

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 28 OF 2023

(REVIEW OF THE ORDER IN
REPRESENTATION NO. 185 OF 2022)

In the matter of change of Tariff Category and refund thereof

Atul K. Patil.Review Applicant
(Aayush Hospital)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Panvel(U) (MSEDCL).....Respondent

Appearances:

Review Applicant: Pranab Shende, Representative

Respondent : 1. Satish Sarode , Executive Engineer, Panvel(U) Dn.
2. R. J. Patil, Addl. Executive Engineer, Kharghar Sub. Dn.
3. D.R. Bodekar, Dy. Manager, Panvel(U) Dn.


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 5th April 2023

Date of Order : 4th May 2023

ORDER

This Review Application was received on 3rd March 2023 under Regulation No.22.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) for review of the


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Order dated 31st January 2023 in Representation 185 of 2022 passed by the Electricity Ombudsman (Mumbai).


2. The Electricity Ombudsman, Mumbai, by its order dated 31st January 2023 disposed of Representation No.185 of 2022 with the following directions: -

“The Forum has rightly analyzed the case and hence no interference is needed in the order of the Forum. The Forum’s order is upheld, and the instant Representation is disposed of accordingly.”

3. The Applicant has filed this Review Application to review the order dated 31st January 2023 (the impugned order) passed by the Electricity Ombudsman. The e-hearing was held on 5th April 2023 through Video Conference. Both the parties were heard at length. The Applicant’s written submissions and arguments in brief are as below:

- (i) The Applicant is a LT Consumer (No.029471080096) from 01.04.2019 with Sanctioned Load (SL) of 19 KW at Plot No. 112, Sector 30, Kharghar.
- (ii) The Applicant (Dr. Atul Patil) is a registered Medical Practitioner operating a hospital namely “Aayush Hospital” as per Certificate of Registration under Bombay Nursing Home Registration Act 2005.
- (iii) The Commission has removed the Commercial category earlier applicable to Educational Institutions, Hospitals & Primary Health Care Centers, and applied “Public Services” category from its tariff order in 2012. The Respondent is aware that he cannot categorize Educational Institutions, Hospitals & Primary Health Centers under Commercial Category, without the Commission’s approval. This has to be seen in the context of the Regulation 13 of the Supply Code Regulations 2005, which is now repealed, and the Regulation 14 of the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021. (Supply Code & SOP Regulations 2021), which is applicable now, and which specifies as under:

“14. Classification and Reclassification of Consumers into Tariff Categories.


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The Distribution Licensee may classify or reclassify a consumer into various Commission approved tariff categories based on the purpose of usage of supply by such consumer:

Provided that the Distribution Licensee shall not create any tariff category other than those approved by the Commission.”

- (iv) The Respondent (MSEDCL) after issuance of the Tariff orders by the Commission have issued Circulars on how to implement the tariff orders, date of implementation and procedure of the implementation etc., The extracts from the Commercial Circular No. 323, on the Tariff Order dated 30.03.2020 with effect from 01.04.2020 is reproduced below:

“ACTION PLAN:

For proper implementation of the revised Tariff Order, Billing & Revenue, IT Department and All Field Offices shall follow guidelines given below:


1. The revised Tariff as per this Order shall be applicable from 1 April, 2020 and will be in continuation till issuance of further Orders.

3. The field officers are directed to ensure that wherever the tariff category is redefined or newly created by the Hon’ble Commission the existing / prospective consumers should be properly categorized by actual field inspection immediately and data to be immediately updated in IT base data. 4. All field officers shall sensitize staff about the various aspects of the Tariff Order and give proper guidelines to all the officers and the Staff members working under them.

5. These are only the important guidelines for actual implementation of the Tariff Order. The field officers are requested to refer the detail MERC Tariff Order in Case No. 322 of 2019 dated 30 March 2020. All the stipulations and provisions are to be strictly followed.

All field officers are therefore requested to take due note of the revised tariff and should follow the same hereafter.”

