

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 181 of 2023

Petition of Shri. Harshawardhan Raibhan Jadhav seeking action against Maharashtra State Electricity Distribution Company Limited for non-compliance of the MERC (Electricity Supply Code and Standards of Performance for Distribution Licensees, including Power Quality) Regulations, 2021 in regard to with metering requirements including calibration and testing thereof, etc.

Coram

Sanjay Kumar, Chairperson
Anand M. Limaye, Member
Surendra J. Biyani, Member

Shri. Harshawardhan Raibhan Jadhav : Petitioner
Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) : Respondent

Appearance

For the Petitioner: : Adv. Deepa Chawan
For the Respondent: : Adv. Kiran Gandhi

ORDER

Date: 8 January, 2024

1. Petitioner Shri. Harshawardhan Jadhav (Ex. MLA) has filed the Petition on 19 August, 2023 being Case No. 181 of 2023 seeking action against MSEDCL for non-compliance of the MERC (Electricity Supply Code and Standards of Performance For Distribution Licensees, Including Power Quality) Regulations, 2021 (MERC Supply Code Regulations, 2021) in regard to with metering requirements including calibration and testing thereof, etc. The present Petition is filed under Section 55, 57 to 59, 86 (1) and Section 142 of the Electricity Act 2003 read with provisions of MERC Supply Code Regulations, 2021.
2. **Petitioner's prayers are as under:**

- a. *admit the Petition;*
- b. *direct the Respondent, Distribution Licensee, MSEDCL to submit on Affidavit complete information relating to compliance with Regulation 22.14 and their adherence to statutory provisions for maintaining quality and reliability of supply and also compliance with CEA (Installation and Operation of Meters) Regulations, 2006, in the highest tradition of transparency.*
- c. *declare that infringement of Reg. 22.14 of the MERC (SC & SOP) Reg. 2021, has not been exempted by this Hon'ble Commission under proviso to Reg. 26 of the said Regulations and such continued infringement of the said Regulation amounts to non-compliance with the Statutory Regulations and contravention thereof making the Respondent, MSEDCL liable for action under Section 142 of the Electricity Act, 2003;*
- d. *declare that infringement by the Respondent, MSEDCL, of the stipulation of testing the consumer meters at site at least once in five (5) years as stipulated in Reg. 18 (2) of the CEA (Installation and Operation of Meters) Regulations, 2006, which have been made applicable under the MERC (SC & SOP) Reg. 2021 amounts to non-compliance with the Statutory Regulations and contravention thereof making the Respondent, MSEDCL liable for action under Section 142 of the Electricity Act, 2003;*
- e. *declare that the act of the Respondent, MSEDCL in self-proclaiming applicability of exemption to wriggle out of the mandatory stipulations under the MERC (SC & SOP) Reg. 2021, itself is an act of contumacious nature making the Respondent, MSEDCL liable under Section 142 of the Electricity Act, 2003.*
- f. *declare that the consumers of MSEDCL in the State of Maharashtra are entitled to compensation under the MERC (SC & SOP) Reg. 2021 and free to espouse their remedies therefor, disregarding the self-declaratory exemption erroneously claimed by the Respondent, MSEDCL.*
- g. *for costs and expenses of the present proceedings to the Petitioner.*
- h. *Pass such other order (s) as the Hon'ble Commission may deem just in the facts of the present case... ”*

3. Petitioners' submission is summarized as under:

- 3.1. Petitioner, Shri. Harshawardhan Raibhan Jadhav is a former Member of Maharashtra Legislative Assembly (“**MLA**”) from the constituency of the Kannad, Soygaon, District. Aurangabad.
- 3.2. Respondent, MSEDCL is Distribution Licensee under the Statutory Provisions and a State Entity.

- 3.3. Present Petition has been filed by the Petitioner on following laws, regulation and policies listed below:

| Sr. No. | Date of Notification | Act/Policy/Regulations |
|----------------|-----------------------------|---|
| 1 | 10.06.2003 | The Electricity Act, 2003: Section 2 (6), 2 (15), 2 (17), 2 (24), 2 (57), 3, 42 (1), 50, 55, 57 to 59, 73, 86 (1) (i), 142 and 181. |
| 2 | 20.01.2005 | MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (repealed) |
| 3 | 12.02.2005 | National Electricity Policy, 2005 |
| 4 | 22.03.2006 | CEA (Installation and Operation of Meters) Regulations, 2006 |
| 5 | 23.08.2006 | Rural Electrification Policy, 2006 |
| 6 | 20.05.2014 | MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2014 (repealed) |
| 7 | 25.02.2021 | MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2021 |

- 3.4. The Petitioner made representation to MSEDCL seeking clarification in reference to the Regulation 22.14 and 22.15 of the MERC Supply Code Regulations, 2021 on 7 November, 2022. The Tahsildar, Kannad on the same day also sought the same clarification to MSEDCL based on the Petitioner's similar letter to Tahsildar.
- 3.5. MSEDCL responded on 15 November, 2022 to the Tahsildar and the Petitioner that since it is a policy matter the power quality meter as required under Regulation 22 of the MERC Supply Code is not installed in Kannad Taluka. MSEDCL further intimated that Regulation 26 of the Regulations exempted the Distribution Licensee for occurrences beyond the control of Distribution Licensee.
- 3.6. Regulation 22.1 (4) stipulates that every Distribution Licensee shall install power quality meters on secondary (LV) side of the Power Transformer in a phased manner within three (3) years and to the extent of 33% as enumerated therein in each of the years. MSEDCL relied upon the provisions for exemption under Regulation 26.1 (d) and claimed the non-compliance of regulation to be beyond the control of the MSEDCL, which cannot be a self-declaration. The Statutory Regulations provides for consideration of such exemption by the Commission by a general or a special order, for the specific period.
- 3.7. The said Regulations mandated MSEDCL to submit the AMR infrastructure plan within three (3) months of the coming into force of the Regulations, which has not been complied by MSEDCL. AMR customs for proper collation of the data related to number and duration of sustained interruptions in a reporting period. Such act of MSEDCL prevented the Commission from considering and dealing with the timebound plan for Smart meters in its tariff proceedings.

