

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 31 OF 2021

In the matter of reduction in Sanctioned Load and Power Factor Penalty

Smt. Dipali Punit Kankaria (User) Appellant
(D.R. Shah and Sons, Consumer)

V/s.

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

Appearances:

Appellant : S. M. Kankaria, Representative

Respondent: P.R. Babarekar, Acting Executive Engineer, Mulshi

Coram: Deepak Lad

Date of hearing: 11th June 2021

Date of Order: 2nd July 2021


ORDER

This Representation is filed on 20th April 2021 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations 2006) against the Order dated 1st March 2021 passed by the Consumer Grievance Redressal Forum, MSEDCL Pune Zone (the Forum).

2. The Forum, by its order in Marathi dated 01.03.2021 has given following directions:

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3. ग्राहकास पाँवर फॅक्टर पेनाल्टी ं [ns&Ivh ha Reg. No. 12 of MERC (Electricity Supply



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Secretary
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3. Aggrieved by the order of the Forum, the Appellant has filed this representation stating in brief as under: -

- (i) D.R. Shah and Sons is an industrial consumer (No. 182920001263) from 22.01.2011 with Sanctioned Load (SL) of 60 HP and Contract Demand (CD) of 60 KVA at Gut No. 411, Plot No. 50, Behind Mahale Filter, at post Urawade, Tal. Mulshi, Dist. Pune. The Appellant, Smt. Dipali Punit Kankaria, has purchased this property by registered deed dated 08.03.2019 and the Appellant is User/Owner of the electric connection. Hence, the Representation was signed by both the parties.
- (ii) The Appellant applied for reduction of load from 60 HP to 20 HP on 21.08.2018. The Executive Engineer, Mulshi division of the Respondent vide its letter dated 06.12.2018 has sanctioned load reduction and effect of the same was given in the bill of March 2019 onwards.
- (iii) The Appellant, by her letter dated 20.04.2019 has informed that the power supply is not used / very less used from April 2018 to March 2019. The Appellant requested to withdraw the Power Factor (PF) penalty and demand charges for the said period. There was no response from the Respondent.
- (iv) The Appellant filed the grievance application in the Internal Grievance Redressal Cell (IGRC) on 31.12.2019. The IGRC by its order dated 29.09.2020 directed to revise demand charges from the date of load sanction (i.e., 06.12.2018) with waiver of interest and Delayed Payment Charges (DPC).
- (v) The Appellant approached the Forum on 10.11.2020. The Forum, by its order dated 01.03.2021 has directed to waive of the demand charges billed from December 2018 to February 2019. The Forum has also directed to waive of the interest and DPC for the disputed bills. The Forum refused to revise PF penalty.


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- (vi) The Appellant stated that there is no use / minimum use of supply in the industrial unit. The PF penalty is charged considering the total amount of unit consumed and demand charges. The PF penalty is necessary to be charged on the amount of unit consumed only as there is minimum use in the industrial unit.
- (vii) The load reduction of the Appellant is supposed to be done within two months from the date of the application; however, it was done on 06.12.2018.
- (viii) The Respondent billed the Appellant with Power Factor Penalty and Demand Charges for the period from June 2018 to February 2019.
- (ix) The Appellant prays that the Respondent be directed:
- (a) to consider load reduction of 20 HP after two months from the date of application for load reduction i.e., 21.08.2018 and revise the bill accordingly without any DPC and Interest.
- (b) To cancel the PF penalty from June 2018 to February 2019 due to minimum use.
- (c) To compensate Rs.1,00,000/- towards mental agony and harassment since last two years.
4. The Respondent filed its reply by email dated 08.06.2021 stating in brief as under: -
- (i) The Appellant is an occupier and having the industrial connection bearing Consumer No. 182920001263 with SL of 60 HP and CD of 60 KVA at Gat No. 411, at post Urawade, Tal:Mulshi, Dist. Pune.
- (ii) The Appellant applied in handwritten application for reduction of load from 60 HP to 20 HP on 21.08.2018. Subsequently, it is seen from the record that on the Respondent's online portal an application No.16169909 dated 29.10.2018 was registered for the load reduction.
- (iii) The Executive Engineer, Mulshi of the Respondent vide its letter dated 06.12.2018 has sanctioned this load reduction. The demand notice for process fee with GST of Rs.590/-was issued to the Appellant immediately. The Appellant paid the said amount on 23.01.2019. The same order was followed and implemented in March 2019.


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- (iv) The PF incentive / penalty is applied as per the tariff order of the Maharashtra Electricity Regulatory Commission (the Commission) then in force.
- (v) Appellant has applied through RTI the information of PF penalty levied. The same was replied by Public Information Officer of the Respondent giving information about its slabs of PF penalty and incentives to the Appellant.
- (vi) The Appellant filed the grievance application in the IGRC on 31.12.2019. The IGRC by its order dated 29.09.2020 directed to revise demand charges from date of load sanction dated 06.12.2018 and waive interest and DPC.
- (vii) The Appellant approached the Forum on 10.11.2020. The Forum, by its order dated 01.03.2021 has directed to waive of the demand charges billed without interest and DPC from December 2018 to February 2019. The Forum rightly rejected to revise PF penalty as per Regulation 12 of Maharashtra Electricity Regulatory Commission (Electricity Supply and Other Conditions of Supply) Regulation 2005 which states that maintaining PF is solely the responsibility of the Appellant. Hence, the issue of bill revision with respect to PF does not arise.
- (viii) Further the Appellant expects Bill Revision including Demand Charges for the period of processing his request application of reduction of load. In this regard it is to humbly submit that in no case demand charges of a live consumer can be waived of during processing period.
- (ix) The Appellant through her prayer intends bill revision beyond the scope of Tariff Order and beyond MSEDCL'S set Rules and Protocol. The Appellant was counselled many times regarding these Rules and Regulations however she failed to understand and went on Forum shopping.

