

BEFORE THE COMPLAINANT 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-EA-150-2012 dtd. 01/06/2012

Shri Surendra DattaComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Quorum :
1. Shri R U Ingule, Chairman
2. Shri S P Goswami, Member
3. Smt Varsha V Raut, Member

On behalf of the Complainant : 1. Shri. Davinder Singh
2. Shri Jarnail Singh

On behalf of the Respondent : 1. Shri. Vijay Sawant, AMCC (F/N)
2. Shri. S.V. Fulpagare, Supdt. CC(G/N)

Date of Hearing : 06/07/2012

Date of Order : 13/07/2012

Judgment by Shri. R.U. Ingule, Chairman

Shri Surendra Datta, Room No. 239, Gr. Floor, Punjabi Colony, Flank Road, Sion, Mumbai - 400 037 has come before the forum for grievance regarding wrongly charged outstanding bill of previous occupier and amendment charged for stopped meter at the time of reconnection of electric supply vide Requisition no. - 91203663 of A/c no. 668-123-055*7

Complainant has submitted in brief as under :

- 1.0 The complainant has approached to IGR Cell on 29/03/2012 regarding his grievance regarding wrongly charged outstanding bill of previous occupier and amendment charged for stopped meter at the time of reconnection of electric supply vide Requisition no. - 91203663 of A/c no. 668-123-055*7. The complainant has approached to CGRF in schedule 'A' dtd. Nil (received by CGRF on 31/05/2012) as no remedy is provided by the Distribution Licensee regarding his grievance. The complainant has requested the Forum to refund of outstanding amount of Rs. 7,949.00 and amendment bill of Rs. 6,911.00 and Rs. 5,498.00 with interest as per MERC Regulation and compensation of Rs.10,000/- for delay due to wrong course of action and cause of stress for charged wrong amount.

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

- 2.0 Shri Surendra Datta, A/c. No. 668-123-055*7 has made complaint dtd. Nil (received on 31.05.2012) before Consumer Grievances Redressal Forum that the claim preferred by BEST which is wrongly charged for outstanding bill of previous Occupier and amendment charges for stopped meter at the time of reconnection of electric supply vide Requisition No. 91203663 of Account No. 668-123-055*7. In this connection, we have to state that Shri Surendra Datta has applied for new electric meter for commercial purpose under Requisition No. 91203663.
- 3.0 On going through the documents available in the office it is observed that, the Delayed Payment Charges amounting to Rs.4,140.11 and Interest for Rs.3,379.81 were waived off from original bill amount of Rs.15,468/- for the month of December 2011 as per the request letter of the consumer dtd. 10.02.2012. The remaining amounting to Rs.7,949/- is the Energy Cost for the period from January 2004 to September 2004 and hence the same is payable by Shri Surendra Datta.

- 4.0 Further, it is observed that proclaim amount for defective meter claim pertaining to period 06.03.1996 to 06.07.1998 amounting to Rs.26,020.03 and defective meter claim for the period of 06.07.1998 to 14.10.2003 amounting to Rs.73,899.63 were also revised as per the request by the complainant through his letter dtd. 29.02.2012 on the basis of Administrative Order No. 349(A), to Rs.5,498/- and Rs.6,911/- respectively.
- 5.0 In view of the above, vide our letter dtd. 24.05.2012, it was informed to Shri Surendra Datta, that amount of Rs.7,949/- paid by him pertains to the energy charges and therefore, request to refund the same is illogical and hence cannot be considered. Further, the claim amount for 2 years (06.03.1996 to 06.07.1998) & 5 years (06.07.1998 to 14.10.2003) have been reduced to 6 months each and bills were amended as per complainant's request and A.O. 349(A) therefore, request to refund the amount paid is illogical.
- 6.0 It is true that, complainant had applied for new electric meter vide Requisition No. 91203663. The unpaid electrical charges and defective meter claims were pertaining to the same premises and this being charge on the premises liable to be recovered from the new occupant. This amount was claimed from the applicant being the new occupant. The amount of Rs.7,949/- is the energy cost, Rs.5,498/- and Rs.6,911/- are defective meter claims as stated above.
- 7.0 It is true that, complainant was asked to pay the aforesaid amount. We do not find any evidence showing that, amount was paid under protest. However, the amendment claim & energy cost (outstanding) was revised as per the consumer's request letters as mentioned above. Complainant was informed the factual position in the reply to Annexure 'C'.
- 8.0 Even though, the meter was removed, electricity bill in the name Shri A.K. Oberai was regularly sent to premises to pay the electricity charges therefore, the contention that Undertaking never send any bill on billing address till the date of application for electricity supply is not true. Provisions of Section 56 (2) are therefore not applicable as stated by the applicant.
- 9.0 There is a request from complainant/applicant vide letter dtd. 29.02.2012 to review original claim. As such, same was reviewed & served to complainant. Complainant has accordingly paid the same. It is true that defective meter claim was made in name of Shri Amritlal K. Oberai. The claim amount of Rs. 26,020/- for period 06.03.1996 to 06.07.1998 was revised to Rs.5,498/- for only 6 months. Second claim for the period from 06.07.1998 to 14.10.2003

amounting to Rs.73,899.63 was revised to Rs.6,911.00 only for 6 months. Claim is pertaining to same meter. 2 claims for two different periods were already prepared & existing in the computer system. Both the claims were revised when consumer approached for reconnection.

- 10.0 Once, the meter was removed claim was continued on the basis of A/c. No. of the complainant. It is true that test report of defective meter / stop meter is now not available. Meter No. E891427 was removed on 11.06.2004. The move in complainant, Shri Surendra Datta has occupied the premises on which the charge of unpaid Energy charges & Defective Meter Amendment Charges were existing in the name of earlier occupant.
- 11.0 The amount of unpaid electrical energy charges and defective meter claim is a charge on the premises liable to be paid by the New Occupant as per the MERC Regulation 10.2. The dues of earlier complainant/occupant, Shri A.K. Oberai for Rs.7,949/- + Rs.5,498/- + 6,911/- paid by the new complainant, Shri Surendra Datta are correct. The demand for refund is illogical.
- 12.0 In view of the facts stated above there is no substance in the demand for refund of outstanding bill of previous Occupier and defective meter charges of the previous occupant paid at the time of getting reconnection of electric supply by new occupant, Shri Surendra Datta vide Requisition No. 91203663 of Account No. 668-123-055*7.
- 13.0 The Hon'ble Forum is requested to pass the order in favour of the BEST Undertaking.

REASONS :

- 14.0 We have heard the representative Shri. Davinder Singh & Shri Jarnail Singh for the complainant and for Respondent BEST Undertaking Shri. Vijay Sawant, AMCC (F/N) & Shri. S.V. Fulpagare, Supdt. CC(G/N).
- 15.0 At the outset we observe that this Forum does not have jurisdiction to redress with the grievance of the complainant raised in the instant matter, in view of a statutory provision provided under clause (d) of Regulation No. 6.2 of MERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation, 2006.
- 16.0 In this context a bare perusal of letter dtd. 29/03/2012 submitted to the IGR Cell in Annexure 'C' under the signature of the complainant, blatantly manifest

that as admitted therein the complainant had submitted requisition no. 91203663 dtd. 12/01/2012. At the relevant time the Respondent BEST Undertaking claimed arrears of Rs. 20,358.00 against energy cost and proclaimed amount, for defective meter. As candidly admitted therein he has neither disputed the said claim amount of Rs. 20,358.00 nor registered any protest in any manner and paid the same, in order to obtain the electric supply.

- 17.0 This Forum now finds that it is after getting the electric supply, while approaching the IGR Cell as well as this Forum, the complainant has been agitating his grievance for the first time about alleged illegal claiming the arrears of Rs. 20,358 from him. We uphold a contention raised by the Respondent BEST Undertaking that such contention has been merely an after thought. As observed above, the complainant had never disputed the bill amount of Rs. 20,358.00 claimed by the Respondent BEST Undertaking against the recovery of arrears.
- 18.0 In our consider view in the afore set of facts therefore the instant matter gets squarely covered under clause (d) of Regulation 6.8 as observed above, thus stands excluded from the jurisdiction of this Forum.

It would be appropriate at this juncture to reproduce the relevant Regulation for ready reference and it runs as under.

Regulation 6.8 : If the Forum is prima facie of the view that any Grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum. :-

(a) xxx xxx xxx
 xxx xxx xxx
 xxx xxx xxx

(b) xxx xxx xxx
 xxx xxx xxx
 xxx xxx xxx

(c) xxx xxx xxx
 xxx xxx xxx
 xxx xxx xxx

(d) recovery of arrears where the bill amount is not disputed.

- 19.0 At the cost of repetition this Forum observes that a crystal clear fact emanate from the documents and submission made before this Forum on behalf of the complainant, that the recovery of arrears amount admittedly initially was not disputed by the complainant. It is upon getting an electric supply as an after thought now the complainant has been approaching the IGR Cell and this Forum for the redressal of his alleged grievance, needless to mention therefore that the complaint needs to be dismissed for want of jurisdiction.
- 20.0 Before we part with this order, for the benefit of the complainant we may observe at the juncture that there has been absolutely no merit in the contention raised by him that his case has been covered under section 43 of the Electricity Act, 2003, wherein a mandate has been cast on the Respondent BEST Undertaking Distribution Licensee, to supply electricity within a period of one month after receipt of the application failing which, such a Distribution Licensee would be liable to a penalty which may extent to Rs. 1,000.00 per day of default.
- 21.0 In this context this Forum observes, that the electric supply was already provided to the premises under consideration. However, a meter was removed from his premises on 11/06/2004 for non-payment of the arrears of electricity bill. In view of this Forum therefore, the complainant has been asking for *restoration* of the electric supply to the premises under consideration and not a *fresh* electricity connection, for claiming the benefit of section 43 of the Electricity Act, 2003. In this context we may refer to law laid down by the Hon'ble Bombay High Court division bench in case of **M/s Namco Industries Pvt. Ltd. v/s State of Maharashtra & Others (W.P. no. 9906 of 2010)**. Explicitly therefore, the complainant's case can not been covered under section 43 of the Electricity Act, 2003 as observed above.
- 22.0 Another lame and unsustainable attempt has been made on behalf of the complainant to contend that his case has been covered under subsection (2) of section 56 of the Electricity Act, 2003. Therefore, as provided therein the arrears claimed by the Respondent has been time barred one.
- 23.0 In this regard this Forum observes that a bare perusal of section 56 manifest that the entire provisions provided therein has been in context to **"Disconnection of supply in Default of payment."** Section 56 entitles the Distribution Licensee like the Respondent BEST Undertaking, to cut off the supply of electricity after giving not less than 15 days clear notice in writing, where any person neglects to pay any charges for electricity.

- 24.0 Admittedly, in the matter under consideration the electric supply provided to the premises under consideration, has already been cut off by removing a meter on 11/06/2004. The complainant has submitted an application for restoration of electric supply by submitting the requisition on 12/01/2012. Obviously therefore, the complainant's case would not be covered under section 56 of the Electricity Act, 2003, as there is no case of disconnection of electric supply.
- 25.0 In the aforesaid observation and discussion this Forum finds the instant complaint being liable to be dismissed for want of jurisdiction. Accordingly, we do so.

ORDER

1. Complaint no. N-F(N)-151-2012 dtd. 01/06/2012 stands dismissed for want of jurisdiction.
2. Copies be given to both the parties.

(Smt Varsha V Raut)
Member

(Shri S P Goswami)
Member

(Shri R U Ingule)
Chairman