

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 -A-206-2013 dtd. 27/08/2013

Shri Narayan K. RathodComplainant

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 Dinesh Shoorkar

On behalf of the Respondent : 1. Shri. U.Y. Vajandar DECC(A)
2. Shri. S.B. Doiphode

Date of Hearing : 27/09/2013

Date of Order : 24/10/2013

Judgment by Shri. R.U. Ingule, Chairman

Shri Narayan K. Rathod Ambedkar Nagar, Prakash Pethe Marg, Cuff Parade, Mumbai - 400 005 has come before the Forum for dispute regarding wrongly disconnection of electric supply pertaining to A/c 212-260-016.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 29/05/2013 for grievance regarding wrongly disconnection of electric supply pertaining to A/c 212-260-016. The complainant has approached to CGRF in schedule 'A' dtd. 16/08/2013 (received by CGRF on 26/08/2013) as he was not satisfied by the remedy provided by the Distribution Licensee regarding his grievance. The complainant has requested the Forum to redress with his grievance in regard to reconnection of electric supply.

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

- 2.0 Shri Narayan Kishan Rathod vide his application no. 124152 dtd. 22.03.2013 applied for reconnection of electric supply which was disconnected by us as his premise was demolished. In order to sanction the applications received from Shri Narayan K. Rathod & other consumers for reconnection of supply a letter dtd. 25.03.2013 was sent to Dy. Collector of Mumbai for their No Objection to reconnection of supply.
- 3.0 In response to our letter, Dy. Collector of Mumbai (E/D) vide his letter dtd. 05.04.2013 informed us that as the hutments which were demolished by their office are unauthorized, hence their office does not give NOC for re-installing the meters to these hutments. Therefore the applications received from the occupants of demolished hutments are not sanctioned.
- 4.0 As per the opinion of our Legal Dept. that granting of electric supply to these unauthorized hutments would set wrong precedent and would be contrary to the Regulation 4.1 of MERC (Electric Supply Code & Other Conditions of Supply) Regulation, 2005.
- 5.0 We pray to the Hon'ble Forum to dismiss the grievances made by the applicant and ask the applicant to approach the Dy. Collector of Mumbai for obtaining their NOC for reconnection of supply.

REASONS

- 6.0 We have heard the representative Shri D.P. Shoorkar for the complainant and for the Respondent BEST Undertaking Shri. U.Y Vajandar DECC(A) along with Shri S.B. Doiphode. Perused papers.
- 7.0 At the outset this Forum observes that Shri D.P. Shoorkar appearing for the complainant Shri Narayan Kisan Rathod and others, has blown the controversy out of its proportion. It has been inter-alia contended by the complainant along with 22 others that they are existing consumers of the Respondent BEST Undertaking paying electricity bill regularly from last about four years. However, their electric meters have been removed by the Respondent BEST Undertaking on disconnecting the electric supply without serving on them any prior notice. The reason cited by the Respondent BEST Undertaking about the demolition of the premises of the complainant and others 22 by Dy. Collector has been false. Despite an applications have been submitted for installation of valid reconnection, the same has been denied on the pretext to obtain 'No Objection Certificate' from Dy. Collector. Similar action had taken in the year 2011 & 2012 at the same place. However, after 15 to 20 days all meters were reconnected without asking for such NOC from Dy. Collector. Therefore, presently the Respondent BEST Undertaking at the instance of Dy. Collector has been causing harassment to the complainant consumer and other 22. The complainant consumers therefore have been entitled for immediate reconnection along with compensation for

illegal disconnection as provided under Standard of Performance. Action needs to be initiated against the Respondent BEST Undertaking under section 19, 23, 24, 42, 55, 57 & 128 of Electricity Act, 2003.

