

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 59 of 2005

In the matter of
**Complaint filed by Electricity Consumers Association alleging contravention by
the Maharashtra State Electricity Distribution Company Limited of the
regulations made by the Commission under
Section 42(5)(6)(7) of Electricity Act, 2003**

**Dr Pramod Deo, Chairman
Shri A. Velayutham, Member
Shri S.B. Kulkarni, Member**

ORDER

Dated: 18th September, 2006

The Electricity Consumers Association submitted a complaint before the Commission on 12th January, 2006 alleging that there has been a violation by the Maharashtra State Electricity Distribution Company Limited (“MSEDCL”) of Regulation 4.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003, in terms whereof it is obligatory on the part of MSEDCL to ensure that the post of a Member in the Consumer Grievance Redressal Forum (“CGRF”) established by MSEDCL is not kept vacant for a period exceeding three (3) months. It is the contention of the Complainant that the CGRF at Bhandup Urban Zone of MSEDCL has not been functioning due to the post of a Member (representing voluntary consumer protection organisation) and that of Chairperson, being vacant since 20th September 2005. The Complainant has also pointed out in his complaint that MSEDCL has not taken any action to rectify the said deficiency especially in light of a letter dated 25th November 2005 sent by the Commission’s secretariat seeking appropriate action and submission of action report within a time frame ending on 8th December 2005. Vide its letter dated 7th December 2005, MSEDCL through its Director (Operation) clarified to the Commission that MSEDCL has been rigorously following up for nomination of persons for the vacant posts of Chairperson and Member including requesting consumer group to send to MSEDCL an application from eligible candidates. In the said letter, MSEDCL has confirmed that no case was pending before the CGRF - Bhandup Urban Zone, as the CGRF was functioning; and that the vacant positions of Member and Secretary having been since filled up, the said CGRF was ready to take up specific cases which have not been redressed but for the aforesaid vacancy. The Complainant has, however, apprised the Commission through various correspondences that the said CGRF has not been functioning for over four months.

2. The Commission by its letter dated 19th January, 2006 called upon MSEDCL to submit their comments on the said Complaint. Under its letter dated 27th February, 2006 issued to MSEDCL, the Commission, while observing that comments as aforesaid had not been received from MSEDCL as directed under the aforesaid letter dated 19th January, 2006, directed that MSEDCL should immediately fill in the vacancy in the CGRF, Bhandup Urban Zone by



appointing a Member and Chairperson, and submit an action report by 6th March 2006. MSEDCL, under its letter dated 13th March, 2006, informed the Commission that a Member has been appointed for the CGRF, Bhandup Urban Zone with effect from 13th March, 2006. Similarly, by its letter dated 17th March 2006, MSEDCL while requesting the Commission to condone the delay in filling up the vacant posts in the CGRF – Bhandup Urban Zone, informed the Commission that MSEDCL were rigorously following up on the nomination of a suitable person for the post of Chairperson and accordingly was in search of candidates.

3. An admissibility hearing was held in the matter on 4th April, 2006, wherein Shri. Ravi Anand, Secretary, Electricity Consumers Association pointed out the following:

- (i) That the said CGRF having commenced its functioning on 20th September, 2004, the post of Member (representing voluntary consumer protection organisation) and that of Chairperson, fell vacant since 20th September 2005 due to retirement of the Chairperson and resignation of Member. He submitted that from 21st September, 2005 till 14th March, 2006 the CGRF - Bhandup Urban Zone remained inoperative for want of requisite quorum.
- (ii) Although two candidates representing Mumbai Grahak Panchayat (“MGP”) applied for the said vacant post of Member (to represent voluntary consumer protection organisation) as early as in the month of October, 2005, interviews took place but no appointments were made for the said post. Thereafter, two other candidates, representing MGP applied for the said vacant post in the month of January, 2006. The said vacant position was finally filled in March, 2006.
- (iii) Besides the CGRF at Bhandup, the position of Chairperson is vacant in two other CGRFs right from their inception, one in Latur Zone and the other in the Ratnagiri Zone.

