

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 63 OF 2024

(REVIEW OF THE ORDER IN REPRESENTATION NO. 88 OF 2023)

In the matter of refund of infrastructure cost and compensation

Sourabh Kulkarni Review Applicant
(Sneh Residency Association)

V/s

Maharashtra State Electricity Distribution Co. Ltd. Sangli (U) Dn. Respondent
(MSEDCL)

Appearances:

Review Applicant: Sourabh Kulkarni, Promoter / Builder

Respondent : Satish Wankhede, Addl. Executive Engineer


Coram: Vandana Krishna [I.A.S. (Retd.)]

Date of hearing: 16th April 2024

Date of Order 7th May 2024

ORDER

This Review Application was received on 28.02.2024 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 29th January 2024 in Representation 88 of 2023 passed by the Electricity Ombudsman (Mumbai).


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Secretary
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2. The Electricity Ombudsman (Mumbai), by its order dated 29th January 2024 disposed of the Representation No.88 of 2023 with the following observation:

“The Appellant has executed the work under Dedicated Distribution Facility Scheme. At this juncture, this authority cannot change the work executed under Dedicated Distribution Facility Scheme into the NSC scheme.


The Forum has given a fair and reasoned order, which does not need any interference. The Representation is rejected and disposed of accordingly.”

3. Aggrieved by this order of the Electricity Ombudsman (Mumbai), the Applicant has filed this Review Application. The e-hearing was held on 16th April 2024 through Video Conference. Both the parties were heard at length. The Applicant’s written submissions and arguments are as below: *[The Electricity Ombudsman’s observations and comments are recorded under ‘Notes’ in brackets where needed.]*

(i) The Appellant is the promoter / builder / developer of “Sneh Residency Association” at S.No.69/08, Ashray Housing Society, Vijaynagar (West), Sangli. He applied for 11 electricity connections (residential flats: 10 & common use connection: 1) on 10.08.2022. The details of total load applied are tabulated below:

Table 1:

New Application for residential connections	Total applied Load as per Carpet Area (KW)	Demand on System considering PF 0.9 (KVA)	Existing Distribution Transformer (KVA)	Peak Loading on 100 KVA DTC	Work Involved	Estimated Cost under DDF Scheme (Rs.)
11	52.3	25.52	100	96%	Augmentation of 100 KVA DT to 200 KVA	4,25,970/-


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- (ii) The Respondent was duty bound to carry out the required infrastructure work of augmentation of 100 to 200 KVA Distribution Transformer Centre (DTC) for sanctioning of these 11 connections. However, the Respondent, by its letter dated 01.09.2022, informed that there is no scheme available for increasing capacity from 100 to 200 KVA. The said paragraph is reproduced as below:

“वरील विषयांस अनुसरून, आपला मे. स्नेह रेसिडन्सी अपार्टमेंट, सि.स.न. ६९/८, अश्रय हौसिंग सोसायटी, विजयनगर, सांगली येथील नवीन ११ वीज कनेक्शनचा (५२.३ K.W.) अर्ज या कार्यालयास प्राप्त झाला होता. संदर्भीय पत्र क्र.१ अन्वये सहाय्यक अभियंता शा.का.गव्हर्नमेंट कॉलनी यांचे अंदाजपत्रक या कार्यालयास प्राप्त झाले आहे. अंदाजपत्रकानुसार सदर ठिकाणी असलेल्या रोहीत्रावरती लोड शिल्लक नसल्याने सदर ठिकाणी रोहीत्र क्षमता १०० ते २०० KVA वाढविणे गरजेचे आहे. कंपनी कडे सध्यास्थितीत रोहीत्र क्षमता वाढविणे करिता योजना उपलब्ध नाही. तरी आपण सदर काम १.३% DDF या योजने अंतर्गत करू शकता. आपणास सदर काम १.३% DDF या योजने अंतर्गत करावयाचे असल्यास तसा अर्ज व रु.२००/- बाँड पेपर वरती १.३% DDF Agreement देण्यात यावे. तोपर्यंत आपला अर्ज या कार्यालयात प्रलंबित ठेवण्यात येत आहे याची कृपया नोंद घ्यावी.”

- (iii) The Respondent forced the Appellant to execute the infrastructure work under the Dedicated Distribution Facility (DDF) Scheme at his own cost by signing the DDF bond, since handing over the possession of the flats to the flat Owners along with electricity connections was at a crisis point.
- (iv) This review is preferred as there are some mistakes or errors appearing in the impugned order which will affect the decision of the original order. The following mistakes are pointed out in the order. [Note: The Appellant has pointed out some additional facts as below.]

A. New Project and not Redevelopment Project:

- (a) Background: The plot of land of Shri Dattatray Joshi's bungalow was purchased by the Applicant on 24.11.2020 (registration no. 30.03.2020). There was no redevelopment


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agreement between Dattatray Joshi & the Applicant. The Applicant initially applied on 03.11.2020 for construction permission under the name of Dattatray Joshi to save time as this was the transit period for change of ownership. The Applicant's name officially appeared on the 7/12 abstract on 22.01.2021 and then on 03.12.2021 he decided to apply for the building permission in his own name. The revised building permission (K-347/203/22-23) dated 20.07.2022 was in the name of the Applicant. He put on record the legal search report. The present project of the Appellant is a **new project and not redevelopment** as claimed by the Respondent. During the hearing, the Appellant explained that a redevelopment project gets higher FSI (incentive up to 30%) compared to a new project. In this case, he got the FSI of 1.1 only being a new project


- (b) The Appellant referred to the Unified Development Control and Promotion Regulations for Maharashtra State published by Urban Development Department of Government of Maharashtra on 02.12.2020. The relevant contents are as below:

“7.6 REDEVELOPMENT OF OLD DILAPIDATED/ DANGEROUS BUILDINGS:

*Reconstruction / Redevelopment in whole or in part of any building which has ceased to exist in consequence of accidental fire / natural collapse or demolition for the reasons of the same having been declared dangerous or dilapidated or unsafe by or under a lawful order of the Authority or building having age of more than 30 years, **shall be allowed subject to following conditions.***

7.6.1 Redevelopment of multi-dwelling buildings of owner / society.

i) FSI allowed for redevelopment shall be FSI of existing authorized building and 10% incentive FSI shall be allowed on the FSI, TDR, premium FSI etc. consumed in the existing building. This shall be subject to maximum building potential mentioned in Regulation No.6.1 or 6.3, as the case may be. However, in case of buildings belonging to EWS / LIG group, 10% incentive FSI or 10 sq.m. Built-up area per tenement, whichever is more,


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shall be allowed as incentive FSI. Such incentive FSI shall not be applicable for redevelopment of existing bungalow.

ii) In cases where carpet area occupied by residential tenement in the existing building is less than the carpet area of 27.87 sq.m., then such tenement shall be entitled for minimum carpet area of 27.87 sq.m., and difference of these areas shall be allowed as additional FSI without any premium.”


- (c) The Appellant argued that the present project of the Appellant is a **new project and not redevelopment and hence the rules framed by the Respondent for redevelopment are not applicable in the present case.**

B. MSEDCL’s provision for Infrastructure Development:

The Respondent in its circular No. 07949 dated 19.03.2019 in Point No. 2 states the following conditions for infrastructure development for release of electricity connections on urgent basis:

“(2) Development of Infrastructure under urgency by the applicant & refund of expenditure: -

- a. The developer/ applicant/ consumer or a group of consumers, can opt for development of infrastructure, on account of urgency, through Licensed Electrical Contractor (LEC) under MSEDCL supervision and claim refund of the expenditure, if so requested at the time of application of power supply.*
- b. MSEDCL will reimburse works cost of material with Erection/ Labor charges thereon (at the rate of 5% for Inside substation & 15% for outside substation works). The cost of material to be considered for refund will be as per cost data prevailing at the time of sanction of estimate.*
- c. The GST will be paid additional on the cost of material & erection charges, at the rates notified by Government on works contract, as per cost data at the time of sanction of estimate (presently 18%).*
- d. The refund of cost of material and erection charges will be made for only works carried out up to mains supply/ SFU.*


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e. *The refund of expenditure shall be carried out in five (05) equal installments. There shall be no delayed payment charges or interest liable and permitted over and above amount to be refunded. The refund of expenditure will be permitted only after the release of permanent power supply to project / consumer. In case of phase wise projects where a group of buildings are there in first or further phase, refund will be carried out only after completion of all works and release of permanent power supply to each building in the phase.”*


In view of the above conditions laid down in the circular of the MSEDCL, why were these said conditions not followed by the Respondent? The impugned order did not refer to this internal circular.

As per the above circular, it is clear that in case of phase wise projects where a group of buildings are to be constructed in first or further phase, refund will be given only after completion of all works and release of permanent power supply to each building. In the Applicant’s case, the first phase of C.S. No. 69/08 in the name of Sneh Residency has been completed, and now the further phases of C.S.No.69/04 in the name of Padmashree Residency and C. S. No. 69/13 in the name of Parimal Residency are going on. **When all these projects / phases will be completed, then why should the refund of infrastructure cost not be given?** [Note: This particular older scheme of refund was suspended from 23rd April 2018 to 2nd June 2023 due to some irregularities and misuse of the scheme.]

The Appellant also refers to Circular No. 14157 dated 21.05.2019 wherein it is stated that for remote and isolated areas, infrastructure cost should not be refunded, and that area should be kept for that consumer only.

Point no. 3 (2) of the impugned order is relevant where the Respondent states that

“This is a thickly populated area, and the Respondent is facing critical power system bottleneck as regards loading of transformers. This area is neither remote nor isolated, then why does the consumer have to bear the cost of infrastructure.”



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This indicates that in urban areas, the consumer does not have to bear the infrastructure expenses. In a densely populated area, if the MSEDCL cannot bear the cost of infrastructure, then what is the use of MSEDCL? Any private distribution licensee company can render this work of electricity distribution.

Similarly, the Appellant also refers to Circular No. 22197 dated 20.05.2008 where the area classification has been done into 'A' and 'B' categories, and the regulations for that area for the release of connections. It is based on the Hon'ble Supreme Court Order in Case No. 20340/ 2007, MERC Order dated 16.02.2008 in Case No. 56 / 2007. It also states that the MSEDCL should incur the infrastructure cost and if a particular consumer wants electricity connections urgently, then that consumer has to temporarily incur the expenses of infrastructure facility, for which refund should be done. *[Note: This clause of the circular mentions that a refund is to be given only after all the phases are completed. Since 2 of the 3 phases are still ongoing, this clause does not entitle the Appellant for refund at this stage.]*

The Appellant pointed out that the Respondent has released some other connections on this very Transformer (No. 4066503), even if it was loaded more than 80 %. It is a violation of its own circular. Actually, the DDF (Dedicated Distribution Facility) is limited to the concerned consumers only for their own projects, hence no connection can be released to other consumers on the said transformer. In this case augmentation of 100 KVA to 200 KVA was done by the Applicant at its cost under DDF Scheme, however there is no control of the Applicant on the release of connections. The Applicant claims that the MSEDCL is favoring one consumer (in case of Hari Vasudev Apartment) and not giving supply to another consumer. The working of the Respondent is suspicious. *[Note: The Respondent pointed out that Hari Vasudev Apartment is the project of the Appellant itself.]* *[Note: During the hearing, the Respondent gave an assurance that the augmented load would be used only for the Appellant's projects, up to the feasible limit.]*


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MSEDCL should study all the above referred circulars, so that after completion of the further phases, permanent electricity connections should be released, which then will be eligible for refund of the infrastructure cost.

- (v) In view of the above, **the Applicant prays that infrastructure cost incurred by the Applicant be refunded.** The amount claimed is Rs.6 lakh, as per the original representation. *[Note: We have examined the details of the cost estimate sanctioned by the Respondent. We find that out of the total estimate of Rs.3.34 lakhs, the refundable cost of material is only Rs.2.3 lakhs and labour charges of 23,000, i.e. total Rs.2.53 lakhs. Besides, the Appellant would have had to pay service connection charges.]*

4. The Respondent MSEDCL filed its written reply on 21.03.2024. Its submissions and arguments are as below: -


- (i) The Appellant is a promoter / builder / developer of Sneh Residency Association with details as mentioned in para 3 (i).
- (ii) It was necessary to install a new Distribution Transformer Centre (DTC) to augment the existing load from 100 to 200 KVA, as the existing 100 KVA Distribution Transformer (DT) was already overloaded (the peak load found 96 %). The new proposed load could not be released on this 100 KV DTC as this is a thickly populated area and the Respondent is facing a critical power system bottleneck as regards to loading of transformers. The Appellant claimed that the plot area is comparatively small and it is not possible to allot the required space for installation of a new DTC. Hence, an alternative was offered to the Appellant to augment the existing 100 KVA DTC to 200 KVA in order to release the connected load of 52.30 KW of Sneh Residency Association.
- (iii) The Appellant has raised an issue that this letter deliberately misinformed him that no scheme was available. The wording of this letter may have been misinterpreted, but the intention of this letter was clear and bonafide. No funds were immediately available at that time under the NSC scheme. The Respondent by its letter dated 01.09.2022 informed that there is no scheme available for increasing capacity from 100 to 200 KVA. The exact wording of this letter is captured in para


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3 (ii). The Respondent clarified that the Appellant was made aware that fund under the Scheme of “New Service Connections” was already utilized, and no further fund was immediately available for doing this particular infrastructure work. *[Note : There seems to be some contradiction between this statement and the Respondents letter dated 01.09.2022. This letter stated that currently no scheme is available to increase the capacity of the transformer. A detailed explanation that “funds under NSC were already utilized” was not given in this letter. All the options available vide various circulars were also not given in this letter.]* On the other hand, **the Appellant was in hurry to hand over possession to the flat purchasers and was in need of new connections immediately. Hence, the Appellant had knowingly chosen to carry out the infrastructure work under Dedicated Distribution Facility (DDF) Scheme.** At that point of time, he had the option to wait for the funds to be released in which case there would have been the benefit of refund but the cost of delay. The Appellant was fully aware of this cost benefit aspect, and chose DDF under which there was no delay, but also no refund eligibility. If he was not satisfied with this option, he could have approached the grievance redressal mechanism at that point of time. But, being in a hurry to release the connections to the flat owners, he knowingly chose to go ahead with the DDF Scheme at his own cost, rather than take the cost and risk of delay.

The content of notarized agreement of Declaration/Sammatipatra is reproduced as below:


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प्रतिज्ञापत्र / संमतीपत्र

यात मी सौरभ कन्स्ट्रक्शन तर्फे प्रो.प्रा. श्री. सौरभ संजय कुलकर्णी व.व.३० व्यवसाय-बिल्डर्स अॅन्ड डेव्हलपर्स रा. विजयनगर, सांगली ता. मिरज, जिल्हा. सांगली आज मुक्काम सांगली सत्यप्रतिज्ञेवर लिहून देतो की,


मी वरील पत्यावरील कायमपणे रहिवाशी असून, मी शहर कुपवाड येथील विजयनगर परिसरातील सव्ह न. ६९/८ यांचे एकूण क्षेत्र २९० चौ. मी. इतके असून यावर आम्ही "स्नेह रेसिडेन्सी" या नावाने अपार्टमेंट बांधकाम केलेले आहे. सदर इमारतीमधील नमूद केलेले फ्लॅट खालील व्यक्तीना विक्री केलेले आहेत.

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येणेप्रमाणे सदर इमारतीमधील फ्लॅट नं. एफ ०४ आम्ही विक्री केलेला असून त्याचे खरेदीदाराचे नावे म.रा.वि.वि.कं.लि. यांचेकडून घरगुती वापराचे नवीन विद्युत कनेक्शन मिळणेस माझी पूर्ण संमती आहे. त्यास कोणत्याही प्रकारची हरकत अगर तक्रार नाही. भविष्यात याबाबत काही हरकत अगर तक्रार निर्माण झ. आलेस त्याचे निवारण मी माझे जबाबदारीवर करीन. त्याची कोणतीही तोशिष मी म.रा.वि.वि.कं.लि. यांना लागू देणार नाही.

वरील संमतीपत्रातील संपूर्ण मजकूर माझे माहिती व समजुतीप्रमाणे खरा व बरोबर आहे. तो खोटा अगर चुकीचा आढळलेस भा.द.वि.स. १८६० चे कलम १९९, १९३(२), २०० नुसार शिक्षेस व दंडास पात्र राहीन.

- (iv) The circulars of the Respondent for Infrastructure Development for release of new connections which the Appellant has quoted, were already available on the website of the Respondent. The Appellant was fully aware of these circulars. The Respondent denies that the Appellant was deliberately misguided. The present stand of the Appellant is nothing but an "afterthought". The Appellant obtained the new connections speedily under DDF scheme. The Respondent did not take any statutory charges of the new service connections as per the Schedule of Charges prescribed by the Commission.



