



# महाराष्ट्र विद्युत नियामक आयोग

## Maharashtra Electricity Regulatory Commission

Order No. MERC/FAA/2019/APPEAL/03 OF 2019/515

Date : 21 May, 2019

Date of RTI Application filed : 18.03.2019  
Date of Reply of PIO : 16.04.2019  
Date of receipt of First Appeal : 25.04.2019  
Date of Order of First Appeal : 21.05.2019

**BEFORE THE APPELLATE AUTHORITY**  
**(Under the Right to Information Act, 2005)**  
**Maharashtra Electricity Regulatory Commission, Mumbai**

### Appeal No. 03 of 2019

Shri Pratap Ganapatrao Hogade

..... **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 18.03.2019, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 16.04.2019 responded to the Appellant's Application. The Appellant has filed this Appeal on 25.04.2019, against the said response.
- 2) Before passing an Order, the First Appellate Authority has given the Appellant an opportunity of personal hearing on 20.05.2019 by serving upon him a notice of hearing dated 30.04.2019. The Appellant and PIO were present in the hearing.
- 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, was as follows:

Page 1 of 3

*"Hon'ble High Court, Nagpur Bench had given Stay in the above mentioned subject matter to the MERC resolution dt. 4<sup>th</sup> Sept. 2018 vide its order dt. 12/10/2018. With reference to this High Court order I request the information as below:*

- (1) Either the Audio &/or Video recordings of the Hearings of the Commission are being done from /after dt.12/10/2018 or not?*
- (2) If being done, the details of all the concerned papers, office notes and approvals of the Commission for this purpose.*
- (3) If not being done, the reasons thereof along with all the concerned papers, office notes and details of the Approvals of the Commission for this purpose."*

5) **The Grounds of the Appeal:**

- (1) Information sought was not provided at all by the PIO.
  - (2) Only written as "Matter Subjudice" which is totally wrong & illegal.
  - (3) Information sought is regarding the implementation of the High Court Order.
- 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 has sought information, which is related with the Public Interest Litigation No. 129 of 2018 filed by Mr. Anil Wadpalliwar Vs. MERC before the High Court of Judicature at Bombay Nagpur Bench, Nagpur.
- 7) It has been observed from the record that, the PIO has given his response vide letter dated 16.04.2019 are as follows:-
- With respect to the query No. (1), (2) and (3) stated at para (4) *supra* that 'matter is subjudice before the Hon'ble High Court at Nagpur Bench.'
- 8) It is observed that the Appellant in his Application had sought the information regarding Order dated 12.10.2018 passed by the Hon'ble High Court in PIL No. 129 of 2018 which is subjudice before the High Court.
- 9) It is specifically mentioned that the Commission subsequent to the Order dated 12.10.2018 has filed its Affidavit- in- Reply dated 16.10.2018 before the Hon'ble High Court and has placed the factual position before the High Court that reflects in **para (i) & (ii)** under the little **"Implementation of Resolution dated 04.09.2018:"**
- 10) The queries raised in the present Appeal as stated *supra* at para (4) has already been addressed in the Affidavit- in- Reply filed by the Commission.

11) Since the subject matter under RTI Application is related to the Order dated 12.10.2018, and action taken in this regard, it is observed that the information sought is already in public domain in form of Counter Affidavit filed by the Commission in PIL No. 129 of 2018 in which the Order referred to the above was passed. The relevant extract of Counter Affidavit is as under :-

*“ (i) It is most respectfully submitted that the Resolution dated 04.09.2018 has already been given effect to and has been Implemented in totality. The audio/video recordings done till 04.09.2018 were eliminated on 05.09.2018 and the audio system with mics etc were removed on the same date.*

*(ii) The Commission has heard 132 number of matter since 05.09.2018, without the aid of any Audio/video recording of proceedings.”*

12) The above information has also been noted by the Hon'ble High Court of Judicature at Bombay Nagpur Bench, Nagpur in the said PIL No. 129 of 2018 in Order dated 22.11.2018.

13) Since the information sought was in public domain and the same has been provided by this First Appellate Authority, no further action is required in the matter. The Appeal and RTI Application in a question are disposed off accordingly.

14) In case, the appellant is not satisfied with decision, he may prefer Second Appeal under RTI Act, 2005 within 90 days from the issue of this decision before the State Information Commissioner, 13th Floor, New Administrative Building, Madam Cama Road, Opposite Mantralaya, Mumbai- 400 032.

**Decision**

The Appeal is disposed off accordingly.

  
21.05.2019

(Anilkumar Ukey)

**First Appellate Authority & Director, Legal (I/c)  
Maharashtra Electricity Regulatory Commission**

To  
Shri Pratap Ganapatrao Hogade,  
C/o. Maharashtra Veej Grahak Sanghatana,  
3/456/4, Kestij Building, Mahasatta Chowk,  
Sangli Road, Ichalkaranji, Dist- Kolhapur(Maharashtra),  
Pin- 416 115.

Copy to:  
PIO, MERC, Mumbai.

  
21.05.2019

(Anilkumar Ukey)

**First Appellate Authority & Director, Legal (I/c)  
Maharashtra Electricity Regulatory Commission**