4. The main grievance of the Complainant is that, despite the provisions of Regulation 4.2 of the MERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003, the positions of Member and Chairperson were vacant at the CGRF – Bhandup Urban Zone from 20th September 2005, although candidates for appointment as Member were available as early as October, 2005. MSEDCL did not fill in the said vacancies despite instructions sent by the Commission’s secretariat for filling the vacancies within a time frame stipulated in the said instructions.

5. During the admissibility hearing, Shri. A.D. Khaparde, Chief Engineer, tendered an unconditional apology on behalf of MSEDCL for the delay in appointing the Member and Chairperson in the CGRF - Bhandup. Citing several practical difficulties faced by MSEDCL in finding suitable candidates for the vacant positions, it was submitted on behalf of MSEDCL that all possible steps were taken by MSEDCL for finding suitable candidates to fill up the said vacancies. On availability of suitable candidates, appointments were made and the CGRF started functioning. He submitted that one Smt. Manik P. Datar was appointed as Member with effect from 13th March, 2006 and Shri. Sharad. L. Kulkarni was appointed as the Chairperson on 1st April, 2006, in the CGRF, Bhandup Urban Zone, Bhandup. He further submitted that the said CGRF had started functioning from 15th March, 2006.

6. MSEDCL were directed to submit on affidavit, the steps that they had taken from September, 2005 alongwith supporting documents and their reply to the Complaint. MSEDCL was also directed to submit the procedural/ institutional arrangements that will be put in place to ensure timely appointments to the CGRFs in future. MSEDCL were also directed to identify the officials designated for taking the requisite steps and who will be responsible for taking



appropriate action at different stages of the process to ensure that the post of a Member in the CGRF is not kept vacant for a period exceeding three (3) months.

7. MSEDCL submitted, on affidavit, that in their licensed area eleven (11) CGRFs have been established and that all were functioning. In some CGRFs, MSEDCL had not been able to fill up vacancies for the post of Chairperson due to practical difficulties faced by them in finding suitable candidates. MSEDCL has assured the Commission that a selection committee has indeed been formed for scrutiny of applications, suitability of candidates and appointments to be made to the posts of Member and Chairperson at MSEDCL's CGRFs. Furthermore, it has been assured by MSEDCL that it is rigorously pursuing with its field officers for seeking nominations which could be put up to the said selection committee for selection of suitable candidates and appointments to CGRFs where there is a probability of any vacancy in the posts of Members. It was also contended on behalf of MSEDCL that no hardship was caused to any consumer (falling within the jurisdiction of the CGRF – Bhandup Urban Zone) as the functioning of the said CGRF was not affected due to the position of Chairperson being vacant or due to want of quorum.

8. The Commission has heard both the parties and considered the material available on record. Regulation 4.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 stipulates the constitution of the CGRFs and specifies that a CGRF shall have three Members, viz., Chairperson, one Member not below the rank of Executive Engineer of the Maharashtra State Electricity Board (or person of equivalent rank in case of other distribution licensee) and one Member who shall be a representative of a registered voluntary consumer protection organisation of the area. As per Regulation 5.2, the requisite quorum for CGRFs to hear matters is two Members. The said Regulation also provides that in the event a quorum is not present, the hearing at the CGRF shall be adjourned to the next working day. If at the adjourned meeting also, a quorum is not present, the Member present shall be the quorum. MSEDCL has annexed with its aforesaid affidavit filed on 30th June 2006, a status of pending position of cases before the CGRF – Bhandup Urban Zone since the month of September, 2005 to May 2006. This annexure has been issued under the signature of the Secretary, CGRF, Bhandup. As per this statement, it appears that there was no case that was pending for disposal in the month of September 2005. In the month of October 2005, one case was received by the CGRF which was kept pending. This case alongwith seven other cases were received by the CGRF upto the month of March 2006. As per submission made by MSEDCL, the said CGRF had started functioning from 15th March, 2006 having appointed one Smt. Manik P. Datar as Member with effect from 13th March, 2006 and admittedly, the said positions were vacant for more than three months. The reason for the same as tendered by MSEDCL being that of unavailability of suitable candidates for the post of Chairperson and Member is not sustainable. In fact, two candidates representing Mumbai Grahak Panchayat (MGP) had applied for the vacant post of Member (to represent voluntary consumers' protection organisation) in the month of October 2005, interviews took place but no appointments were made for the said posts. This shows that MSEDCL was not serious in complying with the provisions of the Regulations made by the Commission under the EA, 2003.

