

Before the  
**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION**  
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**Case No. 79 of 2008**

**In the matter of  
Complaint filed by Shri. Haribhau Digambar Khapre, of Jat Taluka Vidyut  
Dharak Association**

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

Shri. Haribhau Digambar Khapre  
Joint Secretary  
Jat Taluka Vidyut Dharak Association  
Jat, - 416 404

Complainant

V/s.

Consumer Grievance Redressal Forum  
Kolhapur Zone,  
Tarabai Park  
Kolhapur

Opponent

**ORDER**

**Dated: November 17, 2008**

Shri. Haribhau Digambar Khapre, Joint Secretary, Jat Taluka Vidyut Dharak Association filed a complaint before the Commission on 11.9.2008 wherein the provisions of Section 142 of the Electricity Act, 2003 ("EA 2003") have sought to be invoked. The Complainant submits as under:

- (i) The Complainant had filed a complaint firstly before the Internal Grievance Redressal Cell of MSEDCL at Kolhapur and thereafter before the Consumer Grievance Redressal Forum of MSEDCL at Kolhapur.
- (ii) These complaints were regarding wrong sanction of estimate for power supply to the agricultural pump of one Shri. Mohamad Gaus Pinjari. The said consumer resides at Post Herwad, Tal. Shirole, Dist. Kolhapur.



- (iii) The power supply was sanctioned under the scheme of Dedicated Distribution Facility (“DDF”). MSEDCL had asked the consumer to purchase the meter on his own. This was contrary to one order passed by the Commission dated 8.9.2006. The CGRF passed its order dated 7.8.2008.

The Complainant who is Joint Secretary, Jat Taluka Vidyut Dharak Association was representative of Shri Pinjari in the case filed before the CGRF. The complainant has stated that in the morning of the day of hearing of the above case he communicated to the Member Secretary, CGRF that due to heavy rains he would not be able to attend the said hearing. The complainant further stated that though Shri. Pinjari had not received any notice regarding hearing, he was informed to attend the said hearing. It is alleged by the Complainant that the CGRF, has unnecessarily gone into details to find out the reasons for non attendance and to collect witnesses to prove that the consumer representative has given false reasons for not attending the hearing and has thereby shown disrespect to the CGRF bench.

2. The Complainant has referred to the CGRF’s order dated 7.8.2008, and specifically the following portions:

*“Opinion of Member Secretary & Chairman:*

*The consumer representative was not present in the said hearing. Consumer representative in the morning at 9.55 sent SMS from his Mobile No.9822257324 to the Member Secretary of Consumer Grievance Redressal Forum on his Mobile No.9960676008 that “Due to heavy rain, I cannot attend today’s hearing. Pinjari has not received notice but informed to attend.” In another hearing at Sangli in the morning of the same day i.e. on 17.6.2008 when it was asked to the officer of the Distribution Company, the Executive Engineer, MSEDCL, Jat, had confirmed that it was not raining heavily and there was bright sun shine. It means that consumer representative has given false reasons for not attending the hearing and shown disrespect to the Commission and Bench.”*

3. The Complainant alleges that the CGRF at Kolhapur had gone out of the way from laid down procedure by enquiring into the reasons for his remaining absent while conducting the aforesaid proceedings. The following provision of the MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006 (“CGRF Regulations”) have been referred to by the Complainant –

*“6.16 Where any person who has been a party to the proceedings before the Forum fails to appear on the date of hearing as may be fixed in this behalf, the Forum may decide the Grievance ex-parte.”*

4. The Complainant has also submitted that any vacancy in the post of Chairman, CGRF, Kolhapur causes delay in disposing of complaints of aggrieved consumers seeking redressal of grievances.



5. The Complainant has prayed that:

- (i) the Opponent be ordered to submit notarized affidavits from the said Executive Engineer and other officers of the Distribution company mentioned in their order No. 197 dated 17.6.2008 who have confirmed that it was not raining on the said date of hearing;

the Opponent may be directed to pay Rs.3,000/- to the Complainant for mental harassment and for cost of the Complaint if it is found that there is violation of Regulation 6.16 of CGRF Regulations.