- (v) It was the duty of the Respondent and its representatives to apply the proper and correct tariff category. However, it failed to apply the Public Services tariff category, applicable to the Hospitals / Nursing Homes / Clinics / Diagnostic Centres / Pathology Laboratories and Healthcare Centres, and continued to bill the Applicant with the higher tariff of Residential category. This is inspite of the


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Respondent and its representatives visiting the consumer premises periodically to inspect, record the reading of the energy consumption of the electricity, for raising energy bills.

Grounds for Review.

- (vi) The Applicant has discovered new and important evidence to support this review application.
- (vii) The Applicant has not changed its use from the date of issue of the nursing home certificate. The Applicant was using the premises for OPD earlier also, and there is no requirement of any permission for that. The Applicant referred to the order dated 24.08.2016 in W.P. No. 4579 OF 2005 for M/s. Indian Medical Association Vs State of Maharashtra & Anr. of Hon'ble Bombay High Court, Nagpur Bench. **The Applicant is unaware about the procedure of the MERC tariff orders, guidelines, regulations, and the Respondent's Internal circulars.** The Respondent failed to provide the acknowledgment copy of the circulars personally handed over by the Applicant. The Applicant has made several oral submissions / requests to change the tariff category with the Respondent who used to visit the Applicant's premises periodically in the month of December 2021 to inspect, record the readings of energy consumption even after knowing that there is a separate tariff category for health care. The Respondent and their representatives were aware and had the knowledge of the use of electricity consumption for Hospital / Nursing Home by the consumer. However, the Respondent submitted their energy bills regularly at **commercial tariff** to the Applicant and recovered it.
- (viii) The Impugned Order is not issued as per the regulations 20.5 as per the CGRF & EO Regulations 2020, which is reproduced below:

"The Electricity Ombudsman shall ensure that all Orders are consistent with the Commission's Regulations and Orders:


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Provided that the Order issued by the Electricity Ombudsman shall be a reasoned and speaking Order and specifically mention the Regulations and Orders based on which its Order has been passed.”

- (ix) The Applicant is also, relying on the Regulations 9.4 of CGRF and EO Regulation 2020, which is reproduced below:

“The Forum shall ensure that all Orders are consistent with the Commission’s Regulations and Orders:

Provided that the Order issued by the Forum shall specifically mention the applicable Regulations and Orders based on which its Order has been passed:

Provided further that the Forum on its own shall not interpret and rule beyond the applicable Regulations and Orders.”

- (x) The Applicant under Regulation 22 of the CGRF & EO Regulations 2020, is submitting fresh evidence and documents with this review petition which was earlier not within his knowledge, which are :

(1) Copy of the online application dated 06.08.2020 submitted for Solar Roof-Top, along with Annexures”. The application was made in the name of “Atul K. Patil”.

(2) MERC reply in RTI application.

(3) The Panvel City Municipal Corporation, copy of the Register of the Hospital/Nursing Home obtained under the RTI.


- (xi) The Applicant is also entitled for interest on the refund amount as per the Section 62 (6) of the Electricity Act, 2003 which clearly states:

“If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.”

- (xii) The Applicant is also relying on various orders as per the Regulations 9.4 of CGRF and EO Regulation 2020, passed in favour of various consumers, issued under the Section 62 (6) of the Electricity Act of 2003 by the MERC in refund matters. The dates of the MERC orders and the case numbers are given below:

1) MERC order dated 01.08.2018 in Case No. 67/2018

2) MERC order dated 01.08.2018 in Case No. 68/2018


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- 3) MERC order dated 20.04.2018 in Case No. 127/2016
- 4) MERC Order dated 03.02.2014 in Case No. 51/2013.
- 5) MERC Order dated 31.07.2017 in Case No. 141/2015

(xiii) The Applicant has also relied upon the Judgement dated 01.08.2018 of Bombay High Court in WP No. 8712 OF 2018, of Maharashtra State Electricity Distribution Co. Ltd. Vs Dr. Shri. Girsih Dadasaheb Dadwad & Anr. Extracts from the order are reproduced below:


“12. It is contended on behalf of the petitioner that the petitioner is the largest public utility in the state and has lakhs of consumers. The contention is that in such circumstances it is not expected of the petitioner to effect the change of category on its own. It is contended that the consumer on the basis of the change in the category should apply and the change can only be effected from the date of such application. On the contrary it is contended on behalf of the first respondent that the consumer has no means to know the internal circulars of the petitioner and it is for the petitioner to effect the change and extend the benefit of such change in the tariff category on its own.