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- (v) The details regarding “redevelopment” of the existing building are already given in our say in the original Representation, which is reproduced below:

The Respondent reiterated that this is a case of redevelopment. As per the definition of redevelopment, when a multi-storied building comes up in place of an existing older property, it is redevelopment. While if the building comes up on a previously vacant land, it is a new construction. Shri Dattatray Shankar Joshi is the original owner of this bungalow property (Aashray Housing Society, C. S.No 69, Plot no.8, Vijay Nagar, Sangli). Shri Joshi was the consumer (No. 279940115960) from 15.08.1985. He decided to redevelop the said Plot by constructing a new multistoried building. He submitted an application to the Municipal Corporation for Building construction permission on 03.11.2020, and permission was received on 21.03.2021 vide letter no. K/254/2021/24.03.2021. The construction permission is kept on record. Meanwhile Shri Joshi made a registered agreement for sale of plot No.8 under C.S.No.69 with the Appellant / builder Shri Saurabh Kulkarni, and registered the sale deed on 22.01.2021. Later, the builder Shri Saurabh Kulkarni demolished the old building of Shri Joshi and constructed a multistoried building which is known as “Sneh Residency”. Hence Sneh Residency Construction Project comes under the definition of a “redevelopment” project, as the land of plot no.8 was already in use; it was not vacant. The existing residential category (Consumer No.279940115960) connection in the name of Shri Dattatray Shankar Joshi was changed to commercial category for construction purposes. A building more than 30 years old shall come under the “re-development” category. The old Connection given in the name of Mr. Dattatray Shankar Joshi (Con No.279940115960) was given on 15.08.1985, which directly shows that the said old bungalow was more than 30 years old. Hence this is a pure case of redevelopment. The Old Bungalow of Mr. Joshi was demolished and at the same place the construction of Sneh Residency Apartment was carried out. Hence this site comes under the redevelopment case.

- (vi) The New Connection Application Status Flow was already given in MSEDCL’s response when the original order of Case No. 88 of 2022 was decided. The Electricity Ombudsman has passed a reasoned and speaking order. The Respondent strictly follows the same.


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- (vii) The various orders regarding infrastructure development quoted by the Appellant are already available on the website. This is not a new fact of evidence. These circulars were already available on record while deciding this order. The Appellant is trying to confuse the Hon'ble Authority by taking a broken abstract of these Circulars only as an afterthought.
- (viii) The Respondent referred to the latest relevant Circular of Corporate Office dated 19.03.2021 regarding "Supplementary Guidelines for Infrastructure Development to Release New Connections". It is clearly indicated in Point No.4 as follows:-

"TO DETERMINE THE LAND FOR ELECTRICAL INFRASTRUCTURE IN REDEVELOPMENT CASES

*In Metropolitan or urban areas there are cases of redevelopment, the land for electrical infrastructure is considered as per new load. In such case, if adequate land is not available for new DTC, then land shall be acquired on Lease for new DTC limited to new additional load. For existing load, if physically, separated and if feasible then power supply to such entire premises shall be release on existing network in the area **by augmentation of existing DTC in the area instead of insisting for land for new DTC. The cost of such augmentation shall be borne by the developer in DDF scheme on non-refundable basis either by execution of work through LEC under MSEDCL 1.3% supervision or execution by MSEDCL in new connection/connection scheme after deposit of cost for such augmentation to MSEDCL.***


- (ix) Since the existing DTC was already overloaded, and the applicant was not providing sufficient land to install a new DTC, augmentation of the existing DTC was proposed under 1.3% DDF Scheme after the consent given by the Applicant on Rs. 200 Bond. The Respondent did not force him for giving the undertaking on stamp paper. The work to be done under DDF Scheme was the considered decision of the Applicant. The Respondent truthfully informed the applicant that the application of new connections would be pending for some period, and that there would be considerable delay due to non-availability of sufficient funds under the NSC Scheme. There is


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fast development going on in Sangli, Miraj & Kupwad Municipal Corporation areas and hence the electric load growth is also very high as compared to other areas. The resources of funds are comparatively limited.

