

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 40 OF 2023

(REVIEW OF THE ORDER IN  
REPRESENTATION NO. 04 OF 2023)

In the matter of change of Tariff Category and refund thereof

Spandan Multispecialty Hospital & ICU .....Review Applicant  
(Cons. Name: Anila B. Mehta, Cons. No. 029476818778)

V/s.

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

Appearances:

Review Applicant : Pranab Shende, Representative

Respondent : Satish Sarode, Executive Engineer, Panvel (U) Dn.

**Coram: Vandana Krishna [IAS (Retd.)]**

Date of hearing: 28<sup>th</sup> June 2023

Date of Order : 31<sup>st</sup> July 2023

## ORDER

This Review Application was received on 3<sup>rd</sup> April 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 Order dated 2<sup>nd</sup> March 2023 in Representation 04 of 2023 passed by the Electricity Ombudsman (Mumbai).

2. The Electricity Ombudsman, Mumbai, by its order dated 2<sup>nd</sup> March 2023 disposed of Representation No.04 of 2023 with the following directions: -



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*“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 above order dated 2<sup>nd</sup> March 2023 passed by the Electricity Ombudsman. The e-hearing was held on 28<sup>th</sup> June 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 (Consumer No.029476818778) is a hospital namely “Spandan Multispecialty Hospital & ICU”. Dr. Sujay Bhirud is the occupier and operates this hospital at Plot No. 127, behind Gram Vikas Bhavan, Sector 21, Kharghar, New Panvel. The name of the original consumer / owner is Anila B. Mehta from 24.08.2017 having sanctioned load of 15 KW. The Applicant entered into a leave and license agreement with Anila B. Mehta (original consumer) on 18.04.2021 for a period of 60 months from 01.05.2021 to 30.04.2026 for the said premises. Panvel City Municipal Corporation issued a certificate of registration in the name of “Spandan Multispecialty Hospital & ICU” under Bombay Nursing Home Registration Act 2005 with effect from 03.05.2021.
- (ii) The Applicant provides healthcare facilities. The Applicant receives regular energy bills without any error in the meter. The representatives of the Respondent used to visit, inspect and record the readings of energy consumption for raising the energy bills, and the Applicant is paying the energy bills raised by the Respondent from time to time without any default.
- (iii) The Commission has removed the “Commercial” tariff category applicable to Educational Institutions, Hospitals & Primary Health Care Centers, and applied “Public Services” category in its tariff orders from 2012. The Respondent is aware that he cannot categorize Educational Institutions, Hospitals & Primary Health Centers under Commercial Category. 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:

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*"14. Classification and Reclassification of Consumers into Tariff Categories.*

*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 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 Hospitals / Nursing Homes / Clinics / Diagnostic Centres / Pathology Laboratories and Healthcare Centres, and continued to bill the Applicant with the higher

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tariff of Commercial category. This is in spite of the 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.

- (vi) The Applicant's representative has requested for information from the Commission regarding the advertisement given towards the tariff orders published in the newspapers by the Respondent. No such information is available with the office of the Commission as stated in the reply provided by its Information Officer.
- (vii) The Applicant has not changed his use; he was using the premises for hospital after the receipt of the hospital / Nursing Home certificate. **The Applicant is unaware about the procedure of the MERC tariff orders, guidelines, regulations, and the Respondent's internal circulars.** The Respondent submitted their energy bills regularly at residential tariff to the Applicant and recovered it.
- (viii) The Applicant made an online application for tariff change from residential to public services –others on 30.10.2021. The hospital started functioning in the month of May 2021. The Respondent was duty bound to give retrospective effect of tariff change from residential to public services –others from May 2021 to Oct.2021. However, the Respondent failed to do so and changed the tariff to public services-others from Nov. 2021 onwards.
- (ix) The Applicant contends that the Electricity Ombudsman (Mumbai) has dismissed the grievance case wrongly, with wrong reasoning and wrong conclusion; and did not consider the relevant facts of the case.
- (x) The Applicant has preferred this review application for reconsideration on the grounds as stated below:

Grounds for Review:

- 1) The Impugned Order dated 02.03.2023 in Representation No. 04 of 2023 is illegal, invalid, and contrary to established principles of justice, equity, and good conscience.
- 2) The Impugned Order is not issued as per Regulation 20.5 of the CGRF & EO Regulation 2020. All orders of the Hon'ble Electricity Ombudsman should be consistent with the Commission's Regulations and Orders of the MERC



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(Consumer Grievance Redressal Forum & Electricity Ombudsman) regulation 2020 as per the Regulation 20.5, which is reproduced below;

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

*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.”*

- 3) The Applicant is also relying on Regulation 9.4 of the CGRF & EO Regulation 2020. The Regulation 9.4 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.”*

- 4) The Applicant has not changed his use and there is nothing on record proved by the Respondent that the Applicant has changed his use.
- 5) The Applicant is submitting the following fresh evidence under Regulation 22 of the CGRF & EO Regulation 2020 which was not within his knowledge earlier.
- RTI application reply from the Information officer from the O/o of the Commission.
  - The Panvel City Municipal Corporation, copy of the Register of the Hospital/Nursing Home obtained under the RTI Act.
  - The Applicant has relied on the information received by the consumer representative, under the RTI Act which is kept on record that the Respondent has prepared refund of supplementary bill of Rs. 6742/- for tariff difference from residential to public services-others for the period from May 2021 to Oct. 2021. However, this refund was not practically passed on to the Applicant. The reason for this back out is not known to the Applicant.
- 6) The Applicant is also relying on various orders as per the Regulations 9.4 of CGRF and EO Regulation 2020 passed in the favour of the consumers, and

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orders issued under Section 62 (6) of the Act, by the Commission in the refund matters of the excess amount collected by the MSEDCL office (here respondent) in favour of various consumers. The date of the Commission orders and the case numbers are given below:

- (i) MERC Order Dtd. 01-08-2018, in Case No. 68/2018.
  - (ii) MERC Order Dtd. 01-08-2018, in Case No. 67/2018.
  - (iii) MERC Order Dtd. 20-04-2018, in Case No. 127/2016.
  - (iv) MERC Order Dtd. 03-02-2014, in Case No. 51/2013.
  - (v) MERC Order Dtd. 31-07-2017, in Case No. 141/2015.
- 7) The Electricity Ombudsman, Mumbai Maharashtra erred while not taking into consideration the above orders. The Applicant is relying upon the Order dated 01.08.2018 in Case No. 67 of 2018, of M/s. Dhariwal Infrastructure Ltd V/s Maharashtra State Electricity Distribution Co. Ltd. The extracts from the order are reproduced below,

*“1. The Petition of Dhariwal Infrastructure Ltd in Case No. 67 of 2018 is partly allowed.*

*2. MSEDCL to refund of tariff differential amount for start-up power consumption of DIL for the period of 3 February, 2014 to 31 May, 2015. Said refund should be made with admissible interest as per Section 62 (6) of the EA, 2003.”*

- 8) The Applicant has also relied upon the Judgment dated 01.08.2018 of Bombay High Court, in Writ Petition No. 8712 OF 2018, of M/s. Maharashtra State Electricity Distribution Co. Ltd. V/s. Dr. Shri. Girish Dadasaheb Dadwad & Anr. The portion from this order is 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*

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*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."*

9) The Applicant consumer, after receipt of the Nursing Home / Hospital Certificate on May 2021 from the competent authority, started operating the Nursing Home / Hospital. The evidence stated above proves that the Applicant consumer started the hospital from the receipt of the Nursing Home / Hospital Certificate in May 2021.

(xi) It is therefore prayed to allow the claim of the Applicant towards the tariff difference refund amount, from May 2021 to Oct. 2021 i.e., when the functioning of the hospital started, to the date of online application submitted for tariff difference, along with interest under Section 62 (6) of the Electricity Act, 2003, and under regulation 16.2 of MYT 2019 of MERC.

4. The Respondent has filed its reply by email dated 31.05.2023. Its submission and arguments are stated in brief as below:

(i) The Applicant has filed this present Application for Review of the Order dated 02.03.2023 of this Hon'ble Electricity Ombudsman passed in Representation No. 04 of 2023. This Review Application is filed under Regulation 22 of the 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 &



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important matter or evidence which was not within his knowledge at the time when the original order was passed.