13. I find that the contention on behalf of the first respondent is acceptable. This is because clause 4 of the ‘action plan’ of the circular no 175 as reproduced above would indicate that it was the responsibility cast on the field officers of the petitioner to ensure that whenever the tariff category is redefined or newly created by the commission the existing/ prospective consumer is properly categorized by actual field inspection and the data is updated in the system. Thus, the contention that the change can only be effected from the date of the application cannot be accepted”.

The Hon’ble Electricity Ombudsman ignored this submission in the impugned order.

(xiv) It is therefore prayed that:


- a. The impugned order is dated 31.01.2023 and the review is filed on 02.03.2023, which is within 30 days.
- b. The Applicant prays to recover the excess amount collected by the Respondent due to wrong tariff collected by him. It is prayed to issue the order on the merit, considering the submissions made by the Applicant


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consumer under Section 62(6) of the Act and as per the Regulation 16.2 of the MYT 2019 of the Commission.


- c. The Respondent has acknowledged that the online application dated 15.01.2021 was rejected, but the date or reason of rejection was not provided. It is prayed to direct the respondent to provide a copy of the rejection of the online application dated 15.01.2021 by the Appellant.
- d. To direct the Respondent to provide complete documents submitted online/offline while availing Roof Top Solar, net metering connection, and load revision along with the copy of the A-1 Form, D-1 Form (Test Report of the Electrical Contractor) and the Application under regulation 22.1 (c), 22.2 of the CGRF & EO Regulations 2020 which was not within his knowledge and those documents u/r-22-3, the Applicant consumer is submitting with this review petition;
 - (1) The copy of the online application submitted for Solar Roof- Top.
 - (2) The copy of the 2nd online application submitted for tariff change on 18.10.2021.
 - (3) The copy of the MERC replies in RTI application made to the consumer representative for details of orders published in newspapers. It was informed that no information is available with the office of the Commission.
 - (4) The copy of the register obtained under the RTI Act, is obtained by the consumer representative from the Panvel City Municipal Corporation, and the same is attached with this review petition.
- e. It is therefore prayed to allow the claim of the Applicant towards the tariff difference refund amount, from April 2019 to December-2021, along with interest under Section 62 (6) of the Electricity Act, 2003, and under regulation 16.2 of MYT 2019 of MERC along with tariff difference amount for the intervening period.


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4. The Respondent MSEDCL filed its written reply by email dated 23.03.2023. Its submissions along with its arguments on 05.04.2023 are stated in brief as below: -


- (i) The Applicant has filed the present Application for Review of the Order dated 31.01.2023 of this Hon'ble Electricity Ombudsman passed in Representation No. 185 of 2022. This Review application is filed under Regulation 22 of CGRF & EO Regulations 2020. As per this Regulation, a review can be filed on account of some mistake or error apparent from the face of the record; or upon the discovery of new & important matter or evidence which was not within his knowledge, or could not be produced by him at the time when the order was passed.
- (ii) The Ombudsman has passed the order dated 31.01.2023 after giving a hearing in Representation No. 185 of 2022. The Applicant had sufficient time and it was possible for him to produce all evidence before this Hon'ble Ombudsman, but he did not take due efforts at that time, and now he has filed a Review which is not maintainable & is against the Regulation 22 of CGRF & EO Regulations 2020. Therefore, this Review Application should be rejected by this Hon'ble Ombudsman on this ground alone.
- (iii) This Hon'ble Ombudsman has passed the Order dated 03.02.2023 as per rules and regulations, hence there is no mistake or error in the order, and therefore this Review application be rejected.
- (iv) Reply on Merits:
 - a) The brief history and facts regarding this matter are already submitted to this Hon'ble EO in the original reply to Representation No. 185/22. The Respondent submits that the said electric connection was initially released for residential purpose as per the request application of the Appellant. The load of the consumer was enhanced from 5 KW to 19 KW as per their own request, again for residential purpose. Thereafter, the consumer applied for solar power connection of 19 KW, also for residential purpose, and the same was approved. At the time of the site visit for confirmation of feasibility for load enhancement and solar system charging, the purpose of the usage of power supply was found


