

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 20 of 2009

In the matter of
Complaint filed by Shri Bhagwan Bhawarlal Dayma alleging non-compliance
of Order dated 05.03.2009 passed by the CGRF, Aurangabad Zone

Shri. V.P. Raja, Chairman
Shri V. L. Sonavane, Member

Shri Bhagwan Bhawarlal Dayma

..... Complainant

V/s

Maharashtra State Electricity Distribution Co. Ltd.
Through its Superintending Engineer, Jalna.

.....Opponent

ORDER

29th October, 2010

Shri Bhagwan Bhawarlal Dayma filed a Complaint on 18.05.2009 against Maharashtra State Electricity Distribution Company Ltd. ("MSEDCL"), the Opponent, under Section 142 and 148 of the Electricity Act, 2003 ("EA 2003") alleging non-compliance of the Order dated 05.03.2009 passed by the CGRF, Aurangabad Zone.

2. The prayers of the Complainant are as follows:

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- १) विज ग्राहक गान्हाणे निवारण मंच दि. ५-३-२००९ रोजी पारीत केलेल्या आदेशाची पालन न केल्यामुळे विज कायदा २००३ मधील कलम १४२ अंतर्गत दंडात्मक कार्यवाही करण्यात यावी.



(The Commission may initiate penal proceedings under Section 142 of the Electricity Act, 2003, for non-compliance of the CGRF Order dated 05.03.2009.)

२) नवीन विज पूरवठा देण्यात आलेला नसल्यामुळे तो अंतरीम आदेश पारीत करून देणे बाबत महावितरण कंपनीस आदेशाची विनंती.

(As the new electricity supply has not been given, the Commission is requested to pass an interim order directing MSEDCL to comply with the same.)

३) महावितरण कंपनीने नवीन विज पूरवठा न दिल्यामुळे माझ्या झालेल्या गैरसोयी व आर्थिक नुकसानी बदल महावितरण कंपनीस रु.२५०००/- रूपये (पंचवीस हजार) नुकसान भरपाई देण्याचे आदेशाची विनंती.

(The Commission may direct MSEDCL to pay an amount of Rs.25,000/- towards the inconvenience caused and financial losses incurred by me, due to not giving new electricity supply.)

४) ज्या महावितरण अधिका-यां-गी कर्तव्यात कसुर करून सर्व नियम बाजूला ठेवले तेच आज मला नियम व कायद्याचे धडे शिकवत आहे. कायदे सामान्य माणसांसाठीच असतात अशी त्यांची समज झालेली आहे. त्यांनी केलेल्या चुकांची जाणीव त्यांना करावी, ही विनंती.

(The Officers of MSEDCL, who by dereliction of duties themselves are not performing their duties, are trying to teach me rules and regulations. They think that the laws are made only for common man. I pray that they should be made to realize their mistakes.)

५) कायद्यातील व नियमातील तरतूदीप्रमाणे इतर योग्य ते आदेश देण्याची, ही विनंती.

(I pray issuing of appropriate Orders as per Laws and Rules.)

3. The facts stated in the complaint, are as follows:

- a) The Complainant owns a house which he has purchased from Shri Lakshman Kisan Gorantyal, who had been a consumer of the Opponent, at Nehru Road, Jalna, through a duly registered agreement in 2005. Complainant submits that when he purchased the house, there was no electricity meter in the house. The Complainant made an application for new connection vide letter dated 31.12.2005.
- b) In response to the Complainant's application, Opponent vide letter dated 18.01.2006 informed the Complainant that there were past arrears of Rs.1,93,320/- which needed to be paid and the new connection would be released only after making the payment of the past arrears.
- c) Complainant submits that against the denial of electricity connection by the Opponent, he filed a writ petition (no. 1610/ 2006) before the Aurangabad Bench of Bombay High Court. The Complainant submits that he had written to the Commission for guidance in the matter, and in response, was advised by the Commission, vide letter dated 17.06.2008, to file a complaint with the



CGRF. Accordingly, and after the WP was withdrawn in Dec 2008, for alternative remedy in appropriate Forum, the Complainant filed a complaint before CGRF, Aurangabad Zone, on 18.12.2008.

