

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 -G(S)-209-2013 dtd. 15/10/2013

Lady Ratan Housing ComplexComplainant

V/S

B.E.S.&T. UndertakingRespondent

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. Saqib Khan
2. Shri Jalil Ahmed Shaikh

On behalf of the Respondent : 1. Shri S.V. Fulpagare, DECC(G/S)
2. Shri S.B. Lande, AE CC(G/S)
3. Smt. Chandra Srinivasan, AAM CC(G/S)

Date of Hearing : 22/11/2013

Date of Order : 06/12/2013

Judgment by Shri. R.U. Ingule, Chairman

The Chairman, Lady Ratan Housing Complex, Bldg. No. 1, D.S. Marg, Worli, Mumbai - 400 005 has come before the Forum for dispute regarding issuance of wrong outstanding bill amounting to Rs. 12,79,009.37 for lift & water pump of the building pertaining to A/c 787-005-001.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 24/06/2013 for grievance regarding issuance of wrong outstanding bill amounting to Rs. 12,79,009.37 for lift & water pump of the building pertaining to A/c 787-005-001. The complainant has approached to CGRF in schedule 'A' dtd. 07/10/2013 (received by CGRF on 10/10/2013) as the consumer is not satisfied with the remedy provided by the IGR Cell Distribution Licensee regarding their grievance. The complainant has requested the Forum to correct the outstanding bill.

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

- 2.0 Electric supply is given to the Lady Ratan Housing Complex for common amenities like lift, water pump and passage lighting for rehab building developed under SRA for 69 no. of tenants through meter no. M-010987, a/c no. 787-005-001 on 07/02/2001. First bill amounting to Rs. 1,27,563.28 for 2580 units consumed was served in the month of July 2001.
- 3.0 During inspection on 25-09-2001 it was observed that, electric supply being used for commercial purpose. Hence tariff of the consumer was changed from residential to commercial. After investigation tariff is changed from commercial to residential from June 2003. Amendment bill of Rs 1,71,638.80 was preferred for tariff difference between residential tariff and commercial tariff for the period from 07/02/2001 to 12/11/2002 and informed to the consumer on 07/05/2003. However, no bill was served to him.
- 4.0 In January 2002 the consumer was inadvertently charged for one lac more units as meter reader had brought meter reading 141441 instead of 41441. In the month of January 2002 bill of amounting Rs. 7,39,025.01 was sent to the consumer. Same error is rectified by giving credit of Rs. 5,44,925.09 under code 43 and debit of Rs. 26,838.00 under code 03 resulting in net credit of Rs. 5,18,087.09 in the billing month March 2003. Net bill for the month of March 2003 was amounting to Rs. 5,28,455.00.
- 5.0 The consumer was charged from September 2003 to March 2005 on average consumption basis. When actual meter reading was available, it was noticed that consumer was charged for 18400 units instead of 26287 units consumed. Thus consumer was charged less for 7887 units. Hence amount of Rs 38,623.43 was debited under code 3 in March 2009.
- 6.0 From bill payment history it is observed that, the consumer is not paying electricity bills regularly. The last bill was paid in August 2009, after that no bill paid till the meter was removed for non-payment on 21-05-2010 for arrears of Rs 8,86,812.55.
- 7.0 In the month of June 2013 net bill of the consumer was increased to Rs. 12,79,009/- including delay payment charges and penalty interest.
- 8.0 The consumer had paid Rs. 6 lacs on 25/07/2013 and gave post dated cheques amounting to Rs. 4,23,703.00 dtd. 24/08/2013 and Rs. 2,55,306 dtd. 24/09/2013 and requested the Undertaking to reconnect the electric supply on 07/08/2013 through meter no. N 111515 after taking GM's approval on 06/08/2013.
- 9.0 The cheque amounting to Rs. 4,23,703.00 dtd. 24/08/2013 was deposited on 26/08/2013 which was dishonoured by the bank for reason "fund insufficient". Fifteen days notice was given to the consumer to pay amount mentioned on cheque with

administrative charges of Rs. 250.00. As consumer had not paid the same, the meter was removed on 17/09/2013.

