

**BEFORE THE COMPLAINANT 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)-166-2012 dtd. 04/09/2012**

Shri Harshad Mehta .....Complainant

V/S

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

**Present**

Quorum :  
1. Shri R U Ingule, Chairman  
2. Shri M P Thakkar, Member  
3. Shri S M Mohite, Member

On behalf of the Complainant : 1. Shri. Davinder Singh

On behalf of the Respondent :  
1. Shri. Vijay P. Sawant, AAMCC(F/N)  
2. Shri. Shivdas V. Fulpagare, SCC (F/N)  
3. Shri. S.G. Dhisle, DECC(F/N)

Date of Hearing : 04/10/2012

Date of Order : 01/11/2012

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

Mr. Harshad N. Mehta, Shop No. 11 & 12, grd. flr., Jamnadas Prabhudas Chawl, Duncan Causeway Road, Mumbai - 400 022 has come before the Forum for dispute regarding demand of outstanding bill of previous consumer.

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

- 1.0 The complainant has approached to IGR Cell on 12/06/2012 regarding demand of outstanding bill of previous consumer. The complainant has approached to CGRF in schedule 'A' dtd. NIL (received by CGRF on 23/08/2012) as no remedy is provided by the Distribution Licensee regarding his grievance. The complainant has requested the Forum to solve the dispute and give order to sanction new meter and also demanded compensation for delay as per MERC terms & IE Act, 2003.

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

- 2.0 The applicant is in possession of Shop premises of 11 & 12, Ground Floor, Jamnadas Prabhudas Chawl, Duncan Causeway Road, Mumbai - 400 022. He applied for new meter vide Requisition No. 91300454 (KLG No. 86689) dtd. 08.05.2012. Requisition was sanctioned on 04.06.2012 subject to compliance as stated in the letter. As per the letter, the complainant was asked to pay bill of Installation No. 186319 and submit various documents.
- 3.0 The complainant then approached under annexure - C application dtd. 12.06.2012 stating therein that he was ready to comply with requirements stated in the letter. However, paid bill of Installation No. 186319 can not be fulfilled as he was a new Occupier of the said premises and the outstanding bill does not belong to him and as per Section - 56 (2), this is time bar case.
- 4.0 In a reply to annexure - C, applicant was informed that his application for new meter pertains to Shop No. 11 & 12 of the said building and previous Occupier was M/s. Social Mechanical Works. Applicant had attached occupancy proof as Rent Bill for Shop No. 11 in the name of Mr. Harshad N. Mehta and for Shop No. 12 in the name of Smt. Sandhya H. Mehta & Harshad H. Mehta.
- 5.0 Further, the complainant was also informed that the meter of earlier consumer was removed for non payment of electrical charges pertaining to applicant's premises having A/c. No. 658-083-041, Installation No. 186319 As per ledger statement and also the outstanding register Rs.98,364.78 were Electrical Charges not paid by the earlier consumer. On deducting Rs.1,160.00 of Security Deposit, the remaining amount of Rs.97,204.78 were Electrical Charges and this was charge on the premises. The complainant being new occupant for the same premises, the outstanding amount was required to be paid by him.
- 6.0 Now, the consumer has approached Hon'ble CGRF requesting to waive this amount on the ground that no document was provided alongwith claim letter. Further that, he has no relation with previous Occupier and the bill is not related to him as such, he has denied to pay the outstanding bill.

- 7.0 In this connection, we have to state that the complainant, Shri Harshad N. Mehta have applied for new electric meter for commercial purpose and as per EDP Ledger Statement amount of Rs.98,364.78 are the Electrical Charges not paid by the earlier occupant, M/s. Social Mechanical Works. Since, the same premises are occupied by the complainant, the outstanding arrears of Electrical Charges is a charge on the property and as such the new complainant is liable to pay the amount.
- 8.0 After deducting the Security Deposit of Rs.1,060.00 from Rs.98,364.78, the remaining amount of Rs.97,204.78 are payable by the complainant.
- 9.0 The Hon'ble Forum is therefore, requested to pass the order in favour of the BEST Undertaking.

**REASONS :**

- 10.0 We have heard Shri Davinder Singh for the complainant and for Respondent BEST Undertaking Shri Vijay P. Sawant, AAMCC(F/N), Shri. Shivdas V. Fulpagare, SCC (F/N), Shri. S.G. Disle, DECC(F/N).
- 11.0 A very short controversy has been arisen before this forum for its redressal. The complainant contends that he has been a tenant and occupied premises wherein he applied for tapping meter on 08/05/2012. Thereafter the Respondent BEST Undertaking has demanded an outstanding bill of Rs. 97,204.78 in a respect of erstwhile occupier viz. M/s Social Mechanical Works. The complainant further contends that he is having no relation with the previous occupier of the premises and therefore no liable to pay his arrears of electricity charges.
- 12.0 In contra, the Respondent BEST Undertaking contends that the complainant has applied for new electric meter for commercial purpose and its EDP ledger records shows the arrears of electricity charges of Rs. 98,364.78 payable by the erstwhile occupant viz. M/s Social Mechanical Works. The said charges of electricity in arrears has been a *charge* on the premises and therefore the new occupant like complainant, has been liable to pay the same.
- 13.0 This Forum finds that the law laid down by the Hon'ble Division Bench of the Bombay High Court in a case of **M/s NAMCO Industries Pvt. Ltd. v/s State of Maharashtra (Writ Petition No. 9906 of 2008)**, gives a complete *quietus* to the controversy under consideration. A similar controversy was arisen before consideration of the Hon'ble Bombay High Court, wherein the petitioner was contending about seeking a fresh electricity connection and therefore not liable to pay outstanding of the erstwhile owner / occupier. On the other hand the Respondent, placing a reliance on Regulation 10.5 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and other conditions of supply, Regulation 2005) (for short MERC Regulation 2005) was contending the unpaid electricity charges constituting a *charge* on the property, therefore recoverable from the transferee.

- 14.0 The Hon'ble Division Bench of the Bombay High Court has held that the said Regulation of 2005 has statutory character. Thereafter, on advertng to the law laid down by the Hon'ble Supreme Court in a case of **Esha Marbles v/s Bihar State Electricity Board (1995 2 SCC648)** observed that under the Electricity Act, 1910 as held by Hon'ble Supreme Court there was no *charge* over the property. Therefore the new occupier / owner could not be called upon to clear the past arrears as a condition precedent to grant of electric supply.
- 15.0 The Hon'ble Bombay High Court however, thereafter held that the deficiency in the law which was noticed by Hon'ble Supreme Court in its decision in **Esha Marble (supra)** has been evidently rectified by framing a statutory regulation like Regulation 10.5 under the Electricity Act, 2003, wherein in the state of Maharashtra unpaid electricity dues would be a *charge* on the property and can be recovered by the Distribution Licensee from the new owner with a qualification viz. except in a case of transfer of electricity connection to a legal heir, the liability has been restricted to maximum period of six months of the unpaid charges for electricity supplied to the premises.
- 16.0 Thus the Hon'ble Bombay High Court while holding that as a statutory provision the said Regulation 10.5 constituting a *charge* of the property wherein except a legal heir, the rest of the new owner / occupier are liable to pay maximum six months of unpaid charges for the electricity supply to the premises and further proceeded to hold that the contention of the petitioner that he is seeking a fresh connection has been without any substance.
- 17.0 The Hon'ble Bombay High Court has further hold that under Regulation 10.5 the Distribution Licensee is entitled to assert its *charge* over the property in the hands of the new transferee and can recover unpaid charges subject to the permitted period specified therein. Therefore, Hon'ble Bombay High Court proceeded to reject the plea that the claim has been barred on the ground of limitation.
- 18.0 In the light of the law laid down by the Hon'ble Division Bench of Bombay High Court, referred to above, this Forum holds that it can not lie in the mouth of the complainant to contend that he is seeking a fresh connection of electricity to the premises and therefore not liable to pay the arrears of unpaid electricity charges of the erstwhile occupant and the same has been time barred.
- 19.0 This Forum holds that as laid down under Regulation 10.5 provided under MERC Regulation 2005, except in a case of transfer of connection to a legal heir in the rest of the cases, the liabilities transfer under this regulation has been restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises. To reiterate in the instant complaint, the complainant would be liable to pay electricity charges in arrears to the extent of six months of the unpaid charges, for electricity supplied to the premises under consideration.

- 20.0 In the aforesaid discussion and observation, the Respondent BEST Undertaking could not be entitled to recover the entire arrears of electricity charges, but the same would be to the extent of six months of unpaid charges, for electricity supplied to the premises. Accordingly we find the complaint liable to be partly allowed. Accordingly we do so.

### **ORDER**

1. Complaint no. N-F(N)-166-2012 dtd. 04/09/2012 stands partly allowed.
2. The complainant is liable to pay unpaid charges for electricity supplied to the premises, for a period of six months preceding the month in which electricity provided to the premises has been disconnected.
3. The Respondent BEST Undertaking has been directed to provide an electric supply to the premises occupied by the complainant within a period of one month on receiving the arrears of electricity charges as directed above, subject to rest of the compliance required from the complainant.
4. Copies be given to both the parties.

(Shri S M Mohite)  
Member

(Shri M P Thakkar)  
Member

(Shri R U Ingule)  
Chairman