
**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Sub: Petition against impugned order dated 20.07.2022 passed by M.P. Electricity Consumer Grievances Redressal Forum Jabalpur and for compliance of order dated 11.10.2022 of Hon'ble High Court of Jabalpur M.P.

ORDER

(Date of Order: 30thDecember' 2022)

M/s. Balaji Minerals, Katni, : Petitioner

V/s

**Electricity Consumer Grievances Redressal Forum, : Respondent
(ECGRF) Jabalpur**

None appeared on behalf of the Petitioner.

1. The subject petition is filed by the petitioner against impugned order dated 20.07.2022 passed by Electricity Consumer Grievances Redressal Forum, Jabalpur and in pursuance to Hon'ble High Court Jabalpur bench, order dated 11/10/2022 in WP No. 21280/2022, whereby Hon'ble Court on request of the petitioner itself, has allowed him to approach the Commission.
2. The brief facts of case are as under :-
 - i. The matter pertains to billing dispute. The petitioner, aggrieved by ECGRF's order dated 20/07/22 in case no 338 and notice issued by East Discom vide letter dated 16/08/22, filed a Writ petition bearing no. 19391/22 before Hon'ble High Court, Jabalpur bench and submitted that review against the Forum order dated 20/07/22 is pending before the Forum and therefore, direction may be issued to Forum to decide the review as expeditiously as possible. Hon'ble High Court, vide order dated 29/08/22 in WP 19391 directed the Forum to decide the matter within 30 days, however, the Court has not expressed any opinion on merit of case.
 - ii. Subsequently, the Forum vide its order dated 07/09/22 had refrained itself from entertaining the review application on the ground that there is no provision in Regulations to entertain any review application.
 - iii. In subsequent development, petitioner has again filed a Writ petition bearing WP No. 21280 of 22 before Hon'ble High Court, Jabalpur bench. In the matter, vide daily order dated 19/09/22, Hon'ble Court observed that the Counsel for petitioner is

required to satisfy this Court that there is no further statutory remedy available in the Electricity Act 2003. Subsequently, having considered the request of petitioner that he intends to approach MPERC for redressal of his grievance including filing of an interim application, Hon'ble High Court vide order dated 11/10/22 has disposed of the WP 21280/22 with directions that if the petitioner approaches the authority within stipulated period of time, the authority shall consider the same in accordance with Law as also consider interim application, if any and pass necessary order.

3. In the instant petition, following relief is sought by the petitioner :
 - i. *The appellant is praying for immediate stay order and restore the electricity supply which was disconnected for a long days.*
 - ii. *The appellant has prayed for interim reliefs which restore the electricity supply and maintain status quo as per last condition of the billing cycle.*
 - iii. *That, appellant has also request for any interim relief which secure his business interest and earnings and any law binding direction to the respondent department for not taking any conceive action against the appellant, during the pendency of the application.*
4. At the motion hearing held on 13.12.2022, the name of petitioner was called repeatedly and during proceedings even after pass over twice the Petitioner failed to appear before the Commission. Therefore, the Commission, vide daily order dated 19/12/22, reserved the case for order with directions that in light of the order of the Hon'ble High Court, the Petition shall be examined in terms of provisions of law regarding admissibility of petition and appropriate order shall be passed.

Commission's findings and Observations

5. This petition is primarily based on a billing dispute that cropped up due to impugned demand raised by the East Discom. It is notable that Section 42 of the Electricity Act, 2003 has provided mandated statutory remedy which is an alternative and efficacious remedy of all such disputes as may arise between the consumer and Distribution licensee. Further, sub-section (5), (6) and (7) of section 42 of the Act envisage such alternative efficacious remedies in the hierarchy of Electricity Consumer Grievances Redressal Forum, Electricity Ombudsman for effective redressal thereof.
6. The Commission, in exercise of the powers under sub-sections (5), (6) and (7) of section 42 read with clauses {r} and {s} of sub-section (2) of Section 181 of the Electricity Act, 2003, has notified Regulations known as MPERC (Establishment of Forum and Electricity Ombudsman for redressal of grievances of the consumer) Regulations, 2021 (for short MPERC Regulation).
7. It is provided in aforesaid MPERC Regulations to ensure further improvement in consumer services as also to provide timely and satisfactory resolution of consumer's grievances. The

aforesaid Regulations do provide redressal of complaint through Electricity Redressal Grievances forums (ECGRF) and Electricity Ombudsman for electricity services including billing dispute etc. arisen between individual consumers and Distribution licensee as specified under definition “Grievances” in Regulation 2.4 (m) as reproduced below :

- (a) *“Grievance” shall mean a dissatisfaction of the Consumer arising out of the failure of the Licensee to register or redress a Complaint and shall include any dispute between the Consumer and the Licensee with regard to any Complaint or with regard to any action taken by the Licensee in relation to or pursuant to a Complaint filed by the affected person. However, the matters falling within the purview of any of the following provisions of the Act will not form a grievance under these Regulations:*
- (i) *Unauthorised use of electricity as provided under Section 126 of the Act;*
 - (ii) *Offences and penalties as provided under Sections 135 to 139 of the Act;*
 - (iii) *Compensation related to accident in the distribution, supply or use of electricity as provided under Section 161 of the Act; and*
 - (iv) *Recovery of arrears where the bill amount is not disputed;*

8. Thus the petitioner herein has the mandated statutory remedy available of invoking the provisions of Section 42 sub-sections (5), (6) and (7) for preferring representation/complaint before the Electricity Consumer Grievances Redressal Forum and thereafter Electricity Ombudsman within stipulated time period as specified in Regulations. However, the petitioner has instead of exhausting the specific statutory remedy available to them has invoked writ jurisdiction of this Hon'ble Court by having preferred the aforesaid writ petition. It is pertinent to mention that under section 86 (1) (f) of the Electricity Act 2003, it is provided that SERC shall adjudicate upon the disputes between the Licensees and Generating Companies and to refer any dispute for arbitration.

9. Pursuant to Hon'ble High Court order dated 11/10/22 in WP 21280/22 whereby it is directed that if the petitioner approaches the authority within stipulated period of time, the authority shall consider the same in accordance with Law. This Commission has examined the legality of the matter referring to following relevant judgements of Hon'ble Supreme Court of India and Hon'ble APTEL as cited below :-

- i. Scheme of the Section 42 of the Electricity Act, 2003 has been dealt with by Hon'ble Apex Court in the case of **Maharashtra Electricity Regulatory Commission Vs. Reliance Energy Ltd.** and others (2007) 8 SCC 381 and observed as under:

“33.....Thus a complete machinery has been provided in sections 42 (5) and 42 (6) for redressal of grievances of individual consumers. Hence where a forum/ombudsman

have been created the consumers can only resort to these bodies for redressal of their grievances....”

- ii. The Hon’ble Appellate Tribunal for Electricity in the matter of Appeal No.220/2006 M/s Polypex Corporation Ltd. Vs. Uttaranchal Power Corporation Ltd. and others decided on 30-03-2007 has held that **“No petition/appeal/application lies before any Regulatory Commission or this Tribunal in respect of a billing matter”**.

10. Aforesaid pronouncement of Hon’ble Supreme Court and Hon’ble APTEL, has settled the legal position that the State Electricity Regulatory Commission has no jurisdiction to deal with a matter relating to billing disputes under provisions of the Electricity Act 2003 as has been raised by the petitioner in subject petition.

In light of the above, the subject petition is not admissible, hence dismissed and disposed of.

(Gopal Srivastava)
Member (Law)

(Mukul Dhariwal)
Member

(S. P. S. Parihar)
Chairman