

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. S-D-97-2010 dt. 11/3/2010

Mr. Behram Hooshang BakhtComplainant

V/S

B.E.S. & T. UndertakingRespondent

Present

Quorum
1. Shri. R.U.Ingule, Chairman
2. Shri. S. P. Goswami, Member

On behalf of the Complainant
1. Mr. Behram Hooshang Bakht
2. Mr. Riyaz A. Ismail Dimtimkar
3. Mrs. Anahira B. Bakht

On behalf of the Respondent
I) 1. Mr. T.D. Jadhav, Supdt, CC 'D' ward
2. Mr. P.P. Vichare, OACC, 'D' ward
II) Mr. Shahzad H. Bakht

Date of Hearing: 16/04/2010 & 27/4/2010

Date of Order : 1/6/2010

Judgment by Shri. R.U.Ingule, Chairman

Mr. Behram Hooshang Bakht, 1st Floor, Flat No. C2, Ness Baug, Nana Chowk, Mumbai – 400 007, approached the CGR Forum with a grievances regarding removal of his name by respondent from electricity bill no. 877-229-003 & requesting Forum to order & direct the respondent to add his name on electricity bill no. 877-229-003 immediately.

Complainant has submitted in brief as under

1. Complainant states that he & his brother are jointly owner of the said premises. In support of this connection he is enclosing documentary evidence viz. ration card, passport, telephone bill, gas connection, rent receipt & occupancy certificate dated 31/8/09 issued by landlord.
2. Complainant states that a will of Mr. Hooshang Behram Bakht dtd. 26/2/1991 wherein he had appointed his 2 sons Mr. Shahzad Hooshang Bakht & Mr. Behram Hooshang Bakht as executor of his will.
3. As per complainant inspection report of respondent dtd. 9/4/2009, was clearly mentioned that flat is occupied by Mr. Behram Hooshang Bakht.
4. As per complainant in suit no. 1032/2960, of 1990 filed in court of small causes by Dr. Aspi P. Golwalla & Ors, the names of Mr. Shahzad Hooshang Bakht & Mr. Behram Hooshang Bakht, are given as legal heirs of Mr. Hooshang Bakht.
5. Complainant requested Forum to add his name on the electricity bill as per MERC Regulation, 2005, clause 10.3 (ii).
6. Complainant made an application to IGR Cell of the respondent stating their grievances in Annexure 'C' on 8/1/2010.
7. In reply to Annexure 'C' the IGR Cell of respondent informed complainant that his brother has objected to add his name on electricity bill & respondent suggested to apply with fresh joint application for the change of name alongwith the consent of his brother.
8. Unsatisfied by the decision taken by respondent against his complaint in Annexure 'C' format, the complainant lodged his grievances with CGR Forum in Annexure 'A' format on 11/03/2010.
9. Complainant prayed the Forum to hear the case sympathetically & add his name on electricity bill no. 877-229-003.

Written submission in brief of Mr. Shahzad H. Bakht as under

10. Shree Behram H. Bakht has submitted fraudulent Impersonation of Identity documents for inserting his name in the bill without Mr. Shahzad H. Bakht consent.
11. As per the last WILL of Mr. K.D. Umrigar, C-2 Ness Baug, Nana Chowk, was willed to Mr. Shahzad H. Bakht.
12. The electric Bill was also transferred in his name prior to the expiry of Mr. K.D. Umrigar from June, 1981.
13. Written statement of Shri. Hooshang Bakht to the Hon'ble Small Causes Court, whereby it is mentioned very clearly that the original tenant Mr. K.D. Umrigar was staying in the premises along with Mr. Shahzad H. Bakht and it is mentioned that the Tenancy rights should go to Mr. Shahzad Bakht.
14. Mr. Shahzad H. Bakht has requested Forum not to add Mr. Behram H. Bakht name in electricity bill.