- 3.8. Such delay gravely impacts the financial health of the Electricity Distribution System and consequently the common consumer.
- 3.9. MSEDCL ought to have complied with the directions of installation of the PQ Meter on Secondary (LV) Side of the Power Transformer, as expeditiously as possible in the interest of proper energy accounting. The problem associated with the estimation of energy sales would not have continued if the Regulations was complied with in letter and spirit.
- 3.10. The MERC Supply Code Regulations, 2021 contemplate testing of consumer meters to be done at site once in five (5) years by incorporation of the CEA (Installation and Operation of Meters) Regulations, 2006. MSEDCL has not complied with the same.
- 3.11. Non-installation of Power Quality Meters undermines the monitoring and recording of Power Quality. The accurate measurement, monitoring and recording of harmonics, sags, swells, flickers and other Power Quality Parameters is adversely affected.
- 3.12. Section 57 (2) of the Electricity Act, 2003 contemplates payment of compensation independent of other actions by the Distribution Licensee. The consumers cannot be denied quality supply due to failure to meet the standard of performance by the Distribution Licensee. The level of performance achieved in terms of Regulation 22.14 has not been made public by MSEDCL. The claim of the exemption made in the letter dated 7 November 2022 is contrary to the factual matrix. The level of performance provided by MSEDCL in the said letter is squid and incorrect. This has resulted in infringement of Section 59 of the Electricity Act, 2003.
- 3.13. The Commission is requested to declare that the Respondent, MSEDCL has not been granted any exemption as claimed by MSEDCL enabling the consumers to avail of compensation under Section 57 read with applicable Regulations when the situation so arises.
- 3.14. MSEDCL is enjoined by Regulation 18.1 to take all measures to ensure a continuous quality and reliable supply of electricity. Infringement of Regulation 22.14 results in infringement of Regulation 18.1 of said Regulations.
- 3.15. The compensation mechanism stipulated under Regulation 25 makes MSEDCL liable to pay to each affected person compensation as provided in Annexure II of the Regulations. In terms of Regulation 22.14, the installation of 33% of power transformers on the sub-station was to be completed by first year i.e. till 24 February, 2022 and further 33% installation was to be completed by 24 February, 2023.
- 3.16. MSEDCL has failed to achieve these statutory mandated quality and reliability mechanisms within the stipulated timelines and to that extent MSEDCL is liable to make good payment of compensation to the consumers of the State of Maharashtra. However, in view of the illegal and erroneous claim of MSEDCL claiming exemption under

Regulation 26, individual consumers would be precluded from raising their claims for compensation.

4. MSEDCL's reply dated 5 September, 2023 is summarized as under:

i) Non-compliance of Regulation 22.14 of MERC Supply Code Regulations, 2021:

- 4.1. MSEDCL has initiated measures for compliance of Regulation 22.14 by floating tender in FY2019-20 for supply of 75 Power Quality Meters/Analyzers, its fixing and measurement and analysis at 300 HT consumers and at 100 feeders. MSEDCL has issued work Order on 16 March, 2020 to Akanksha Power Ltd for supply 45 power quality meters Class A type, for fixing and measurement and analysis of harmonics at 180 HT consumers and at 60 feeders under Kalyan, Aurangabad & Nagpur region on rotation basis. The agency had submitted data of total 31 HT consumers and 8 substation feeders only.
- 4.2. The total budget of the said project was Rs 2.1325 Crore. For funding, MSEDCL had approached REC, PFC, SIDBI & other Financial Institutes however even after continuously following up for financial institute, MSEDCL had not received any sanction for the project loan from October 2021 to till date.
- 4.3. Till date, data of 101 feeders have been taken by MSEDCL. In all 101 Sub-stations voltage harmonics are observed within a limit. It is also observed that the current harmonics at 21 substations are not observed up to the mark, this is due to the consumer's nonlinear load; Nonlinear loads "import" fundamental and "export" harmonic energy into the system. The data received could not be made available on the official website of MSEDCL due to the unwillingness of the agency.
- 4.4. Subsequently, the Commission notified the MERC Supply Code Regulations, 2021. In order to comply with the Regulation, MSEDCL prepared revised technical specifications of Power Quality Meter of accuracy class 0.5S & 0.2S as per the regulation's requirement. The characteristics of power quality of electrical supply considered in MERC Regulations-2021 to be controlled by Distribution Licensee are compiled in the technical specifications.
- 4.5. In MSEDCL's Distribution network, there are 6626 Power Transformers and Power Quality meters needs to be installed on LV side of these Power transformers in the three years from the notification of the Regulations. In order to comply with the said Regulations, MSEDCL is in the process of procuring 1500 numbers of the Power Quality Meters (375 numbers each per Region) amounting to Rs 64.47 Crores i.e. Rs.4,298 per meter. Budget provisions for procurement of these meters shall be done through Capital Budget for Financial Year 2023-24 and FMS (Facility Management Services) activity will be carried out through R&M Budget for respective years.
- 4.6. These meters are required to generate reports on harmonics, voltage quality, and Power quality events (such as Sag, Swell, Interruption, Rapid voltage change). The meters will be

equipped with communication module and will be integrated into the facility Management System (FMS) to establish and maintain communication between the meters and the server, application server, communication(data), power quality solutions, and training, among other activities. The data captured by the power quality meters, utilizing the communication module, is to be transmitted to MSEDCL's cloud. Each meter will be housed in a suitable indoor/outdoor metal enclosure. The activity schedule for estimated cost of total 6626 Power Quality Meter considering the lowest budgetary quotation obtained in the month Mar-22 is around Rs. 233 Crore. However, funding for such work is not available due to difficulties in getting loans for financial institutions and Banks.

- 4.7. To improve operational efficiency and services MSEDCL has implemented IT based solutions for research and development work such as, ERP-SAP, Mobile Based Applications for Consumers, Employees and Meter Reading, 24 x 7 Centralized Customer Care Centers, Dashboard for effective monitoring of Project, Energy Accounting & Analysis, Consumer Relationship Management, Online Centralized Cash Collection System, Centralized Billing system and SMS & e-mail alerts to consumers about billing, outage, application status etc.
- 4.8. The Commission has also directed in MTR Order dated 31 March 2023 in Case No. 226 of 2022 that MSEDCL should undertake installation of such power quality meters in OPEX mode at its selected substations and make such data available in public domain and use such generated data for further analysis and to initiate corrective measures, as necessary. Considering the non-availability of funds as stated above MSEDCL is in process to procure 1500 Power Quality Meters by floating e-tender for Supply, Installation, Testing, commissioning, online data availability, data analysis & FMS for 5 years.

(ii) Regarding communication of Executive Engineer, Kannad dated 7 November, 2022 to Sub-divisional Magistrate:

- 4.9. The Petitioner vide his letter dated 7 November, 2022 to Sub-divisional Magistrate point 6, has mentioned below: -

मुद्रा क्र. ६ :- महाराष्ट्र राज्य विद्युत नियामक आयोगाच्या २०२१ च्या नियमावलीतील कलम २२.१४ आणि २२.१५ प्रमाणे महावितरण कंपनीने एकाही सबस्टेशनला सुरुवातीपासुनच पावर कॉलिटी मिटर बसविलेले नसल्यामुळे त्यांनी नियमांचे उल्लंघन केल्याचे सिध्द होते व सुरुवातीपासुनच देयके चुकलेली असतांनाही बऱ्याच ग्राहकांनी वीज बिल भरलेली आहेत. तथापि सदर नियमावलीतील जोडपत्र २ प्रमाणे, आणि कलम २४.२ प्रमाणे महावितरण कंपनीने शेतकऱ्यांना नुकसान भरपाई देऊन याच नियमावलीतील कलम २५.२ प्रमाणे ग्राहकांना बीलात सदर रक्कम समयोजित करून नवीन बील दिले पाहिजे. या संदर्भात आम्ही त्यांना लेखी पत्र दिलेले आहे.

- 4.10. Executive Engineer (O&M) Kannad Division Aurangabad replied regarding installation of power quality meters, that Regulation 22.14 is a policy matter and Regulation 22.15 is related to designated consumers which are HT consumers and AG consumers are not falling under the said categories of the designated consumers.

4.11. In the said communication, Executive Engineer, Kannad Division has also reproduced the conditions as per Regulation 26 where compensation is not applicable, for non-compliance of Regulation. 24.2 and 25.2 to AG consumers.

