

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 82 of 2010

In the matter of
Complaint filed by Shri Ram Ramprasad Rathi, Proprietor, Red Brick Company
against MSEDCL, under Sections 43, 142 and 149 of Electricity Act, 2003, alleging
non-compliance of an Order dated 10.08.2010 passed by the CGRF, Amravati Zone, in
regard to the release of supply and the refund of the infrastructure cost.

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

Shri Ram Ramprasad Rathi Complainant

V/s

Maharashtra State Electricity Distribution Co. Ltd.Opponent
Acting through its Executive Engineer, Akola (Rural).

Present during the hearings:

For the Complainant: Shri Ashish S. Chandarana, Shri Ram Ramprasad Rathi

For the Opponent: Shri S. S. Ukande, Ex. Engineer, Akola(R),
Shri U. B. Shahare, Ex. Engineer, Akola,
Shri M. V. Vaydande, Ex. Engineer, LM Section,
Shri B. D. Karad, Jr. Law Officer, MSEDCL,
Shri S. P. Upadhye, Jr. Law Officer, MSEDCL.

ORDER

Dated: 29th December, 2011

The Complainant, Shri Ram Ramprasad Rathi, Proprietor of Red Brick Company filed a complaint before the Commission on 7th October, 2010, against the Opponent Maharashtra State Electricity Distribution Company Ltd. (“MSEDCL”) under sections 43, 142 and 149 of the Electricity Act, 2003 (“EA 2003”) seeking appropriate action against the Opponent for the alleged non-compliance of an Order dated 10th August, 2010, passed by the CGRF, Amravati Zone.

2. The prayers made by the Complainant are as follows:

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1. *Direct MSEDCL to release the power supply immediately read with clause 1 of order and section 43 (1) of EA, 2003 and comply with the orders made in clause 2, 3 and 4 of order.*
 2. *MSEDCL has failed to meet provisions of Section 43(1) merely because of negligence on part of MSEDCL, and since last 4 years applicant is not getting power supply, even after the commitment of executive engineer before IGRC to give connection within one month on 4 May, 2010, connection is not released. Even after Order of Hon. CGRF with detailed guidelines on provisions of Section 43 and SOP regulations dated 10 August, 2010, MSEDCL has not given connection to applicant. Therefore applicant prays Hon. Commission to take serious note of above negligence and impose the penalty of Rs.1000/- per day for each day of default from three months from the date of application for getting connection.*
 3. *Complainant respectfully prays before Hon. Commission that CGRF is the remedy constituted under the provision of electricity act 2003 to protect the interest of consumers and in order to ensure the compliance of orders, provision of Section 142 is made by law makers. But still MSEDCL is not taking serious cognizance of orders of CGRF even in cases where absolute fault at MSEDCL end is established and this is resulting in a huge increase in non compliance of CGRF orders thereby reducing importance of orders of CGRF.*

In order to ensure & maintain the due importance of CGRF orders where the orders are given on merits of the case & also to safeguard the importance of mechanism constituted for the protection of consumers interest as such presently MSEDCL is having monopoly and consumer could not go anywhere for getting electricity other than MSEDCL.

In view of above, I pray Hon. Commission to impose the penalty under Section 43 for not giving connection in time & in section 142 & 149 of EA, 2003 for non-compliance of order specifically for non compliance of clause 1 which pertains to release of connection after four years from application and after the commitment of nodal officer before IGRC around 5 months back.

4. *Complainant prays Hon. Commission to award cost Rs.15,000/- ”*

3. The brief facts as submitted by the Complainant are as follows:

- i. The Complainant owns a Company named ‘Red Brick Company’, located at Kinkhed Village, Akot, Akola for which the Complainant had made an application on 8th August, 2006 for getting electricity supply of 5 HP load. The Complainant’s grievance is that even after the lapse of 4 years, the Opponent did not provide electricity supply to it. Thereafter, the Complainant had first

approached IGR Cell at Akola, and subsequently registered a complaint before CGRF, Amravati Zone wherein the Complainant requested for release of supply, payment of compensation for delay in supply and refund of the cost of infrastructure.