- 8.0 On perusing the documents placed before the Forum, we find the controversy raised in the instant complaint moves in a very narrow compass. To begin with we find that the meters provided to the complainant and other 22 consumer have not been installed from last four years but the documents placed on file by the Respondent BEST Undertaking at pg. 37 & 39 viz. Computer Information System manifests that the complainant Shri Narayan K. Rathod has been provided with a meter no. C112255 installed on 26/04/2012 and removed on 21/11/2012. As such the period of installation of the meter provided to the complainant thus has been for a very short period of seven month.
- 9.0 We may further advert to report of the installation inspector who has removed these meters of the complainant along with rest of the other consumers dtd. 25/10/2012 placed on file at Exhibit 'C' pg. 9 which manifests that in the area of Dr. Ambedkar Nagar, Captain Prakash Pethe Marg, Colaba, a team of demolition squad of Dy. Collector, Mumbai and the officials of the Municipal Corporation have demolished the unauthorized hutments and while doing so they had directed the Respondent BEST Undertaking to disconnect the electric supply. We find such letter addressed to the Respondent BEST Undertaking dtd. 18/10/2012 placed on file at Exhibit 'B' pg. 7. We further observes that as directed in this letter at Exhibit 'B', the officials of the Respondent BEST Undertaking have disconnected the electric supply and removed the meters from the unauthorized premises demolished by the aforesaid government officials. We find list of the meters removed by the Respondent BEST Undertaking at Exhibit 'C' which consists the meter number of the complainant under consideration viz. C112255 and that of others. We thus find that the installation inspector of the Respondent BEST Undertaking has removed the meter of the complainant and others as their premises were 'unauthorized' and have been demolished by the Dy. Collector.
- 10.0 The representative Shri Shoorkar for the complainant while arguing before this Forum has vehemently submitted that despite the premises of the complainant and others were not demolished by the Dy. Collector, Mumbai and the officials of the Municipal Corporation, the Respondent BEST Undertaking removed his meter no. C112255 and others'. Albeit the complainant consumer applied for reconnection of the same by submitting the application on 20/03/2013, the Respondent BEST Undertaking has not restored the electric supply, insisting illegally upon the complainant to obtain NOC from Dy. Collector. We thus find that the emphasis of Shri Shoorkar has been on a contention that in the first instance the premises of the complainant and others have not been unauthorized and secondly despite they have not been demolished, the Respondent BEST Undertaking has removed the electric meters and now illegally denying to restore the electric supply. To buttress his contention, Shri Shoorkar was vehemently submitting that there is no any iota of evidence placed on file by the Respondent BEST Undertaking to show that the premises of the complainant and others were unauthorized and the same have been demolished by the team of Dy. Collector, Mumbai and officials of Municipal Corporation.
- 11.0 At this juncture, we may observe that at the time of hearing the arguments of the litigating parties there was no such evidence showing the name of the complainant in a list of unauthorized premises being demolished by the Dy. Collector, Mumbai along with officials of the Municipal Corporation. However, thereafter the Respondent BEST Undertaking could place on file a letter dtd. 14/03/2013 addressed to the Sr. Police Inspector, Cuff Parade, Colaba, Mumbai under the signature of Dy. Collector, Mumbai on the subject of filing a criminal complaint against the residents in the Dr. Babasaheb

Ambedkar Nagar who unauthorizedly constructed their premises which later on came to be demolished on 20/11/2012 and 19/12/2012. As such in regard to demolition of 49 unauthorized premises in Dr. Babasaheb Ambedkar Nagar, we find a list of such 49 residents against whom the said police official was requested to initiate criminal action.

