

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. 22799528

Grievance No N-GS-386-2019 dtd. 11/07/2019

Anjani Enclaves Pvt. LtdComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri K. Pavithran, Member
2. Dr. M.S. Kamath, Member CPO

On behalf of the Respondent : 1. Shri A.R.Sarmukadam,SCC(G/S)
2. Shri N.L.Watti, AAM(G/S)

On behalf of the Complainant : Shri Nilesh Vinodrai Bhadra

Date of Hearing : 22/08/2019

Date of Order : 27/08/2019

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Mayank Kumar, Director, Anjani Enclaves Pvt. Ltd., Flat No/G2, Esha Ekta Apartment Co.Op. Hsg. Society Ltd., B.G.Kher Road, Worli, Mumbai - 400 018 come before the Forum for his dispute regarding change of tariff i.e. from commercial tariff to residential tariff pertaining to A/c.No.683-392-345*2.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell dated 09/05/2019 received on 23/05/2019 for dispute regarding change of tariff i.e. from commercial tariff to residential tariff pertaining to A/c.No.683-392-345*2. The complainant has approached to CGRF in schedule 'A' dtd. 25/06/2019 received by CGRF on 04/07/2019 as no remedy has provided by the IGR Cell.

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

- 1.0 Shri. Mayank Kumar, the Director, Anjani Enclaves Pvt. Ltd, came before the Forum regarding his grievance about change of tariff from commercial tariff to residential tariff pertaining to A/c 683-392-345*2.
- 2.0 Initially electric supply has been given to the premises under reference from 22/03/1994. Vide letter dated 04/01/2017 addressed to Customer Care G/S ward, the complainant has requested to change of tariff from commercial tariff to residential tariff. He further stated that his premises (Flat on Ground Floor) is being used as Pooja Room, Meditation purpose and self study / reading.
- 3.0 During the site visit on 13/02/2017, it was observed that, the premises under reference is being used for religious Pooja purpose and not used for residential purpose. The Grievance filed by the complainant in Annexure " C " dated 09/05/2019 has replied suitably vide letter dated 18 June 2019.

REASONS

- 1.0 We have heard the argument of the complainant's representative Shri Nilesh Vinodrai Bhadra and for the Respondent BEST Undertaking Shri A. R. Sarmukadam, SCC(G/S) Shri N. L. Watt, AAM(G/S). Perused the written submission filed by the Respondent BEST Undertaking along with document marked at Exhibit 'A to F' and the documents filed by either parties to the proceeding. The representative of complainant has vehemently submitted that the action of respondent charging commercial tariff to the premises is illegal, as the complainant is using the premises for residential purpose. Against this the Respondent BEST Undertaking has submitted that they have taken the inspection of premises and after perusal of photograph they have rightly charged tariff at commercial rate.

- 2.0 After hearing arguments of both the parties the moot question arose before us is whether the action of respondent charging commercial tariff to the premises is proper. On this point, we are cautiously gone through the Brihanmumbai Electricity Supply and Transport Undertaking Schedule of Electricity Tariff w.e.f. 01/4/2018. After perusal of the same it appear that, LT I (B) - LT tariff is applicable for electricity used at low/medium voltage for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment, water pumping in the premises for private residential/government/semi government residential quarters. The tariff LT II- Non residential or commercial is applicable for electricity used at low medium voltage in non residential, commercial and business premises including shopping mall and show rooms. Considering the above said provisions, we have least hesitation to hold that the premises for which the complainant has applied for electricity connection has been used for commercial purpose and therefore action of respondent for charging commercial tariff is legal and proper. We are saying so because the complainant himself while arguing the case has filed photograph of the premises and after perusal of the same it appears that it has been used at rest house for the company i.e. Anjani Enclaves Pvt. Ltd.
- 3.0 It appears from the record that, initially the respondent had given electricity supply to the premises in the year 1994 i.e. on 22/3/1994 to Anjani Enclaves Pvt Ltd. i.e. the complainant. It means since 1994, the complainant is paying electricity charges on the basis of commercial tariff as charged by the Respondent and after 23 years he approached respondent for change in the tariff from commercial tariff to residential tariff. This conduct on the part of complainant itself prevents him from approaching the Forum. We are saying so because as per clause 6.6 of MERC (CGRF & EO) Regulations 2006 ***“The Forum shall not admit any Grievance unless it is filed within two years from the date on which the cause of action arisen”***. In the case at the most cause of action arose for the complainant to raise the dispute within 2 years from the date 22/3/1994 that has not been done by the complainant and therefore, we cannot take the cognizance of the complaint.
- 4.0 The Representative of complainant has submitted that the complainant is using the premises for Yoga Room/Pooja Room etc. He has further submitted that, the visitors of the company used to visit the premises for doing the Yoga occasionally and therefore action of respondent for charging commercial tariff is not proper. We are unable to accept this submission only on the ground that since beginning commercial tariff has been charged and after 23 to 24 years the complainant approach the Forum and disputing the charging of tariff.
- 5.0 Having regard to the above said discussion we arrive at the conclusion that, there is no substance in the complaint filed by the complainant company. The complaint desires to be dismissed. Accordingly we pass the following order :-

ORDER

- 1.0 The grievance no. N-GS-386-2019 dtd. 11/07/2019 stands dismissed.
- 2.0 Copies of this order be given to the concerned parties.

Sd/-
(Shri K. Pavithran)
Member

Sd/-
(Dr. M.S. Kamath)
Member

Sd/-
(Shri V.G. Indrale)
Chairman