

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 29 OF 2023

(REVIEW OF THE ORDER IN  
REPRESENTATION NO. 189 OF 2022)

In the matter of change of Tariff Category and refund thereof

Dr. Khalid Umarkhan Deshmukh  
(Noble Care Multispeciality Hospital) .....Review Applicant

V/s.

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

Appearances:

Review Applicant: Pranab Shende, Representative

Respondent : 1. Satish Sarode , Executive Engineer, Panvel(U) Dn.  
2. Milind Suryatal, Addl.Ex. Engineer, Kalamboli S/Dn.  
3. D.R. Bodekar, Dy. Manager, Panvel(U) Dn.


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

Date of hearing: 5<sup>th</sup> April 2023

Date of Order : 5<sup>th</sup> May 2023

## ORDER

This Review Application was received on 6<sup>th</sup> 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 Order dated 3<sup>rd</sup> February 2023 in Representation 189 of 2022 passed by the Electricity Ombudsman (Mumbai).

  
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2. The Electricity Ombudsman, Mumbai, by its order dated 3<sup>rd</sup> February 2023 disposed of Representation No.189 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 above order dated 3<sup>rd</sup> February 2023 passed by the Electricity Ombudsman. The e-hearing was held on 5<sup>th</sup> 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. 028652899996) with Sanctioned Load (SL) of 3 KW. The said connection was released on 02.05.2006 at Office 001, 1st Floor, Mehta Co-Op. Hsg. Society, Near Sebastian Church, Plot No. 23, Sector 8, Kalamboli. The Applicant is running a Nursing Home / Hospital in the name of “Noble Care Multispeciality Hospital” at the said address since August 2012.
- (ii) The Competent Authority (Municipal Authorities) who are authorized to issue the necessary permission to operate a Hospital / Nursing Home have issued the same. The Applicant, Dr. Khalid Deshmukh is operating the above-mentioned Hospital / Nursing Home at the above-mentioned address.
- (iii) The relevant portion of the impugned order is reproduced below:

*“12. The Forum, by its order dated 17.10.2022 has stated in its paragraphs that:  
“It is observed that, since date of connection, the consumer was charged with the Commercial tariff. In this case the initial connection was requested by the Applicant on 02.5.2006 for Commercial activity in the individual name of the Applicant and accordingly the connection was released by the Respondent for Commercial purpose in the name of Mr.Dr. Khalid Umarchan Deshmukh. The Tariff orders also in public domain and the Commission issues the tariff orders after a due process of wide public consultation and by undertaking public hearing. The Applicant therefore cannot afford to be negligent about their rights and responsibilities. ....*

  
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Further, this connection stands in the name of an individual and not in the name of any hospital/Laboratory, which does not provide any idea as to the exact activity being carried out over there and therefore it is difficult to identify such individual cases and apply the appropriate tariff.....  
.....”


*13. 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.”*

- (iv) 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.
- (v) 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. 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.*

*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.”*

  
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- (vi) 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.”***

- (vii) 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 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.

  
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- (viii) 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.
- (ix) 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 failed to provide the acknowledgment 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 May 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 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.
- (x) Due to no response from the Respondent, the Applicant made an online submission for tariff change, under Regulation 5.2 of the Supply Code & Regulations 2021. A unique number was generated for the online application on 24.05.2021. The Respondent failed to reply to this, and the Applicant did not receive any communication under Regulation 5.7 (a) within the stipulated two (2) days after the application was made online. Therefore his online application is deemed to be accepted. But due to no communication from the Respondent, and the tariff not being changed, the Applicant submitted a written application, and a request letter to change the tariff category, and to give effect of tariff change in the next billing cycle from the date of online application ( 24.05.2021) as stated above, along with the tariff difference refund amount from the date of online application till change of tariff as per Regulation 62(3). Further, he has demanded retrospective tariff difference refund with interest for the period from May 2019 to 24.05.2021, along with the tariff difference refund amount for the subsequent period from 24.05.2021 till change of tariff which was changed in September 2021 energy bill.

  
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- (xi) The Respondent has inspected and verified that the premises use is for Hospital / Nursing Home and Healthcare Centre, and therefore has changed the tariff in the month of September 2021. The Respondent failed to give relief to the Applicant, and therefore he submitted grievance with the following prayer:
- (a) The Tariff Difference Amount from May-2021 till September 2021, when the tariff was changed by the Respondent.
  - (b) The Refund of the Tariff Difference Amount from May-2019 i.e. prior to the online application which was made on 24.05.2021 on the Respondent's portal.
  - (c) Interest @ 18 % per annum on the Tariff Difference Refund Amount or as per RBI Interest Rate or as per the laid down rules mentioned in Section 62 (6) of Electricity Act 2003.
- (xii) 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. The Applicant has preferred this review application for reconsideration on the grounds as stated below:
- (xiii) Grounds For Review:
- i The Impugned Order dated 03.02.2023 in Representation No. 189 of 2022 is illegal, invalid, and contrary to established principles of justice, equity, and good conscience.
  - ii 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 Orders as per the Regulation 20.5, should be consistent with the Commission's Regulations and Orders of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) regulation 2020, 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."*
  - iii The Applicant is also relying on Regulation 9.4 of the CGRF & EO Regulation 2020. The Regulation 9.4 is reproduced below:

  
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*“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.”*

- iv The Applicant has not changed his use and there is nothing on record proved by the Respondent that the Applicant has changed his use.
- v The Applicant is submitting the following fresh evidence under Regulation 22 of the CGRF & EO Regulation 2020 which was not within his knowledge earlier.

