

**Before the
MAHARASHTRA ELECTRICITY REGULATORY
COMMISSION**

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Case No. 55 of 2009

**In the matter of
Petition of M/s. Maharashtra Dyeing and Printing Works against Electricity
Ombudsman's Order dated 29.09.2008**

**Shri V. P. Raja, Chairman
Shri S. B. Kulkarni, Member
Shri V. L. Sonavane, Member**

M/s. Maharashtra Dyeing and Printing Works Petitioner

Vs.

Maharashtra State Electricity Distribution Company Ltd. Respondent
(Through M/s. Torrent Power Ltd., Bhiwandi)

ORDER

2nd December, 2009

M/s. Maharashtra Dyeing and Printing Works, the Petitioner herein, is a consumer of electricity supplied by Maharashtra State Electricity Distribution Co. Ltd., Bhiwandi (hereinafter referred to as 'MSEDCL') through its Distribution Franchisee, M/s. Torrent Power Ltd. (hereinafter referred to as 'TPL'). The Petitioner on being aggrieved by the Electricity Ombudsman's Order dated 29.09.2008 in Representation No. 58 of 2008, filed a Petition under Affidavit before the Commission on 06.04.2009. In its petition, the Petitioner has prayed as under:-

"Therefore, it is requested to consider my grievances sympathetically & issue order to provide double feeding arrangement from 22 KV Nizampura feeder having distance of only 250 Feet from my premises for which I am ready to complete construction work for the double feeding arrangement on my own cost by paying supervision charges on labour component."

2. Essentially, it has been submitted that the Petitioner being in the business of dyeing processes, requested the Respondent to provide Double Feeder arrangement for motive power supply.

3. The Petitioner submits that out of 70 consumers having such processes, 52 have already been provided with double feeding arrangement. However, when the Petitioner applied to TPL on 01.01.2008 for double feeding arrangement, the same was turned down on flimsy grounds. It is stated by the Petitioner that their unit is at a distance of 250 to 300 feet from 22 KV Nizampura feeder, making it possible to supply electricity through double feeder arrangement either from 22 KV Kalyan feeder or 22 KV Nizampura feeder in case of power supply shortage due to forced load shedding for inadequate infrastructure of distribution network in Bhiwandi circle.

4. The Petitioner submits that, after failing to get any relief / clarification from the Respondent regarding double feeding arrangement, the Petitioner filed its grievance before the Internal Consumer Grievance Redressal (“IGR”) Committee on 19.02.2008. Further to this, TPL sent a letter to MSEDCL and copied to the Petitioner stating that they could not accede to the consumer’s request because of the “present power scenario in the state”.

5. The Petitioner submits that, since IGR could not give any solution, the Petitioner filed his grievance with the Consumer Grievance Redressal Forum (“CGRF”), Bhandup vide Case No. 183 dated 23.04.2008 praying for the same relief. After the hearing was conducted on 16.06.2008, the CGRF passed its Order dated 25.06.2008 stating:

*“It is observed that existing both the feeders at Kalyan Road and Nizampura are not capable of giving double feeder supply. Alternatively, the consumer will have to opt for long distance feeders (express and/or Kamba) which is too expensive for the consumer. No regulations are available to compel the utility to accede to the request of the consumer from existing infrastructure.
.....The case is therefore dismissed. No order as to costs.”*

6. The Petitioner further submits that, on being aggrieved by the order passed by CGRF, they approached the Electricity Ombudsman through their representative, “Maharashtra Electricity Consumer Association” praying for the relief as under:

“Request for permission for Double Feeder, stand by supply rejected by CGRF though the no. of HT customers with Double Feeder up to December, '06 is 49 nos. and TPL have given Double Feeder supply to three consumers on 26/09/2007, 07/01/2008 and 08/12/2008. But my application not considered.”

The Petitioner's application was filed on 05.09.2008 as Representation No. 58 of 2008. The Electricity Ombudsman disposed off the matter vide his Order dated 29.09.2008. The Petitioner's claim for compensation of Rs. 4000/- to Rs. 5000/- per hour, going upto Rs. 50,000/- due to load shedding was also rejected being devoid of merit.

7. The Petitioner not being content with the Electricity Ombudsman's Order in Representation No. 58 of 2008 has approached the Commission with the present Petition. The prayers made in the Petition essentially seek to consider the Petitioner's grievance sympathetically and to issue order to the Respondent to provide double feeding arrangement from 22 KV Nizampura feeder, which is at a distance of 250 feet from the Petitioner's premises and that, the Petitioner is willing to bear the cost of the installation.

8. An admissibility hearing was held on October 16, 2009. The Petitioner stated the facts mentioned in the Petition and argued on the points of jurisdiction emphasizing that the Commission has jurisdiction to entertain the present matter.

9. The Respondent cited the findings of the Commission in Case No. 24 of 2009 (Shri M. H. Kakkad vs. The Supd. Engineer, MSEDCL, Bhiwandi), where by Order dated August 6, 2009, it was held that:

"Any complaint raising the grievance against the impugned order passed by the Ombudsman cannot be admitted as the Ombudsman's award is final against which no appeal will lie with Commission. The Commission holds that the present Complaint is not maintainable and is hereby dismissed."

10. Having heard the parties and after considering the materials placed on record, the Commission is of the view that in the present case, the CGRF and the Electricity Ombudsman have already gone into the merits of the case of the Petitioner herein and both the authorities have dismissed the Petitioner's representation. The Petitioner seeks to appeal against such Order dated 29.09.2008, before this Commission. But the present case would not be maintainable before the Commission for want of jurisdiction. In this regard, the ratio laid down in the following judgements of the Appellate Tribunal for Electricity on the aspect of jurisdiction would squarely apply to the present case. The Appellate Tribunal has, in its judgement dated 30th March, 2009 in Appeal No. 180 of 2008, held *inter alia* as under: -

"14. On going through the Judgements referred to above and also the provisions under Sections 42(5) and 42(6) of the Act, it is clear that there cannot be any controversy with regard to the position of law which has already been settled to the effect that the consumer has got the remedy to get the grievance redressed by filing a complaint before the Grievance Cell and thereafter by filing the Appeal before the Ombudsman which is final and no Appeal could be filed before the State Commission."

In its judgement dated 30th March, 2009 in Appeal No. 181 of 2008, the Appellate Tribunal held as under: -

“Even when there is no appeal provided as against the above order passed by the Ombudsman, the State Commission cannot usurp the jurisdiction of the Grievance Redressal Forum or the Ombudsman by going through the validity of the order passed by the Ombudsman.

.....This contention cannot be countenanced in view of the decision taken by this Tribunal as well as Supreme Court wherein it has specifically been held that the Consumer cannot approach the Commission for redressal of his grievances as there is specific remedy available for the Consumer to approach the concerned authorities like the Grievance Cell and the Ombudsman whose award is final and against which no appeal will lie with the Commission.

11. In view of the above judgements, the present case raising a grievance against the impugned order passed by the Electricity Ombudsman cannot be admitted as no appeal from the Ombudsman’s order will lie before the Commission. In the circumstances, the present Petition is hereby dismissed as not maintainable.

Sd/-
(V. L. Sonavane)
Member

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(V. P. Raja)
Chairman



(Sanjay Sethi)
Secretary, MERC