

		Date	Month	Year
1	Date of Receipt	23	01	2023
2	Date of Registration	24	01	2023
3	Decided on	14	02	2023
4	Duration of proceeding	14 days		
5	Delay, if any.	—		

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. D-480-2023 dtd. 24/01/2023

Smt. Shanti Palkar

.....Complainant

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 : 1. Shri Jay D. Guldekar

On behalf of the Respondent : 1. Shri S.N. Inchnalkar

Date of Hearing : 08/02/2023

Date of Order : 14/02/2023




(Signature)
(Milind Karanjkar)
Secretary
CGRF BEST

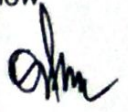
Judgment

- 1.0 The complainant has grievance against the Respondent to the effect that the Respondent has failed to give new electric connection to his premises despite her application dtd. 15/12/2022.
- 2.0 The following facts may be said to be not in dispute.
- a) There was an old building belonging to MHADA. Prior to about 50 years i.e. in the year 1974 the said building situated at 346,342,352 Maulana Azad Road, 1-3-5 Bhandarwala Cross Lane, Girgaon, Mumbai - 400 004 was demolished by MHADA on the undertaking that it was to be redeveloped and the then occupiers of the said building would be re-accommodated in the redeveloped building. Along with this building there were two buildings, thus in all three old buildings joint to each other to same plot were demolished in 1974 and the then occupiers of the premises in those buildings were promised that they would be allotted accommodation in the building to be redeveloped at the said place. It appears that there were total ~~18~~ ¹⁷ occupiers in all in the said three buildings.
- b) The new building has been reconstructed and near about 56 residential and commercial premises have been constructed therein. These premises are to be allotted to the aforesaid ~~18~~ ¹⁷ earlier occupiers and remaining premises were to be allotted to new purchasers by MHADA.
- c) The MHADA and the BEST / Respondent have inter-se made correspondence which shows that after completion of the new building, the main service has been laid down in the said new building by the Respondent on the undertaking given by the MHADA that the arrears towards electric charges of the occupiers of the earlier 9 premises of the earlier building would be recovered by MHADA at the time of allotting their respective premises to them in the new building.
- 3.0 The case of the complainant may be stated as under :
- a) The complainant has filed an application dtd. 15/12/2022 with the Respondent and thereby the complainant has requested the Respondent to provide new electric connection to the premises allotted to the complainant in the said new building by MHADA. According to the complainant as mentioned in the grievance application filed before this Forum till filing of this grievance application no communication was made by the Respondent with reference the said application for new connection. However, on oral discussion with the officials of the Respondent, the complainant came to know




(Milind Karanjkar)
Secretary
CGRF, BEST


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- that as there are arrears amounting to Rs. 4,94,092.00 pertaining to the occupiers of the old building, the new connection cannot be given.
- b) According to the complainant the aforesaid contention of the complainant in respect of the failure of giving new connection by the Respondent to his premises is illegal and invalid. It is further case of the complainant that the said arrears do not pertain to the complainant and therefore the complainant is not liable to pay the same to the Respondent. Hence, for non-payment of arrears thereof by the complainant, the Respondent cannot refuse to give new connection to the premises of the complainant.
- c) The representative of the complainant has further submitted that the Respondent was expected to communicate to the complainant within 7 days from the date of his application as to whether his application is allowed or rejected. However, this has not been done by the Respondent's officials. On the contrary after filing of the present grievance application to the Forum and after expiry of prescribed time of 7 days as per the MERC (Supply Code and Standard of Performances including Power Quality Regulations, 2021 (herein after refer as Supply Code), the Respondent issued sanctioned letter to the complainant. Hence, the Respondent has committed violation of the said SOPs mentioned in Supply Code and hence liable to pay compensation to the complainant at the rate of Rs. 25/- per week till period of delay. The representative of the complainant has further submitted that the Respondent be directed to give electric supply to the premises of the complainant in the aforesaid circumstances.
- 4.0 The Respondent has filed its reply and has strongly opposed for aforesaid grievance application of the complainant. After mentioning the history of the old building, demolition thereof and redevelopment of new building at the said place, the Respondent has mentioned in their reply that there are plot arrears of Rs. 4,94,092.00. Therefore, the Respondent had made correspondence with MHADA officials in respect of recovery of the said arrears before giving connection and before laying main service to the said new building. The MHADA officials have issued a letter addressing to the Respondent that for payment of the plot arrears the MHADA would take care to recover it from the persons against whom the electricity charges are due and this can be done at the time of allotting the premise in the said building. On such undertaking dtd. 26/10/2017 given by the MHADA officials, the Respondent laid down the main service to the main building.
- a) The applicant has applied for new connection to the premises allotted to him in the said building by MHADA. In view of the aforesaid plot arrears of Rs. 4,94,092.00 being pending, the Respondent orally informed to the applicant regarding the pendency of the said plot arrears and other requirement to be fulfilled by MHADA while making scrutiny of applicant's application as per clause 5.7 of Supply Code.



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- b) According to the Respondent in view of the undertaking dtd. 26/10/2017 given by MHADA at the time of laying main service for the said building, the application for new connection was kept on hold for processing and the applicant /complainant was informed orally that a letter was being forwarded to MHADA for payment of plot arrears of Rs. 4,94,092.00. It is further submission of the Respondent that accordingly a letter dtd. 29/12/2022 was issued by the Respondent to MHADA. In response to the said letter of the Respondent, the MHADA has forwarded letter dtd. 11/01/2023 to the Respondent stating that the occupation certificate of the above building is received and compensation is allotted to the tenants. In the said letter it is further stated that BEST can recover dues from the consumers.
- c) With reference to the letter of the Respondent to MHADA to give the exact names of the allottees and the premises numbers against the attached list by the developers for electricity charges, MHADA has submitted their letter dtd. 17/01/2023. In that letter MHADA officials have forwarded list of 9 consumers against whom dues of Rs. 4,94,092.00 for electricity charges are pending as per the list of BEST. However, the names of defaulters does not exist amongst the names of the persons to whom the premises were allotted as per lottery result of MHADA. Thus, according to the Respondent, MHADA has not provided exact names of new allottees and gala numbers in respect of the defaulters of the electricity charges. The MHADA in their letter has requested to process the application of the electric connection for other allottees. In this context the Respondent submits that the MHADA officials have failed to give exact description of the allottees and their gala numbers who were the defaulters. Hence, it was difficult to fix the exact premises on which outstanding can be levied. The Respondent submits that the name of the applicant / complainant is not found in the list of consumers from service numbers mentioned in that.
- d) The Respondent submits that the aforesaid conduct of the MHADA officials is a clear deviation from the undertaking given on 26/10/2017 while complying for electric supply for common amenities i.e. main service. As such BEST forwarded a letter dtd. 19/01/2023 to the Dy. Engineer / Eect / ZIII, M.B.R. for immediate payment of outstanding plot arrears as promised by them in the said letter dtd. 26/10/2017. The Respondent is thus waiting for the compliance of the payment of the plot arrears from the MHADA officials.
- e) Further case of the complainant is that its officials of the Respondent have processed the application and new connection is sanctioned on 21/12/2022 subject to payment of outstanding plot arrears as per the provision of clause 4.3.5, 6.2 and 12.5 of Supply Code and BEST's Procedure Order 230 and 230(A) which is in force for recovery of arrears from Developer / MHADA and SRA and other compliances.



- f) The representative of the Respondent has thus submitted that the present grievance is not tenable unless the aforesaid plot arrears of Rs. 4,94,092.00 are paid by the MHADA to the Respondent and hence grievance is liable to be dismissed.

5.0 We have heard the submissions of 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 complainant is liable to pay the alleged plot arrears of Rs. 4,94,092.00 to get the electric supply to his premises ?	Negative
2	Whether the complainant is entitled to get electric supply as requested by him in his application dtd. 15/12/2022 ? her her	Affirmative
3	Whether the complainant is entitled for compensation for the delay caused by the Respondent in communicating the intimation for charges to be borne by applicant etc. within 7 days from the date of application dtd. 15/12/2022, if yes, to what extent and what rate ?	He is entitled for compensation at the rate as is being indicated in operative order being passed below.
4	What order is required to be passed in grievance application ?	The grievance application will have to be allowed and accordingly it is being allowed in terms of the operative order being passed herein below.

6.0 We record reasons for aforesaid findings as under :

- a) We have noted the admitted facts herein earlier. We have also noted the controversy between the parties.
- b) What is the controversy between the parties is that the applicant has been allotted a premises in MHADA building by MHADA officials. For that premises the complainant / applicant has applied to the Respondent for giving new electric connection. This



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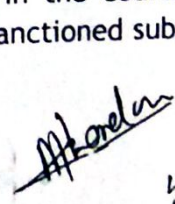
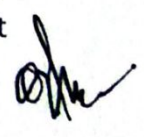
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application was dtd. 15/12/2022. It seems that the Respondent has not informed to the complainant anything about the said application till 01/02/2023. Only on 01/02/2023, the Respondent issued a letter. In the said letter, the Respondent has stated that the electric connection has been sanctioned as per the application of the complainant subject to certain compliances which includes the compliance regarding payment of Rs. 4,94,092.00 towards the plot arrears recovery. From the aforesaid facts, two points have arose.

- i) Whether the complainant is liable to pay this amount and without paying it the complainant is not entitled to get the electric connection ?
 - ii) Second point arose is, whether the Respondent communicated about such decision to the complainant within 7 days from the date of his application 15/12/2022 is required in Annexure II - Level of compensation payable to consumer for failure to meet SOP as mentioned in Supply Code.
- c) As far as the question as to whether the complainant is liable to pay the aforesaid amount of Rs. 4,94,092.00 towards the total plot arrears or any part thereof, we are of the opinion that the complainant is not at all liable to pay the same to the Respondent for the simple reason that this arrears were pertaining to some persons who were occupying the premises in the old building. These are said to be in all 9 persons. It means the arrears are not pertaining to the complainant. Therefore the demand made by the Respondent to the complainant to pay this amount otherwise connection will not be given, is invalid, unjust and also illegal. It appears that the Respondent and the officials of the MHADA have communicated to each other in respect of the issue regarding recovery of the aforesaid plot arrears of Rs. 4,94,092.00 and the MHADA officials have communicated to the Respondent that they would take care to recover the aforesaid arrears from those persons pertaining to whom these arrears have become pending. The MHADA officials have ensured to the Respondent while allotting the premises pertaining to these 9 defaulters, the arrears in their respective accounts may be recovered and the MHADA would take proper care for recovery of the said arrears. After giving such assurance by the officials of the MHADA to the Respondent, there should not remain any doubt in the minds of the officials of the Respondent about the said recovery of plot arrears. In spite of such assurances the officials of the Respondent have withhold giving the electric supply to the complainant.
- d) Not only this, but it is also seen that the officials of the Respondent have failed to communicate to the complainant in respect of his application for new connection as to whether the connection is going to be given to him or not within 7 days from his application. The representative of the Respondent has submitted in the course of hearing that SMS was sent to the complainant that the application is sanctioned subject




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to the payment of plot arrears. However, no copy of that SMS has been produced. The complainant's representative has denied to have any such SMS. He has submitted that first time on 01/02/2023 only the complainant has received a letter from the Respondent stating that the supply has been sanctioned subject to payment of the aforesaid plot arrears of Rs. 4,94,092.00. Thus the delay has been caused by the officials of the Respondent in giving the information about the application of the complainant for approval thereof. The said delay has occurred from 23/12/2022 to 01/02/2023 i.e. for about 5 weeks. The delay has occurred as such in respect of giving information to the complainant regarding payment of charges etc. for giving new connection. Annexure II - Level of compensation payable to consumer for failure to meet SOP as mentioned in Supply Code SOP provides that the Distribution Licensee should pay Rs. 25/- per week or part thereof in respect of the period of delay subject to maximum of twice the service connection charges applicable for the consumer category. It appears that it is the responsibility of the Distribution Licensee to pay the compensation at the aforesaid rate automatically. Hence we hold that the complainant is entitled to get compensation at aforesaid rate for 5 weeks.

- e) In view of the aforesaid decision we hold that the complainant is not liable to pay the aforesaid amount of plot arrears to the Respondent as requested by ^{her}him in ^{her}his application dtd. 15/12/2022 for getting electric supply. We also hold that the complainant is also entitled to get electric connection without paying the alleged arrears as per ^{her}his application. We also hold that the complainant is entitled to get compensation of Rs. 25/- per week for 5 weeks in respect of delay that has occurred at the hands of the officials of the Respondent regarding giving of intimation of charges to be paid by the applicant in connection with the said electric supply application etc. Accordingly, we have answered point (1) in negative and point (2) in affirmative. As far as compensation is concerned, we hold that the complainant is entitled to get compensation at the rate of Rs. 25/- per week for 5 weeks delay from 23/12/2022 to 01/02/2023 in respect of giving of intimation as per Annexure II - Level of compensation payable to consumer for failure to meet SOP as mentioned in Supply Code of SOP. Accordingly, we have answered point (3).
- f) In view of the aforesaid findings on point no. (1), (2) & (3) we hold that the instant grievance application deserve to be allowed as is being given in operative order passed herein below and accordingly we have answered point (4). Accordingly, we pass the following order.

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ORDER

- 1.0 The grievance no. D-480-2023 dtd. 24/01/2023 is allowed in the following terms.
- 2.0 The Respondent is directed to withdraw its demand to the complainant for the payment regarding the recovery of amount of Rs. 4,94,092.00 from the complainant.
- 3.0 The Respondent is directed to give electric supply to the premises of the complainant as requested in his application dtd. 15/12/2022 without asking the complainant to pay the plot arrears but subject to payment of connection fees.
- 4.0 The Respondent is directed to pay the compensation to the complainant at the rate of Rs. 25/- per week for 5 weeks of delay occurred in giving intimation to the complainant regarding payment of the charges for electric connection.
- 5.0 The aforesaid compliance shall be made by the Respondent within 7 days from the date of receipt of order.
- 6.0 Copies of this order be given to all the concerned parties.

S.S.
(Shri. S.S. Bansode)
Technical Member

Anagha A. Acharekar
(Smt. Anagha A. Acharekar)
Independent Member

S.A. Quazi
(Shri S.A. Quazi)
Chairman



H.S.
(Shri H.S. Karanjkar)
Secretary
BEST