6. The Opponent had filed their reply on affidavit on 27.09.2008, stating that the CGRF had orally enquired with the Officers of MSEDCL, so as to confirm whether it was actually raining on the said date of hearing in the CGRF, Kolhapur. It was further stated that the statements of the concerned officers of MSEDCL would be submitted at the time of hearing in the office of the Commission. Accordingly, the opponent submitted the affidavit of Shri B.B.Bhosale, Executive Engineer, MSEDCL, Kavathe, Mahakal and a letter from the Tahsildar, Jat, at the time of hearing in the Commission.

7. The Commission heard the Complainant on 16.10.2008. The Complainant appeared in person. Shri. S.R. Bambale, Member Secretary CGRF, MSEDCL Kolhapur was present. Shri. M.V. Vaydande – Ex. Engineer, MSEDCL was also present. The Complainant reiterated the prayers contained in the Complaint. He also submitted that due to any delay in giving supply the aggrieved consumer is entitled to receive compensation under the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 (“SOP Regulations”). He also requested the Commission to enquire into the details of whether the approval given under the DDF scheme was lawful or not. If not then MSEDCL should be penalized under Section 142 of the EA 2003. The Complainant has also requested the Commission to confirm whether the action of MSEDCL to require the consumer to purchase the meter at his own cost, violates the Schedule of Charges as approved by the Commission.

8. The Commission has heard the parties. The materials placed on record have also been considered. The Commission has observed that the hearing was conducted by the CGRF in the absence of the consumer representative as provided in Regulation 6.16 of CGRF Regulations and there is no violation of the said regulation by CGRF Kolhapur. However the Commission is of the view that the action of the CGRF to enquire into reasons for absenteeism of consumer representative was unwarranted. As regards mental harassment and compensation claimed, the complainant may file case in the appropriate forum / Authority. It is not within the jurisdiction of the Commission to entertain the present complaint so far as the above grievance is concerned.



9. However major issue in this case is regarding redressal of the consumer's grievance. Shri. Mohamad Gaus Pinjari is entitled to file representation before the Electricity Ombudsman in accordance with the provisions of the CGRF Regulations if he is aggrieved due to non-redressal of his grievance by the Forum.

Various issues have been raised in the subject case such as whether the approval given under the DDF scheme was lawful or not, or whether it was correct for MSEDCL to ask the consumer to purchase the meter at his own costs or whether the same violates the Schedule of Charges as approved by the Commission. These grievances are to be addressed to the Electricity Ombudsman because the same is said to be emanating from the CGRF's Order. Electricity Ombudsman would hear the representation in accordance with the provisions of Section 42(6) and (7) of the EA 2003, which provide as under:

*“(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.*

*(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.”*

In accordance with the above provisions, Shri. Mohamad Gaus Pinjari said to be the aggrieved consumer should approach the Electricity Ombudsman if he is aggrieved with the CGRF's Order, regarding *inter alia* with that unlawful sanction of power supply to the agricultural pump, and cost of meter to be borne by him.

10. If Shri. Mohamad Gaus Pinjari wishes to seek compensation regarding provision of supply, he will have to file a claim with MSEDCL in accordance with Regulation 12.1 of the Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 (“SOP Regulations”) which provides as under:

*“12.1 Where the Distribution Licensee finds that it has failed to meet the standards of performance specified under these Regulations, either of its own knowledge, or upon written claim filed by any person affected, the Distribution Licensee shall be liable to pay such person and all other persons similarly affected, such compensation as has been determined by the Commission in **Appendix A** to these Regulations.”*

In accordance with Section 57(2) of the EA 2003, the Commission has specified the SOP Regulations wherein the various standards of performance have been specified. Any aggrieved person may seek remedy by filing a written claim with the concerned distribution licensee. The level of compensation payable is also specified therein. The Commission therefore is not inclined to intervene on a matter where the provision has already been made in the regulations as stated above.



In view of the above, there is no need to invoke the provisions of Section 142 of the EA 2003, as the grievances of the consumer are to be taken up before the Electricity Ombudsman.

In view thereof, the present case stands disposed of. No order as to costs.

Sd/-  
(S.B. Kulkarni)  
Member

Sd/-  
(A. Velayutham)  
Member



(Prafulla S. Varhade)  
Secretary, MERC