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to be residential. There was no use of the premises for hospital purpose found in this site visit. Therefore, it is clear that the activity of the consumer was residential and not hospital. Hence the Forum has rejected the claim of the Appellant of tariff difference and the same has been confirmed by the impugned order.


- b) While making the application for a new connection on 11.01.2019, the LT VII-B “Public Service” tariff category was in force, but the Applicant applied specifically for Residential tariff. Hence the connection was approved under the residential category as per the consumer’s own request. Hence, the benefit of Public Service tariff cannot be given from the date of connection i.e., 01.04.2019.
- c) The Applicant neither made any application for change of tariff category in April 2019, nor informed about the change of use to the Respondent. Hence the refund of tariff difference since 01.04.2019 is not justifiable.
- d) The Respondent submits that the connection was released in the name of an individual person and not in the name of hospital, which does not provide any idea as to the exact activity being carried out, making it difficult for the Respondent to identify such individual cases and to apply the appropriate tariff. It was the responsibility of the consumer to inform about the change in purpose and to get the appropriate tariff applied.
- e) The Appellant applied online on 18.10.2021 and the required documents were submitted on 01.11.2021 to the Respondent. Immediately, the action of change of tariff was taken by the Respondent from the next billing cycle i.e. November 2021. This act of the Respondent is upheld by the Forum and also by the Electricity Ombudsman.
- f) Even at the time of application for additional load as well as installation of solar system, the consumer did not apply for change of purpose. Thus, an inference can be made that at that time the consumer himself was not using the


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electricity for hospital purpose. Hence at this later stage, the Applicant cannot claim refund of the tariff difference due to his own mistake or negligence.

- g) The Applicant can review the order only on the grounds given under the Regulation 22 of the CGRF & EO Regulations 2020, and cannot speak about the merit of the order passed. If the Applicant thinks that the order is passed with wrong reason and wrong conclusion, then he has to file an appeal in the Hon'ble High Court.
 - h) The Applicant is relying upon the certificates of its hospital activity (which are effective from back date), and he applied to the Respondent on 01.11.2021 for refund of tariff retrospectively from 20.11.2019. If the activity of the consumer was of running a hospital even prior to the application to the Respondent, then why did he not file the application for tariff change when he had the certificate of hospital activity? The Respondent, after inspection of activity, has already changed the tariff from the date of application and also refunded the tariff difference in compliance with the Forum's order. Hence the review application ought to be rejected.
 - i) The Respondent submits that the Applicant did not intimate the Respondent immediately after getting the certificates of hospital activity. He intimated in October 2021, and the tariff was also changed immediately after carrying out a spot inspection to verify the activity. It is the mistake and negligence on the part of the Applicant of giving late intimation to the Respondent of their change in activity, hence the Respondent is not responsible for any loss of the Applicant, if any.
 - j) The Applicant has cited some orders of Hon'ble Supreme Court, Hon'ble High Courts, the Commission and in his Review Application. In all these cases, facts and circumstances are different and not similar to this present grievance in hand. Hence the referred decisions are not applicable in this present case.
- (v) In view of the above, it is prayed to dismiss the present Review Application as there is absolutely no merit in this Application.


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Analysis and Ruling

5. Heard both the parties and perused the documents on record. The issues raised by the Applicant were discussed at length.

6. We are of the opinion that all important issues in sum and substance have been covered in the original order. The review application is nothing but a repetition of the original representation where the main issue is raised by the Applicant that it is the Respondent's duty to find out which of its consumers have changed their use and are eligible for a different tariff category. The Applicant did not raise any new issue which can influence the decision of the original order. In para 3 (vii) the Applicant has tried to point out that even before the issue of the nursing home certificate, the premises were being used for OPD. However this fact, even if true, does not change the basic circumstances of the case, that the consumer's name nowhere included the word "hospital" or "OPD", which aspect has already been covered elaborately in the original order.

7. However, the Applicant is not satisfied with the impugned order stating that the grievance has been dismissed wrongly with wrong reasoning and wrong conclusion. It is notable that the Applicant himself never attended the hearing, and relied on his representative to submit the say and attend hearings.

8. The main contention of the Appellant is that it is the responsibility of the Respondent to obtain information regarding change in use from Residential to Public Services – Others. This typically applies to cases where the "public services – others" use is already in existence, or has been going on. In the particular circumstances of this case, we find that though the Commission had created the subcategory of Public Services – Others in June 2015 as per Case No. 121 of 2014, the application for electric connection for residential purpose was made in 2019. Even by the Appellant's own admission, the hospital started only from April 2019, much after the


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Commission's order. At that point of time, the public services – others tariff category was in existence for a few years, yet the application was made for residential purpose.

9. The Applicant repeatedly states that he was unaware about the internal procedure and circulars of the Respondent, hence cannot be expected to apply under the correct tariff category. On the contrary, the Respondent constantly states that the original connection was for residential tariff category for the purpose of water pump, staircase lighting and Lift. Every month the bills were sent under Residential tariff category which was mentioned on the main page of the bill. The Applicant has suo-moto changed the purpose or use of electricity, which is actually an irregularity. The Respondent pointed out that all tariff orders of the Commission are available in the public domain. The stand of the Appellant about not knowing the correct tariff category does not fit in the regulatory framework. Ignorance of statutes and law cannot be used only for the benefit of the Appellant. The Applicant is a member of Medical Practitioners Association, which is responsible for raising awareness of its members on various relevant issues. The Applicant is also represented by his representative who is fully aware of various provisions in the Respondent's circulars since the year 2014, where he has represented hospital related cases for Public Services-Others tariff category. The Applicant has also repeatedly argued that the Respondent visited and inspected his premises regularly for recording energy consumption; hence is expected to know about hospital use. Generally, the meter reading is outsourced to an agency, and its staff only visit the meter room and not the main part of the premises. They are anyway not authorized to assess the purpose of use. Their limited duty is to make a correct reading of the meter. Considering all these aspects the arguments of the Applicant are unacceptable.

10. The Respondent has contended that when the original application was made for **water pump, Lift and staircase lighting**, a formal inspection was carried out and the Applicant's activity was found to be residential till that point of time.

11. The applicant subsequently changed the purpose unilaterally to "hospital" without any intimation to the Respondent. Further, there was no information available in the existing database


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of the Respondent regarding hospitals in general, and the Appellant's hospital in particular. So, the question of applying the "public services – others" tariff category suo moto does not arise. Hence, we do not find any weightage in the argument of the Appellant that it was the responsibility of the Respondent to reclassify the tariff category on its own.


12. In brief, the main argument of the Appellant is that it is the duty of the Respondent to apply the appropriate tariff to various consumers. On the other hand, the Respondent argues that Public Services-Others is a concessional tariff, and the beneficiary has to apply for the same as per the activity. The Respondent's guidelines have used the general term "to check the installations for appropriate tariff" after issue of the Tariff Order. The main intention behind this was that whenever there is an introduction of a new tariff category, and /or change in tariff category of specific consumers as per tariff order of Commission in force, such specific cases which come in this domain need to be physically checked for application of the revised tariff category. The Respondent had no information or intimation prior to 18.10.2021 that the Appellant was running a hospital, as the original connection does not mention the word 'hospital' anywhere. We find substance in this argument. The Respondent inspected the premises on 08.12.2021 after receiving the application dated 18.10.2021, and it was only then for the first time confirmed that the supply is for hospital use. Thereafter, the tariff category was changed from LT I to LT VII (B) Public Services – Others from December 2021 onwards. The said regulation is reproduced below:

Regulation 4.13 of MERC (Standards of Performance of Distribution Licensees, Period for giving supply & Determination of Compensation) Regulations 2014 states as below:

*"The Distribution Licensee shall intimate the charges to be borne by an applicant for change of name and **change of tariff category** within seven (7) days of **receipt of an application in this regard** and shall give effect to it within the following time limits :—*

a) change of name shall be effected within the second billing cycle on receipt of an application and payment of necessary charges.