- (x) The Applicant is also alleging that the MSEDCL is favoring one consumer (**in case of Hari Vasudev Apartment**) and not giving supply to other consumers. This claim is totally wrong, as this site is of **the Same Developers i.e. of Mr. Sourabh Kulkarni**. When the load was feasible on the same DTC, MSEDCL had already given connection to **Mr. Kulkarni's, Hari Vasudev Project on urgent basis without DTC augmentation or erection of new DTC**.
- (xi) When Applicant applied for new Connection to Sneh Residency Site on 10.08.2022, the load on the existing DTC was beyond 80 %, hence it was necessary to erect a new DTC or augment the existing DTC in order to give connections to Sneh Residency.
- (xii) If the Applicant had made available sufficient land for erection of a new DTC, then **it was possible to keep the DTC fully dedicated to them, as done in other cases**. Since the Applicant did not make available land for erection of a New DTC, augmentation to the existing DTC from 100 KVA to 200 KVA was done under 1.3 % DDF Scheme after taking the consent of the Applicant on Rs.200/- Bond.
- (xiii) The Appellant did not put up any new evidence which was not covered in the old order of the Electricity Ombudsman Mumbai. The submissions and arguments of the Appellant are nothing but repetitions.
- (xiv) A distribution Licensee has a Universal Supply Obligation (USO) under Section 43 of the Electricity Act, 2003 to supply electricity to any consumer within its area of supply who makes a demand. MSEDCL being a fully owned Government Company, relies for funds on Government Grants, and the same is worked out and approved on year to year basis. There is limitation on availing loans by MSEDCL. The Connections are released after following seniority list.
- (xv) It is observed that many consumers are approaching the Respondent with requests to carry out work on priority, and are ready to carry out the works under DDF Scheme, as there is urgency for handing over the Flats to owners. **The Respondent waived of statutory service connection**


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charges of each and every consumer in DDF Scheme, as infrastructure was created by the Developer. Normally a Developer offers a piece of land for the substation as required for the proper planning. The Appellant's Residential Scheme is in a thickly populated area and they were not able to provide land for their three schemes. The Respondent has facilitated own transformer centers in the interest of releasing the supply of the existing/ proposed projects.


- (xvi) The Respondent refers to the Tariff order of the Commission in Case of 322 of 2019 dated 30.03.2020 for service connection charges.

Service connection charges for new overhead connections as approved by the Commission				
Sr. No.	Category	As per case 195 of 2017 Existing Charges (Rs.)	Proposed by MSEDCL (Rs.)	Approved by the Commission (Rs.)
1	Low Tension (LT) Supply.			
	a. Single Phase			
	i For load up to 0.5kW	1000	1530	1300
	ii For load above 0.5kW and up to 7.5kW	1500	2230	1700
	b. Three Phase			
	i Motive power up to 27 HP or other loads up to 20 kW.	3500	8130	7200

- (xvii) In this case, the total Service Connection charges are about Rs. 81000/- as per the load given by applicant. These charges were waived off.
- (xviii) In view of the above facts, the Respondent prays that the Review Application of the Applicant be rejected with cost.

Analysis and Ruling


5. Heard both the parties and perused the documents on record. The Appellant is the promoter / builder / developer of Sneh Residency Association with details as captured in Table 1. The issues raised by the Applicant in this review application were discussed at length.


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6. The Appellant contended that the Respondent was duty bound to carry out the required infrastructure work of augmentation of 100 to 200 KVA Distribution Transformer Centre for sanctioning of his 11 connections having a total load of 52.3 KW. However, the Respondent, by its letter dated 01.09.2022, informed him that there is no scheme available for increasing capacity from 100 to 200 KVA. The Respondent contended that this letter's intention was to point out that, at that time adequate funds were not available under any scheme. The Appellant contended that the above work should have been executed under NSC Scheme, and should be implemented departmentally, as the said project was a "new development", and not "redevelopment". The Respondent forced the Appellant to execute the infrastructure work under the Dedicated Distribution Facility (DDF) Scheme at his own cost by signing the DDF bond, since handing over possession of the flats to the flat Owners with electricity connections was urgent and at a crisis point. Hence, he is eligible for refund of infrastructure cost, considering that the work was done under DDF Scheme forcibly, which was originally to be done under NSC scheme. In support, he has referred to various circulars of the Respondent- Corporate Office relating to infrastructure work for new connections. The Appellant said that the work of augmentation was not dedicated only for the Applicant. The local office cheated him, not giving proper information. He is eligible for refund of the amount spent under DDF Scheme for infrastructure development.

7. The Respondent contended that the existing 100 KVA Distribution Transformer was already overloaded (the peak Load was 96 %) during the preliminary joint survey. The new proposed load of 52.30 KW and demand of 25.52 KVA (as per demand factor) could not be released on this 100 KV DTC. Hence, it was necessary to augment the existing 100 KVA DTC to 200 KVA to release the connected load of 52.30 KW of Sneh Residency. This is a case of "redevelopment", as the residential housing scheme Sneh Residency was constructed on an original bungalow plot of Shri Dattatray Shankar Joshi, having a connection (No. 279940115960) from 15.08.1985. Building construction permission was received on 03.11.2020. Hence this construction project comes under "redevelopment project".



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8. There is a considerable waiting period for releasing new connections under the NSC Scheme under which the cost of infrastructure augmentation is borne by MSEDCL. To avoid this delay, the Developer knowingly chose to carry out the work under Dedicated Distribution Facility Scheme by paying 1.3 % supervision charges as per Scheme, by augmenting the existing 100 KVA Distribution Transformer to 200 kVA at the developer's cost. After completion of the DDF work the load was released on 13.06.2023. It appears that the applicant has repeated the same earlier narrative through the review platform.

9. We have examined the Appellant's arguments that the residential project is a new development and not "redevelopment". This issue was already examined in the original order. The Appellant focused on the issue that he purchased the bungalow property outright from Mr. Joshi, and did not give him any flat in Sneh Residency. He applied afresh for construction permission. This makes it a case of fresh development. On the other hand, the Respondent contends that it is immaterial whether he purchased the property outright or not; What is material is that on the same plot there was a bungalow earlier. Thus the plot was converted from a bungalow to a multi-storied building with its associated heavier load. The Appellant has executed the work under the DDF Scheme. At this juncture, this authority cannot change the work executed under DDF Scheme into the NSC scheme.

10. This review application is nothing but a repetition of the original representation, wherein the main issue raised by the Applicant is that this is not a redevelopment project. The issue as to whether the project is one of new development or redevelopment had not arisen at all at that time when the Applicant applied for 11 new connections. At that point of time, the scheme was sanctioned under DDF, irrespective of whether it was a case of new development or redevelopment. Therefore, the new development versus redevelopment issue is a secondary issue, so far as the review application is concerned. The main issue is whether the refund is eligible despite the sanction under DDF scheme. Answer is in the Negative. The reasons for which have already been given in detail in the original Representation No. 88 of 2023.


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11. Provision with respect to review of order 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 When the Electricity Ombudsman is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.”

12. The Review Applicant has not brought out any new issue which has not been dealt with in the impugned order, which is the primary requirement for a review of this order under Regulation 22 of the CGRF & EO Regulations 2020. We are of the opinion that all important issues in sum and substance have been covered in the original order. The scope of a review is limited. A mistake on the face of the record in the order need not necessarily be searched through a microscope; it should be clearly visible at


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first glance. The Applicant did not raise any new issue which can influence the decision of the original order, nor did it point out any mistake on the face of record of the order. The undersigned has the power to review its ruling to correct a patent error, and not a minor mistake of inconsequential import. 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.
- (b) Jain Studios Ltd v/s Shine Satellite Public Co. Ltd. reported in (2006) 5 SCC 501.

13. At the same time, we note with displeasure that the Respondent did not act in a transparent and responsible manner while issuing its letter dated 01.09.2022. This letter mentions that

कंपणी कडे सध्यास्थितीत रोहीत्र क्षमता वाढविणे करिता योजना उपलब्ध नाही. तरी आपण सदर काम १.३% DDF या योजने अंतर्गत करू शकता. आपणास सदर काम १.३% DDF या योजने अंतर्गत करावयाचे असल्यास तसा अर्ज व रु.२००/- बॉण्ड पेपर वरती १.३% DDF Agreement देण्यात यावे. तोपर्यंत आपला अर्ज या कार्यालयात प्रलंबित ठेवण्यात येत आहे याची कृपया नोंद घ्यावी.


This means the Respondent is withholding critical information from the consumer. Actually, the Respondent should inform the consumer about all options available as below:

1. Only the MSEDCL will bear all the infrastructure expenditure.
2. New Service Connection (NSC) where material and labour cost will be refunded.
3. DDF under which the entire infrastructure is to be borne by the consumer.

This would have given a fair opportunity to the consumer to select an appropriate option suitable to him, after considering the costs and benefits. A cost of Rs.10,000/- is hereby imposed on the Respondent on account of its irresponsible behaviour, which will be deposited with this office within the period of two months from the date of this order.

14. Considering all the facts on record, there is no discovery of new and important matters which would influence the original order, hence this review application is rejected and disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