- 12.0 In the said list of 49 unauthorized residents we find the name of the complainant included therein at sr. no. 15 as Shri Sakribhai Rathod, from whom the complainant has obtained the hut. In this context we may refer to letter dtd. 14/10/2013 placed before us under the signature of Dy. Collector. At this juncture, we may observe that the copy of this letter along with list was furnished to the representative of the complainant and the later has promptly placed on file his written contention dtd. 30/09/2013 and 17/10/2013 in respect of these letters and the list. We therefore proceed to take into consideration these letters dtd. 14/03/2013 and dtd. 14/10/2013 along with list under the signature of Dy. Collector, Mumbai.
- 13.0 Now we find that the Respondent BEST Undertaking has succeeded in placing on file a cogent evidence that the premises of the complainant and others have been demolished being unauthorized by the Dy. Collector, Mumbai along with officials of Municipal Corporation, as we find such letter along with list placed before us. Much hue and cry has been made by the complainant that about 50 to 60 new meters have been installed with service cables without Dy. Collector's NOC. However, Shri Vajandar DECC(A) of the Respondent BEST Undertaking has denied such contention raised on behalf of the complainant. Besides it, this Forum does not find any supporting evidence placed on file by the complainant. Facts remains that the premises of the complainant and others were unauthorized, therefore the same have been demolished by the Dy. Collector, Mumbai along with officials of the Municipal Corporation.
- 14.0 This Forum further observes that it is because the premises of the complainant and others being unauthorizedly constructed therefore demolished by the Dy. Collector, Mumbai, therefore their meters have been removed by the Respondent BEST Undertaking. On receiving the application from the complainant consumer and others for restoration of the supply, the Respondent BEST Undertaking has approached the Dy. Collector vide its letter dtd. 25/03/2013 placed before us at Exhibit 'E' requesting to provide NOC for the reconnection of the electric supply. However, the Dy. Collector, Mumbai has promptly replied the said letter vide its letter dtd. 05/04/2013 placed before us at Exhibit 'F' informing the Respondent BEST Undertaking about not furnishing such NOC for installation of any electricity meter as the premises demolished by them were unauthorized.
- 15.0 This Forum therefore finds that in the first instance there has not been any enmity or biasness on the part of the Respondent BEST Undertaking towards the complainant consumer and others, as far as providing electric meter is concerned. The Respondent BEST Undertaking has already informed the complainant to obtain NOC from Dy. Collector to enable it to provide such electric meter to the premises of the complainant and others. However, as observed above the Dy. Collector has already declared their premises being unauthorized and demolished the same.
- 16.0 This Forum observes that in his lame and futile efforts, Shri Shoorkar by adverting to photographs of the premises occupied by the complainant and others viz. Shri D.J. Sharma and Smt. N.S. Kokila argued that as contended by the Dy. Collector their premises have not been demolished. In this regards, this Forum observes that, to reiterate there is ample evidence placed on file by the Respondent BEST Undertaking viz. report of installation inspector dtd. 25/10/2012 about disconnection of supply and

removal of meter dtd. 21/11/2012 at Exhibit 'C' along with CIS report at pg. 15 & 17 and the letters from Dy. Collector. Besides it, a bare perusal of these photographs blatantly manifests that in a demolition operation undertaken by the Dy. Collector, the top portion of the illegal and unauthorized premises occupied by the complainant and others were demolished in order to render the same unsuitable for inhabitation. However, after completion of the said demolition operation, the complainant and others have got reconstructed the top portions of their premises which were demolished by the Dy. Collector. Such reconstruction work referred to above is clearly discernible and visible in the photographs that are placed before us by their representative Shri Shoorkar. We may observe at this juncture that the Respondent BEST Undertaking in its letter dtd. 25/03/2013 placed before us at Exhibit 'E' addressed to the Dy. Collector has mentioned that such premises demolished by the Dy. Collector have been reconstructed and they are insisting for reconnection and installation of electric meter. To conclude on this aspect these photographs placed on file on the contrary shatter the case of the complainant and others.

- 17.0 To conclude, this Forum thus finds that there is cogent evidence placed before this Forum establishing that the premises occupied by the complainant having meter no. C112255 and others were declared unauthorized by the Dy. Collector, Mumbai and therefore proceeded to demolish the same. The complainant and others have not been able to furnish NOC from the Dy. Collector, Mumbai to the Respondent BEST Undertaking for installation of a meter in their premises as per their application for reconnection.
- 18.0 In consider view of this Forum as envisaged under section 43 of the Electricity Act, 2003, the Distribution Licensee like the Respondent BEST Undertaking under consideration, has been under duty to provide electric supply to the premises owner / occupier within a one month after receipt of the application requiring such supply. This Forum further observes that by now it is well established principles of law that the expression owner / occupier employed by the legislature in the said section 43(1) means a lawful owner / occupier. Admittedly the complainant consumer and others under consideration have been declared being unauthorized occupiers by the concerned competent authority of the State Govt. and proceeded to demolish their premises. Explicitly therefore such "unauthorized and illegal occupier" of the premises cannot certainly take a shelter of any provisions of law. At this juncture we may observe that there is a basic principle of law that "he who seeks equity, must do equity first". In the case on hand, the complainant and others by flagrantly violating provisions of law, are constructing premises in an illegal manner and then seek a protection of law which is highly unsustainable.
- 19.0 To conclude there is no merit in the application and therefore deserve to be dismissed. Accordingly we do so.

ORDER

1. The complaint no. S -A-206-2013 stands dismissed.
2. Copies be given to both the parties.

Absent
(Shri S M Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman