

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005.
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Case No. 96 of 2011

In the matter of
Complaint filed by M/s Prerna Stone Crusher, against MSEDCL, under Sections 142, 149 and 42(1) of the Electricity Act, 2003, alleging non-compliance of the Order dated 4th June, 2011, passed by the CGRF, Amravati Zone, in the matter of seeking refund of the infrastructure cost and excessive charges incurred by the complainant.

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

M/s Prerna Stone Crusher, Near Nagar Palika, Akot,
District- Akola

...Complainant

V/s

Maharashtra State Electricity Distribution Company Limited
Acting Through Superintending Engineer, Akola,
Executive Engineer, Akola (Rural)

....Opponent

Present during the hearings:

For the Complainant: Shri Ashish S. Chandrana and Shri Mahendra J. Tardeja

For the Opponents: Shri S.P.Upadhye and Shri V.B.Shahare,
Executive Engineer, MSEDCL

ORDER

Dated: 11th January, 2012

The Complainant, M/s Prerna Stone Crusher had filed a complaint on 7th July, 2011 against the Opponent, Maharashtra State Electricity Distribution Company Limited (“MSEDCL”) under Sections 142, 149 and 42(1) of Electricity Act, 2003 (“EA 2003”) alleging non-compliance of an Order dated 4th June, 2011, passed by the Consumer Grievance Redressal Forum (“CGRF”), Amravati Zone.

2. The prayers made by the Complainant, are set out hereunder:

- “
- a. *Direct MSEDCL to comply with the Order of Hon'ble CGRF, Amravati Zone, Akola in Case No. 15 of 2011 dated 4th June 2011.*
 - b. *Initiate action against MSEDCL read with Regulation 22 of MERC CGRF & Ombudsman Regulation 2006 under Section 142 and 149 of EA, 2003 as an exemplary case to maintain due importance of CGRF Order.*
 - c. *Award Cost Rs.15000/- to petitioner.*
 - d. *Any other order which Hon'ble Commission may deem fit in favor of Petitioner.”*

3. The facts of the matter as submitted in the complaint are set out hereunder:

- a) The Complainant, on 14th December, 2008, had applied to the Opponent, at Akola, for electricity supply (67 HP Load) for its industrial premises. Thereafter the Opponent had given electricity supply to the Complainant on 12th July 2010.
- b) The Complainant has submitted that the supply to meet its industrial load has been provided from Ruikhed Agriculture Dominated Feeder because of which the Complainant is having problem of low voltage and faces load shedding as per the protocol. The Complainant raised these issues in writing before the Opponent.
- c) According to the Opponent it had planned to erect a 11kV link line to connect the Complainant's industrial load along with another industry named Sai Stone Crusher, and for which a contractor viz., L & T, was allotted the work.
- d) Thereafter on being aggrieved by the Opponent's inaction in erecting the link line, the Complainant approached the **CGRF** Amravati Zone for redressal of his grievances.
- e) During the hearing before the CGRF, Amravati Zone, it was submitted by the Opponent that the supply to applicant's industry was available for 8 hrs, as per norms for agricultural pumps, and also the said feeder falls under single phase scheme. On this, the Complainant had prayed that either the feeder should be made three phase supply (as two industries are connected to that feeder) or a separate infrastructure should be erected to meet its demand.
- f) After hearing the parties, the CGRF passed an Order dated 4th June, 2011, giving following directions to the Opponent:

“MSEDCL Rural Division, Akola is directed either to change the status of agricultural feeder or single phase status feeder from which supply has been provided to consumer to Ag. dominated feeder and to apply the load shedding protocol accordingly or it should provide the supply from Popatkhed Gaathan Feeder or any feeder other than Ag. Feeder within One month from the date of this order.”

However the Member-Secretary of the CGRF, Amravati Zone, had a difference of opinion with the other two Members of the CGRF, and added his opinion to the Order, the extract of which is reproduced below:

“ - - - if the Petitioner is not satisfied with the availability of 3 phase supply from single phasing status feeder as approved by MERC, Petitioner may opt for betterment of supply under DDF Facility from any other feeder as per

MERC(Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 Regulation 3.3.3 & 3.3.4.”