- ii. The CGRF, Amravati Zone, issued its order dated 10th August, 2010, with the directions, as given below:

“1. MSEDCL (Rural Division) Akola is ordered to provide electric supply within a period of one month i.e. on or before 13th Sept., 2010, by having proactive approach.

2. MSEDCL should refund amount of Rs.57,221/- alongwith interest at the rate of 10% from 13.8.2007 till date of payment. The payment should be made in cash or by cheque. MSEDCL may deduct service connection charges and other charges as permissible under the approved schedule of charges.

3. MSEDCL should pay cost of Rs.2000/-.

4. MSEDCL should pay compensation of Rs.16,600/- for 166 weeks for delay in supply as provided under SOP Regulations Appendix “A”, Clause 1 (ii).

Compliance be reported regarding supply and refund and cost within one month and regarding payment of compensation within 3 months.”

- iii. The Complainant on being aggrieved by non-compliance of the aforesaid CGRF's Order, filed the present complaint before the Commission.
4. During the hearing held on 8th Dec., 2010, before the Commission, both the parties had reiterated their respective averments wherein the Opponent had also submitted that it had already released the electricity connection by creating a new infrastructure under Non- DDF/ PIE Scheme and so the compliance of the part 1 of the CGRF's Order had been done. Thereafter Complainant submitted that the connection was released after making a payment of Rs.1000/- against Security Deposit, on 4th December, 2010.
5. Thereafter based on the materials placed on record it was observed that the Opponent had partially complied with the aforesaid CGRF Order and hence the Commission by its order dated 23rd December, 2010 directed the Opponent, MSEDCL, to *“...comply with the directions at item nos. 2, 3 & 4 of the CGRF, Amravati Zone's said Order and to submit a compliance report to the Commission within 30 days from the date of hearing, i.e. by 8th January, 2011.”*

6. Subsequently, the Opponent, vide its letter dated 3rd January 2011 informed the Commission that when the present matter was heard before the Commission, on 8th December, 2010, a Writ Petition No.5892/ 2010 challenging the aforesaid order of CGRF was filed before the Hon'ble Bombay High Court, Nagpur Bench. Thereafter vide an Order dated 15th December 2010, the Hon'ble Bombay High Court had directed the parties to maintain *status-quo* in the present matter. Therefore under the aforesaid circumstances, the Opponent could not comply with the directions issued by MERC in its Order dated 23rd December 2010.
7. Thereafter the Opponent vide its letter dated 21st June 2011, submitted a copy of the Order dated 21st Feb., 2011 passed by Hon'ble Bombay High Court, Nagpur Bench wherein the Hon'ble High Court had ordered '*Interim relief to continue*'. The Opponent also communicated that '*Next date is yet to be given after summer vacation*'.
8. In view of above, the Commission decided to have a hearing in the matter on 11th August, 2011. During the hearing held on 11th August, 2011 nobody appeared on behalf of Complainant. The Opponent's representatives present at the hearing reiterated that the electricity connection to the Complainant had already been released, but the infrastructure cost was not yet refunded as the matter was sub-judice before the Hon'ble Bombay High Court, Nagpur Bench, and the Hon'ble High Court has granted interim relief vide Order dated 21st February, 2011.
9. Thereafter two more hearings were held, that is on 6th September, 2011, and 24th November, 2011, wherein representatives of both the parties were present. However in both the hearings it was submitted by both the parties that there was no change in their earlier stated position and the status quo was maintained in view of the aforesaid Order of the Hon'ble Bombay High Court.

In view of the above, the Commission is of the view that with the electricity connection having been released by the Opponent alongwith the applicable change in Tariff the Opponent has partly complied with the CGRF's Order dated 10th August, 2010. However with regard to the amount of refund due as was payable by the Opponent to the Complainant, in order to comply with the CGRF's Order *in toto*, the Commission is of the view that the same cannot be implemented in view of the Order dated 21st February, 2011 passed by the Hon'ble High Court, Nagpur Bench, before whom the matter is sub-judice.

As the aforesaid matter is sub-judice before the Hon'ble Bombay High Court, whose decision shall be binding upon both the parties, the Commission is of the view that at this stage it would not be proper to precipitate any action as sought for by the Complainant.

In view of above, Case No. 82 of 2010 is disposed of with no order as to cost.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman