

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-F(N)-100-10 dt . 8/7/2010

Mr. Harshad N. MehtaComplainant

V/S

B.E.S. & T. UndertakingRespondent

Present

Quorum
1. Shri. R. U. Ingule, Chairman
2. Shri. S.P. Goswami, Member
3. Smt. Varsha V. Raut, Member

On behalf of the Complainant
1. Shri. Davinder Singh Sudan
2. Shri. Abrar Hussain Shah
3. Shri. Harshad N. Mehta

On behalf of the Respondent
1. Shri. D.R. Ohol, DECC 'F/N'
2. Shri. R.P. Gathe, AOCC 'F/N'
3. Shri. S.Y. Gaikwad, Supdf. CC 'F/N'

Date of Hearing: 30/7/2010 & 11/8/2010

Date of Order : 06/09/2010

Judgment by Shri. R.U. Ingule, Chairman

Mr. Harshad N. Mehta, Shop No. 11 & 12, Grd flr, Jamandas P. Wing, Plot no. 131/D, Duncan Causeway, Sion, Mumbai – 400 022 has come before Forum for grievances regarding recovery of Outstanding electricity bill amount of A/c No. 658-083-041.

Complainant has submitted in brief as under

1. Complainant Mr. Harshad N. Mehta is the tenant of the premises shop No. 11 & 12, Grd Floor, Jamandas P. Wing, Plot No. 131/D, Ducan Causeway, Sion Mumbai – 400 022. Complainant had applied for electric supply for the above said premises dtd. 26/6/2009, requisition No. 91000947.
2. As per complainant, respondent gave him outstanding arrears of the M/s. Social Mechanical works, Rs.97,204.78 which was stand on above said premises.
3. As per complainant meter No. D 777170 & 0918224 (A/c No. 658-083-041) were removed by respondent in 17/1/2000 for non payment of Rs.7648.02 as per respondent's ledger shown.
4. Complainant states that meter reading of the above meter no. 0918224 was 3175 units from 1998 to till removing of meter on 17/1/2000 as per respondent ledger shown. Respondent meter reader read the meter once in every two month.
5. Complainant states that as per ledger record meter no.0918224 consumed 320 units in April 2001. When meter was removed and still in custody of respondent. It is not possible it may be last reading of the disputed meter.
6. Complainant states that as per ledger record meter no.0918224 consumed 9680 units in Dec-2004. When meter was removed and still in custody of respondent. It is unbelievable how it is possible that the last reading may be taken by respondent twice.
7. Complainant states that how it can be possible that, after the last reading by respondent's meter reader and before the meter removed in the stipulated period complainant consumed 10,000 units. When it is clear cut seen in the ledger of the respondent that meter was not in use. It is not possible, may be the last reading 3175 units read as 13175. Respondent update their ledger till April 2006, but failed to send bill or notice to clear the arrears.
8. Complainant states that why not respondent took action in time to recover the arrears from the previous party. Why they wait for more than 9 years, when it is clearly mentioned that respondent can take legal action on consumer who neglect to pay, by the way of suit on court and its limitation is 2 to 3 years depend upon cases.

9. As per complainant the arrears of M/s. Social Mechanical Works amount Rs.97204.78 is raised by respondent in Dec 2004, and it was never shown in any bill or respondent never send any bill / notice to previous consumer. Therefore as per section 56 (2) Electricity Act 2003. Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum become first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.
10. As per complainant from the date of removal of meter no. D 777170 & 0918224 there is no continues billing done on bills were not received hence as per Section 56(2) Electricity Act of 2003, the present bill is not recoverable & required to be set-aside & withdrawn & clearance is required for reconnection / restoration of supply to the premises immediately.
11. Complainant Mr. Harshad N. Mehta attended the rehearing on 11/8/2010 with his representative Mr. Davinder Singh Sudan. During the hearing complainant submitted written submission & same is placed on record.

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

12. Mr. Harshad N. Mehta had applied for new connection for Shop No.11, Sion, Mumbai-400 022 vide requisition dt. 04-12-2009. He produced only rent receipt dt.24-06-2009 for shop No.11.
13. Respondent states that after receiving the requisition, site inspection was carried out on 11-01-2010, however the premises was found locked. ESL-9 letter dt.13-01-2010 was therefore sent to him and called him to complete the formalities of requisition within 15 days.
14. As per respondent when complainant's requisition was in process his representative submitted complaint under Annexure 'C' form. The interim reply dt.04-02-2010 for Annex 'C' was sent to Mr. Mehta asking him to submit valid documents for occupancy of the premises. In spite of repeated request was made to his representative, he did not produce any documentary evidence for the occupancy of the premises. Finally his requisition dt.04-12-2009 was cancelled and informed to him vide letter dt.04-05-2010.

15. As per respondent it is clear that requisition dt.04-12-2009 of Mr. Mehta was not considered for non-compliance of documents and not on the ground of payment of arrears amount of old consumer.
16. Respondent states that from the record it is found that Meter No. 1) D918224 & 2)D777170 were in the name of M/s. Social Mechanical Works bearing A/c no. 658-083-041. Both the meters were removed on 17-10-2000 for non-payment of outstanding amount of Rs.98,364.78. In the month of July 2006 O.S. was created of Rs.98,364.78 (O.S. No.404/July 06 I-4./29). It is observed from the remarks dt.05-07-2006 on reading folio that the said premises was locked and no recovery could be effected from the consumer.
17. Respondent states that under Annexure 'C' and Schedule 'A' complaint, Mr. Mehta is disputing of arrears amount bill collected by him against earlier requisition dt.26-06-2009 which has already been cancelled for non-compliance of documentary evidence. Instead of producing the documentary evidence of the premises Mr. Mehta is diverting the attention on the working out of the outstanding bill amount of old consumer. The law of limitation and Section 56 (2) of the Electricity Act is not Applicable in this case on the recoverable amount as at present there is no supply at the premises.
18. Respondent requested to the Hon'ble Forum to direct Mr. Mehta to fulfill the formalities of requisition dt.04-12-2009 to enable respondent to provide electric supply to complainant's premises and pass the order in favour of BEST Undertaking.

REASONS

19. We have heard learned representative Shri D S Sudan for the Complainant and S/Shri Ohol, Gathe and Gaikwad for the Respondent BEST Undertaking. Perused Papers.
20. We find the case on our hand, being an open and shut case. Admittedly, the Complainant had applied for a new electric connection vide his requisition dated 4-12-2009 and the same has been rejected by the Respondent BEST Undertaking vide its letters dated 4-2-10 and 4-5-10. A bear perusal of these two letters blatantly manifest that the Complainant was directed to submit proper & valid document showing his occupancy of the premises where a new electric connection was sought. The complainant was further informed that the submission of merely a rent receipt neither shows the premises being owned or occupied

by the Complainant, therefore, his prayer for reconnection was rejected. The Complainant was further informed to approach this Forum, if not satisfied with the decision taken by the Respondent, BEST Undertaking. The Complainant has also raised a grievance that the Respondent BEST Undertaking has illegally asked the Complainant to pay the outstanding arrears of the erstwhile occupier viz. M/s Social Mechanical Works of Rs 97,204.78.

21. At the outset, we observe that the Complainant has made an attempt to challenge the decision of rejection of reconnection taken by the Respondent, BEST Undertaking, in a thread-bare manner by adverting to various statutory provisions and regulations. In our considered view as envisaged u/s 43 of the Electricity Act, 2003, the BEST Undertaking has been under statutory obligation to provide electricity to an applicant who has been either an "Owner or Occupier" of any premises. As such electric supply is required to be given to the applicant within a period of one month, failing which as envisaged under subsection (3), the distribution licensee would be liable to pay a penalty which may extend to Rs 1,000/- for each day of default. Much emphasis has been placed on the statutory provisions provided u/s 43 of the Electricity Act, 2003, by learned representative Shri D S Sudan of the Complainant. On the other hand Respondent, BEST Undertaking has counter the claim of the Complainant on the ground that as envisaged in explanation provided under subsection (1) of Sec 43 no valid and proper documents were submitted by the Complainant showing his either ownership or occupancy of the premises under consideration. On perusal of the evidence placed before us, we find a great force in the contention raised by the Respondent BEST Undertaking.
22. We find that admittedly in support of its contention for showing occupancy of the premises under consideration, the Complainant has placed on file merely a rent receipt for a period from Jan 10 to Mar 10, while the Respondent as placed on file recent receipt for a period from Apr 09 to Jun 09. We find these rent receipt being signed by one Shri Pawar, admittedly who has not been the owner of the premises. On perusal of the documents placed on file, we find that for verifying the possession of the Complainant in the premises under consideration, the officials of the Respondent BEST Undertaking had paid visits, wherein they found the said premises being locked. We up-hold the contention raised by the Respondent BEST Undertaking that the rent receipts which admittedly not signed by the owner cannot be considered as a proper and valid document showing that the premises under consideration being occupied by the Complainant. We may observe at this juncture that despite the

Complainant was directed to place on file either an agreement entered with the owner of the premises or his No Objection Certificate for showing premises being occupied by the Complainant, the Complainant, however, has miserably failed to place on file any such supporting evidence before this Forum. We further observe that as envisaged u/s 43 of the Electricity Act, 2003, an applicant seeking electric connection needs to be either owner of the premises or the occupant of the same. In our considered view, as envisaged under the said section, the Complainant was under an obligation to provide proper and valid documentary evidence before the BEST Undertaking establishing that the said premises is being occupied by the Complainant. We hold that the rent receipt placed on file certainly fall short for establishing the said premises being occupied by the Complainant. We thus find the said solitary evidence being very shoddy. We therefore hold that the Respondent BEST Undertaking has rightly rejected the application submitted by the Complainant for fresh/reconnection of electricity.

23. Much hue and cry has been made on behalf of the Complainant that the Internal Consumer Grievance Cell of the Respondent BEST Undertaking has utterly failed in redressing the grievance raised by the Complainant before it, within a prescribed period of two months. In this connexion, we observe that under such peculiar circumstances, the Regulations provided under the MERC (CGRF & Electricity Ombudsman) Regulation 2006 has not left such Complainant remediless or in wilderness. In this context, we may advert to Regulation No 6.4, wherein it has been provided that in the event, the consumer is not satisfied with the remedy provided by the Internal Grievance Redressal Cell who has grievance within a period of 2 months or where "no remedy" has been provided within such period, the consumer is at liberty to approach the Forum to submit his grievance. Accordingly, the Complainant has approached this Forum for redressal of his grievances. In the same manner and fashion, the Complainant has adverted to various other Regulations in a futile and abortive manner.
24. Before we part with this order, we may observe that the complainant has also assailed the claim made by the Respondent BEST Undertaking directing him to clear the arrear amount of Rs 97,204.78 being illegal and baseless. We refrain from addressing to this grievance, it being unnecessary as the Complainant has already failed to establish the said premises being occupied by him. In our view, addressing to such grievance raised by the Complainant under the said peculiar circumstances would merely be redundant and would burden this order.

25. In the aforesaid observations and discussions, we hold that the Complainant has miserably failed in establishing, the premises to which the electric connection has been sought, being occupied by him as envisaged u/s 43 of the Electricity Act 2003. In natural consequences his complaint should fail. Accordingly we proceed to pass the following order.

ORDER

1. The Complaint No N-F(N)-100-10 dt. 8/7/2010 stands dismissed.
2. Copies be given to both the parties.

(Smt. Varsha V. Raut)
Member

(Shri.S.P.Goswami)
Member

(Shri. R.U. Ingule)
Chairman