



# महाराष्ट्र विद्युत नियामक आयोग

## Maharashtra Electricity Regulatory Commission

Ref. No.FAA/2017/A-06 /Decision/dt.08.07.2017/4169

Date of RTI Application filed: 22.06.2017  
Date of Reply of PIO : 11.07.2017  
Date of receipt of First Appeal: 14.08.2017  
Date of Decision of First Appeal: 07.09.2017

### BEFORE THE APPELLATE AUTHORITY (Under the Right to Information Act, 2005)

Maharashtra Electricity Regulatory Commission, Mumbai

#### Appeal No. 06 of 2017

Mr. Rajesh Vishnu Adrekar ..... Appellant

- Vs -

PIO, MERC, Mumbai ..... Respondent

In exercise of the power, conferred upon the Appellate Authority by Section 19 (6) of Right to Information Act, 2005, the Appellate Authority makes the following decision:

#### Facts of the Appeal

- 1) The Appellant had filed an application dated 22.06.2017, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 11.07.2017 responded to the Appellant's Application. The Appellant has filed this Appeal on 14.08.2017 against the said response.
- 2) Before passing a decision, the First Appellate Authority has given an opportunity of personal hearing to the Appellant on 01.09.2017 by serving upon him a notice of hearing dated 16.08.2017. The Appellant and Respondent PIO made their oral submissions in the hearing held on 01.09.2017.
- 3) I have carefully considered the application, the response and the Appeal and find that the matter can be decided based on the material available on record.

- 4) Upon perusal of the Appellant's request for information as made through his application, I find that Appellant has sought information with respect to following queries: (i) Whether an investigation was undertaken on 27/09/2016 by the officer /officers of Reliance Energy in tandem with Police Department in the premises and the adjoining area/shop/unit/ gala/residence in connection to the alleged theft of electricity committed by Jetvan Sanskrutik Kendra Reg. No. 1373, Jetvan Buddha Vihar, Near Sector No.3, Muncipal Ground Charkop, Kandivali (West), Mumbai- 400067? if such an investigation was carried out (without or without police department) then please provide a copy of report of investigation / panchanaman. (ii) Whether a Provisional Assessment Order by the assessing officer was served to executive member / members of Jetvan Sanskrutik Kendra Reg. No. 1373, Jetvan Buddha Vihar, Near Sector No.3, Muncipal Ground Charkop, Kandivali (West), Mumbai- 400067 under section 126 consequent upon investigation carried out on 27/09/2016 by Reliance Energy on alleged theft of electricity by the said Sanskrutik Kendra? If a provisional Assessment Order was so served then provide the copy of the same. (iii) Whether any complaint was made in writing or otherwise about the alleged theft of electricity by Reliance Energy authorized officer or staff to the police station having territorial jurisdiction over the area where Jetvan Sanskrutik Kendra is situated? If such complaint or FIR was lodged the copy of the same to be provided to the applicant. (iv) Whether any Objection was filed by any Member of Governing Body of Jetvan Sanskrutik Kendra Reg. No. 1373 against provisional assessment to Reliance Energy? If such objection /statement was filed, then copy of such objection or statement. (v) Whether any Provisional Assessed amount by the Assessment officer was paid by any Member of Governing Body of Jetvan Sanskrutik Kendra Reg. No. 1373 pertaining to the investigation with regard to the alleged theft of electricity to Reliance Energy? If such assessed amount had been paid to Reliance Energy the payment receipt of the same. (vi) Whether any final order was passed within 30 days from the date of service of such order of provisional assessment of the electricity charges payable by any Member of Governing Body of Jetvan Sanskrutik Kendra Reg. No. 1373? If such Final Order was passed then copy of such Order to be provided. (vii) Copy of receipt of payment collected by the officer or Reliance Energy if any made by any Member of Governing Body by any Member of Governing Body of Jetvan Sanskrutik Kendra Reg. No. 1373 against alleged theft of electricity. (viii) On discovery of alleged theft of electricity committed by Jetvan Sanskrutik Kendra Reg. No. 1373 whether any compounding of alleged offence was done in favor by any officer authorized under Section 152 (1). If so the copy of receipt of sum of money under compounding of offence received from Executive Member / Members of Jetvan Sanskrutik Kendra reg. no. 1373 to be provided.

- 5) The Respondent PIO has replied in response to the above queries on 11.07.2017, stating that "This type of information not available with Commission office. However for your queries you may refer Electricity Act, 2003."
- 6) Without prejudice to the foregoing, upon a consideration of the Appellant's request for information as contained in his application in light of his Appeal, it would appear that Appellant had sought eight queries.
- 7) It has been observed that the PIO did not provide the factual information about the all eight queries, as it is not available in the office of the Commission; secondly the PIO neither transferred Appellant's Application to the proper authority under Section 6 (3) of the RTI Act. It is further noted that the information sought by the Appellant do not fall within the ambit of Section 8 of RTI Act, 2005, for exemption from disclosure of information.
- 8) Upon perusal of the Appellant's request for information as made through his application, I find that the information is related with the Reliance infrastructure Ltd. in this regard, I would like to note that, the information being sought by the Appellant is related to other public authority, in this regard, the Hon'ble CIC in the matter of *Shri Rakesh Agarwal vs. Shri. Nandan Singh* (Decision dated 13.01.2014 ) held that :  
*"The application under Section 6(3) of RTI Act can only be transferred if it has been made to a proper public authority under Section 6(1). When a petitioner is aware of the location of a given information visàvis a Public Authority, it is not open to him to file his RTI application before any Public Authority in the expectation that this latter Public Authority would act under Section 6(3) to transfer his application to where the information was known to be held."*
- 9) However, it is appropriate to mention that a decision passed in RTI Appeal No.20 of 2015, by this Appellate authority it has been observed that the 'Reliance Infrastructure Limited, vide its letter No. ED/RTI/512/2015 dated 07.08.2015 replied to the Appellant Shri. Mithun Kath, that they are of the earnest belief that they are not a "Public Authority" as defined under the RTI Act, and hence, the provisions of the RTI Act, 2005, are not applicable to them. They further, inform to Appellant that the Hon'ble Bombay High Court has stayed the Maharashtra State Information Commission's Order dated 19.07.2011, inter alia holding that R-Infra's Electricity Distribution Business is falling within the definition "Public Authority" as defined under the RTI Act, further, they have stated that in view of the above, they have not yet designated or appointed any Public

*Information Officer Or Appellate Authority for providing and / or dealing with request for information under RTI Act.'*

- 10) In view of the foregoing, it is/was not possible to invoke Section 6 (3) of the RTI Act, and transfer of the application of the Appellant to the Reliance infrastructure.
- 11) However, it is necessitated to make it clear that the PIO has to refer this factual position about the stay in the Reliance case as cited supra, in his Order. The PIO henceforth, directed to pass a reasoned Order and inform the applicants factual information / position in the RTI applications. Accordingly the Appeal is disposed off.
- 12) In case, the Appellant is not satisfied with decision, he/she may prefer a Second Appeal under RTI Act, 2005, within 90 days after the receipt of this decision before the State Information Commissioner, 13<sup>th</sup> Floor, New Administrative Building, Madam Cama Road, Opposite Mantralaya, Mumbai- 400 032.

**Decision**

The Appeal disposed off accordingly.



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**(Anilkumar Ukey)**  
**First Appellate Authority & Dy. Director (Legal)**  
**Maharashtra Electricity Regulatory Commission**

To  
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Copy to:

1. Mr. Pradeep Mohare  
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