5. The hearing was held on 11.06.2021 through video conferencing due to Covid-19 epidemic and the conditions arising out of it. The Appellant reiterated its submission and stressed that power consumption being very less, PF penalty may please be calculated on energy charges only and demand charges may not be considered in it. Further, the Respondent failed to appreciate that application for load reduction was given on 21.08.2018. However, the Respondent gave effect of load reduction from March 2019 which has caused injustice to her. Therefore, the effect of load reduction needs to be given from October 2018.


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6. The Respondent on the other hand argued that the application handwritten in a highly haphazard manner not worth entertaining was received on 21.08.2018. However, on the same day, the Appellant was suitably advised to submit some documents. Therefore, this application dated 21.08.2018 was an incomplete application. Moreover, the Appellant submitted application on 20.04.2019 about PF charges. This application is duly signed and stamped by the Appellant. Therefore, the Respondent acted upon the online application dated 29.10.2018 for reduction of load and sanctioned it on 06.12.2018. Demand note was also issued on the same day for processing fee which is paid by the Appellant on 23.01.2019. Effect of load reduction was passed from December 2018 as per the order of the Forum. However, the Forum rejected the prayer of the Appellant with respect to PF calculation on the basis of energy consumption. Nothing survives in the application and therefore, the Representation may please be rejected.

Analysis and Ruling

7. Heard the parties and perused the documents on record. On bare perusal of the application of the Appellant dated 21.08.2018 for reduction of load, anyone would conclude that it is not an application at all. It has been written so shabbily and without mentioning the details in a manner the application deserves to be drafted, particularly when it is addressed to a public authority for suitable action in favour of the applicant. In my honest opinion, this application is not worthy of being considered for any action. However, once accepting such an application, the Respondent ought to have acted immediately and taken it to its logical end but Respondent miserably failed in genuinely applying its mind to the entire case. Therefore, the Respondent cannot escape from the responsibility of acting diligently on the application of the Appellant.

The Appellant who is a consumer having sanctioned demand of 60 KVA running a business worth its name and must have been paying handsome amount of energy bill to the Respondent, is not expected in all probability to submit such an application in the way it has been drafted and submitted. While comparing this application with the other application


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dated 20.04.2019, it is seen that the later one is more precise and duly signed and rubber stamped. The action of the Respondent in considering the online application dated 29.10.2018 though prima facie appears to be correct, the Respondent being a public utility engaged in service to the consumers at large, failed to immediately point out the shortcoming in the said application dated 21.08.2018 to the Appellant which it has admitted having been received by its office. No such correspondence has been brought on record by the Respondent. Further, it has not been clarified as to who has uploaded the application for reduction of load on the online portal of the Respondent.

Therefore, equity demands that the justice must be met in favour of the Appellant and as such, application dated 21.08.2018 is a valid application for further action by the Respondent. It therefore follows that the reduction in load is supposed to have happened within two billing cycles from 21.08.2018 as per the SOP Regulations 2014. Effective date / billing month for the reduced load would therefore be from November 2018 billing cycle.

As regards prayer of the Appellant to revise PF penalty considering its actual power consumption, it does not go in sync with the tariff order of the Commission. Excerpts from the relevant tariff order with respect to PF incentive /penalty is quoted below: -

Tariff Order of the Commission in Case No. 195 of 2017 dated 12.09.2018 (Pg. No. 626)


“Power Factor Incentive

6. Whenever the average Power Factor is more than 0.95 lag and upto 1, an incentive shall be given at the rate of the following percentages of the amount of the monthly electricity bill, excluding Taxes and Duties:” (emphasis added)

“Power Factor Penalty

Whenever the average PF is less than 0.9 (lag or lead), penal charges shall be levied at the rate of the following percentages of the amount of the monthly electricity bill, excluding Taxes and Duties:” (emphasis added)

The same clauses as quoted above are there in the Commission’s order dated 03.11.2016 in Case No. 48 of 2016 (Pg. No. 573)


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It clearly means that the Commission has stipulated the amount of the bill to be considered for levying PF incentive or penalty. There is no scope for distribution licensee / Respondent to interfere in it. Therefore, request of the Appellant to calculate PF penalty only on the energy charges cannot be accepted.

8. In view of the above, I pass the following order: -

- (a) Reduction of load from 60 HP to 20 HP to be considered from the billing month of November 2018 and bill to be revised accordingly without any DPC and interest.
- (b) The credit on account of (a) above to be passed on from the ensuing bill of the Appellant.
- (c) Request to revise the bill considering PF penalty on the energy charges only is rejected.
- (d) Other prayers of the Appellant are rejected.
- (e) The Respondent is directed to re-visit the calculation of PF penalty levied in the month of September 2018 and October 2018 and act accordingly.
- (f) Compliance of the order to be submitted within two months from the date of the order.

9. The order of the Forum is modified to the extent above. The Representation is disposed of accordingly.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


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