- 10.0 Again, the consumer has approached GM on 19/09/2013 and SSGM has taken the approval of GM for making payment in seven instalments. The consumer has given the undertaking dtd. 20/09/2013 to pay the balance amount as given below.

Towards Vigilance claim	:	Rs. 57,310.00 on 07/10/2013
Compounding charges	:	Rs. 76,280.00 on 20/10/2013
Outstanding electricity bill	:	Rs. 2,50,000.00 on 10/11/2013

- 11.0 He will be paying remaining amount as Rs. 1,00,000.00 every month along with current bill till the total outstanding is cleared. Therefore the meter was reconnected on 25/09/2013.

REASONS

- 12.0 We have heard Shri Mohd. Saquib Khan for the complainant housing complex and for the Respondent BEST Undertaking Shri S.V. Fulpagare, DECC(G/S), Shri S.B. Lande, AE CC(G/S) and Smt. Chandra Srinivasan, AAM CC(G/S). Perused papers.
- 13.0 At the outset we have observed the instant complaint being devoid of any merit. To our surprise, despite the Respondent BEST Undertaking has extended extensive co-operation and shown every sympathy to the resident of Lady Ratan Housing Complex being constructed under SRA, it remains in arrears and on the contrary dragged the matter before the IGR and instant Forum.
- 14.0 The complainant housing complex has listed out its grievances at the end of its instant complaint as follows. In the first instant it has been contended by the complainant that the meter no. M 010987 having a/c no. 787-005-001 was installed on 07/02/2001 and it received its first bill allegedly of huge amount of Rs. 1,27,563 in July 2001. The complainant has not raised any controversy in respect of this bill amount. Thereafter the complainant has averred that in the month of January 2002 it has received a wrong bill of Rs. 5,42,145.00. In regard to this bill, the complainant has candidly admitted that the Respondent BEST Undertaking thereafter made the necessary correction in the electricity bill for the month of March 2003, after lapse of one year. In this context this Forum observes that the reading recorded by the meter no. M010987 was in fact 41441 units. However, due to sheer lapse on the part of meter reader, it was recorded as 141441. As such it was recorded on higher side by one lac units. As observed above, the said mistake cropped up inadvertently, has been credited by the Respondent BEST Undertaking in the electricity bill of March 2003 as admitted by the complainant. Accordingly, on perusing the ledger folio placed before us, we find such correction being made under code no. 03 & 43. To reiterate, there is no any dispute about such 'correction' made by the Respondent BEST Undertaking.
- 16.0 Now we proceed to advert to the disputed contention raised by the complainant that the Respondent BEST Undertaking started sending the electricity bill on commercial tariff from October 2002 to May 2003, especially when the said meter was only used for lift, water pump and staircase lights, for the use of 69 tenants residing in the said building. Thereafter, the Respondent BEST Undertaking has served a bill on the complainant on the ground of change in tariff amendment of Rs. 1,71,638 for the period 07/02/2001 to 12/11/2002. The said bill has been served on 06/08/2013 on the complainant i.e. after lapse of eleven years.

- 17.0 In this connexion, this Forum observes that the sub-engineer of the Respondent BEST Undertaking has received a report from the Investigation Inspector inter-alia that he visited the premises of the complainant and checked the meter and found 'terminal block cover is misplaced' and also found an office in gala no. 7 installed with one air conditioned, four computers and tube light. The electricity supply therein was used for commercial purpose and for lift and water pump. The said report has been placed before this Forum at pg. 127. This Forum also finds an order passed by the official of the Respondent BEST Undertaking, Shri Kadam an assistant, passing a remark that on the basis of this report, the commercial tariff is implemented w.e.f. 09/01/2003 billing.
- 18.0 It is significant to observe at this juncture that, the representative Shri Mohd. Saquib Khan has not denied to any extent the existence of such gala no. 7 in the premises of the complainant. However, in his lame and fragile attempt to defend complainant, has merely submitted that the complainant was ignorant of availing the supply of electricity being used in gala no. 7 for carrying out commercial activities. This Forum also observes that the official of the Respondent BEST Undertaking does not have any reason to foist a commercial tariff on the complainant causing any prejudice to it. We therefore uphold the contention raised by the Respondent BEST Undertaking that as observed by its official, they have found the complainant using the supply for commercial purpose and that for lift and water pump. At this juncture, we may observe that the Respondent BEST Undertaking has rightly amended the tariff in respect of the complainant from the date of installation of meter no. M 010987 on 07/02/0001 and worked out the electricity charges to be paid by the complainant of Rs. 1,71,638.80.
- 19.0 This Forum also finds a futile and abortive attempt made by the complainant to contend that it has been directed to pay the arrears of Rs. 1,71,638.80 for the period from 07/02/2001 to 12/11/2002 after lapse of about eleven years. In this regard, this Forum observes that the letters dtd. 07/05/2003, 16/06/2003 and 14/07/2003 sent to the complainant by Registered A.D. blatantly manifest that the complainant was well informed that on checking installation of meter no. M 010987 on 25/09/2002 it was revealed that the same was used for commercial purpose and therefore the bill has been amended for the difference between two rates which worked out to be Rs. 1,71,638.80 and directed him to pay the same failing which the electricity was to be disconnected. Beside these letters, this Forum also finds it beneficial to refer to the decision of the Hon'ble Division Bench of the Bombay High Court in a case of M/s Rototex Polyester and Anr. v/s Administrator Administration of Dadra and Nagar Haveli (U.T.) Electricity Dept. Silvassa and Ors., High Court of Bombay (2010(4) Bombay C.R. 456) decided on 20/08/2009. In this judgment it has been held by their Lordship of the Bombay High Court that no limitation would be applicable if the consumer has under billed on account of Distribution Licensee's oversight or clerical mistake. This Forum observes that in the instant matter however the complainant was well informed at the earliest about the change in tariff, resulting into payment of Rs. 1,71,638.80 as observed above. Besides it, in a present law position, no law of limitation is applicable in case of such demand. This Forum therefore finds no merit in the said contention raised by the complainant.
- 20.0 The complainant has also raised one more grievance that from the September 2003 onwards, the Respondent BEST Undertaking was serving the electricity bills on the complainant with a constant units viz. 1840 until March 2005. In this regard, this Forum observes that a bare perusal of the ledger folio placed before us by the

Respondent BEST Undertaking manifests that as submitted by the complainant from the month of September 2003, the Respondent BEST Undertaking has recorded a constant units viz. 1840 till March 2005. However, this Forum observes that in the month of May 2005, the Respondent BEST Undertaking has recorded an actual consumption of units by the complainant, through the meter no. M 010987 as 95118. The representative for the Respondent BEST Undertaking has pointed out that the difference in average unit and actual unit consumed by the complainant of Rs. 38,623.43 has been therefore debited in the account of the complainant under code no. 03. Accordingly, this Forum finds said entry in ledger folio against the month of March 2009. This Forum thus finds that on account of serving the bill on the complainant on average unit consumption basis, on the contrary the complainant was under billed and he was thus benefited instead of causing any prejudice to him. This Forum therefore finds that the complainant should not have any reason to raise any grievance when no prejudice has been caused to him.

- 21.0 As observed above we thus find no merit to an extending, in any contention or grievance raised by the complainant before this Forum. On the other hand, the representative appearing for the Respondent BEST Undertaking has pointed out that a bare perusal of ledger folio placed before this Forum blatantly manifest that the complainant has been constantly 'irregular' in paying the electricity bill to the Respondent BEST Undertaking and found to be blissfully complacent in availing various concession from the Respondent BEST Undertaking in paying the electricity bill under the name of being a 'slum dwellers'. In support of this contention, the representative of the Respondent BEST Undertaking pointed out that a document placed at pg. 63 viz. CIS (Current Information of the System) manifests that the last payment made by the complainant was on 11/08/2009 therefore for such non-payment his meter no. M 010987 was removed on 21/05/2010. Thereafter the Vigilance officer of the Respondent BEST Undertaking during its raid found that the complainant was availing the supply directly i.e. it has indulged into the theft of the energy supply. For the same, the Vigilance of the Respondent BEST Undertaking claimed an amount of Rs. 1,58,000.00 from the complainant. Thereafter on obtaining the special approval from GM office, the supply was restored to the complainant on 07/08/2013.
- 22.0 Before we part with this order, we may observe that despite giving ample concession to the complainant, it has not cleared the electricity dues. However, the complainant went on exploiting various such concessions given by the Respondent BEST Undertaking. In this connexion the payment history document placed on file at pg. 61 manifests that before the removal of the meter on 21/05/2010, the last payment received from the complainant was on 11/08/2009 of Rs. 27,273.00 when the ledger folio at pg. 57 placed before us manifests that at the relevant time the total outstanding electricity demand was Rs. 7,26,395.52. Thereafter during the vigilance raid, the Respondent BEST Undertaking found the indulgence of the complainant into availing direct supply which amounts to a theft of electricity envisaged under section 136 of the Electricity Act (for short E.A.), 2003, punishable under the said act with imprisonment for a term which may extend to three years or with fine or with both.
- 23.0 However, taking a lenient view, the Respondent BEST Undertaking has reduced the vigilance claim amount of Rs. 8,65,027 to Rs. 3,15,310.00 also allowing the complainant to pay the same in installments. In this context, we refer to written submission dtd. 25/07/2013 submitted by the Customer Care (G/S) ward for obtaining GM's approval for giving such installments. This written submission is placed before this Forum at pg. 79 to 84. Beside this vigilance claim, there was the arrears of electricity charges of Rs. 12,79,009.00. In regard to this amount the complainant has

agreed to pay the outstanding as per the Office Order no. 185 dtd. 09/03/2011 placed before this Forum at pg. 83.

- 24.0 Admittedly, the Chairman of the complainant housing complex requested the Respondent BEST Undertaking vide its letter dtd. 25/07/2013 placed on file before this Forum at pg. 65 for reconnection of electric supply for common meter by making a payment of Rs. 6 lacs and submitted two post dated cheques dtd. 24/06/2013 of Rs. 4,23,703.00 and dtd. 24/09/2013 of Rs. 2,55,306.00. Therefore the Respondent BEST Undertaking reconnected the electric supply on 07/08/2013 to the complainant. However, to the surprise of the Respondent BEST Undertaking when it deposited the cheque of Rs. 4,23,703.00 it was dishonoured for want of cash. The Respondent BEST Undertaking thereafter did not deposit the second cheque for encashment. It is significant to observe at this juncture that, on observing the cheque for amount of Rs. 4,23,703.00 being dishonoured, the complainant housing complex was served with a notice dtd. 09/02/2013 by the Respondent BEST Undertaking calling upon to make the payment of the dishonoured cheque, failing which to take legal action under the Negotiable Instrument Act, 1881 and also to cut off the electric supply under section 56(1) of the E.A., 2003.
- 25.0 The Respondent BEST Undertaking however refrained from taking such a legal action under the Negotiable Instrument Act, 1881, instead disconnected the electric supply on 17/09/2013. Thereafter on receiving a representation from the complainant housing complex dtd. 29/09/2013 placed before the Forum at pg. 93, the GM's office of the Respondent BEST Undertaking vide its proposal dtd. 20/09/2013 placed before this Forum at pg. 117 for giving one more opportunity granted seven installments to the complainant to clear the dues. In compliance to GM's office, the complainant housing complex has given an undertaking in written dtd. 20/09/2013 placed before this Forum at pg. 121 along with post dated cheque. Accordingly the electric supply has been restored on 25/09/2013.
- 26.0 In the aforesaid discussion, this Forum observes that the Respondent BEST Undertaking has considered the representation of the complainant housing complex sympathetically from time to time and extended ample opportunities to clear the dues. We therefore on such backdrop find allegations made by the complainant against the Respondent BEST Undertaking being total ill founded and unsustainable in fact and law. This Forum does not find the complainant housing complex deserves any more sympathy or relief from this Forum.
- 27.0 Needless to say that, the complaint before us being devoid of any merit liable to be dismissed. Accordingly we do so.

ORDER

1. The complaint no. N -G(S)-209-2013 stands dismissed.
2. Copies be given to both the parties.

(Shri S M Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman