

**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. S-C-89-10 dt . 11/1/2010**

Mr. Altaf Yusuf Lakdawala .....Complainant

V/S

B.E.S. & T. Undertaking .....Respondent

**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. Mr. Altaf Lakdawala  
2. Mr. Khalid Khatri

On behalf of the Respondent  
1. Shri. H.K. Shendage, Supdt. CC 'C' ward  
2. Shri. V.K. Ade, AECC, 'C' ward  
3. Shri. V.B. Sonawane, AOCC, 'C' ward  
4. Shri. M.A Viegas, STO (Rec)  
5. Shri. A.J. Gaikawad, Clerk 'C' ward

Date of Hearing 09/02/2010

Date of Order 04/03/2010

**Judgment by Shri. R.U. Ingule, Chairman**

Mr. Altaf Yusuf Lakdawala, 49/51, Dr. Atmaram Merchant Road, Mumbai – 400 002, (temporary meter A/c no. TIS/3072/09-10) has come before Forum for grievances regarding outstanding amount of A/c No. 374-157-085\*4 on service no. 6113, which stands in the name of Shri. Naval P. Sharma.

**Complainant has submitted in brief as under**

- 1.0 For the purpose of construction activities, Mr. Altaf Yusuf Lakdawala had applied for temporary meter connection, which was provided to him by respondent on Service No. 6113, vide A/c no. TIS/3072/09-10 at 49/51, Dr. Atmaram Merchant Road, Mumbai – 400 002.
- 2.0 Complainant submitted his complaint dtd. 30/11/2009 vide Annexure 'C', wherein complainant had put on record that he had paid Rs.30,000/- on 18/11/2009 towards the arrears of consumer A/c No. 374-157-085\*4 under dispute i.e. without prejudice.
- 3.0 In reply to Annexure 'C', wherein it was informed to him that meter no. B025702, installation No. 157494 A/c No. 374-157-085 on Service No. 6113, which stands in the name of Shri.Naval P. Sharma for his premises, was removed on 4/1/2006 for non-payment of bills accumulated to the tune of Rs.1,34,790/- at the time of removal & informed to pay all the outstanding against the service no 6113.
- 4.0 As per complainant the record shows that the recovery officer of respondent on site inspection / investigation found that the said Shri. Naval P. Sharma is now residing at Ground Floor at Room no. 13, New N. Desai Wadi, 18/18C, Bhaskar Lane, Mumbai – 400 002 and using the electric supply through meter No. C 0410166, A/c No. 348-261-035 in the name of Smt. Pinky N. Sharma. So, the said amount of arrears of Shri. Naval P. Sharma was debited to the A/c No. 348-261-035 in the month of March, 2009. Thus respondent is legally barred from claiming the same also from him.
- 5.0 Complainant has further stated that the arrears in respect of Shri. Naval P. Sharma has been pending for a period of more than 2 years & as such the same has been time barred under section 56 (2) of Electricity Act 2003 therefore the respondent BEST undertaking is legally not entitled to claim the said amount of arrears. The claim made by the respondent therefore not maintainable in law.
- 6.0 As per complainant he requested for monthly extension of the Temporary Meter to the respondent but no such extension was granted, even though the bills are being paid regularly by him.
- 7.0 Unsatisfied by the action taken by respondent against his complaint in Annexure 'C' format, the complainant lodged his grievances with CGR Forum in Annexure 'A' format on 11/01/2010.

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

- 8.0 As per respondent total amount of Rs.2,42,861/- was outstanding on the service No.6113. The outstanding amount was of all the meters removed due to building demolished. Complainant was informed to pay the outstanding to enable respondent to install temporary meter at 49/51, Dr. Atmaram Merchant Road, Mumbai – 400 002.

- 9.0 Complainant vide his letter dtd. 8/9/2009 requested respondent to fix temporary meter and further stated that he will pay the outstanding bill on service no. 6113 within a period of 3 months. Temporary Meter No. 92306, Load 3.85 KW was installed by respondent on 25/9/2009 vide A/c No.TIS/3072/2009-2010.
- 10.0 Vide complainant's letter 04/11/2009 he requested to reduce deposit in bill for outstanding bills on service no. 6113 and give installment of bill 374-157-085. The complainant had paid Rs.64.825/- on 5/11/2009 and Rs.30,000 on 18/11/2009.
- 11.0 The complainant disputed the payment of outstanding amount Rs.1,34,790/- of Installation No. 15794 and approached the respondent for waiver of outstanding amount of Installation 157494, A/c No. 374-157-085.
- 12.0 Respondent in reply to Annexure 'C' informed the complainant that the said building was found demolished and all the meter's on Service No. 6113 were removed by the respondent. The complainant was further informed to pay all the arrears that is outstanding against the said service No.6113 and he has to make application / request every month for extension of temporary meter, failing which the temporary meter will be disconnected.
- 13.0 As per respondent it is true that the arrears amount of Rs.1,64,790/- was debited to A/c No. 384-261-035 (Smt. Pinky Sharma) in the month of March 2009, same was objected by consumer Smt. Pinky Sharma stating that it is not her outstanding in the name, hence, amount of Rs.1,64,790/- was reversed from A/c No. 348-261-035 to original account i.e. 348-261-085 (Shri. Naval P. Sharma).
- 14.0 Respondent prays to the Forum that complainant may ask to pay the outstanding amount of service No. 6113 & make application every month for grant of extension of temporary meter.

