

		Date	Month	Year
1	Date of Receipt	18	10	2022
2	Date of Registration	21	10	2022
3	Decided on	15	12	2022
4	Duration of proceeding	55 days		
5	Delay, if any.	—		

BEFORE THE CONSUMER GRIEVANCE REDRESSAL
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. GN-470-2022 dtd. 21/10/2022

Smt. Rashmi Prakash Wagle

.....Complainants

V/S

B.E.S.&T. Undertaking

.....Respondent

Present

Chairman

Coram :

Shri S.A. Quazi, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Shri S.S. Bansode, Technical Member

On behalf of the Complainant : Smt. Rashmi Prakash Wagle.

On behalf of the Respondent : Shri S.S. Gawde

Date of Hearing : 08/12/2022

Date of Order : 15/12/2022



(Signature)
 (Milind Karanjkar)
 Secretary
 CGRF BEST



(Signature)
 Son
 Abhondar

Judgment

- 1.0 The complainant has grievance about demand of Rs.3,05,555.43 made by the Respondent to her in relation to dues of old A/c no. 620-077-023 and by adding it in complainant's current A/c No.202-006-259.
- 2.0 The case of the complainant may be stated as under:
- The complainant is having commercial premises having address as "Room No. 6, Ground Floor, Shraddha Building, Gokhale Road (North) Dadar, Mumbai-400028". In respect of this premises she is consumer of electric connection given by the Respondent to that premises under A/c No.202-006-259. She has been paying the bills regularly. However, the Respondent gave her the bill dt. 24th Jan. 2022 stating that an amount Rs.3,05,555.43 was added in the bill towards arrears of old disconnected meter. On enquiry with the officials of the Respondent, they have said that the above amount is pertaining to old a/c no. 620-077-023 in respect of the premises of the complainant.
 - It is submitted by the complainant that in the year 1997 she acquired the property from one Vinayak Kuste and as a result of it the electric connection provided to the premises under a/c No.620-077-026 was transferred to the name of the complainant. However, the other meter in the premises under other a/c No. 620-077-023 pertaining to said Vinayak Kuste, was removed in the year 2000. This account and meter was not associated in any way with the current a/c of the complainant.
 - All the affairs of the premises were looked after by complainant's husband, who is missing since the year 2018. The complainant is therefore not aware about 20 to 25 years history about the said other meter connection in her premises. According to the complainant, these appear to be the alleged arrears pertaining to period prior to 20 to 25 years. It is submitted that under law, the Respondent cannot recover alleged arrears after two years of it becoming due. In view of this law, the Respondent's above claim is barred by law relating to limitation as laid down in section 56(2) of the Electricity Act 2003.
 - In such circumstances, the complainant urges to this to direct the Respondent to delete the above demand of Rs.3,05,555.43 from the above said bill of the complainant relating to her current A/c No.202-006-259.




(Milind Karanjkar)
Secretary
CGRF BEST

3.0 The Respondent has filed its reply and opposed the instant grievance application of the complainant. Respondent's case, as stated in their reply and as submitted by their representative, may be stated as under:

- a) According to the Respondent, the complainant's husband Prakash Wagle purchased the above premises from one Vinayak Kuste in the year 1996. So meter connection under a/c No. 620-077-026 and meter No. L930645 was transferred to the name of his wife i.e. the complainant. Due to extension of load the said a/c was changed to consumer No. 202-006-259 and meter No. P081817 with sanction load of 24.90 KW.
- b) Shri Vinayak Kuste is old consumer in respect of the said premises "Room No. 6, Ground Floor, Shraddha Building, Gokhale Road (North) Dadar, Mumbai-400028", under old A/c No. 620-077-023. His electric connection in the said premises was installed on 10.8.1965. His meter was removed in the year 2000 for nonpayment. Final bill was prepared by Respondent on 28.9.2020 for the outstanding of electricity charges.
- c) MCA (Municipal Chief Auditor) query dt. 30.6.2021 was raised regarding recovery of old outstanding dues pertaining the said a/c No. 620-077-023 amounting to Rs. 3,05,555.43. The Municipal Chief Auditor suggested that the said amount should be recovered from the holder of the current a/c No. 202-006-259, as it pertains to the same premises to which the closed a/c No. 620-077-023 was concerned. Complainant is present consumer of the said premises. Therefore, vide notice dt. 15.12.2021, the complainant was informed about above said arrears and she was demanded to pay this amount and said amount was debited to her bill of Jan 2022. According to the representative of the Respondent, the said demand is legal and just and therefore the complainant is liable to pay it.
- d) For all the aforesaid reasons, the Respondent has urged to dismiss the instant grievance application.

4.0 We have heard the submissions of both the parties and noted their submissions as above. In view of the above submissions of the parties and case pleaded by them, the following points arise for determination, on which we record our findings as under, for the reasons to follow.

Sr. No.	Points for determination	Findings
1	Whether the demand made by the Respondent to the complainant to pay the amount of Rs. 3,05,555.43 towards old outstanding dues pertaining the old	In negative



(Signature)
(Milind Karanjkar)
Secretary
CGRF BEST

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	a/c No.620-077-023 of Shri Vinayak Kuste, is just, legal and correct?	
2	Whether the complainant is entitled to the relief about direction to the Respondent to delete the said demand from her bills?	In affirmative
3	What order is required to be passed by this to dispose of this grievance application?	The grievance application (complaint) will have to be allowed in the terms as are being indicated in the operative order, being passed herein below.

5.0 We record reasons, for the aforesaid findings recorded on point no. 1 to 3, as under:

- a) It may be noted that from the pleadings and documents produced by the parties before this, it is clear that the premises in question i.e. "Room No. 6, Ground Floor, Shraddha Building, Gokhale Road (North) Dadar, Mumbai-400028" was under the occupation and entitlement of above referred Vinayak Kuste. It appears that there were two meters and electric connections in the said premises under the name of said Vinayak Kuste, prior to the acquisition of the premises by the complainant's husband from Vinayak Kuste. One of them was under consumer a/c No. 620-077-026 and meter No.L930645 and the other was a/c No.620-077-023.
- b) Admittedly, complainant's husband Prakash Wagle acquired the above premises from the said Vinayak Kuste in the year 1996. So one of the above said two connections, meter connection under a/c No. 620-077-026 and meter No.L930645 was transferred to the name of Prakash Wagle's wife i.e. the complainant. Due to extension of load the said a/c was changed to consumer a/c No. 202-006-259 and meter No. P081817 with sanction load of 24.90 KW. Thus complainant's current a/c number is 202-006-259.
- c) The present dispute revolves around the aforesaid other consumer a/c No. 620-077-023, which was also under the name of erstwhile occupier of the premises namely Vinayak Kuste. The Respondent/distribution licensee says that the said a/c of Vinayak Kuste and its meter remained in his name, but the meter was removed from the premises in the year 2000.
- d) The complainant submits that all the affairs of the said property were looked after by her husband since 1996-97 and she did not know its details. Her husband is missing since the year 2018 and now the Respondent has raised the dispute about the outstanding dues pertaining to the said alleged second a/c bearing No. 620-077-023.



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 (Milind Karanjkar)
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According to her it is not understandable as to how there could be two electric connections in respect of same premises at the same time. She further submits that assuming it to be true, the record of meter reading maintained by the Respondent shows that from 1998 till the removal of meter of said second a/c No. 620-077-023 of erstwhile occupier Vinayak Kuste, there was no consumption of electricity through the meter of this account. In support of this the complainant points out the record of Consumer Information System produced by the Respondent at page 27/c to 35/c with its reply. It is showing that last reading was taken on 08.09.1998 as 1598 and prior to that the bills were paid. Then on 08.12.2000, the meter was removed and at that time also the meter was showing the same reading i.e. 1598. After near about 20 years now the Respondent is coming with the case that the aforesaid amount of Rs.3,05,555.43 is outstanding. It is submitted that firstly this amount is factually not due in view of the above record and secondly it is pertaining to the period prior to 20 years, which is beyond the period of 2 years of limitation prescribed by section 56 of the Electricity Act 2003. Therefore the complainant submits that the said claim of the Respondent is liable to be declared by this as illegal and it is just and proper to direct the Respondent to remove the said demand from the bills of the complainant pertaining to a/c No. 202-006-259.

