

	Date	Month	Year
1	Date of Receipt	28	03
2	Date of Registration	29	03
3	Decided on	25	05
4	Duration of proceeding	58 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-483-2023 dtd.29/03/2023

Shri Irfan PathanComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Smt. Manisha K. Daware, Technical Member

On behalf of the Respondent (1) : 1. Shri Prasad P. Kulkarni
2. Shri Prashant R.Patil

On behalf of the Complainant : 1. Shri Irfan Pathan

Date of Hearing : 09/05/2023

Date of Order : 25/05/2023



Judgment

- 1.0 The grievance of the complainant is that the Respondent's demand to the complainant in respect of the amount of Rs. 88,806.00 towards electricity charges is illegal.
- 2.0 The following facts may be said to be not in dispute.
- a) There is an electric connection given by the Respondent / Distribution Licensee to the premises D-2, Ground floor, Municipal Staff Quarters, D.B. Marg, Mumbai Central, Mumbai 400 008.
- b) The said premises belongs to the Municipal Corporation. One Shri Khot, being officer of the Municipal Corporation was occupying the said premises. He left the premises and on his vacating report, the Respondent / Distribution Licensee had disconnected the supply of electricity to that premises on 31/01/2013. At that time, however, the meter was kept at the site and reading thereof was 2645 units as per the record of the Respondent.
- c) The complainant is officer of Municipal Corporation and the Municipal Corporation had allotted the said premises as residence to the complainant. The said allotment was w.e.f. 30/05/2017. On 30/11/2021, the complainant approached to the Respondent with the allotment letter issued by his employer i.e. Municipal Corporation. Accordingly, the complainant requested the Respondent to continue the electric supply to the said premises as he was allotted the said premises. Thereafter, the Respondent started giving bills to the complainant.
- 3.0 The case of the complainant may be stated as under :
- a) According to the complainant, though the said residential quarter was allotted to him by the Municipal Corporation w.e.f. 30/05/2017, it was in unfit condition and it was not suitable for occupation. According to him, the said accommodation required internal repairs. The repairing work was started but the department concerned was very slow in completing the repairing work. Moreover, global pandemic corona was started from March 2020. Further the complainant's son was preparing for board examination. For all these reasons the complainant could not occupy the said premises for a considerable time. Only on 30/11/2021, the complainant applied to the Respondent to connect the electric supply to the said premises. The complainant also applied for change of name of consumer in his name. The Respondent made the change of name in favor of the complainant accordingly on payment of the required charges.

[Handwritten signatures]

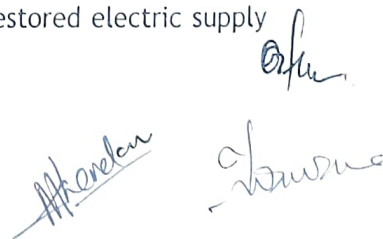


[Handwritten signature]
Mand' Karahikar
Secretary
CGRF BEST

- b) It is further case of the Respondent that he then started receiving bills, but since beginning the bills were exaggerated. He approached to the Respondent's officials, but they did not cure the problem. Still complainant paid bills partly as per consumption of units during particular month. It is further case of the complainant that he received electric bill for the period from 17/12/2021 to 13/01/2022 for Rs. 28,700.00. According to the complainant this bill amount was much higher than the consumption of the electricity. Therefore on 01/02/2022, the complainant made correspondence with the Respondent's Customer Care Ward and put up his grievance about said high bill. He requested them to give the accurate bill. On 22/12/2022, the complainant also made an application to the Respondent seeking information under the Right To Information Act in respect of the said billing with a view to know whether any prior dues were pending. On 22/12/2022 he also made complaint application to the IGRC of the Customer Care Ward.
- c) It is also submitted by the complainant that due to non-payment of the aforesaid high amount of bill, the Respondent has disconnected the supply to the said premises from 22/11/2022.
- d) The further case of the complainant is that the Respondent did not provide any redressal to the aforesaid grievance of high billing. On the contrary, the Respondent issued a bill of Rs. 88,806.00 for the period from 19/12/2022 to 17/01/2023. According to the complainant such demands of high bill made by the Respondent are illegal. Therefore the complainant has requested to this Forum that the Respondent be directed to withdraw the said demand and to issue proper bill on the basis of the actual consumption made by the complainant after occupying the premises from 30/11/2021.
- 4.0 The Respondent has appeared and filed its reply. The Respondent has opposed the aforesaid grievance of the complainant. The case of the Respondent may be stated as under :-
- a) According to the Respondent the earlier consumer was one Shri Vijay Khot under a/c no. 815-291-021. As he vacated the premises, the said a/c was closed, however the meter was not removed as per prevailing practice. Then onwards the meter was intermittently read as extra meter by the meter reader in various months on 31 occasions related in the system. The final reading as such was taken in January 2013, when the earlier consumer Shri Vijay Khot vacated the premises and at that time the reading was 2645 units. This reading was maintained till 24/04/2017 i.e. up to the date of allotment of the premises to the complainant Shri Irfan Pathan. The said allottee i.e. Shri Irfan Pathan did not turn out to the Respondent / Distribution Licensee for change of name. However, it seems that he has restored electric supply




(Milind Karanjkar)
Secretary
CGRF BEST



5.0

by inserting fuse into branch cut out of the meter. Thereafter in further months the readings taken were 6109, 6448 units in November 2018 and February 2019 respectively. Later in the year 2020 and 2021 the meter reading activity was restricted due to corona pandemic. As the account was closed, the electric bill for the meter was not generated by the system maintained by the Respondent. The extract of OLCC report for various meter readings and reading dates is attached by the Respondent with its reply vide Exhibit 'C'.

