

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-FN-324-2017 dtd. 31/07/2017

Mr. Balakat Ali Adalat Ali ShaikhComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.V. Fulpagare, Member

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

On behalf of the Respondent : 1. Shri S.G. Dhisale, DECC(F/N)
2. Shri M.Y. Sethwala, Supdt. CC(F/N)
3. Shri D.K. Lambate, AAM CC(F/N)

Date of Hearing : 13/09/2017

Date of Order : 22/09/2017

Judgment by Shri. Vinayak G. Indrale, Chairman

Mr. Balakat Ali Adalat Ali Shaikh, Room no. 45/16/B, Ground floor, Sangam Nagar Hutment, Salt Pan Road, Chandani Agar, Antop Hill, Mumbai - 400 037 has come before the Forum for dispute regarding refund of credited amount to old occupier amounting to Rs. 33,790.00 in a/c no. 647-805-105 towards outstanding amount paid by the complainant in the name of old occupier of the premises at the time of reconnection of electric supply vide requisition no. 170335 dtd. 26/06/2014 by Cheque after deducting legitimate amount as per Regulation 10.5 of MERC (Supply Code and Other Conditions of Supply) 2005.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 05/08/2014 for dispute regarding refund of credited amount to old occupier amounting to Rs. 33,790.00 in a/c no. 647-805-105 towards outstanding amount paid by the complainant in the name of old occupier of the premises at the time of reconnection of electric supply vide requisition no. 170335 dtd. 26/06/2014 by Cheque after deducting legitimate amount as per Regulation 10.5 of MERC (Supply Code and Other Conditions of Supply) 2005. The complainant has approached to CGRF in schedule 'A' dtd. NIL (received by CGRF on 24/07/2017) as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee.

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

- 2.0 The complainant has come before the Forum regarding his dispute about refund of credited amount to Pramila Maccha (old occupier) in a/c no. 647-805-105 towards outstanding amount paid by the complainant in the name of old occupier of the premises at the time of reconnection of electric supply vide requisition no. 170335 dtd. 26/06/2014 by Cheque after deducting legitimate amount as per Regulation 10.5 of MERC (Supply Code and Other Conditions of Supply) 2005. He also requested to refund this amount through cheque instead of crediting in electricity bill and to give interest on the said amount from the date of deposition.
- 3.0 Electric supply was given in the name of Smt. Pramila Maccha, a/c no. 647-805-105 for commercial purpose. The electric supply was disconnected on 28/07/2009 for the reason non-payment of electricity bills.
- 4.0 Vide requisition no. 170335 dtd. 26/06/2014, the complainant had applied for reconnection of electric supply. Electric supply has given to the complainant's premises after recovery of outstanding amount of Rs. 33,790.00 pertaining to the old occupier.
- 5.0 Then complainant has approached under Annexure 'C' dtd. 05/08/2014 for refund of outstanding amount pertaining to earlier occupier paid by him. In this Annexure 'C' he has mentioned that the outstanding amount of previous consumer is not related to him and revise this amount as per Regulation 10.5 of MERC (Supply Code and Other Conditions of Supply) 2005 and refund him balance amount.
- 6.0 Accordingly credit of Rs. 33,790.00 was given to the old occupier in electricity bill pertaining to a/c no. 647-805-105 in the month December 2016 and debit of Rs. 3208.58 calculated as per Regulation 10.5 of MERC Regulation (Supply Code and Other Conditions of Supply)- 2005 appeared in electricity bill of February 2017. The complainant has disputed the same.
- 7.0 Hence, net credit of Rs. 30,581.42 in the account of old occupier has been reverted and same was appeared in electricity bill of March 2017. Net credit given to the old occupier has been transferred into new occupier's account number 647-805-050 in electricity bill for the month May 2017.
- 8.0 The complainant has not mentioned regarding means of refund of this credit in his affidavit dtd. 02/03/2017 given to the Undertaking. As per prevailing practice credit of outstanding amount paid is given through electricity bill.

REASONS

- 9.0 We have heard the arguments of Mr. Davinder Singh Sudan representative of the complainant and for the Respondent BEST Undertaking Shri S.G. Dhisale, DECC(F/N), Shri M.Y. Sethwala, Supdt. CC(F/N) and Shri D.K. Lambate, AAM CC(F/N). We have perused the documents annexed by the complainant along with Schedule 'A' and written submission filed by the Respondent BEST Undertaking annexed with documents marked as Exhibit 'A' to 'E'
- 10.0 After hearing arguments of both the parties, the grievance of the complainant appears that his responsibility was only to pay electricity charges of previous consumer as per Regulation 10.5 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulation 2005 i.e. to pay the six (6) month's electricity charges of previous owner. It reveals that the representative of the complainant as Licensed Electric Contractor applied for new connection by filing application for electric supply on 11/07/2014. It further reveals that on said submission the Respondent BEST Undertaking had directed the representative of the complainant to pay the full amount of electricity arrears of previous owner and accordingly they directed to deposit Rs. 33,790.00. It further reveals that the said representative deposited the amount of Rs. 33,790.00 by cheque and afterwards it revealed to him that the responsibility of the complainant was to pay six (6) month's electricity charges of previous owner as per Regulation 10.5 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulation 2005, thus on 05/08/2014 he moved Annexure 'C' to IGRC.
- 11.0 We think it just and proper to reproduce para 4 of Annexure 'C' runs as under :
- Para 4) Type of complaint pertaining to electric supply.
- “I had applied for electric meter vide KLG no. 170335, my requisition was sanctioned with remark subject to pay Rs. 33,790, outstanding of previous occupier. I had paid amount for getting electric meter. But I have to say that this is outstanding amount of previous occupier which is not related with me and as per MERC regulation 10.5, it is mandatory duty of licensee to revise the outstanding due as per MERC Regulation 10.5, instead of this your department charged me full amount”.
- “Therefore I request to you that please revise this amount and refund me balance amount as soon as possible”.
- 12.0 It reveals that on the said Annexure 'C', the Respondent BEST Undertaking has taken action and informed the representative of the complainant on 30/09/2014 that his complaint under Annexure 'C' is being attended and his case is put up as per Regulation 10.5 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulation 2005 and is in process for auditing. He will be kept informed about the progress.

- 13.0 It appears that the Respondent BEST Undertaking has given the benefit of Regulation 10.5 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulation 2005 and informed the complainant on 25/01/2017 that the credit of Rs. 33,790.00 appeared in the electricity bill of December 2016 and debit of Rs. 3,208 which corresponding to energy charges for period of Six (6) months as applicable as per Regulation 10.5 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulation 2005, will appear in the ensuing bill. In view of above, Annexure 'C' case stands attended.
- 14.0 Having regard to the above said admitted facts it reveals that the representative of the complainant has filed application in Schedule 'A' before the Forum and prayed for refund of amount in cheque, not to credit in electricity bill and demanded interest on said amount from the date of deposit. Thus it appears that after filing Annexure 'C' before IGRC on 05/08/2014, the complainant has come before the Forum on 24/07/2017 and prayed for refund of amount with interest. In view of this aspect the question poses before the Forum as to whether the Forum can take cognizance after a period of more than three (3) years of filing the Annexure 'C' before IGRC.
- 15.0 In order to appreciate the above said contention, we have to go through the relevant regulations of MERC (CGRF & EO), Regulation 2006 which are in respect of procedure for grievance redressal. The Regulation 6.1, 6.2 & 6.3 of MERC (CGRF & EO) Regulation, 2006 deals with procedure for grievance redressal. We think it just and proper to reproduce Regulation 6.4, 6.5 & 6.6 of MERC (CGRF & EO) Regulation, 2006.
- 6.4 - Unless a shorter period is provided in the Act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his Grievance within a period of 2 (two) months from the date of intimation or where no remedy has been provided within such period, the consumer may submit the Grievance to the Forum. The Distribution Licensee shall, within the said period of 2 (two) months, send a written reply to the consumer stating the action it has taken or proposes to take for redressing the grievance.
- 6.5 - Notwithstanding Regulation 6.4, a Grievance may be entertained before the expiry of the period specified therein, if the consumer satisfies the Forum that *prima facie* the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made there under or any order of the Commission, *provided that*, the Forum or Electricity Ombudsman, as the case may be, has jurisdiction on such matters.
- Provided further* that no such Grievance shall be entertained before the expiry of the period specified in Regulation 6.4, unless the Forum records its reasons for the same.
- 6.6 - The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.
- 16.0 Having regard to the above said Regulations, it appears that it is mandatory on the part of the consumer to apply for his grievance in Annexure 'C' before IGR and wait for two (2) months and if his grievance has not been resolved by IGRC, he may approach the CGRF. Even before expiry of two (2) months, consumer has right to

approach the CGRF in case of urgency or fear of disconnection. It is also mandatory on the part of CGRF to decide the grievance received in Schedule 'A' within two (2) months as per Regulation 6.18 of MERC (CGRF & EO), Regulation 2006. These Regulations are made with an intention that the grievance of the consumer must be resolved within a stipulated period of two to four months.

- 17.0 It appears from the record that the consumer has filed his grievance before IGR on 05/08/2014 and satisfied with the action taken by them and after receiving the letter dtd. 25/01/2017 from IGRC he has approached the CGRF for making the grievance for refund of amount with interest. It reveals that in application dtd. 05/08/2014 he has not prayed for interest on the outstanding amount paid by him for previous consumer. After going through documents filed by the Respondent BEST Undertaking, it appears that IGRC has resolved the dispute of the complainant and credited the amount paid by the complainant in his account and the same amount of credit will be adjusted in ensuing monthly electricity bills.
- 18.0 If this would be the conduct of the complainant, then it can be very well held that as per Regulation 6.6 of MERC (CGRF & EO), Regulation 2006, the Forum shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen. In the instant case the cause of action has arisen to the complainant in the month of July 2014 when the Respondent BEST Undertaking directed him to deposit full arrears of electricity dues of previous owner for getting the reconnection.
- 19.0 The representative of the complainant has referred an order passed in representation no. 59 of 2012 on 10/10/2012 by Ombudsman Mumbai and submitted that the complainant is entitled to get refund of amount with interest. In the instant case which is before us, we held that as per Regulation 6.6 of MERC (CGRF & EO), Regulation 2006, the complaint could not be entertained by the Forum. So the above said order passed by the Ombudsman is not useful to the complainant.
- 20.0 For the above stated reasons, the Forum has arrived to the conclusion that grievance of the complainant is barred by limitation as per Regulation 6.6 of MERC (CGRF & EO), Regulation 2006 as he has approached the Forum after three (3) years from arising the cause of action. Thus the complaint deserves to be dismissed. In result we pass the following order.

ORDER

1. The complaint no. N-FN-324-2017 dtd. 31/07/2017 stands dismissed.
2. Copies of this order be given to both the parties.

Sd/-
(Shri S.V. Fulpagare)
Member

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