4.12. Further, Bills issued to AG consumers as per actual meter reading. Non- installment of Power Quality meter will not affect the electricity bills of the AG consumers as alleged by the Petitioner. EE, Kannad also mentioned in the said letter that Regulation 25 itself contemplated the procedure to file compensation claim and mechanism for approaching CGRF has been provided, if MSEDCL fails to do so.

(iii) Regarding non-compliance of Regulation 18(2) of CEA (Installation and Operations of Meters) – Testing of meters at site at least once in five years.

4.13. MSEDCL categorially submitted that every single meter gets tested by the manufacturer prior to delivery to MSEDCL. MSEDCL also test the meters on sampling method at the stage of when it is received in store department. These meters are delivered to individual Divisions of MSEDCL, where meters are tested at the Divisional Laboratory, where testing equipment and instruments have been calibrated. Such meters are sealed thereafter before issuing to consumers.

4.14. On site testing while routine testing, theft drives, replacement drives etc. is also carried out at Section, Sub-divisional and Divisional level by using equipment like Accuchek / Zera (portable reference standard meters).

4.15. In respect of HT and LT Consumers, on-site metering arrangement checking involves checking of meter for LT & HT consumers and current transformer (CT) and potential transformer (PT) in case of HT consumers.

4.16. There are approximately 2.96 crores consumers in the State as on August, 2023, out of which, 16.84 are unmetered and 67.5 lakhs consumers have been installed meter within duration of 5 years or less. Around 94 lakhs testing has been carried out in last 5 years by flying squad and field engineers, out of which 58.97 meters have been replaced during last 5 years and 35 lakhs of meters were tested in last 5 years during theft drive and routine testing. 100 % meters of HT consumers (23257) have been tested, in most cases annually and six monthly. Details of the testing of meters is tabulated below:

| Sr no | Type meters | Nos. |
|-------|-----------------------------------|--|
| 1 | Total testing during flying squad | 94 Lakhs (58.97 faulty meter replaced) |
| 2 | HT Consumers | 23257 |
| 3 | HT TOD | 3024 |
| 4 | LT TOD | 27039 |
| 5 | Meters of various categories | 1019 |

(iv) provision of Automated Meter Reading System (AMR) for all distribution transformer and consumer meters.

- 4.17. Regulation 22.12.7 of MERC Supply Code requires to submit the plan for installation of meters at each Distribution Transformer including provisions of AMR for all the DT meters and consumer meters for approval of the Commission within three months from the date of notification of these Regulations.
- 4.18. MSEDCL have installed DTC meters (40-200 AMP) with AMR at 19,000 numbers of Distribution Transformer on 502 numbers of AG Feeders.
- 4.19. At present AMR of 16000 Distribution Transformer data is coming online to MSEDCL server. Further MSEDCL is in process to procure 2.41 crores smart meters having AMR facilities which will be received by MSEDCL within 27 months. MSEDCL have already issued Letter of Award for the said smart meters on 7 August 2023.
5. During the hearing dated 08 September 2023, Advocate of the Petitioner and MSEDCL reiterated the submission made in the Petition and the reply, respectively. The Commission directed MSEDCL to submit the additional affidavit within 15 days to provide details such as phase-wise plan for installation of Power Quality meters along with the complete statistics in terms of numbers of Power Transformer, phase-wise metering plan, financing plan, making metering data available online etc. The Commission further directed MSEDCL to submit its reply on Petitioner's contention of MSEDCL's self-declaration of the exemptions under MERC Supply Code Regulations.
6. **MSEDCL in its additional submission dated 18 September 2023 stated as follows:**

A] Infringement of Regulations and CEA Policy:

- 6.1. MSEDCL is bound to comply with the direction of the Commission regarding installation of power quality meters and expresses its sincere apologies to the Commission for the delay in compliance in the timely manner as directed. However, wish to submit factual aspect for the delay encountered.
- 6.2. The Power Quality Meter constitutes a high-value instrument. The cost of the Power Quality Meter, comprising installation and maintenance services for a period of five years, in addition to charges for SIM card and cloud services, was deemed to be a minimum of Rs. 3.52 lakhs per Meter, inclusive of applicable Goods and Services Tax (GST). Consequently, the aggregate expenditure for the 6,626 substations under Maharashtra State Electricity Distribution Company Limited (MSEDCL) amounted to approximately Rs. 233 Crores. To expedite the project MSEDCL had obtained approval for the specification and had even completed survey of these Substations by utilizing own sources.
- 6.3. Since no other utility has undertaken a similar project involving the installation of power quality meters in all substations, MSEDCL did not have any benchmark or reference point to proceed with the project immediately. These factors collectively contributed to the delay in implementing the directives. Notwithstanding, MSEDCL has conducted its own Power

Quality Measurement work by installing available power quality meters at 101 substations. It is noteworthy that the voltage harmonics, for which MSEDCL bears responsibility, were found to be within acceptable limits. However, at 27 of these substations, the current harmonics were found to exceed the prescribed limits, for which the responsibility lies with the consumer as its non-linear load import fundamental power from utility and export harmonics in the system.

B] Non approaching the Commission:

- 6.4. MSEDCL extends its sincere apologies to the Commission for not seeking guidelines or clarification on the matter. However, in this regard it is to submit that the matter was discussed and considering the submissions of MSEDCL in case no. 226 of 2022 and the Commission passed its ruling which are reproduced herewith as below:

2. 16. 1 Shri. Mahaveer Kumar Jain and others submitted that the MSEDCL must install Power Quality Meters on the secondary (LV) side of the Power Transformer in a phased manner within three years covering at least 33% of the 33kV substation in the first year and 33% each in subsequent two years

Commission Analysis & Ruling: -

2.16.4 The Commission has notified its MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021, wherein the Commission has specifically considered the power quality issues and provided the regulatory framework which also has penalty provisions. The Commission is of the view that, power quality is the responsibility of all stakeholders including distribution licensees.

8.4.6 The Commission observes that the issue of power quality/harmonic distortions affect the consumer/utility alike. This issue was raised by MSEDCL in its MYT petition and requested for levy of harmonics penalty; however, availability of reliable data through measurement is the first step towards regulatory intervention and also would help MSEDCL and consumer to take corrective measures to address the harmonics/power quality issue at the source itself. In that sense, the awareness campaigns undertaken by MSEDCL is laudable initiative, however, that is not sufficient, unless MSEDCL undertakes installation of power quality meters at its select substations and make such data available in public domain. It is clarified that MSEDCL should undertake installation of such power quality meters in OPEX mode and use such generated data for further analysis and to initiate corrective measures, as necessary.

- 6.5. MSEDCL has initiated the procurement process for 1500 Power Quality Meters, encompassing end to end solution, supply, installation, testing, commissioning, online data availability, data analysis, and facility management services for a duration of five year by floating the tender on dated 15 September 2023.

6.6. The procurement expenses will be allocated from the Capital budget for the financial year 2023-24, while the Facility Management Services (FMS) activities will be funded through the Repair and Maintenance (R&M) budget of the respective years. Further, financial arrangements will be made under the capital budget. For the second phase of the project, which involves the installation of Power Quality Meters in the remaining substations, the necessary provisions will be made under the capital budget for the following year.