9. It is not merely the legal duty of the Licensee to redress grievances of the consumers in accordance with Regulations specified by the Commission and within the time limits stipulated in that behalf. There is also a moral obligation on the part of the Licensee to be fulfilled being the only supplier of the electricity to the ordinary consumers. Consumer Grievances submitted to CGRFs should not remain pending for inordinately long time. It has been stated that no or few cases of grievances were pending but that does not absolve MSEDCL of its statutory obligation, as in the absence of a duly constituted forum, the consumers may also not file grievances. One of the basic principles enshrined in the subject regulations is that consumer grievance Redressal forums are required to "*facilitate and expedite the redressal of*



Grievances” as specified clearly in Regulation 3.1(c) of the subject regulations. The consumers should not be made to bear the brunt of the apathy of the Licensee.

10. The spirit of EA, 2003 and the Regulations made by the Commission under Section 42(5), (6) and (7) thereof is to create separate legal machinery for speedy redressal of grievances of consumers with a view to protect their interest. However, MSEDCL by their action of keeping positions of Member and Chairperson vacant for more than 3 months has proved that it was not keen in protecting the interest of the consumers. The Commission observes that the officials of MSEDCL are not willing to come out from the monopoly regime which they were enjoying in service of erstwhile MSEB. MSEDCL is required to keep in mind that its survival depends upon the survival of its consumers and as such, utmost care is required to be taken to protect the interest of the consumers.

11. The Commission would like to express its unhappiness with the manner in which this matter has been dealt with by MSEDCL. The delay in appointing Member and Chairperson in CGRF, Bhandup and the absence of senior level presence from MSEDCL if not the Managing Director at the time of hearing the matter of public interest, shows that the approach of MSEDCL is casual towards the consumers and action of its officials are irresponsible and there is a lethargy in the working of MSEDCL.

12. The Commission observes that MSEDCL failed to submit the procedural/ institutional arrangements that it will make to ensure timely appointments to the CGRF in future. The Commission, therefore, directs the MSEDCL to submit the said procedural/ institutional arrangement to the Commission within three months from the date of this Order and also the status of CGRFs.

13. In view of the above, the Commission would like to express its anguish and emphasize the need for proper compliance by MSEDCL of the Regulations made by it under the EA, 2003. This being a first case, the Commission considers that the grievance lodged before it by the complainant does not require to invoke the penal provisions of Section 142 of the EA, 2003 so as to render MSEDCL liable to penalty under the said provisions. However, this should not be treated as a precedent. The Registry of the Commission will forward a copy of this Judgement to the Managing Director, MSEDCL for appropriate action especially on para 12 above.

The Commission disposes of the complaint filed by Electricity Consumers Association, with the above directions.

Sd/-
(S.B.Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr. Pramod Deo)
Chairman

Sd/-
(Malini Shankar)
Secretary, MERC



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Case No. 59 of 2005

Dr. Pramod Deo, Chairman
Shri A. Velayutham, Member
Shri S.B. Kulkarni, Member

ERRATA

Dated 25th September,

2006

Reference: MERC Order dated 18th September, 2006 in Case No. 59 of 2005 in the matter of complaint filed by Electricity Consumers Association alleging contravention by the Maharashtra State Electricity Distribution Company Ltd of the Regulations made by the Commission under Section 42(5)(6)(7) of the Electricity Act, 2003.

The name of the Applicant mentioned as “**Maharashtra Electricity Consumers Association**” in the Order dated 18th September, 2006 in Case No. 59 of 2005 in the above matter be read as “**Electricity Consumers Association**” wherever applicable.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr Pramod Deo)
Chairman, MERC



Sd/-
(Malini Shankar)
Secretary, MERC