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

15. As per respondent the electricity bill no. 877-229-003 has been in the name of Mr. Shahzad Hooshang Bakht. Mr. Behram Hooshang Bakht applied for change of name in the electricity bill no. 877-229-003 to Mr. Behram Hooshang Bakht & Mr. Shahzad Hooshang Bakht with their photographs affixed, on 31/03/2009. Said change of name was effected from 13/5/2009. Mr. Shahzad Hooshang Bakht, old registered consumer objected vide his letter the insertion of name of Mr. Behram Hooshang Bakht stating, he had not given NOC for insertion of name of Mr. Behram Hooshang Bakht and also his signature and photo had been forged. After getting the objection the bill was reverted by respondent in the name of original consumer i.e. Mr. Shahzad Hooshang Bakht with due intimation vide their letter to Mr. Behram H. Bakht.
16. On 8/7/2009 Mr. Behram Hooshang Bakht re-applied for insertion of name. On getting advice from respondent's Legal Department dtd. 18/9/2009, the applicant was asked for NOC of existing consumer i.e. Mr. Shahzad Hooshang Bakht for insertion of name, personally during his visit to respondent ward. Complainant did not comply the same.
17. As per respondent the owner of the premises Shri. D.K. Umarigar had made his will in favour of Mr. Shahzad Hooshang Bakht like a son. Will of Mr. Hooshang Behram Bakht dtd. 26/2/1991 cannot be considered.

18. Mr. Shahzad Hooshang Bakht has submitted an order of the Small cause court, Mumbai in RAE Suit no. 1032/2960 of 1990 dtd. 9/3/2001 stating therein the said suit is dismissed for default.
19. Mr. Behram Hooshang Bakht has not been able to show any documents regarding his lawful occupation of the premises.
20. Respondent prayed the Hon'ble forum to dismiss the change of name dispute case of Mr. Behram Hooshang Bakht for lack of sufficient grounds & considering submission of fraudulent documents for insertion of name in the bill on behalf of Mr. Behram Hooshang Bakht.

REASONS

21. We have heard the complainant Mr. Behram Bakht in person and his representative Mr. Riyaz A. Ismail Dimtimkar & Mrs. Anahira B. Bakht. We have also heard the representative of the respondent BEST Undertaking viz. Mr. T.D. Jadhav, Supdt, CC 'D' ward & Mr. P.P. Vichare, OACC, 'D' ward & Mr. Shahzad Hooshang Bakht in person. Perused papers.
22. We find the instant matter on our hand, being an open and shut case. The complainant Mr. Behram Bakht *inter alia* contends that he had made a request to the respondent BEST Undertaking for addition of his name alongwith his brother Mr. Shahzad Bakht on the electric bill A/c no. 877-229-003 and the same has been turned down by the respondent BEST Undertaking. For rejecting the application made by the complainant Mr. Behram Bakht, the respondent BEST Undertaking has provided a reason about an objection being raised by the Mr. Shahzad Bakht to insert the name of the complainant in the electricity bill.
23. The respondent BEST Undertaking has informed the complainant to apply alongwith the consent of his brother Mr. Shahzad Bakht, in whose name the electricity bill has been issued, for insertion of his name in the electricity bill. The respondent Mr. Shahzad Bakht has raised a strong objection for such insertion of the name of the complainant in the electricity bill. Hence the dispute before this Forum for its redressal.
24. At the outset, this Forum finds that for addition or insertion of name in the electricity bill the complainant has been placing a heavy reliance on the regulation no 10.3 provided under the MERC (Electricity Supply Code and Other Conditions of Supply) Regulation, 2005. We therefore find it expedient to reproduce the text of the regulation 10.3 and it runs as under :

10.3 The application under regulation 10.2 shall be accompanied by

- (i) consent letter of the transferor for transfer of connection in the name of transferee;*
(ii) in the absence of a consent letter, any one of the following documents in respect of the premises:
(a) proof of ownership of premises;
(b) in case of partition, the partition deed;
(c) registered deed; or (d) succession certificate;
(iii) photocopy of licence / permission with respect to the purpose for which electricity is being supplied to the premises, if required by statute;
(iv) processing fee or receipt thereof.

25. In a bare perusal the said regulation 10.3, we find that it is crystal clear that the 'consent letter', envisaged under the said regulation needs to be given by the transferor for transfer of connection in the name of transferee. At this juncture it is significant to observe that the entire regulation no 10 has been provided to take care of the cases wherein a connection is to be 'transferred' in the name of another person.
26. We therefore find that in the matter on our hand there is no any case of 'transfer of any connection', from one person to another. However, we have been confronted to resolve a dispute pertaining to addition or insertion of the name of the complainant alongwith his elder brother Mr. Shahzad Bakht, in whose name the respondent BEST Undertaking has been issuing a electricity bill till this date. It is therefore as clear as that of a day light that such cases cannot be considered under regulation 10 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. We therefore find that the reliance placed by the complainant on the regulation 10.3(ii) has been totally misplaced and miscomprehended one.
27. An attempt has been made by the complainant to bolster his case by placing on file a plethora of documents showing he being in occupation of premises under consideration. We find no warrant to advert to all this documents, as it has not been in dispute that the premises under consideration has been in the occupation of complainant alongwith his elder brother Mr. Shahzad Bakht. We find the significant aspect that required to be taken into consideration that admittedly Mr. Shahzad Bakht has been in the occupation of the premises and accordingly respondent BEST Undertaking has been issuing the electricity bill in his name.
28. No regulation has been pointed out to this Forum by the complainant, to show that the respondent BEST Undertaking being under a statutory obligation to add the name of the complainant alongwith his elder brother Mr. Shahzad Bakht in the electricity bill. At this juncture Mr. Shahzad Bakht has rightly pointed out that the complainant has taken a devious & dubious approach in applying to the respondent BEST Undertaking for addition of his name in the electricity bill, by pasting on his application a false photograph of his elder brother Mr. Shahzad Bakht.
29. The complainant has candidly admitted before this Forum that the photograph pasted on the application being not that of his elder brother Mr. Shahzad Bakht. Complainant at the same time has submitted that the said photograph being not pasted by him on the said application. We find however no merit in the said defence raised by the complainant for a simple reason that the said application has been submitted by the complainant under his signature. Therefore we hold the complainant being answerable for pasting a wrong photograph of Mr. Shahzad Bakht on the application requesting the respondent BEST Undertaking for addition of his name on the electricity bill. In our considered view to grant the prayer of complainant would mean putting a premium on such devious & dubious approach resorted to by the complainant for getting his name added on electricity bill alongwith Mr. Shahzad Bakht. This Forum as such finds the complainant has not approached with a clean hands for redressal of his grievance. Therefore on this count also we find the instant complaint being liable for dismissal at once.
30. Before we part with this order, we may observe that the complainant has pressed into service a will of his father Mr. Hooshang Behram Bakht and inspection report of the respondent BEST Undertaking and documents pertaining to a suit no. 1032/2960 of 1990 filed before Small Causes Court. In this regard we observe that as envisaged u/s 43 of the Electricity Act, 2003 the respondent BEST Undertaking has been under obligation to supply an electricity to the "owner or occupier" of any premises. Admittedly the brother of the complainant Mr. Shahzad Bakht has been in the occupation of the premises to which the electricity supply has been provided. It is further admitted that neither the complainant nor Mr. Shahzad has been the owner of the said premises. Explicitly therefore the respondent BEST Undertaking has not been under obligation to add the name of the complainant in the electricity bill especially when his brother Mr. Shahzad Bakht has been raising a strong objection. In our considered view in the given facts & circumstances we do not find any warrant to go into the merits of the documents such as will of Mr. Hooshang Bakht and the documents pertaining to the suit no. 1032/2960 of 1990 etc, which would merely burden this order.
31. In the aforesaid observations and discussion we find the complaint preferred by the complainant being devoid of any merit, therefore liable to be dismissed. Accordingly we do so.

ORDER

1. The complaint no. S-D-97-2010 dt. 11/3/2010 stands dismissed.
2. Copies be given to both the parties.

(Shri.S.P.Goswami)
Member

(Shri. R.U. Ingule)
Chairman