C] Regarding online data availability

6.7. In order to ensure the availability of data on the Meter Data Acquisition System (MDAS) / Server, it is crucial to integrate the software of the designated Power Quality Meter make. Regrettably, due to unsatisfactory progress, the tender for the previous project was terminated and therefore due to unwillingness of the agency in providing the necessary software as per the scope outlined in the tender, the data could not be made available online on server.

D] Regarding compensation in line with Regulation no. 24.2 & 25.2 to AG consumers

6.8. The Petitioner in its letter dated 07 November 2023 addressed to Tahsildar, has requested 33% concession in energy bills to compensate for a 33% crop loss caused by floods and drought. Additionally, it is highlighted that MSEDCL has failed to install power quality meters as per Regulation 22.14 and 22.15 of MERC Supply Code Regulations, 2021 resulting in incorrect billing for agriculture consumers. Consequently, Petitioner sought compensation in accordance to Regulation 24.2 and 25.2 of the said Regulations. The same has been mentioned by the Tahsildar in the letter addressed to the Executive Engineer (O&M) Kannad, which is reproduced below:

उपरोक्त संदर्भीय विषयानुसार आपणास कळविण्यात येते की, निवेदनकर्ते अध्यक्ष रायभान जाधव विकास आघाडी महाराष्ट्र राज्य श्री.हर्षवर्धन रायभान जाधव भाजी आमदार कन्नड यांचे संदर्भीय निवेदना नुसार त्यांनी या कार्यालयास सोबत जोडलेल्या निवेदनात नमूद केलेले प्रमाणे अ.क्र.01 ते 07 मुदत्या विषयी निवेदन देऊन शासन निर्णय दिनांक 13 मे 2015 च्या कलम 5 (ब) प्रमाणे ज्या पिकाचे नुकसान 33% च्या वर आहे. त्यांना नुकसान भरपाई देऊन त्याच बरोबर शासन निर्णय दिनांक 22 ऑगस्ट 2022 प्रमाणे, जिरायती पिकाला 13600/- प्रति हेक्टर (3 हे. पर्यंत), बागयती पिकाला 27000/-प्रति हेक्टर (3 हे. पर्यंत), बहुवार्षिक पिकाला 36000/- प्रति हेक्टर (3 हे. पर्यंत), अशा प्रकारची नुकसान भरपाई देणे बाबत व इतर अनुषंगिक बाबी विषय मागण्यांची पूर्तता करण्याबाबत कळविले आहे. तरी सर्व शासन परिपत्रके या परिपत्रक सोबत आम्ही जोडून देत असून याचे अवलोकन होऊन शासनाच्या नियमाप्रमाणे त्वरीत कार्यवाही करावी. निवेदनातील मागण्यांची पूर्तता 15 दिवसात न झाल्यास निवेदनकर्ते हे दिनांक 18 नोव्हेंबर 2022 रोजी तहसील कार्यालय कन्नड येथे शेतकऱ्यांसह रुमने मोर्चा काढण्यात येईल आशायाचे निवेदन सादर केले आहे.

6.9. Regulation 22.14 is pertaining to Distribution licensee whereas Regulation 22.15 is applicable to designated consumers concerning to power Quality meters.

- 6.10. Considering the matter of crop loss as mentioned above and compensation in MSEDCL Bills, Executive Engineer Kannad had provided conditions for availing compensation mentioned under clause no. 24.2 & 25.2 and exemption under Regulation 26.
- 6.11. The letter dated 7 November 2022 addressed by MSEDCL to Tahsildar cannot be seen in isolation. It is hereby clarified that the non-installation of Power Quality meters will not have any impact on the electricity bill of the AG consumer, as alleged by the Petitioner. Without prejudice, it is submitted that Regulation 25 itself outlines the procedure for filing compensation claims, and if MSEDCL fails to comply, there is a mechanism in place to approach the CGRF (Consumer Grievance Redressal Forum).
- 6.12. Furthermore, it is important to clarify that MSEDCL is not claiming any exemption under Regulation 26 for non-compliance with Regulation 22.14. As mentioned earlier, MSEDCL is bound to comply directives of this Commission.
- 6.13. Considering the difficulties as stated above, MSEDCL requested the Commission to condone the delay in compliance with the Regulations.

7. Petitioner in its rejoinder submitted on dated 12 October 2023 as follows:

- 7.1. Petitioner understands that there is no general Order or special Order issued by the Commission under Regulations 26 of MERC Supply Code Regulations, 2021 for exempting MSEDCL from any of the standards specified in the regulation nor the Commission has passed Order regarding exemption.
- 7.2. Petitioner emphatically submitted that for any or all occurrences contemplated under Regulation 26 do not provide for self-declaration of exemption. Justification raised by MSEDCL for the compensation claimed towards loss of crops, is untenable in Law. The Commission also expressed displeasure in MYT Order dated 31 March, 2023 in Case No. 226 of 2022 that MSEDCL made gross violation and contravention of the provisions of Supply Code Regulation 2021, in view of non-submission of roadmap for implementation of Automatic compensation Mechanism (ACM). In MYT Order, the Commission has allowed six months from the date of MYT Order to implement the Automatic Compensation Mechanism (ACM), therefore, the declaration sought by the Petitioner qua self-exemption claimed by MSEDCL under Regulation 26 assumes great significance. The period of six months contemplated by the Order dated 31 March 2023 has also expired on 30 September, 2023. Thus, the directions of the Commission remain not complied till date, as MSEDCL's website does not reveal the placing of ACM.
- 7.3. Regulations are a complete code by themselves and deal with the issue of compensation and entitlement of common consumer to compensation extensively and in a self-operative manner. MSEDCL cannot thwart this operation of Law by claiming self-exemption.

- 7.4. MSEDCL has tendered its apology to the Commission for non-compliance with the statutory Regulations. MSEDCL cannot be prevented from failing to approach the Commission in by giving justification of no other utility not having undertaken a similar project. MSEDCL cannot claim parity on the ground of infringement of obligations by other utilities in the State, for which Petitioner has relied on judgment of the Supreme Court in Case of state of Orissa Vs Prasanna Kumar Sahoo.
- 7.5. Regulation 22.14 provided a timeframe and genuine difficulty, if any, MSEDCL could have approached this Commission during the subsistence of the time frames contemplated.
- 7.6. MYT Order dated 31 March 2023 cannot be considered in piecemeal. Para 2.16 in the said order needs to be read in entirety.

8. Petitioner's addendum dated 17 October 2023 to rejoinder stated as follows:

- 8.1. Apology tendered by MSEDCL is an admission of acceptance of the breach of Regulation 22 of MERC Supply Code Regulations, 2021 more particularly Regulation 22.14 by MSEDCL. Regulation 24.2 provides for penalty for breach of Regulation and stipulates compensation as per Annexure - II. No amount of apology can overcome the operation of law. The only hurdle was the self-declaration of exemption claimed by MSEDCL.
- 8.2. MSEDCL failed to substantiate, how MSEDCL is not exempted from any Regulation as claimed. MSEDCL has stated that it has not claiming any exemption under regulation 26 for non-compliance with regulation 22.14. Petitioner has stated that statutory Regulations are self-operative as held by the Constitution bench of Hon'ble Supreme Court in Case of PTC Ltd Vs Central Electricity Regulatory Commission-2010 (4)SCC 603.
- 8.3. MSEDCL is bound to pay compensation as per Regulation 25.2 of MERC (SC & SOP) Reg, 2021 and Consumers who are eligible for compensation the same can be paid by reflecting the Compensation amount in the future bill/s of the consumer of MSEDCL, who are eligible for such compensation I accordance with the Regulations.

9. At the e-hearing held on 20 October 2023:

- 9.1. Advocate of the Petitioner reiterated its submission made in additional submissions. She further stated that any or all occurrences contemplated under Regulation 26 do not provide for self-declaration of exemption and the Commission has also not provided any general or special order to allow exemptions to MSEDCL for fulfilling their obligations under the MERC Supply Code Regulations. She also stated that apology tendered by MSEDCL is an admission of acceptance of the breach of Regulations and MSEDCL is bound to pay compensation as per Regulation 25.2 to eligible consumers to be paid by reflecting the Compensation amount in the future bills of the consumer of MSEDCL.

9.2. Advocate of MSEDCL stated that it is not claiming any exemption under Regulation 26 for non-compliance with Regulation 22.14 and MSEDCL is bound to comply with the directives of this Commission. MSEDCL has taking up all the possible efforts for completing the installation of Power Quality meters to the Sub-stations. He further stated that non-installation of Power Quality meters will not have any impact on the electricity bill of the AG consumer, as alleged by the Petitioner and Regulation 25 itself outlines the procedure for filing compensation claims, and if MSEDCL fails to comply, there is a mechanism in place for the consumer to approach the CGRF.

Commission’s Analysis and Ruling:

10. The Commission notes that present Petition has been filed by the Petitioner, Shri. Harshwardhan Raibhan Jadhav seeking declaration of infringement of Regulation 22.14 of MERC Supply Code Regulations, 2021. The Petitioner further seeking action against MSEDCL under Section 142 of the Electricity Act, 2003 for non-compliance of the statutory provisions of the MERC Supply Code Regulations and for declaration that the consumers of the State are entitled for compensation under the said Regulations and free to espouse their remedies.
11. The Commission notes that Respondent, MSEDCL has not objected jurisdiction of this Commission to entertain present Petition and hence the Commission is dealing with merits of the matter in subsequent paragraphs.
12. The Commission also notes that the Petitioner in its Petition has also raised issue of self-exemption claimed by MSEDCL from compliance of provisions of Regulations. But in its reply, MSEDCL has clearly stated that it is not claiming or requesting for any exemption from compliance of provisions of Supply Code Regulations 2021. The Commission noted this submission of MSEDCL and accordingly MSEDCL has to comply with all provisions of Supply Code Regulations 2021.
13. Petitioner has mainly highlighted non-compliance of provisions of Supply Code Regulations which mandates every Distribution Licensee in the State to install power quality meters on secondary side of the Power Transformer in a phased manner and periodic testing of meters. Petitioner contended that considering such non-compliance by MSEDCL, consumers are eligible for compensation as stipulated in the Regulations which should be allowed through adjustment in electricity bill.
14. The Commission has reproduced below above referred provisions of MERC Supply Code Regulations 2021:

“22. Quality of Supply

22.1. The Distribution licensee shall be responsible to their Consumers for supplying electricity with adequate power quality levels as defined in this Regulation.

.....

22.3. *The Designated Consumer(s) shall be responsible to control the harmonic injection into the distribution system within the limits specified in this Regulation.*

.....

22.14. ***The Distribution Licensee shall install Power Quality Meter on the secondary (LV) side of the Power Transformer in a phased manner within three years covering at least 33% of the 33kV substations in the first year and 33% each in subsequent two years.***

22.15. *The Designated Consumer(s) shall install Power Quality Meter at Point of Supply and share the recorded data thereof with the Distribution Licensee as per communication architecture specified by the Distribution Licensee:*

.....

22.17. *The Distribution Licensee shall develop communication architecture in a manner that all the data from the Power Quality Meters is available in central data base to be maintained by the Distribution Licensee.*

22.18. *The Distribution Licensee shall design web-based single graphical user interface (irrespective of meter make) and provide online access from the central data base by taking adequate security precautions of specific data relevant to the Consumer:*

Provided that Distribution Licensee shall also share the data of Power Quality Meters installed by it on the Website:

Provided also that Distribution Licensee shall provide online access of data as specified by the Commission from time to time.

24. Standards of Performance of Distribution Licensees

24.1. *The Standards specified in Annexure 'II' in these Regulations shall be the minimum standards of service that a Distribution Licensee shall achieve and maintain.....*

24.2. Any failure by the Distribution Licensee to achieve and maintain the standards of performance specified in these Regulations shall render the Distribution Licensee liable to payment of compensation under the Act, as specified in Annexure 'II', to an affected person.

.....

25. Determination of Compensation

25.1. *The compensation to be paid by the Distribution Licensee to the affected person is specified in Annexure 'II' of these Regulations.*

25.2. *The Distribution Licensee shall be liable to pay to the affected person, such compensation as provided in Annexure 'II' to these Regulations:*

Provided that in the event of failure of Distribution Licensee to meet the standards of performance, the compensation shall be payable automatically by the Distribution Licensee for the parameters as per Annexure ‘II’ to all the affected person/Consumers, without requiring a claim to be filed by the affected person/Consumer:

Provided further that the automatic compensation mechanism shall be implemented within Six (6) months of the date of notification of this Regulations:

.....
Provided further that the compensation shall be payable as per Annexure ‘II’ to only those affected person/Consumers who have paid all their bills to the Distribution Licensee within the due dates of each bill without any delay in last One (1) year or in cases where supply has been provided for a shorter period, such shorter period shall be considered and there is no outstanding amount to be paid to the licensee except for current bill which is not due:

.....
25.4. In case the Distribution Licensee fails to pay the compensation or if the affected person is aggrieved by non-redressal of his grievances, he/she may make a representation for the redressal of his grievance to the concerned Consumer Grievance Redressal Forum in accordance with the provisions of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation, 2020 including any amendment thereto as in force from time to time:

Annexure - II: Level of Compensation Payable to Consumer for failure to meet Standards Of Performance

| <i>Supply Activity/Event</i> | | <i>Standard</i> | <i>Compensation Payable</i> | <i>Automatic/ Manual</i> |
|-------------------------------------|---|---|---|---------------------------------|
| | | | | |
| <i>8. Quality of Supply</i> | | | | |
| <i>(i)</i> | <i>Voltage Variation</i> | <i>Table 1 and Table 2 (Regulation 22.5)</i> | <i>Rs 25 per week or part thereof for which voltage variation was beyond the specified limits</i> | <i>Manual</i> |
| <i>(ii)</i> | <i>Voltage Unbalance</i> | <i>Table 4 (Regulation 22.7)</i> | <i>Rs 100 per week or part thereof for which voltage unbalance was beyond the specified limits</i> | <i>Manual</i> |
| <i>(iii)</i> | <i>Voltage Dips/Swells</i> | <i>Table 5 (Regulation 22.8)</i> | <i>Rs 50 per event for which voltage dips or swell was beyond the specified limit</i> | <i>Manual</i> |
| <i>(iv)</i> | <i>Short Voltage Interruptions</i> | <i>Table 6 (Regulation 22.10)</i> | <i>Rs 50 per event beyond the specified limit</i> | <i>Manual</i> |
| <i>(v)</i> | <i>Voltage Harmonics</i> | <i>As per IS 17036</i> | <i>Rs 100 per week or part thereof for which voltage harmonics was beyond the specified limits</i> | <i>Manual</i> |

| <i>Supply Activity/Event</i> | | <i>Standard</i> | <i>Compensation Payable</i> | <i>Automatic/ Manual</i> |
|--|--------------------------|-----------------------------|---|------------------------------|
| (vi) | <i>Current Harmonics</i> | <i>As per IEEE 519:2014</i> | <i>50 paisa per unit for the duration for which current harmonics was beyond the specified limits (Payable by Designated Consumer to Distribution Licensee)</i> | <i>Manua</i> |
| <i>The Commission shall separately notify the date of applicability of the Compensation payable in respect of Quality of Supply</i> | | | | |

15.5. Periodic Testing of Meters

*15.5.1. The Distribution Licensee shall be responsible for the periodic testing and maintenance of all Consumer meters. It shall be the Distribution Licensee's responsibility to satisfy itself regarding the accuracy of the meter before it is installed and the Distribution Licensee may test meters for this purpose. **The Distribution Licensee shall be responsible for the periodic testing and maintenance of all Consumer meters in accordance with the Central Electricity Authority (Installation & Operation of Meters) Regulations, 2006 as amended from time to time.***

In view of above provisions of MERC Supply Code Regulations which has been notified on 24 February 2021, following obligations have been cast on Distribution Licensee:

- a. As per Regulations 22.1, Distribution Licensee is mandated to supply electricity to its consumers at adequate power quality level.
- b. To measure power quality parameters, as per Regulation 22.14, Distribution Licensee is mandated to install Power Quality Meter on the secondary (LV) side of the Power Transformer in a phased manner within three years covering at least 33% of the 33kV substations in the first year (till 23 February 2022) and 33% each in subsequent two years (till 23 February 2023 and 23 February 2024).
- c. Consumers who have paid all electricity bills within due date for last one year are entitled for full compensation as stipulated in Annexure II for failure of Distribution Licensee to meet performance standards.
- d. At Sr. No. 8 of Annexure II, compensation for not meeting various parameters of power quality has been stipulated. However, at the bottom of the table it has been clearly stated that 'the Commission shall separately notify the date of applicability of the Compensation payable in respect of Quality of Supply'. Said compensation is yet to be operationalized. Hence, as of date no compensation is payable on account of the power quality parameters stipulated in Annexure II.

- e. Periodic testing of consumer meters needs to be undertaken as per CEA Regulations, which stipulates that consumer meters need to be tested for accuracy at least once in five years.
15. Based on above provisions of Regulations, the Commission notes that Petitioner's request of allowing compensation to consumers for MSEDCL's failure to meet power quality parameters under Annexure II of MERC Supply Code regulations 2021 cannot be allowed as that part of Annexure II is yet to be operationalized through separate notification.
 16. At the same time the Commission also notes that Petitioner has requested the Commission to act against MSEDCL under Section 142 of the Electricity Act 2003 for non-compliance of provision of Regulations. Said Section of the Electricity Act, 2003 is reproduced below:

“142 . Punishment for non-compliance of directions by Appropriate Commission – In case any complaint is field before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.”

Petitioner has contended that MSEDCL has not installed Power Quality meters as required under Regulation 22.14 of Supply Code Regulations 2021 which amounts to non-compliance of Regulations and hence specifically prayed for action against MSEDCL under Section 142 of the Electricity Act 2003. Further during the proceeding of this case, Petitioner have also highlighted that MSEDCL has not complied with Regulation 25.2 of Supply Code Regulations 2021 which mandates MSEDCL to provide automatic compensation.

17. Through notice issues in present matter MSEDCL was directed to file its reply in the present matter which includes prayer to seek action against them under Section 142 of the Electricity Act 2003. In response, MSEDCL has filed its written reply and also opposed the Petition during the hearing. Thus, the opportunity of being heard has been given and availed by MSEDCL in the present matter.
18. The petitioner contended that MSEDCL has made non-compliance with respect to following provisions of Regulations:
 - a. Installation of Power Quality Meters
 - b. Mechanism for Automatic Compensation
 - c. Periodic Testing of consumer meters

The Commission has analyzed the above contended non-compliances in the following paragraphs.

19. Installation of Power Quality Meters:

- 19.1. Regulations 22.14 of Supply Code Regulations 2021 mandates installation of power quality meters by Distribution Licensee on LV which mandates the Distribution Licensee to install power quality meters on the secondary (LV) side of the Power Transformer in a phased manner within three years covering at least 33% of the 33kV substations in each year. As Supply Code Regulations has been notified on 24 February 2021, installation of power quality meters to first 33% of substations should have been completed by 23 February 2022, 66% of substation should have been completed by 23 February 2023 and remaining substations are to be completed by 23 February 2024. The petitioner has contended that MSEDCL has not complied with these Regulations.
- 19.2. MSEDCL in its reply has clearly stated that it has failed in implementation of mandate stipulated in the Regulations and submitted apology for the same. MSEDCL has also pointed out that such issue was raised during recent Tariff proceeding and the Commission has ruled as follows:

2.16 Power Supply and Distribution

Objections/Suggestions

2.16.1 Shri. Mahaveer Kumar Jain and others submitted that the MSEDCL must install Power Quality Meters on the secondary (LV) side of the Power Transformer in a phased manner within three years covering at least 33% of the 33kV substations in the first year and 33% each in subsequent two years. They must also develop communication architecture in a manner that all the data is available in a central data base to be maintained by the Distribution Licensee. Finally, they must design a web-based single graphical user interface and provide online access from the central data base. Harmonics generated by some consumers (LT and HT) go to the common grid, resulting in low PF and some burden in kVAh units. Distribution transformers in scope of MSEDCL should also be monitored and controlled.

.....

Commission's Analysis and Rulings

2.16.4 The Commission has notified its MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021, wherein the Commission has specifically considered the power quality issues and provided the Regulatory framework which also has penalty provisions. The Commission is of the view that, power quality is the responsibility of all stakeholders including distribution licensees.

2.16.5 With regards to installation of power quality meters, the Commission has ruled following in its MYT Order dated 30 March 2020 in Case No. 322 of 2019:

“2.13.18 Having said that the Commission is cognizant of the issue of power quality. Hence, in order to ensure that requisite data is available before next tariff determination process, the Commission in Section 8.25 of this Order has laid down time frame for installation of power quality meter as per mandate of CEA Regulations. Accordingly, all Bulk Consumers with Contract Demand above 20 MVA shall install power quality meter by March 2021 (and above 10 MVA by March 2022) and share monthly data with Distribution Licensee. Also, Distribution Licensee needs to install power quality meter at their selected substations and share the data from these meters on its website.”

2.16.6 The Commission has dealt with this issue in detailed in Chapter 8 Compliance of Earlier Directives.

.....

8.4 Harmonic Penalty

Directive

8.4.1 Under MYT Order in Case 322 of 2019, the Commission has observed that it is cognizant of the issue of power quality. Hence, in order to ensure that requisite data is available before next tariff determination process, the Commission laid down time frame for installation of power quality meter as per mandate of CEA Regulations. Accordingly, all Bulk Consumers with Contract Demand above 20 MVA shall install power quality meter by March 2021 (and above 10 MVA by March 2022) and share monthly data with Distribution Licensee. Also, Distribution Licensee needs to install power quality meter at their selected substations and share the data from these meters on its website.

.....

MSEDCL's Response

8.4.2 Installation of power quality meters by the consumers having contract demand above 10MVA & 20MVA: MSEDCL submitted that out of total 57 nos of 20MVA consumers 06 nos. of consumers have installed power quality Meters. Further, out of 77 nos of 10MVA consumers, 12 nos of consumers have installed power quality Meters. MSEDCL mentions that the specifications for power Quality Meter/Analyser are already made available on MSEDCL website.

8.4.3 Status of installation of power quality meters at selected MSEDCL substations and availability of its data on MSEDCL website: MSEDCL has processed a proposal for procurement of 6626 nos of Power quality meters for installation at Power Transformers

LV side having approximate tender cost of Rs 232 Crs. The specifications are also in process of approval. The scope includes providing end-to end solution including supply, installation, commissioning and provision of HES for data collection.

.....

Commission's Ruling

8.4.6 The Commission observes that the issue of power quality/harmonic distortions affect the consumer/utility alike. This issue was raised by MSEDCL in its MYT petition and requested for levy of harmonics penalty, however, availability of reliable data through measurement is the first step towards regulatory intervention and also would help MSEDCL and consumer to take corrective measures to address the harmonics/power quality issue at the source itself. In that sense, the awareness campaigns undertaken by MSEDCL is laudable initiative, however, that is not sufficient, unless MSEDCL undertakes installation of power quality meters at its select substations and make such data available in public domain. It is clarified that MSEDCL should undertake installation of such power quality meters in OPEX mode and use such generated data for further analysis and to initiate corrective measures, as necessary.

*8.4.7 In this context, **the Commission expresses its displeasure that even after 3 years since issuance of MYT Order in Case No. 322 of 2019, the MSEDCL has not yet finalized the tender specification for engagement of service provider on this critical power quality issue.** The Commission hereby directs that MSEDCL should complete exercise of installation and measurement of planned power quality meters under OPEX mode at its substations and submit action taken report within one year from the date of issuance of this Order."*

From perusal of relevant portion of Tariff Order reproduced above, it is evident that the Commission in its MYT Order dated 30 March 2020 (i.e. almost one year before notification of Supply Code Regulations 2021) has directed MSEDCL to install power quality meters in its substation to comply with provisions of CEA Regulations. However, while verifying compliance of said directives during MTR proceeding, the Commission in its Order dated 31 March 2023 has expressed its displeasure as no progress was evident and hence directed MSEDCL to expedite implementation and submit action taken report within a year. Nowhere in this MTR Order the Commission has granted any time extension for installation of power quality meters as stipulated in Supply Code Regulations 2021.

- 19.3. Despite strong displeasure recorded by the Commission in its MTR Order dated 31 March 2023, MSEDCL in its reply in present proceeding which has been filed after 6 months of issuance of MTR Order has indicated that out of 6626 power transformers, power quality meters have been installed at only 101 locations and tender has been floated on 15 September 2023 for installing power quality meters at 1500 locations. Till September 2023, almost 2.5 years have been completed since notification of Supply Code Regulations and as per timeline stipulated therein by September 2023, power quality meter should have been installed at

almost 5500 locations. As against that actual installation is at 101 locations only. Also, tender floated is for lower quantity. All these have demonstrated the careless approach of MSEDCL towards compliance with a very important provision of Regulations which has been introduced to monitor power quality.

- 19.4. While requesting condonation of delay in compliance of Regulations, MSEDCL has stated that since no other utility has undertaken a similar project involving the installation of power quality meters in all substations, MSEDCL did not have any benchmark or reference point to proceed with the project immediately. The Commission cannot accept such excuse from MSEDCL which itself has taken initiatives for installation of power quality meters at few locations in FY 2019-20 i.e. well before notification of Supply Code Regulations 2021 and hence has experience about the same. Also, such mandate of installing power quality meters on LV side of power transformer is as per following provisions of CEA (Technical Standards for Connectivity to the Grid) (Amendment) Regulations 2019:

“Part-IV (3) (vi) The distribution licensee shall install power quality meters in a phased manner within three years from the date of commencement of the Central Electricity Authority (Technical Standards for Connectivity to the Grid) (Amendment) Regulations, 2018 covering at least 33% of the 33 kV substations each year.”

Said CEA Regulations has been notified on 6 February 2019 and as per above quoted provision, installation of power quality meters should have been completed by 5 February 2022. MSEDCL is aware of these CEA Regulations and if it had complied with those Regulations then it would have automatically complied with MERC’s Supply Code Regulations 2021 well in time. Further, if MSEDCL requires additional time to comply with Regulations, it should have filed an appropriate Petition well in advance. MSEDCL has not only non-complied with MERC Regulations but also with CEA’s Regulations. Hence, the Commission is not inclined to condone delay in compliance with Regulations.

- 19.5. The Commission has directed MSEDCL to install power quality meter in its MYT Order dated 30 March 2020. But for the last three years MSEDCL has been delaying installation of power quality meters. Even after expression of displeasure in MTR Order dated 31 March 2023, MSEDCL has managed to only float tender and that too for less quantity. As non-compliance with Regulation 22.14 has been clearly established, the Commission is inclined to impose a penalty under Section 142 of the Electricity Act 2003. As per Regulation 22.14 of the Supply Code Regulations 2021, the first 33% of substation should have been installed with power quality meter by 21 February 2022. MSEDCL has failed to comply with the same and hence this is the first event of contravention which attracts penalty of Rs 1 lakh. Also, MSEDCL has failed to achieve installation of power quality meter to 66% of substation by 21 February 2023 which is second contravention of Regulations and hence attract penalty of Rs 1 lakh. Further both these contraventions are continuing till date and hence attract continuing penalty of Rs 6000 per day till MSEDCL comply with provision of Regulations. Accordingly, till 30 November 2023, there is delay of 645 days (from 23 February 2022) and MSEDCL needs to pay penalty of Rs. 38.70 lakh (645 days x Rs 6000/day) on account

of continuing default. The exact penalty amount will be calculated once MSEDCL completes installation of power quality meter and exact days of delays are known. Therefore, for the time being, MSEDCL has to pay a penalty of Rs. 40.70 lakh (Rs 2 lakh for two contraventions and Rs 38.70 lakh for continued contravention calculated till 30 Nov 2023) for noncompliance of Regulation 22.14 of MERC Supply Code Regulations 2021.

20. Mechanism for Automatic Compensation:

20.1. The Commission notes that Petitioner in its additional submission has highlighted that MSEDCL has not set up a mechanism for automatically compensating the consumer for its failure to maintain standards of performance. MSEDCL in its reply has not made any submission on this aspect.

20.2. The Commission notes that as per 2nd proviso to Regulation 25.2 of MERC Supply Code Regulations 2021, Distribution Licensee shall implement mechanism for automatic compensation within 6 months from notification of Regulations. Said Regulation has been notified on 24 February 2021 and hence such mechanism for automatic compensation should have been in place by 23 August 2021. However, MSEDCL has failed to do that. In recent Tariff proceedings, the Commission has expressed displeasure about the same. Relevant part of MTR Order dated 31 March 2023 is reproduced below:

“

7.1.46 The Commission observes that Supply Code Regulations, 2021, notified on 24th February 2021, provides for Automatic compensation for failure for meeting standard of performance alongwith detailed modalities and conditions as specified under Annexure-II of said Regulations. Further, a time period of six months from date of notification of said Regulations have been provided for the Distribution Licensee to implement automatic compensation mechanism.

7.1.47 The Commission noted that despite clear provisions and directives, MSEDCL has submitted that it will submit roadmap for implementation of automatic compensation mechanism within next 3 months, which is the gross violation and contravention of the provisions of the Supply Code Regulations, 2021. Hence, the Commission has directed MSEDCL to implement the automatic compensation mechanism at the earliest but not later than six months from issuance of this Order. MSEDCL should provide wide publicity for automatic compensation mechanism on its website and submit action taken report within six months from issuance of this Order.

7.1.48 In case of non-compliance of this directive, the Commission shall be forced to initiate proceedings for non-compliance and contravention of direction of Commission as per Section 142 of EA,2003. In that case, penal charges at the rate of Rs 1,00,000/- towards penalty for the contravention of the Order of the Commission

and Rs 6000/- per day for continuing failure for the period of such contravention shall be levied.”

In above Order, after recording that MSEDCL has failed to comply with provisions of Supply Code Regulations, the Commission has still granted six months from issuance of Tariff Order for implementation of automatic compensation mechanism and further directed to file compliance Report failing which non-compliance proceeding will be initiated against MSEDCL.

20.3. Extended six-month period granted in MTR Order ends on 30 September 2023. MSEDCL has not filed any compliance report or separate Petition seeking additional time for compliance of Regulations. On scrutiny of MSEDCL’s website, it is understood that such mechanism of automatic compensation is yet to be implemented by MSEDCL. This is clear non-compliance of provisions of MERC Regulations and Order. Further MSEDCL’s action of not reporting any compliance even after specifically directed in the MTR Order shows clear disobedience and non-seriousness towards mandates stipulated through regulatory process. This cannot be tolerated any further. Hence, the Commission deems it fit to impose penalty under Section 142 of the Electricity Act, 2003 on MSEDCL for non-compliance of Regulations and Order of the Commission.

20.4. The Commission in its MTR Order dated 31 March 2023 has directed MSEDCL to implement automatic compensation mechanism within six months i.e. before 30 September 2023. MSEDCL has failed to comply with the same and hence this is the first event of contravention which attracts a penalty of Rs 1 lakh. Further this contravention continues till date and hence attracts continuing penalty of Rs 6000 per day till MSEDCL implements automatic compensation mechanism. Accordingly, till 30 November 2023, there is delay of 61 days (from 1 October 2023) and MSEDCL needs to pay penalty of Rs. 3.66 lakh (61 days x Rs 6000/day) on account of continuing default. The exact penalty amount will be calculated once MSEDCL implements automatic compensation mechanism and exact days of delays are known. Therefore, for the time being, MSEDCL has to pay a penalty of Rs. 4.66 lakh (Rs 1 lakh for first contraventions and Rs 3.66 lakh for continued contravention calculated till 30 Nov 2023) for noncompliance of Second proviso to Regulation 25.2 of MERC Supply Code Regulations 2021 read with MTR Order dated 31 March 2023.

21. Periodic Testing of Consumer Meters:

21.1. The Commission notes the submission of the Petitioner that the MERC Supply Code Regulations, 2021 contemplate testing of consumer meters to be done at site once in five (5) years by incorporation of the CEA (Installation and Operation of Meters) Regulations, 2006. Such Regulation seems to have been obliterated by MSEDCL by non-compliance.

21.2. The Commission notes the submission of MSEDCL that every single meter gets tested by the manufacturer prior to delivery to MSEDCL. Further, testing on sampling method at the stage of delivery in store department. Thereafter meters are delivered to individual

Divisions of MSEDCL, where meters are being again tested at the Divisional Laboratory, with the help of testing equipment and instruments, which have been calibrated. Such meters are sealed thereafter before issuing to consumers.

On site, testing while routine testing, theft drives, replacement drives etc is also carried out at Section, Sub-divisional and Divisional level by using equipment like Accuchek / Zera (portable reference standard meters).

Out of 2.96 crores consumers as on Aug, 2023, 67.5 lakhs consumers have been installed meter within the duration of 5 years or less. Around 94 lakhs testing has been carried out in last 5 years by flying squad and field engineers, out of which 58.97 lakh meters have been replaced during last 5 years and 35 lakhs of meters were tested. 100 % meters of HT consumers (23257) have been tested, in most cases annually and six monthly.

21.3. The Commission noted progress of the periodic testing of the consumer meters as submitted by MSEDCL and hence not inclined to initiate any action on this regard under Section 142 of the Electricity Act 2003.

22. As explained in above paragraphs, MSEDCL's careless approach towards compliance of provisions of Supply Code Regulations related to installation of power quality meters and implementation of automatic compensation has forced the Commission to imposed penalty on MSEDCL under Section 142 of the Electricity Act 2003. As said non-compliance is continuing, penalty of Rs 6000 per day of delay is also imposed till MSEDCL comply with provisions of Regulations. MSEDCL shall deposit penalty amount computed till 30 November 2023 in above paragraph in the Office of the Commission within 15 days from date of this Order. Once Regulations are framed after following due regulatory process, the Commission needs to ensure implementation of the same. MSEDCL shall submit monthly progress report on implementation of these provisions of Regulations. If no substantial progress is visible within six months from date of this Order, then Commission will be forced to initiate appropriate action against Senior Official of the MSEDCL.

23. Hence, the following Order.

Order

- 1. The Petition in Case No. 181 of 2023 is partly allowed.**
- 2. MSEDCL to pay following penalty amount within 15 days from date of this Order:**
 - a. Rs. 40.70 lakh (Rs 2 lakh for two contraventions and Rs 38.70 lakh for continued contravention calculated till 30 Nov 2023) for noncompliance of Regulation 22.14 (installation of power quality meters) of MERC Supply Code Regulations 2021.**
 - b. Rs. 4.66 lakh (Rs 1 lakh for first contraventions and Rs 3.66 lakh for continued contravention calculated till 30 Nov 2023) for noncompliance of Second proviso**

to Regulation 25.2 (mechanism for automatic compensation) of MERC Supply Code Regulations 2021 read with MTR Order dated 31 March 2023


The exact penalty amount will be calculated once MSEDCL complies with provisions of Regulations and thereafter differential penalty amount shall be paid by MSEDCL.

- 3. MSEDCL to submit monthly progress report on implementation of above provisions of Regulations. If no substantial progress is visible within six months from date of this Order, then Commission will be forced to initiate appropriate action against Senior Officials of the MSEDCL.**

Sd/-
(Surendra J. Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

