

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 72 OF 2019

MSEDCL, Through its Executive Engineer

vs.

The Electricity Ombudsman, Nagpur and another

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. S. V. Purohit, counsel for petitioner.

CORAM : MANISH PITALE J.

DATED : 10/02/2020

By this writ petition, the petitioner Maharashtra Electricity Distribution Company Ltd. has challenged order dated 09/07/2018, passed by the respondent No.1, the Electricity Ombudsman, whereby direction has been given to the petitioner to pay compensation to respondent No.2 amounting to Rs.20,000/- for allegedly having caused harassment and agony to respondent No.2.

2. The respondent No.2 applied for electricity connection and his application was complete in all respects on 30/03/2017, for which he deposited the requisite amount of Rs.5000/-. This application was placed on record in chronological order by the petitioner as provided under Regulation 4.1 of the relevant Regulations. The respondent No.2 raised a grievance before the Internal Grievance Redressal Cell (IGRC) to the effect that he was suffering harassment due to failure on the part of the petitioner to provide electricity

connection, despite the fact that the application was complete in all respects and the requisite amount had been paid. The petitioner explained before the IGRC that the application of respondent No.2 was under consideration as per the relevant Regulations and that the electricity connection would be provided immediately, as soon as the number of the respondent No.2 in chronology was reached. The IGRC disposed of the application by directing that the respondent No.2 to give electricity connection as per his turn.

3. Aggrieved by the same, the respondent No.2 filed an application before the Consumer Grievance Redressal Forum of the petitioner company i.e. CGRF. The CGRF by majority held that the respondent No.2 had failed to make out any case for grant of compensation and thereby dismissed the application of respondent No.2. It was specifically recorded by the majority members of the CGRF that the application for grant of compensation was not filed within the period of limitation of 60 days as stipulated in proviso to Regulation 12.2 of the relevant Regulations and further that Regulation 4.1 thereof specifically provided that electricity would be supplied to the applicants in chronological order of receipt of such application.

4. Aggrieved by the said order of the CGRF, on 04/06/2018, the respondent No.2 submitted a representation before the Ombudsman. By the impugned order dated 09/04/2018, the Ombudsman

directed the petitioner to pay compensation to respondent No.2 of Rs.20,000/- for the harassment and agony suffered by him. The Obudsman gave following reasoning for passing the said order.

“5. It is important to note in this case that Shri. Babhulkar had applied to the MSEDCL for a new agriculture connection for his pump set on 02/03/2017. the application was complete in all respects by 30/03/2017. As per the Maharashtra Electricity Regulatory Commission (Standard of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (SOP Regulations), whereby supply of electricity to a premise requires extension or augmentation of distribution mains, the Distribution Licensee shall give supply to such premises within three (3) months from the date of receipt of the completed application and payment of charges. (Regulation 4.8) and Appendix ‘A’ to the regulation. Under these regulations the appellant is liable to receive compensation of Rs.100/- per week from 30/06/2017 until the actual receives the connection. However, Regulation 12 of the said Regulation also states that a person affected by the failure of the Distribution Licensee to meet the standards of performance specified under these Regulations has to file this claim for compensation within 60 days from the time such a person is affected. In the present case, the appellant has filed his claim for such compensation on 06/10/2017, that is, more than 2 months beyond the last date prescribed for such filing. The CGRF therefore correctly dismissed his claim for compensation. The fact remains however that the MSEDCL have failed to meet the standard of performance as specified in the SOP Regulations, 2014, Due to such failure, the appellant still remains

without electricity and has been put to a lot of harassment and agony on account of not only the lack of electricity, but also for having had to engage in litigation and travel for approaching various authorities. He deserves to be compensated for harassment and mental agony and for unnecessary costs incurred.”

5. Aggrieved by the impugned order passed by the Ombudsman, the petitioner filed the present writ petition and on 25/01/2019, this Court issued notice and granted ad-interim stay to the petitioner, on the basis of statement made on behalf of the petitioner that electricity connection would be provided to respondent No.2, as soon as possible and in any case within a period of six months.

6. The respondents, including contesting respondent No. 2, were served in the present writ petition, but the said contesting respondent chose not to appear before this Court despite service.

7. In this situation, the learned counsel for the petitioner was heard. It was pointed out on behalf of the petitioner that the majority opinion of the CGRF had correctly taken into account Regulations 4.1 and proviso to Regulation 12.2 of the relevant Regulations to hold that respondent No.2 was not entitled to any amount towards compensation. It was further submitted that the respondent No.2 would be supplied with electricity connection in terms of the chronological order and that

in any case during the pendency of the present writ petition electricity connection had been supplied to respondent No.2. On this basis, it was submitted that the impugned order passed by the Ombudsman deserved to be set aside.

8. A perusal of the above quoted paragraph 5 of the impugned order passed by the Ombudsman shows that even though findings were rendered in favour of the petitioner to the effect that the application for compensation was not made by respondent No.2 within the period of 60 days specifically stipulated under proviso to Regulation 12.2, yet direction was given to the petitioner to pay compensation for the alleged harassment and agony suffered by respondent No.2, not only due to lack of electricity connection, but also because the respondent No.2 had to engage in litigation before various authorities to raise his grievance. The impugned order passed by the Ombudsman appears to be self contradictory, having held that the application for grant of compensation was submitted by the respondent No.2 beyond the period of limitation and essentially agreeing with the findings given by the majority opinion of the CGRF, the Ombudsman could not have proceeded to issue direction for payment of compensation of Rs.20,000/- to respondent No.2 for the alleged harassment and agony suffered by him.

9. In any case, a proper reading of Regulations 4.1 and proviso to Regulation 12.2 of the relevant

Regulations, as was done by the CGRF, would show that the respondent No.2 was not entitled to any amount towards compensation, as his application for grant of electricity connection was required to be considered in chronological order. It was not even the grievance of respondent No.2 that some other applicant had jumped the queue and that the petitioner had granted electricity connection to an applicant who had applied after the respondent No.2. In the absence of any such allegation, much less any such material against the petitioner, there was no ground made out for grant of compensation to respondent No.2.

10. The Ombudsman clearly erred in passing the impugned order and in giving the aforesaid direction to the petitioner. In any case, since the respondent No.2 has been granted electricity connection and it is perhaps for the said reason that he has chosen not to appear before this Court, the impugned order passed by the Ombudsman is found to be unsustainable.

11. In view of the above, the writ petition is allowed and the impugned order passed by the Ombudsman is quashed and set aside.

JUDGE