

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 148 of 2011

In the matter of
Complaint filed by Shri. Haribhau D. Khapre, Sangli alleging that terms and conditions for grant of new electricity connections are in violation of Act and Regulations.

Shri. V.P. Raja, Chairman

Shri. Vijay L. Sonavane, Member

Shri. Haribhau D. Khapre,

“Shivtirth”, Vidya Nagar

At Post: Jath, Taluka: Jath

District: Sangli- 416 404

.....Complainant

V/s

Superintending Engineer,

Maharashtra State Electricity Distribution Co. Limited (MSEDCL)

O & M Circle Office,

Tarabai Park, Kolhapur

District Kolhapur -416003

.....Opponent

Present during the hearings:

For the Complainant: Shri. Haribhau D. Khapre (in person)

For the Opponent: Shri. D.A. Kunthekar, MSEDCL (in person)
Shri. B.Y.Khandait, MSEDCL (Rep)

ORDER

Dated: 5.1.2012

Shri. Haribhau D. Khapre, an applicant for grant of electricity supply has filed the present complaint alleging that the terms and conditions for supply of the Maharashtra State Electricity Distribution Co. Limited (“MSEDCL”) contained in the Sanction Letter No KPC/Tech/HT/AE(T)/4733 dated 1.6.2007 are not in line with the Electricity Act, 2003 and MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005.

2. The prayers of the petitioner are as follows:

१. विज मंजूरी साठीच्या अटी व शर्ती या विद्युत अधिनियम ,२००३ मधील तरतुदी व महाराष्ट्र राज्य विज नियामक आयोगाची विनियमे/आदेश / निर्देश याना बांधील आसणारीच असावीत अशी समज प्रतिवादी याना देण्यात यावी ही विनंती.
२. सन १९९४ मध्ये राज्य शासनाने विज मंडळाला दिलेले विज मंजूरीचे अधिकार कालबाहय झालेले आहेत काय याची निष्पत्ती व्हावी ही विनंती.
३. नविन विज मागणी करणाऱ्या ग्राहकाना मीटर (क्युबिकल सह) हा प्रतिवादी यानी पुरवावयाची आहे, मा. आयोगाच्या शेड्युल ऑफ चार्जेस प्रमाणे कृती करावी असा आदेश प्रतिवादी याना देणेत यावा ही विनंती.
४. डी.डी.एफ सुविधा स्वखर्चाने घेणाऱ्या ग्राहकांची वाहीनी वितरण कंपनीची असलेचे करारकरून घेतले मुळे ग्राहकांचे आर्थिक हक्क याना बाधा पोहोचत आहे काय याची निष्पत्ती व्हावी ही विनंती.
५. डी.डी.एफ सुविधा घेणाऱ्या ग्राहकांच्या स्वखर्चाने उभ्या केलेल्या वाहीनीची मालकी प्रतिवादी यांची आहे, लाइन टॅप करणे , त्यामधून विस्तार करणे वा इतर ग्राहकाना विज पुरवठा देणे हे प्रतिवादी यांचे हक्क आहेत ही धारणाच, विद्युत पुरवठा संहिता आणि पुरवठा अटी विनियम ,२००५ मधील तरतुदींच्या विसंगत आहे. महाराष्ट्र राज्य विज नियामक आयोगाने दिलेल्या आदेश / निर्देशांचे हे उल्लंघन आहे, याची जाणिव प्रतिवादी याना देण्यात यावी ही विनंती.

६. प्रतिवादी यानी आपल्या दिलेल्या वरील प्रकारच्या नविन विज मंजूरी या बेकायदेशीर आहेत हे जाहीर होऊन मिळावे ही विनंती . प्रतिवादी यानी भविष्यात योग्य त्या दुरुस्त्या कराव्यात असा आदेश व्हावा ही विनंती.
७. इतर न्यायाचे आदेश वादी यांचे वतीने व्हावेत ही विनंती.
८. जरूर भासल्यास याचिकेत योग्य ती दुरुस्तीस परवानगी असावी ही विनंती.

3. The Complainant's grievance is particularly with reference to the following stipulation in the aforesaid terms and conditions of supply issued by MSEDCL:-

“ The Line has to be handed over to MSEDCL after completion duly inspected and approved by the Electrical Inspector. The line will be the property of MSEDCL and MSEDCL has the full right to make use of the same and also right to tap or extend the line for giving supply to any other consumer as the case may be.”

4. The parties were heard on 17.11.2011. According to the Complainant, Regulation 19.2 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 specifically requires every Distribution Licensee to, within a period of four months from the date of notification of the said Regulations, modify and update the terms and conditions of supply and all circulars, orders and any other document or communication relating to the supply of electricity to consumers and to make them consistent with the said Regulations. It has been submitted by the Complainant that MSEDCL, Kolhapur should not have included the Government Resolution dated 9.5.1994 in the load sanction letter.

The Complainant also objects that MSEDCL ought not to have compelled consumers to purchase meter and metering cubicle. According to the Complainant,

the said stipulation violates the Schedule of Charges issued by the Commission by Order dated 8.9.2006 in the Case No 70 of 2005.