(1) RTI application reply from the Information officer from the O/o of the Commission.


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

- vi 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 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 consumer. The date of the Commission orders and the case numbers are given below:

- (i) *MERC Order dated 01-08-2018, in Case No. 68/2018.*
- (ii) *MERC Order dated 01-08-2018, in Case No. 67/2018.*
- (iii) *MERC Order dated 20-04-2018, in Case No. 127/2016.*
- (iv) *MERC Order dated 03-02-2014, in Case No. 51/2013.*
- (v) *MERC Order dated 31-07-2017, in Case No. 141/2015.*

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 Vs Maharashtra State Electricity Distribution Co. Ltd. The extracts from the order are reproduced below, refer page No.14;

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

  
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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.*”

vii The Applicant has also relied upon the Judgement dated 01.08.2018 of Bombay High Court, in Writ Petition No. 8712 OF 2018, of M/s. Maharashtra State Electricity Distribution Co. Ltd. Vs Dr. Shri. Girish Dadasaheb Dadwad & Anr. The portion from this order is reproduced below, refer page No.7 and 8;

*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.*

A copy of the register, obtained under the RTI Act, by the consumer representative from the Panvel City Municipal Corporation. The Applicant consumer, after receipt of the Nursing Home / Hospital Certificate on August 2012 from the competent

  
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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 August 2012.

viii As per Section 45 of the Act, the Distribution Licensee can recover the charges as per Tariff fixed from time to time. In case it recovers excess amount, then as per Section 62 (6), the same has to be refunded along with interest. The excess amount is collected by the respondent due to wrong tariff applied by the respondent, and it is therefore prayed to allow the claim of the Applicant towards the tariff difference refund amount, from May 2019 to May-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.

4. The Respondent has filed its reply by email dated 23.03.2023. Its submission and arguments are stated in brief as below:

- (i) The Applicant has filed this present Application for Review of the Order dated 03.02.2023 of this Hon'ble Electricity Ombudsman passed in Representation No. 189 of 2022. This Review application is filed under Regulation 22 of MERC's CGRF & Ombudsman 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 at the time when the original order was passed.
- (ii) The impugned order was passed by giving hearing and sufficient time to both the parties. The Applicant had sufficient time; at that time it was possible for him to produce all evidence as mentioned in Para 3 (v), the documents received under RTI Act. but he did not take due efforts at that time, and now he has filed a Review without any new important evidence. The review 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 Ombudsman on this ground alone.


  
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- (iii) The Hon'ble Ombudsman has passed the Order dated 03.02.2023 as per the rules and regulations, hence there is no mistake or error in the order. Therefore this Review application ought to be rejected.

Reply on Merits:


- (iv) **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 02.05.2006 for commercial purpose vide Consumer No. 028652899996 as per the consumer's own request application for a new connection under commercial category. At the time of release of this connection, the activity of the 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.**
- (v) 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 connection of the Applicant was released for commercial 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.
- (vi) 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 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.
- (vii) 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

  
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of MERC (CGRF and EO) Regulations, 2020. Hence this Review application ought to be rejected on this ground alone.

- (viii) 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 years he has applied to the Respondent on 02.06.2021 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 2019 as claimed by him.** Hence, the Respondent cannot refund the tariff difference retrospectively.
- (ix) The original connection to the Applicant was released in the name of an individual person at the premises bearing Shop No. 1, Mehta Society, Plot No. 23, Sector 8, Kalamboli & 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.
- (x) The Applicant is relying upon the certificates of its hospital activity, and has applied on 02.06.2021 for refund of tariff retrospectively from May 2019. 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 of CGRF order. Hence the review application of the Applicant is not maintainable.
- (xi) The Applicant did not intimate the Respondent immediately after getting the certificates of hospital activity. He intimated only in June 2021 for the first time, and as per his request 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. Therefore at this late stage the Applicant cannot claim refund of tariff difference due to his own mistake and negligence.
- (xii) The Forum has considered all these aspects and allowed the tariff difference only from the date of application, and 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

  
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case, and hence no interference is needed in the order of the Forum, and has accordingly upheld the Forum's order.


- (xiii) 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. 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 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 August 2012. 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 2012, he should have applied for the correct tariff category much earlier than his actual application made on 02.06.2021.

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.

  
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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.

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.-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 only 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, where he has represented hospital related cases for Public Services-Others tariff category.

10. 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.

11. After getting the original connection for commercial 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.

12. In brief, the main argument of the Applicant 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

  
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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 since August 2012 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 02.06.2021, the tariff category was changed from LT I to LT VII (B) Public Services – Others from September 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 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 2012 to 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

  
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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.

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;*
- (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 189 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 undersigned has power to review its ruling to correct a patent error and not a minor mistake of inconsequential import.

  
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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: -

*“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.”*

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)  
Secretary  
Electricity Ombudsman Mumbai