- e) We have examined the aforesaid submissions of the parties in the light of the documents produced by them. We find much substance in the aforesaid submissions of the complainant. Admittedly the alleged outstanding dues of Rs.3,05,555.43 is not pertaining to the current a/c No. 202-006-259 of the complainant. It has been added to the bill of this account in the month of January 2022 only saying that it pertains to the other a/c No. 620-077-023. Till 08.09.1998 the bills pertaining to this account were paid and on 08.09.1998 the reading taken from meter of this account was 1598. Then on 08.12.2000, this meter of a/c No. 620-077-023 was removed from the site and while removing it the reading shown by the meter was noted to be same as it showed on 08.09.1998 i.e. 1598. This indicates that during the period from 08.09.1998 to 08.12.2000 either there was no consumption of electricity through this meter or the meter was defective and was unable to record the alleged consumption during this period. In both the cases, the Respondent's act of claiming and demanding the complainant to pay the alleged outstanding dues amounting to Rs.3,05,555.43, that too now in the month of January 2022, after 20 years of it allegedly becoming due, cannot be held to be justifiable. If there was no consumptions then what for the bill of Rs.3,05,555.43 can be raised by the Respondent. At the most a meager amount of meter rent etc. could be charged from 08.09.1998 to 08.12.2000. With to stretch of imagination the said meager charges could have become a huge figure of Rs. 3,05,555.43. Thus it is not believable that the alleged arrears could be of Rs. 3,05,555.43, and hence the Respondent cannot demand it from the complainant.



(Mildred Karanjkar)
Secretary
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- f) If the possibility of defect in the meter is considered, in that case also the Respondent cannot demand the said amount, unless it is shown that the meter was tested and it was found to be defective. It is not the case of the Respondent that after removal of the meter, it was tested.
- g) The third ground raised by the complainant to criticize the said demand of the Respondent for Rs. 3,05,555.43 is that the said demand is legally barred by law of limitation within which the demand can be legally made. The said law is laid down in section 56 (2) of the Electricity Act 2003. It provides that the remedy available u/s 56 of Electricity Act, 2003 for recovery of dues of electricity charges shall be available only within two years period from the date when the charges become due. Admittedly the aforesaid outstanding dues pertain to the period from year 1998 to 2000, and they could be recovered u/s 56 of Electricity Act, at the most in or prior to the year 2002. The Respondent is demanding it for the first in the month of January 2022 or thereabout, but definitely this claim is after expiry of the aforesaid prescribed period of two years mentioned in section 56 of the Electricity Act 2003.
- h) For all the aforesaid reasons we hold that the demand made by the Respondent to the complainant to pay the amount of Rs.3,05,555.43 towards old outstanding dues pertaining the old a/c No.620-077-023 of Shri Vinayak Kuste, is neither just nor legal nor correct. Therefore we have recorded negative finding on point No.1.
- i) In view of the negative findings on point No. 1, we further hold that the complainant is entitled for the relief from this about direction to the Respondent to remove/delete the aforesaid demand of Rs. 3,05,555.43 from the bill of the complainant pertaining to a/c No. 202-006-259 and to issue fresh bill after modifying it to the above effect. Hence we have recorded affirmative findings on point No. 2.
- j) In view of the affirmative findings recorded by us on point no. (1) & (2), we hold that the complaint will have to be allowed for granting the relief, as described herein above while recording reasons for recording affirmative findings on point No.2, as is being directed in the operative order being passed herein below. Hence, we have answered point no. (3) accordingly, and therefore, we pass the following order:

ORDER

1.0 The Grievance No.GN-470-2022 dtd. 21/10/2022 stands allowed in following terms:

- a) It is hereby held that the demand for Rs. Rs.3,05,555.43 towards alleged old outstanding dues pertaining the old a/c No.620-077-023 of Shri Vinayak Kuste, by adding it in the bill dt. 24th Jan. 2022 pertaining complainant's current a/c No. 202-006-259 is illegal, unjustifiable and incorrect.





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(Mandir Kharajpur)
Secretary
CORP BEST

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- b) Therefore, the Respondent/BEST Undertaking is directed to remove the aforesaid demand for Rs. Rs.3,05,555.43 towards alleged old outstanding dues pertaining the old a/c No.620-077-023 of Shri Vinayak Kuste, from the bill dt. 24th Jan. 2022 pertaining complainant's current a/c No. 202-006-259 and issue modified bill accordingly within 30 days from the date of receipt of this order.

2.0 Copies of this order be given to all the concerned parties.


(Shri. S.S. Bansode)
Technical Member


(Smt. Anagha A. Acharekar)
Independent Member


(Shri S.A. Quazi)
Chairman




(Milind Muranikar)
Secretary
CGRF BEST