- (ii) The impugned order was passed by giving a hearing and sufficient time to both the parties. The Applicant had sufficient time; at that time it was possible for him to apply for change of tariff category as soon as the purpose was changed from residential to public services-others in May 2021, and to produce the evidence of the certificate from Panvel Municipal Corporation before the Hon'ble Ombudsman, but he did not take due efforts at that time, and now he has filed a Review, which is not maintainable and is against the Regulation No. 22 of CGRF & EO Regulations 2020. Even otherwise, this certificate does not change the situation. **The fact of this certificate was already on record in the original representation.** Therefore this Review application should be rejected by the Hon'ble Electricity Ombudsman on this ground alone.
- (iii) **The Applicant is trying to confuse the issue by stating that he has not changed his use, and that there is nothing on record to prove that the Applicant has changed his use. The Respondent strongly objects to this submission of the Applicant, and submits that the original connection was released to the Applicant on 24.08.2017 for residential purpose vide Consumer No. 029476818778 as per the consumer's own request application for a new connection under residential category. At the time of release of this connection, the activity of the original consumer was not hospital, and he had not submitted any such documents at the time of new connection for showing that his activity was of hospital. Therefore the contention of the Applicant that he has not changed the purpose of use of electricity is not correct.**
- (iv) After the establishment of a new tariff category by the Commission, the Licensee has to verify the consumer's activity to identify consumers in the new tariff category established by the Commission. But in this case the original connection of the Applicant was released for residential purpose, and he did not submit any documents showing the hospital activity at the time of release of new connection. Hence as per the records available with the Respondent, the activity of the Applicant was not of hospital, therefore the Respondent could not have changed the tariff of this Applicant either in 2012 or thereafter, after establishment of new tariff of public services.
- (v) The Applicant states that he is not satisfied with the order under review of this Hon'ble EO, as the grievance has been dismissed wrongly, with wrong reasoning and wrong

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conclusion. In this application, the Applicant can review the order only on the grounds given under the Regulation 22 of the CGRF and EO Regulations 2020, and cannot speak about the merit of the order passed. If the Applicant thinks that the order is passed with wrong reasoning and wrong conclusion, then he has to file an appeal in the High Court. Therefore this Review application ought to be rejected.

- (vi) The grounds relied upon by the Applicant are totally irrelevant for filing this review application, they have no nexus with the circumstances given under the Regulations 22 of MERC (CGRF and EO) Regulations, 2020. Hence this Review application ought to be rejected on this ground alone.
- (vii) It was the duty of the Applicant itself to submit the documents showing hospital activity, and to apply to the Respondent for change of tariff. But the consumer failed to do so within time, and after the lapse of some months he has applied to the Respondent on 30.10.2021 for the change of tariff and for the refund of tariff difference. At the same time he also approached the Forum. **The Forum has rightly allowed the change of tariff only from the date of application, as the respondent cannot verify the hospital activity of the Applicant retrospectively from May 2021 as claimed by him.** Hence, the Respondent cannot refund the tariff difference retrospectively.
- (viii) The original connection to the Applicant was released in the name of an individual person at Plot No. 127, behind Gram Vikas Bhavan, Sector 21, Kharghar, New Panvel and not in the name of any hospital. This does not provide any idea as to the alleged hospital activity being carried out unless the consumer himself intimates the change in activity to the respondent.
- (ix) The Applicant is relying upon the certificates of its hospital activity, and has applied on 30.10.2021 for refund of tariff retrospectively from May 2021. If the activity of the consumer was of hospital prior to the application to respondent, then why he did he not file the application for tariff change when he got the certificate of hospital activity? The respondent after inspection of activity has already changed the tariff from the date of application, and has also refunded the tariff difference in compliance with the Forum's order. Hence the review application of the Applicant is not maintainable.
- (x) The Applicant did not intimate the Respondent immediately after getting the certificates of hospital activity. He intimated only in Oct. 2021 for the first time, and as per his request the tariff was also changed immediately after carrying out a spot inspection to



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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. At this late stage the Applicant cannot claim refund of tariff difference due to his own mistake and negligence.

- (xi) The Forum has considered all these aspects and has allowed the tariff difference only from the date of application and has also rejected interest on that refund amount. And this Hon'ble EO also, vide order under review, has opined that the Forum has rightly analysed the case, and hence no interference is needed in the order of the Forum, and has accordingly upheld the Forum's order.
- (xii) The Applicant has cited some orders of Hon'ble Supreme Court, Hon'ble High Courts, the Commission in his Review Application. In all these cases, the 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.
- (xiii) The representative of the Applicant was directed in the last hearing by this Authority for the presence of the Occupier- Doctor, however, he was not present for the hearing. This clearly shows the Appellant's careless attitude towards the grievance mechanism. In addition, the supply was sanctioned for residential purpose from 24.08.2017. However, the Applicant has unauthorisedly changed this activity for hospital purpose. Ideally, it is a case of Section 126 of the Electricity Act, 2003(the Act). However, the Respondent considered this issue positively and sympathetically.
- (xiv) In view of the above, it is prayed to dismiss the present Review Application as there is absolutely no merit in this Application.

## **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 already been covered in the original order. The review application is nothing but a repetition of the original representation, wherein the main issue raised by the Applicant is that it is the Respondent's duty to find out which of its consumers have changed their use to hospital, and are eligible for a different tariff category. The

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Applicant did not raise any new issue which can influence the decision of the original order. The Applicant has produced a certificate of Panvel Municipal Corporation to operate the hospital from May 2021. However, this fact, even if true, does not change the basic circumstances of the case, that the word “hospital” is nowhere included in the consumer’s connection or records, which aspect has already been covered elaborately in the original order. There is merit in the Respondent’s argument that if the Applicant was running a hospital since May 2021, he should have applied for the correct tariff category much earlier than his actual application made on 30.10.2021.

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 bothered to attend the hearing, and relied on his representative to submit the say and attend hearings.

8. The main contention of the Applicant 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. 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. The Respondent pointed out that all tariff orders of the Commission are available in the public domain. The stand of the Applicant about not knowing the correct tariff category does not ring true. Firstly, ignorance of statutes and law cannot be used for the benefit of the Applicant. Secondly, the Applicant is a member of Medical Practitioners Association, which is responsible for raising awareness of its members on various relevant issues. Thirdly, the Applicant is also represented by his representative who is fully aware of various provisions in the Respondent’s circulars since the year 2014, and he has represented hospital related cases for applying Public Services-Others tariff category.

9. 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. Even if they were to visit the main premises, they are not authorized to assess the purpose of use. Their limited duty is to take a correct reading of the meter. Considering all these aspects the arguments of the Applicant are unacceptable.



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10. After getting the original connection for residential purpose, 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 of the Respondent regarding the Applicant’s hospital in particular. So, the question of applying the “public services – others” tariff category on its own does not arise. The Respondent also argues that Public Services- Others is a concessional tariff, and the beneficiary has to apply for the same. 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 the Commission, 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 since May 2021 that the Applicant was running a hospital, as the original connection does not mention the word ‘hospital’ anywhere. We find substance in this argument. After the Respondent inspected the premises after receiving the application on 30.10.2021, the tariff category was changed from LT I to LT VII (B) Public Services – Others from Nov.2021 onwards. The Respondent has also refunded the tariff difference from the date of the application which is in compliance of the Forum’s order. The relevant 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.”*

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



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purpose, the consumer cannot 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 unauthorizedly converts to a use which carries a higher tariff, he is even liable for action under Section 126 of the Electricity Act, 2003. The Applicant allegedly changed his use to 'hospital' without informing the licensee or applying for change of tariff category right from May 2021 to Oct. 2021. Even though he committed this irregularity, now the Applicant is seeking refund of tariff difference with interest. If such irregularities are allowed, the purpose of the concerned regulation regarding change of tariff category under 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 already 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.

11. 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;*
- (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.*

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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 .....

12. All the relevant issues and facts were already on record and were taken into consideration when the original order in Representation 04 of 2023 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 undersigned has power to review its ruling to correct a patent error and not a minor mistake of inconsequential import.

13. 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: -

*“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 negatived. 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.”*

14. The orders / judgments referred to by the Applicant are not applicable in the instant case. This Authority expresses displeasure for the repetitive submissions made by the Applicant, and for filing a review without any fresh ground.

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15. In view of the above, the Review Application of the Applicant is rejected with cost of Rs. 2000/- which is payable to this office. The review is disposed of accordingly.

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



(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

