



महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission



Order NO.-MERC/FAA/2023/Appeal/16of 2023/0665

Date:24.11.2023

Date of RTI application filed: 26.09.2023
Date of reply of PIO: 19.10.2023
Date of receipt of first appeal: 26.10.2023
Your request letter received: 09.11.2023
Date of order of first appeal: 24.11.2023

BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act,2005)
Maharashtra Electricity Regulatory Commission, Mumbai
Appeal No. 16 of 2023

Shri. Hemant V. Hatkar

.....Appellant

V/s

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 makes the following decision.

Facts of the Appeal

1. The appellant had filed an application dated 21.09.2023 under the Right to Information Act, 2005 (hereinafter referred to as RTI Act). The application was received at the office of the Commission on 26.09.2023. The PIO/Respondent, vide letter dated 19.10.2023, provided the information to the Appellant. Accordingly, the Appellant filed the First appeal on 23.10.2023 (received at Office of the Commission on 26.10.2023).

2. The First Appellate Authority has given the opportunity of a personal hearing on 07.11.2023 by serving a notice of hearing upon Appellant dated 01.11.2023. However, the Appellant again did not attend the hearing on 07.11.2023 despite receiving the notice on his given address through speed post on 03.11.2023.

Due to absence of Appellant, First Appellate Authority has given one more opportunity of personal hearing on 21.11.2023 by serving a notice of hearing upon Appellant dated 09.11.2023 which was received by the Appellant on 13.11.2023. However, the Appellant remained absent for the hearing on 21.11.2023 also. The PIO attended the hearing and made an oral submission.

3. Information sought by Appellant was as follows:

- A. *The Appeal registered with the Forum is to be disposed off within 60 day's only by default as per the Provisions of 5.2 of the Regulation. But the Reason recorded in ORDER shows" due to Heavy pendency of other cases, delay occurs". The reason is seems to be incorrect. Even Kalyan Forum & Electricity Ombudsman pass Appeal Order as per provision of 5.2 follow strictly. Please elaborate the role of Chief Engineer, Bhandup Zone, & M.E.R.C. office in this regard. Provide copy of action taken report as per Quarterly Statements (submitted the by Forum) showing status of delay and so on.*
- B. *The Schedule "A" authorised appointment of Consumer Representative to act in Appeal proceeding. However, Reason for Insisting the Forum to appear Applicant in person. (But In Selective case) Even Court is not insting for appear in applicant in person. It, is learnt that Secretary of Forum I enquire the Relationship of the Applicant & Representative and Fees charged. Please clarify Forum is really authorised to act as per the existing law is in force.*
- C. *The Case No.120 /22-23 Dr. Mrs. Tanuja R. Gokhale registered on 29.10.22 (314 days eleased) but no Order received till date. It appears that principle of "Delayed Justice Is Denied Justic" has been adopted to RESOLVED Grievances. Copy of my email in this regard is attached herewith for your perusal. No Reply.*
- D. *The Appeal Hearing Notice of the Forum clearly mentioned, if Applicant Not attended in Person on Scheduled Date, Ex party Order will be PASSED. Reason for offering*

further more & more chances though Respondent failed to attend nor Submitting his Say well in time as per Forum Notice. (VIOLATION) Hence delay occurs. Even Hon. Electricity Ombudsman is not giving SECOND chance to Applicant Consumer but passed the Order as per best of judgement & follow the provisions u/s 5.2 of Regulation for the quick disposal. Please explain in detail.

- E. The Forum Constituted Chairman, Secretary, Member as a Bench & decision of Chairman is Final. But in absence of Chairman, orders passed by Two Member can be proved to be legal or bad in law. Please explain in detail & Provide copy of Order if issued to Bhandup Forum (or by the Competent Authority) for Conducting Hearing by Other members excluding Chairman for passing such order's.*
- F. The Appeal Orders passed by the Forum in past period consisting Full Corum become a Precedence and binding for future period also Consisting Corum Secretary & Other Member only. However the said principle has been Overruled in Case No.143 of 2022 - 2023 Shri. Anni C. Shetti & other cases by (forcefully) adding provision 6.6 of the Regulation. Copy is enclosed for your perusal. Hence the right of Consumer is throne away Please elaborate the provisions of existing law is in force.*
- G. The Forum stop practice of sending Hard copy of appeal order to Applicant Consumer. The Reason is not known. Forum on the other hand insisting for application from Consumer for the same. Even Electricity Ombudsman is Serving Hard Copy of Order to the Applicant Consumer by default as per provision of the Act. In Order to prefer SECOND Appeal Copy is mandatory & compulsory. Please elaborate the Reason in detail as act of Secretary is lawful. Or your office has directed Forum Bhandup to stop old Practice of sending appeal order in Hard copy to the applicant consumer.*
- H. The duration of Secretary of the Forum from date of appointment. Long stay may be permitted by your office accordingly or not.*
- I. The Ombudsman office insisting the Applicant to submit his Say in words format instead of PDF file but by filtering reproduced in body of order. Even some grievances are delated. Court is not adopt such practice by recording as it is in body of Order. The act of Ombudsman office to filter Original grievance is correct or not as per law. By adopting such practice the Respondent get the real benefit instead of Consumer & consumer is suffer a lot. (deprived of his right, humiliation)*

4. Reply by PIO was as follows:

- A. *Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005. Copy of Action Taken Report is not available in downloadable format on Commission website. (www.merc.gov.in)*
- B. *Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005.*
- C. *This information is not available with the Office of the Commission.*
- D. *Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005.*
- E. *Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005. Copy of order is not available in the Office of the Commission.*
- F. *Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005.*
- G. *Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to*

provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005.

H. Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005.

I. Information asked is in question format. The Act does not expect the PIO to find answers for raised question. A Public Information Officer (PIO) is not expected to provide intangible such as interpretations, opinions, advices, explanations, reasons as they are not included in the definition of information in Section 2(f) of the RTI Act, 2005.

5. Reason for filling an Appeal:

Information not received.

6. The Appellant has approached the Commission by filing the instant Appeal to the Commission.

7. Upon perusal of the Appeal and oral submission of the POI during the hearing which was scheduled on 21.11.2023, this Authority is of the opinion that the information sought by the Appellant under point no. A, the PIO MERC is directed to provide the available information to the Appellant within 10 days from the date of this order without any cost. For point no. B to I, the information sought by the Appellant is in question format and forming interpretation, explanation, opinions, advices etc. shall not falls under the term Information as per section 2(f) of the RTI Act 2005.

8. In the light of the above, the Appeal filed by the Appellant for point no. A, the PIO MERC is directed to provide the available information within 10 days from the date of this order without any cost. For point no. B to I the appeal is dismissed.

9. 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-400032.

Decision

The PIO MERC is directed to provide the available information to the Appellant for point no. A within 10 days from the date of this order without any cost. For point no. B to I the appeal is dismissed.



Abhijeet Chatuphale
First Appellate Authority & Dy. Director (A&F)
Maharashtra Electricity Regulatory Commission

To,

Shri. Hemant V. Hatkar
05, Krishna Chandra CHS Ltd.
Phadke Road, Brahmin Society,
Thane (W), Pincode-400602.



Abhijeet Chatuphale
First Appellate Authority & Dy. Director (A&F)
Maharashtra Electricity Regulatory Commission

Copy to PIO of MERC for further necessary action.