, the consumers had to suffer as their grievances could not be heard. However, now that it has been orally informed by MSEDCL that the said post has been filled up, the complainants would like to simply know as to whether any compensation is admissible for this delay in filling up of the post.

4. Shri Abhishek Khare, Counsel for MSEDCL submitted that no compensation is admissible as the post was not vacant for 17 months as the complainant has stated. Shri. Khare clarified that what had actually happened was that on 15.3.2007, MSEDCL had appointed one Shri. Pargunde as Member Secretary but he proceeded on leave on 25.3.2007. On 4.6.2007 he sent a telegram that he was still under a treatment and that his leave be extended. MSEDCL extended the leave and appointed one Shri S.B. Wahane, in the interim. Shri S.B. Wahane was appointed in Shri. Pargunde’s place for holding the charge to make sure that consumers do not suffer. Shri. Khare also submitted that the matters were not kept pending for too long, as someone was officiating. Finally on 11.7.2008, MSEDCL exclusively appointed Shri S.B. Wahane to take sole charge as Member Secretary of CGRF, Bhandup Zone and on 14.7.2008, Shri S.B. Wahane joined full time as Member Secretary. For the interim period, Shri S.B. Wahane was looking over the process and he was also passing orders. MSEDCL has certain orders, which Shri S.B. Wahane has passed. It is submitted that at no point of time, the post was vacant because of which the consumers’ cases were not heard. MSEDCL made sure that someone was officiating.

5. Subsequently, MSEDCL has filed certain comments on 20.8.2008 wherein it is stated that certain events are to be noted as under:



- a. Member Secretary C.G.R.F. Bhandup – Shri Girija Shankar Singh, Executive Engineer has retired on 31.1.2007. Against the same vacant post, Shri. S.N. Pargunde was appointed but did not join the office.
- b. Meanwhile Shri. S.B. Wahane, Executive Engineer was given the additional charge of Member Secretary C.G.R.F. Bhandup. Shri. S.B. Wahane has taken the charge w.e.f. 1.2.2007.
- c. The tenure of Shri S.B. Wahane was till 31.7.2008 and during the tenure of his charge, out of total 96 cases that were registered, 85 cases have been disposed of out of which 8 complaints were disposed of after 60 days from the date of complaint.

The classification of the pending 11 cases registered are as follows:

- i. 8 complaints were pending after hearing for orders.
- ii. 2 complaints were pending for hearing.
- iii. 1 case was sent to Internal Grievance Redressal Cell.

Hence there are no cases pending with C.G.R.F. Bhandup.

- d. The head office of MSEDCL has issued detailed posting order of Member Secretary, C.G.R.F. Bhandup to Shri. S.B. Wahane on 11.7.2008 and Shri S.B. Wahane has joined the office on 14.7.2008.
- e. During the period from 31.1.2007 till date, the post of Member Secretary was not vacant at any given point of time. There was a proper designated officer who was holding additional charge to entertain and dispose of the cases. Thus, the allegation that consumers were held at ransom and that justice was delayed is totally incorrect.
- f. The present case does not fall under the provisions of Section 142 and thus, the complaint deserves to be dismissed as it is devoid of merits.
- g. There is no violation of either the EA 2003 and/or the Commission's orders, and hence there is no question of costs to be levied on the MSEDCL.

6. Having heard the complainant and the opponent and after considering the materials placed on record, the Commission is of the view that the complaint under Section 142 of EA 2003 is rendered infructuous in view of the affidavit filed by MSEDCL and further in view of the statement made by Shri. Akhtar Usmani that since MSEDCL has informed that the said post has been filled up, the issue that remains to be pressed is as to whether any compensation is admissible for the delay in filling up of the said post of Member Secretary. The Commission is of the view that Section 142 provides for penalty to be ordered by the Commission on a complaint but does not provide for any compensation to be provided to the aggrieved. Under EA 2003, compensation is payable



to the affected person if a licensee fails to meet the standards specified under Section 57. In case, any consumer member of the complainant association is aggrieved due to failure by the distribution licensee to maintain the Standards of Performance as specified in the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 then in that event, the persons so affected shall be entitled to file a written claim in terms of Regulation 12.1 of the said Regulations with MSEDCL on account of failure to meet the concerned Standards of Performance. If in case, the affected consumer is aggrieved with an order passed by the said CGRF including how the consumer is affected due to delay in passing of the said orders or in case orders are not being passed, then the aggrieved consumer may raise these contentions before the Electricity Ombudsman in terms of Regulation 17.2 read with Regulation 17.9 (d) (i), (ii), (iii) of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006. Electricity Ombudsman also has the power in terms of Regulation 17.5 (f) of the aforesaid Regulations, to pass direction to pay compensation for failure to meet Standards of Performance by the distribution licensee.

In the passing, the Commission would like to point to a passage from its Order dated 18.9.2006 passed in Case No. 59 of 2005:

“9. It is not merely the legal duty of the Licensee to redress grievances of the consumers in accordance with Regulations specified by the Commission and within the time limits stipulated in that behalf. There is also a moral obligation on the part of the Licensee to be fulfilled being the only supplier of the electricity to the ordinary consumers. Consumer Grievances submitted to CGRFs should not remain pending for inordinately long time. It has been stated that no or few cases of grievances were pending but that does not absolve MSEDCL of its statutory obligation, as in the absence of a duly constituted forum, the consumers may also not file grievances. One of the basic principles enshrined in the subject regulations is that consumer grievance Redressal forums are required to facilitate and expedite the redressal of Grievances as specified clearly in Regulation 3.1(c) of the subject regulations. ...”

In view of the above, the complaint under Section 142 is rendered infructuous. The case is disposed of with the above observations. No order as to costs.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member



(P.B. Patil)
Secretary, MERC