4. Thereafter, being aggrieved with non-compliance of the CGRF Order, the Complainant filed the present complaint before the Commission. The Complainant had also submitted that after approaching the Opponent's A.E. Akot, for compliance of the CGRF's Order, he was told that since Complainant had approached CGRF, the Executive Engineer (Rural) had given instructions to L & T, the Contractor, not to commence the work.
5. The Commission, vide Notice dated 14th July, 2011, scheduled a hearing in the matter on 2nd August, 2011.
6. However, prior to the commencement of the hearing on 1st August, 2011, the Commission's office received a letter dated 26th July, 2011 from the Opponent stating that:-
 - I. The Order of CGRF was received by Opponent on 20th June, 2011 and the Complainant has filed his complaint before the Commission on 7th July, 2011 thus leaving less than a month available to the Opponent to comply with the Order.
 - II. Hon'ble CGRF has directed Executive Engineer (Rural) to comply with its Order. The Superintending Engineer was not a party at any stage of the matter before the CGRF. However, in the present direction the Superintending Engineer has been made a party.
 - III. The Opponent has challenged the Order before the Hon'ble Bombay High Court, Nagpur Bench on 5th July, 2011 via Writ Petition No. 3420/2011. An application seeking a stay of the aforesaid CGRF's Order before Hon'ble High Court has also been made.
7. Thereafter, on 1st August, 2011, the Commission's office also received a fax message from the Complainant conveying that Hon'ble Bombay High Court, Nagpur Bench has stayed the CGRF Order on 28th July, 2011. The matter is scheduled to be heard on 5th August, 2011. Hence, the Complainant requested the Commission to postpone the hearing in the matter.
8. The hearing was held before the Commission as scheduled, on 2nd August, 2011, wherein nobody appeared on behalf of the Complainant. The Opponent reiterated its submissions. The Opponent stated that Hon'ble Bombay High Court, Nagpur Bench has stayed the CGRF's Order on 28th July, 2011 with direction that “- - - *In the meantime, no precipitative steps be taken*”. The Commission adjourned the matter and fixed the next hearing for 24th August, 2011.
9. During the hearing held on 24th Aug., 2011, nobody appeared on behalf of the Opponent. The Complainant apprised the Commission with regard to the status of the matter, including the stay granted by the Hon'ble High Court in the matter and informed that the next hearing before the Hon'ble Bombay High Court was also scheduled on the same day on which the Commission had scheduled the hearing. The Commission adjourned the matter and fixed the next hearing in the matter for 6th September, 2011.

10. At the next hearing nobody appeared on behalf of the Complainant. The Opponent read out an Order passed by the Hon'ble High Court dated 25th August, 2011 as follows:

“ Rule made returnable early.

It prima facie appears after hearing the parties and on perusal of the impugned order dated 4th June, 2011 that the so called agreement on which Respondent No. 2 relied for showing that the load shedding would be as per Industrial protocol, did not actually show so. In any case, the petitioner company had stated before the Consumer Grievance Redressal Forum that the Respondent no. 2 can avail Dedicated Distribution Facility and the said statement is made before this court also. Since the Petitioner has made out a prima facie case, the impugned order dated 4.6.2011 is stayed during the pendency of the writ petition. In case the Respondent no. 2 decides to so avail the Dedicated Distribution Facility, the Respondent no. 2 is free to so avail it and seek for modification of the order passed by this court.”

11. During the hearing held before the Commission, on 24th Nov., 2011, both the parties submitted that status quo has been maintained as per the stay granted by the Hon'ble Bombay High Court in the matter.

Since the CGRF Order dated 4th June, 2011 has been stayed by Hon'ble High Court during the pendency of the Writ Petition, the Commission cannot precipitate any action at this stage as sought for by the Complainant.

In view of the above, the aforesaid matter in Case No. 96 of 2011 stands dismissed.

Sd/-
(Vijay L. Sonavane)
Member

Sd/-
(V. P. Raja)
Chairman