The Complainant submitted that the Commission had issued directions regarding Dedicated Distribution Facility vide Order dated 16.2.2008 in Case No. 56 of 2007.

5. The Opponent admitted that inadvertent mistakes occurred during the course of office working in implementing the Commission's Orders / Regulations. However, there was no intention to harass/trouble any consumer. The Opponent sought one month time to take corrective actions as per the Regulations.
6. After hearing the parties, the Commission directed the Opponent to review all the circulars and to ensure that all circulars are consistent with the EA, 2003 / MERC Regulations and to submit a para-wise reply on affidavit which should also include a road map of time bound corrective action to be taken by the Opponent as per MERC Regulations and scheduled the next hearing to 9.12.2011.
7. The Opponent filed its reply on 08.12.2011. The Opponent has stated as follows:-
 - a. That MSEDCL has not framed any separate and specific terms and conditions for releasing power supply to prospective consumers, but follows the relevant provisions of the Electricity Act, 2003 and the Regulations made by the Commission in this behalf. It has however been submitted that local officers of MSEDCL in some stray incidences may have utilized conventionally followed formats of load sanction letter, which may have some provisions which *prima-facie* appear to be contradictory to the provisions of the Electricity Act, 2003 and the Regulations made by the Commission in this behalf. However, officers of MSEDCL do not have any intention to violate any of the provisions of the

Electricity Act, 2003 or the Regulations made by the Commission in this behalf. Hence a request has been made to condone any un-intentional violation of the provisions of the Electricity Act, 2003 and the Regulations made by the Commission for sanction and the release of power supply.

- b. After enactment of Electricity Act, 2003 and notification of MERC Regulations, 2005, all new connections, including HT connections, are sanctioned in accordance with the Act and the Regulations. The old practice of load sanction in exercise of the powers delegated by Government of Maharashtra in 1994 to the then MSEB has now been discontinued and the new format for load sanction is being circulated by MSEDCL. A Commercial circular No 135 dated 13.5.2011 has already been circulated to all field offices which clearly states that now the powers have been re-delegated as per MERC Electricity Supply Code and Standard of Performance Regulations, 2005. Commercial circular No. 43, dated 27.9.2006, specifically mentions that MSEDCL shall not recover any cost towards meter and meter box except where the consumer opts to purchase meter from MSEDCL or in case of a lost and burnt meter. However, in some cases meter and cubicle costs might have been recovered unintentionally during the intervening period. Circular No 34307, dated. 3.9.2007 has specifically been circulated to refund the cost of meter in such cases and it has been directed therein not to recover meter cost on any pretext. However, in some cases, stock of meters and meter cubicles is not readily available in the store and the consumer is in a hurry to get the connection. In such cases, he/she is allowed to purchase meter/cubicle from outside, the cost of which is refunded afterwards as per local arrangements.

c. The concept of DDF has been introduced by the Commission in January 2005 and clarification to the same has been issued by Order dated 16th February 2008 (Case No 56 of 2007). As per the said clarification, mere extension or tapping of the existing line (LT or HT) cannot be treated as DDF and as per the said clarification, the capital work executed by the consumer in the case referred by the Complainant in the Complaint cannot be treated as “DDF” for obvious reasons, since the scope of the said work involves only extension of HT line. DDF facility is offered and availed of by the prospective consumer in line with the MERC Regulations. This facility is optional and at the discretion of the consumer. It seems that there is some misinterpretation / confusion regarding DDF in this case. The HT consumer’s point of supply is on 11/22 KV level for which he is given supply from the nearest tap point. The distance from this tap point to the meter is termed as service connection charges. This seems to have been taken as DDF by such consumers which is not true. As such, they cannot claim to have availed the DDF facility. The agreement executed by S.E. Kolhapur in some cases to use this tapping line for other purpose is not wrong as he had considered the payment made by the consumer as service connection charges and not DDF. However, to bring in more clarity in future, a separate circular regarding guidelines in the above matter is under process and will be circulated soon.

8. The matter was heard on 9.12.2011.

9. Having heard the Parties and after considering the material placed on record, the Commission is of the view that:

- a) According to Regulation 19.2 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, every Distribution

Licensee shall, within a period of four months from the date of notification of the Supply Code Regulations, modify and update the terms and conditions of supply and all circulars, orders and any other document or communication relating to the supply of electricity to consumers and to make them consistent with the Supply Code Regulations.

- b) The Commission is *prima facie* satisfied that this issue is also equally important for the rest of the supply area of MSEDCL and hence advises MSEDCL to formulate a committee consisting of high ranking officers with the agenda to correct the old practices, inadvertent mistakes occurred and confusion such as interpretation of dedicated distribution facility and service connection etc., during the course of office working in implementing the MERC Orders / Regulations. The Commission once again directs MSEDCL to review all its circulars, orders and any other document or communication relating to the supply of electricity to consumers and to ensure that all are consistent with the Electricity Act, 2003 and MERC Regulations.
- c) In the present case, in view of the affidavit in reply filed by MSEDCL, the Commission is of the view that there is no contumacious or deliberate contravention on the part of MSEDCL to necessitate any penal action.

With the above observations and directions, the present complaint stands disposed of.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman