

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM**  
**B.E.S. & T. UNDERTAKING**

(Constituted under section 42(5) of Electricity Act 2003)

Ground Floor, Multistoried Annex Building,  
BEST's Colaba Depot  
Colaba, Mumbai - 400 001

Telephone No. 22853561

**Representation No. N-E-193-2013 dtd. 03/05/2013**

Mr. Firoz Ansari .....Complainant

V/S

B.E.S.&T. Undertaking .....Respondent

**Present**

Quorum : Chairman  
Shri R U Ingule, Chairman

Member  
1. Shri M P Thakkar, Member  
2. Shri S M Mohite, Member

On behalf of the Complainant : 1. Shri Mohd. Yunus A. Jabbar

On behalf of the Respondent : 1. Shri M.R. Dharaskar, DECC(E)  
2. Shri Mhatre, AAMGR(E)  
3. Shri V.K. Patil, Legal Officer

Date of Hearing : 27/06/2013

Date of Order : 02/07/2013

**Judgment by Shri. R.U. Ingule, Chairman**

Mr. Firoz Ansari, Gala No.10, G.F.L. Kopergaon Estate, Love Lane, Mazgaon, Mumbai - 400 010 has come before the Forum for grievance regarding outstanding arrears of erstwhile consumer of A/c no. 521-237-035.

**Complainant has submitted in brief as under :**

- 1.0 The complainant has approached to IGR Cell on 28/02/2013 for grievance regarding outstanding arrears of erstwhile consumer of A/c no. 521-237-035. The complainant has approached to CGRF in schedule 'A' dtd. 29/04/2013 (received by CGRF on 29/04/2013) as no remedy is provided by the Distribution Licensee regarding his grievance. The complainant has requested the Forum to waive the outstanding amount of erstwhile consumer.

**Respondent, BEST Undertaking in its written statement  
in brief submitted as under :**

- 2.0 This is an outstanding dispute case. Smt. Naina Francis Dias was our registered consumer having Meter No.Q961348 under A/c.No.521-237-035 was installed on 28/10/1997. The said meter was removed on 16/08/1999 for the reason theft of energy (Code 11). The new meter No.E098341 was installed for the same installation on 09/07/2010. It is noticed that the unpaid arrears of Rs.3,55,228.45 of account No.521-237-035 were not recovered from the consumer. The ID papers of the said reconnection are not traceable.
- 3.0 The previous unpaid arrears of the account No.521-237-035 were being continuously showing as unpaid arrears in the electricity bill of the consumer from the date of the installation of the new meter. The consumer has not paid the unpaid arrears and current bills, therefore the meter No.E098341 was removed on 17/01/2011. The bill amount for the month of April 2013 is Rs.3,85,938.00.
- 4.0 Vide reply to the complainant dtd. 10/04/2013 against complaint in Annexure 'C' for we have informed Mr. Firoz Ansari that Regulation 10.5 of Maharashtra Electricity Regulation 2005 is applicable for the case, when the meter is existing on site and the person approaches for change of name of existing account. Further, it was also informed that as the meter is already removed for non-payment and he has applied for new connection for the same premises, the case does not fall under the purview of Regulation 10.5 of Maharashtra Electricity Regulation 2005 and was requested to pay Rs.3,85,938/- towards unpaid bill upto April 2013.

**REASONS**

- 5.0 We have heard Shri Mohd. Yunus A. Jabbar for the complainant and for the Respondent BEST Undertaking Shri M.r. Dharaskar, DECC(E), Shri Mhatre, AAMIGRC(E) and Shri V.K. Patil, Legal Officer. Perused papers.
- 6.0 The controversy raised in the instant complaint moves in a very narrow compass. Therein this Forum finds that, as per the contentions of the complainant, the complainant contends that he has purchased the premises from the erstwhile owner Mrs. Naina Fransis Dias. However, when he has applied for the electric connection, he

was directed by the Respondent BEST Undertaking to pay the arrears of the erstwhile consumer Mrs. Naina F. Dias of Rs. 3,85,938.00. The complainant has placed on file the electricity bill for the month of November 2012 in the name of Mrs. Naina F. Dias showing the said arrears amount of Rs. 3,85,938.00.

- 7.0 The complainant strenuously urged that for non-payment of the electricity charges in arrears, the meter provided to the erstwhile consumer Mrs. Naina F. Dias has already been disconnected by the Respondent BEST Undertaking. Therefore he is not liable to pay the electricity charges in arrears of the erstwhile consumer Mrs. Naina F. Dias. The complainant however undertakes to pay the electricity charges as envisaged under regulation 10.5 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulation, 2005.
- 8.0 In contra, the Respondent BEST Undertaking submits that the electricity meter provided to the erstwhile consumer Mrs. Naina F. Dias was disconnected on 16/08/1999 for the reason of theft of energy. Thereafter the same was installed on 09/07/2010. This meter was also removed on 17/01/2011. The electricity charges in arrears raised to Rs. 3,85,938.00 in the month of April 2013. The present complainant is not entitled to avail the benefit of Regulation 10.5 as the said regulation has been applicable in respect of the existing meter on site and the person is approaching for change of name in the existing consumer account. Further, the complainant has applied for new connection for the same premises. Therefore, the Regulation 10.5 in respect of change of name would not be applicable to the complainant. The Respondent BEST Undertaking contends that as the complainant's case does not cover under Regulation 10.5, therefore he has been directed to pay Rs. 3,85,938.00 towards electricity charges in arrears up to April, 2013, for availing 'new electric connection', as applied by him.
- 9.0 This Forum however, do not find any merit in the counter contention raised by the Respondent BEST Undertaking for a simple reason that the judgment handed down by Hon'ble Bombay High Court in a case of *M/s Namco Industries Pvt. Ltd. V.s State of Maharashtra (W.P. no. 9906 /210)*, has given a complete quietus to the controversy raised by the Respondent BEST Undertaking.
- 10.0 This Forum further observes that Their Lordship of the Bombay High Court has observed in a case of *M/s Namco Industries Pvt. Ltd. (supra)* in para 11 *inter-alia* that Regulation 10.5 provides three consequences in law, viz. i) the electricity charges or any other sum due to the licensee which remains unpaid, ***constitute a charge*** on the premises, ii) the charges continues to subsist, despite the transmission of the premises upon the death of the consumer or the transfer of premises to a new owner, iii) the unpaid electricity charges can be recovered by the licensee from the ***new owner or occupier*** of the premises, as the case may be. The qualification, however, imposed is that except in the cases of transfer of connection to a legal heir, the liabilities which are transferred under Regulation 10.5 are restricted to a maximum period of ***six months of the unpaid charges*** for electricity supplied to the premises.
- 11.0 It is significant to observe that in the aforesaid case on the hands of Their Lordship of the Bombay High Court the disconnection of electricity was on 07/12/1993, while the new owner's supply requisition application seeking electric connection was submitted on 07/10/2010. Despite it the Hon'ble Bombay High Court in a case of *M/s Namco*

*Industries Pvt. Ltd.* has held in para 18 that subsequent owner or occupier cannot claim seeking a *fresh connection* in order to avoid the liability to pay the electricity charges. Acceptance of such submission would result in situation where the owner of the premises could utilize electricity and upon the subsequent transfer, the transferee would not be liable to pay the arrears. The Distribution Licensee would be left with virtually no recourse whatsoever and this is exactly the situation which is Supreme Court emphasized in its judgment in *Pachimanchal Vidyut Vitaran Nigam Ltd.*

- 12.0 While concluding, the Hon'ble Bombay Court has held that the Distribution Licensee under Regulation 10.5 is entitled to assert its dues as a *charge* over the property in hands of the new transferee and to recover unpaid charges subject to the permitted period specified therein. This Forum thus finds that once the electric supply is given to the premises thereafter there cannot be a new connection but the same would be a reconnection attracting the statutory mandate provided under Regulation 10.5. In view of this Forum, the present complainant has been liable to pay electricity charges in arrears of the erstwhile consumer Mrs. Naina F. Dias, to the extent of period of six months of the unpaid charges for electricity supplied to the premises under consideration, as provided under said Regulation 10.5.
- 13.0 This Forum further finds that it does not put an end to the present matter. From the documents placed on file before this Forum we find that the complainant has been issued with a rent receipt for the month of August 2010 by the land lord. The copy of the said rent receipt dtd. 10/08/2010 has been placed before this Forum. Besides it, the Ledger Folio maintained by the Respondent BEST Undertaking for a/c no. 521-237-035 for the premises under consideration manifests that the present complainant has availed and consumed electricity supply from electric meter no. E098341 re-installed in the said premises, which has been subsequently removed on 17/01/2011 for non-payment of electricity charges in arrears. This Forum therefore hold that along with the payment of electricity charges in arrears envisaged under Regulation 10.5, the complainant has been liable to pay electricity charges in arrears in respect of his consumption of electricity during a period from 09/07/2010 i.e. the date of installation of meter no. E098341 till 17/01/2011 i.e. date of removal of the said meter.
- 14.0 In the aforesaid observation and discussion, we proceed to pass the following order.

#### ORDER

1. The complaint no. N-E-193-2013 stands allowed.
2. The Respondent BEST Undertaking has been directed to recover the electricity charges in arrears from the complainant to the extent of six months of the unpaid charges for electricity supplied to the premises when occupied by the erstwhile consumer. In addition to this, the Respondent BEST Undertaking has been further directed to recover the electricity charges from the complainant for the electricity consumed by him during a period from 09/07/2010 to 17/01/2011.
3. The Respondent BEST Undertaking further directed to prepare an electricity bill as directed above within a period of one month from this date and serve on the

complainant. The complainant is to be provided with electricity supply as applied by him within a period of one month from the date of payment of entire aforesaid charges in accordance with concerned provisions of law and regulations.

4. The complainant may pay the electricity charges as directed above in three equal monthly installments.
5. The Respondent BEST Undertaking has been directed to report the compliances of this order to this Forum within a period of one month there from.
6. Copies be given to both the parties.

(Shri S M Mohite)  
Member

(Shri M P Thakkar)  
Member

(Shri R U Ingule)  
Chairman