- d) After hearing the matter the CGRF, Aurangabad Zone, citing Regulation 10.5 of the MERC(Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, passed its Order dated 05.03.2009, as follows:
- १) महावितरण कंपनीने १२० युनिट प्रतिमहा याप्रमाणे सहा महिन्याचे एकूण सहा महिन्याचे ७२० युनिट वीज वापराचे वीज बिल थकबाकीपोटी अर्जदारास द्यावे. तसेच या वीज बिलात सहा महिन्याच्या कालावधीचे स्थिर आकाराचे बिल समाविष्ट करून ते तीस दिवसाच्या आत अर्जदारास द्यावे.
- (Considering consumption of 120 units per month, bill for consumption of total 720 units in past six months, should be sent by MSEDCL to the Petitioner. Similarly, including the fixed charges for 6 months the bill should be sent within 30 days.)
- २) अर्जदाराने वरील प्रमाणे रक्कम भरल्यानंतर महाराष्ट्र राज्य विज आयोगाने पारीत केलेल्या अधिनियम २००५ अंतर्गत कृतीमानके नुसार अर्जदारास नविन वीज पुरवठा करावा.
- (After the payment made by the Applicant, as per the above, in line with the SoP Regulations, 2005, the new connection should be released.)

The Consumer and MSEDCL were asked to inform the CGRF, about the compliance of the order.

- e) The Complainant submits that from the CGRF order, it is clear that although the earlier owner of the premises had not been making payments, MSEDCL's concerned officers did not take any action for three years.
4. The Complainant, aggrieved by the delay in action by the Opponent and not following the directions in the CGRF Order (Complainant had shown his readiness for paying charges as per the CGRF Order vide his letter dated 06.04.2009), has filed this complaint with the Commission, adding that because of non-availability of electric connection he is not able to use the premises.
5. The Commission vide its Notice dated 15.06.2009 fixed a hearing in the matter on 07.07.2009. During the hearing, the Complainant had appeared in person alongwith his representative Shri H.F. Pawar, while the Opponent was represented by MSEDCL's Shri S.G. Pawar, Executive Engineer, alongwith Shri S.N. Sherkar.

The Opponent submitted, in writing, that it had challenged the CGRF order dated 05.03.2009, before the Aurangabad Bench of Bombay Hon'ble High, for quashing and setting aside the said CGRF order, on the basis that i) the Applicant is not a consumer of MSEDCL and has no right to approach CGRF, ii) CGRF's order is incorrect, being outside its jurisdiction, and, iii) the applicant not being a consumer cannot claim the benefit of the supply regulations. The Opponent further submitted that the Hon'ble



High Court has granted stay, on 23.06.2009, on execution of the CGRF order (pending the admission of the said Writ Petition).

In view of the stay by the Hon'ble High Court, the Commission adjourned the case before it till vacation of the stay by the Hon'ble High Court. The Opponent as well as Complainant were directed to inform the Commission about the outcome of the said Writ Petition filed before the Hon'ble High Court, within a week of the final outcome.

7. The Opponent vide letter no. SE/JC/JLN/TS/5053 dated 05.10.2009 submitted to the Commission that as per an order passed by the Hon'ble High Court, dtd.13.08.2009, Shri Bhagwan Bhawarlal Dayma had deposited Rs.15,000/- and a fresh connection was released by MSEDCL on 03.09.2009.
8. The Commission vide letter no. MERC/Case 20 of 2009/2813 dated 16.12.2009, had asked the Complainant whether he was satisfied with the outcome of the case at that stage and would like to withdraw the petition before the Commission or would want the case to be heard further. Since no response was received from the Complainant, the Commission vide Notice dated 22.02.2010, fixed a hearing in the matter on 05.03.2010. But, at the time of the hearing neither Complainant nor Opponent was present. By a Fax message on 04.03.2010, addressed to the Commission, however, the Complainant had simply re-iterated the facts of the matter.
9. The Commission vide a Notice dated 15.09.2010 fixed a hearing in the matter on 11.10.2010. In reply to the notice of hearing, the Complainant by a letter dated 04.10.2010 and referring to earlier communication, requested the Commission *to stay the matter till final disposal of writ petition pending before the Hon'ble High Court*. During the hearing held on 11.10.2010, the Complainant was not present, while the Opponent was represented by MSEDCL's Shri V.S. Rajput, Executive Engineer, and Shri S.N. Sherkar, Dy. Executive Engineer.
10. Having heard the parties and after considering all the documents on record, the Commission observes that the Opponent has provided the new electric connection to the Complainant with which one of complaints has been solved, and, with regard to other issues, the matter has been challenged by the Opponent before the Aurangabad Bench of the Bombay High Court, on which, based on information available with the Commission, a final order is yet to be delivered by the Hon'ble High Court.

The Commission is of the view that since the matter is sub-judice before Hon'ble High Court, at this stage neither would it be proper nor be judicially respectful to precipitate any action as sought for by the Complainant.



In any case the main prayer of the Complainant about the compliance of the CGRF order has been met.

With above, the present case 20 of 2009 stands disposed of.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman



(K. N. Khawarey)
Secretary, MERC