(b) change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges."


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As per Regulation 4.13 of the SOP Regulations 2014, it is the responsibility of the consumer to inform the distribution licensee about any change of purpose. If the connection is sanctioned for one particular purpose, the consumer cannot change the purpose without informing the distribution licensee, and this will amount to an irregularity. For example, if the connection is sanctioned for residential purpose, the consumer cannot suo moto convert it to any other category without informing or making any application for change of tariff category. This is true whether or not the subsequent tariff is higher or lower compared to the earlier tariff. In fact, if the consumer converts to a use which carries a higher tariff, he is even liable for action under Section 126 of the Electricity Act, 2003. In this particular case, the original connection was given for common purpose such as lift, water pump, stair case lighting etc., which was billed under residential tariff category. The Applicant changed it suo moto to 'hospital' without informing the licensee or applying for change of tariff category at that point of time. Even though he committed this irregularity, now the Applicant is seeking refund of tariff difference with interest. Any change of use which involves a different tariff category suo-moto without intimation to the licensee can attract Section 126 of the Electricity Act 2003. If such irregularities are allowed, the regulation regarding change of tariff category of Standards of Performance Regulations will be frustrated, and there will be complete indiscipline in the state regarding proper use of electricity connections. This will create a wrong precedent that any consumer can change the category for any purpose without intimation to the Licensee.

This Regulation 4.13 has also been taken into consideration while issuing the original order. The Applicant is expected to specifically apply for change of tariff category, and thereafter, the licensee is expected to take action within 7 days. This provision still stands.

13. The provision with respect to review of orders passed by the undersigned is given in Regulation 22 of the CGRF & EO Regulations 2020. The relevant provision is quoted below: -

"22 Review of Order of Electricity Ombudsman

22.1 Any person aggrieved by an order of the Electricity Ombudsman, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the Electricity Ombudsman, under the following circumstances:
(a) Where no appeal has been preferred;


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- (b) *on account of some mistake or error apparent from the face of the record;*
- (c) *upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed.*

- 22.2 *An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record.*
- 22.3 *The review application shall be accompanied by such documents, supporting data and statements as the Electricity Ombudsman may determine.*
- 22.4 *When it appears to the Electricity Ombudsman that there is no sufficient ground for review, the Electricity Ombudsman shall reject such review application: Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.*
- 22.5 *.....”*

14. All these issues and facts were already on record and were taken into consideration when the original order in Representation 185 of 2022 was passed. The Review Application has not brought out any new issue which has not been dealt with in the impugned order, which is the primary requirement for considering review of an order under Regulation 22 of the CGRF & EO Regulations 2020. The Applicant is trying to seek an appeal under the guise of review which is not permitted. The scope of a review is very limited. The alleged mistake on the face of record in the order need not necessarily be searched through a microscope, it should be clearly visible at first glance. The undersigned has power to review its ruling to correct a patent error and not a minor mistake of inconsequential import.

15. This principle has been stipulated in many judicial pronouncements of the Constitutional Courts which are quoted below: -

- (a) Kamlesh Varma v/s Mayawati and Ors reported in 2013 AIR (SC) 3301, the Supreme Court has held as under: -


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“8) This Court has repeatedly held in various judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient.”


(b) In the matter of Jain Studios Ltd v/s Shine Satellite Public Co. Ltd. reported in (2006) 5 SCC 501, the Supreme Court held as under: -

“11. So far as the grievance of the Applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the Applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negated. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.”

16. The orders / judgments referred to by the Applicant are not applicable in the instant case.

17. In view of the above, the Review Application of the Applicant is rejected and disposed of accordingly.

Sd/-
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
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