### **Reasons**

- 15.0 We have heard the complainant and his representatives, as well as the representatives of the respondent BEST Undertaking. Perused papers.
- 16.0 We find the case on our hand, being an open and shut case. Two crucial issues arise for our consideration in the instant matter. Firstly, whether the complainant has been liable to pay the arrears of electricity charges in respect of Shri. Naval P. Sharma residing at 4B-1, Laxmi Bhavan, 49/51, Dr. A. M. Road, Mumbai – 400 002. Secondly, whether the said claim of arrears of electricity consumption charges to be paid by the complainant, hit by the limitation prescribed under sub section (2) of section 56 of the Electricity Act 2003. Admittedly complainant has been a developer by profession and undertaken a work of redeveloping a building at 49/51, Dr. Atmaram Merchant Road, Mumbai-400002.
- 17.0 We find that, an attempt has been made by the complainant to deny his liability to pay the electricity charges payable by Shri. Naval P. Sharma who was availing the electricity supply vide the meter no. B025702, installation no. 157494, account no. 374-157-085 on service no. 6113. The respondent BEST Undertaking has claimed arrears of electricity charges in respect of Shri. Naval P. Sharma, from the complainant of an amount of Rs. 1,36,277/-.

- 18.0 At the outset, we observe no iota of merit in the contention raised by the complainant while denying the claim of arrears made by the respondent BEST Undertaking in respect of Shri Naval P. Sharma. In this connexion, we find it significant to advert to an application dtd. 8/9/2009 submitted to the respondent BEST Undertaking by the complainant under his signature. It has been placed on file by the respondent at page no. 27/C. In a bare perusal of the same we find that, without any reservation and protest, the complainant has in blanket manner undertaken to pay all the outstanding bills on service no. 6113, account no. 374/157 within a period of 3 months, while applying for temporary meter.
- 19.0 We further observed that, after lapse of 2 months the applicant again submitted an application dtd. 4/11/2009 to the respondent BEST Undertaking with a request to reduce deposit in bill of meter on service no. 6113, and also requested for giving installment of bill no. 374-157-085, giving final outstanding bill as per electricity act 2003. Admittedly, the said account no. has been of Shri. Naval P. Sharma. We thus, find that the complainant has in writing agreed to pay all the outstanding bills of service no. 6113 including that of consumer Shri. Naval P. Sharma to the Respondent without registering any protest or raising any dispute in any manner. The respondent BEST Undertaking thereafter acting on such written undertaking given by the complainant proceeded to provide a temporary meter connection to the complainant.
- 20.0 We are therefore, of a view that, the complainant has been under a contractual obligation to pay the arrears of electricity charges that claimed by the respondent BEST Undertaking in respect of consumer Shri. Naval P. Sharma having an account no. 374-157-085. We thus, find an abortive and futile attempt being made by the complainant before us to turn around and deny paying the electricity charges in arrears, in respect of consumer Shri. Naval Sharma.
- 21.0 Now we proceed to consider a merit in a second crucial issue viz whether claim made by the respondent BEST Undertaking of an arrears of electricity consumption charges in respect of Shri. Naval Sharma, has been hit by the limitation prescribed under sub section (2) of section 56 of the Electricity Act, 2003. We find it expedient to reproduce the said relevant provisions of law for ready reference and it runs as under:

*Section 56 Disconnection of supply in default of payment*

(i) xxx xxx xxx  
xxx xxx xxx

(ii) *Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.*

- 22.0 In this regard, we observe that, a letter dtd. 31/12/2009 addressed to the complainant under the signature of administrative officer, Customer Care (C-ward) of the respondent BEST Undertaking, placed before us by both the litigating parties manifest that the consumer Shri. Naval Sharma has paid the electricity bill regularly till September 2003. This letter further recites that, the consumer meter no. B025702 was removed on 4/1/2006 for nonpayment of electricity bill which was accumulated to the tune of Rs. 1,34,790/- at the time of removal. These dates blatantly manifest that the provisions provided under the electricity act 2003 are squarely applicable to the matter under our consideration. We find a merit in the contention raised by the complainant that the claim made by the respondent BEST Undertaking is required to be consider in the light of the provision provided under sub section (2) of section 56 of the electricity Act, 2003.
- 23.0 In this context, we observed that, in the matter of recovery of arrears of electricity charges from the consumer the same has been restricted by the legislature to the extent of 2 years from the date when such sum due from the consumer, became first due. In a settled position of law the due date starts from the date of service of bill. We further observe that the legislature has provided an exception to the statutory limitation of 2 years for allowing the distribution licensee to recover the consumption charges in arrears even beyond the said period of 2 years only in a contingency if such due sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee has not cut off the supply of electricity.
- 24.0 On behalf of the respondent BEST Undertaking, it has been strenuously urged that, the arrears of Rs. 1,34,790/- has been pending from 4/1/2006 and the bills are raised continuously as recoverable arrears and therefore, under Section 56(2) of the Electricity Act, 2003, the respondent is entitled to claim the said entire amount in arrears ignoring the limitation of 2 years. In our view, a bare perusal of sub section (2) of section 56 clearly manifest that for claiming arrears beyond prescribed period of 2 years, the respondent licensee has been under the obligation to show such sum continuously as recoverable as arrears of charges for electricity supplied and at the same time the licensee should not cut off the supply of electricity.
- 25.0 We thus, find that, to avail the benefits of exception provided under sub section (2) of section 56, the respondent licensee is required to fulfill the two ingredients. Firstly to show the sum continuously as recoverable as well as at the same time not to cut off the supply of electricity. However, admittedly the respondent has proceeded to cut off the electricity supply to the consumer Shri. Naval P. Sharma by removing the meter no. B025702 on 4/1/2006. We therefore of a consider view that the respondent has been entitled to recover the electricity charges in arrears only for a period of 2 years to be reckoned from the month of October 2003, as admittedly consumer Shri. Naval Sharma has paid the bill regularly till September 2003 and not for a period beyond that. To conclude on this aspect, we proceed to hold that, the respondent is legally entitle to claim the electricity consumption charges in respect of consumer Shri Naval P. Sharma from the complainant for a period of 2 years i.e. from October 2003 till September 2005.
- 26.0 Before we part this order, we may advert to one more contention raised by the complainant that the respondent BEST Undertaking in its investigation has found that, the consumer Shri. Naval P. Sharma was availing the electricity supply through the electric meter standing in the name of Smt. Pinky N. Sharma. Therefore, the electricity consumption charges in arrears of Shri. Naval P. Sharma was debited by the respondent BEST Undertaking to the account no. standing in the name of Smt. Pinky N. Sharma in

the month of March 2009. The respondent therefore cannot proceed to recover the said amount in arrears again from the complainant. The respondent while defending the said contention raised by the complainant by placing before us a letter dtd. 4/12/2009 alongwith its list of the documents dtd. 10/2/2010, has pointed out that on protest made by Smt. Pinky N. Sharma in paying the arrears in respect of Shri. Naval P. Sharma, the respondent has already reverted back the said amount in arrears and as such withdrawn its action of collecting arrears from Smt. Pinky N. Sharma. We thus find that, the respondent BEST Undertaking has not collected the electricity charges in arrears from Smt. Pinky N. Sharma as alleged by the complainant. We therefore, find no merit in the said contention raised by complainant.

**Views expressed by member Mrs. Varsha Raut**

- 27.0 Although I am in agreement with final part of the order, I am not in agreement with the observation of Ld. Hon'ble Chairman & Ld. Member that, "In a settled position of Law the due date starts from the service of a bill."
- 28.0 In view of the aforesaid discussion and observation we proceed to pass the following order.

**ORDER**

1. The complaint no. S-C-89-2010 dtd. 11/1/2010 stands partly allowed.
2. The respondent BEST Undertaking has been entitled to recover, the electricity charges in arrears in respect of consumer Shri Naval P. Sharma, account no. 374-157-085 for a period of 2 years i.e. from October 2003 to September 2005, from the complainant.
3. The respondent BEST Undertaking has been directed to refund an amount of electricity consumption charges to the complainant, in the event the same has been paid by the complainant and exceeding the electricity consumption charges referred to above, within a period of 1 month from this date and to report compliance to this Forum within a period of 1 month thereafter.
4. Copies to be given to both the parties.

(Smt. Varsha V. Raut)  
Member

(Shri. S. P. Goswami)  
Member

(Shri. R. U. Ingule)  
Chairman