- b) In later times, it was realized that some of the new allottees did not approach to the Respondent for change of name procedure after occupying the premises and started using electric supply by inserting fuse on their own. The allottee of the said premises i.e. the complainant also misused the electricity without intimation to the Respondent. In order to avoid such incidences, now a days, preventive action was taken by the BEST Undertaking and the Procedure Order no. 252 dtd. 26/02/2019 was issued by Respondent / BEST. According to this PO the meters were being removed for outgoing consumers after paying final bill. Prior to that the aforesaid practice was prevailing regarding keeping the meter on the site and only fuse used to be removed / disconnected.
- c) In the year 2021, the complainant approached for change of name vide his application dtd. 30/11/2021. As per the said application, the change of name was effected. As per the OLCCs extract the meter consumption during the period from January 2013 to April 2017 was negligible. Thereafter from the date of allotment of the premises to the complainant on 30/05/2017 the meter was registering progressive units. Hence units consumed through the meter was billed after the date of allotment i.e. 30/05/2017. The accumulated units since date of allotment were divided equally as 227 units per month in the correspondence period and slab benefit was also given to the complainant. The bill generation for the period from April 2017 to December 2021 is Rs. 46,625.00. Therefore, the Respondent asked the complainant to pay the said charges.
- d) The complainant later on approached to the Respondent and pleaded that he has occupied the premises in the year 2021 though the premises was allotted to him in the year 2017 and he was paying the rent of the quarter from the date of allotment. The complainant further requested to consider the bills on the pretext that he did not occupy the premises due to its dilapidated condition, his children's education and corona pandemic etc. He requested to reduce the bill amount. According to the Respondent, the aforesaid request of the complainant was not acceptable and therefore the demand made by the Respondent as above is correct. The representative of the Respondent has submitted that the present application is liable to be dismissed.

[Handwritten signature]
[Handwritten signature]



[Handwritten signature]
Secretary
CGRF, BEST

- 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 demand made by the Respondent to the complainant to pay the amount of Rs. 88,806.00 is legal and valid ?	Negative
2	What order is required to be passed to disposed off the present application ?	The Respondent will have to be directed to withdraw the aforesaid demand of amount of Rs. 88,806.00 and to issue modified bills to the complainant on the basis of the actual consumption recorded by the meter from 30/11/2021 till the date of removal of the meter and also to reconnect the supply after receiving the dues as per the modified bills as is being directed in the operative order being passed herein below.

6.0 We have noted the admitted facts herein earlier.

- a) What appears is that the complainant was allotted the said premises w.e.f. 30/05/2017. The case of the complainant is that he did not actually occupied the premises till 30/11/2021 as it was not in habitable / good condition and as he was busy with the studies of his son and also due to covid epidemic. Admittedly on 30/11/2021 he approached to the Respondent / Distribution Licensee to change the name of consumer in his favour in respect of the said consumer account and to restore the electric supply to the premises. It is also not disputed that on such application, the Respondent changed the name of consumer in favour of the complainant and also restored the supply from 31/11/2021 and also started giving bills to the complainant thereafter.
- b) It is also not disputed that the Respondent has been giving the bills as stated above and ultimately the Respondent asked the complainant to pay the aforesaid amount of Rs. 88,806.00. It is not disputed that this amount was not paid by the complainant and therefore, the Respondent has disconnected the supply and also removed the meter from the premises w.e.f. 22/11/2022.

c) The dispute lies in the contentions of the rival parties as noted earlier. The complainant says that the bill given for Rs. 88,806.00 for the period from 30/11/2021 to 17/01/2023 was not as per the actual consumption of the electricity. According to the complainant, he started consuming the electricity in the said premises only from 30/11/2021. On the other hand, the Respondent says that the electric supply to the premises was disconnected from 31/01/2013. On 31/01/2013 the final reading was 2645 units in the said meter and the meter was kept at the premises though supply was disconnected by removing the fuse. According to the Respondent in case of non-occupation of the premises or vacating of the premises, this was the prevailing practice and accordingly the meter was kept at the premises. Till 24/04/2017, the reading was negligible. However, after 24/04/2017 i.e. date of allotment of the premises to the complainant, the OLCC system of the Respondent was recording that there was consumption of electricity through this meter. Though the Respondent had already disconnected the premises in the year 2013, from April 2017 the consumption of electricity from this meter was being recorded. According to the Respondent, it was only because the complainant was occupying the premises and consuming electricity because on 24/04/2017, the premises was allotted to the complainant by his employer Municipal Corporation. According to the Respondent, the said consumption of electricity from 24/04/2017 as shown in the OLCC system of the Respondent was made by the complainant and nobody else. Therefore according to the Respondent it is the complainant who is liable to pay for such consumption from 24/04/2017 onwards as shown by OLCC system.

d) We have examined the submissions of the parties. What we find is that from 31/01/2013, the Respondent has disconnected the supply to the premises. If it is the case of the Respondent that their OLCC system shows that from 24/04/2017 to 30/11/2021 the consumption was being recorded through said meter and if it is further case of the Respondent that only on 30/11/2021, the electric supply was restored to the premises on the application of the complainant, it will have to be assumed that the Respondent wants to say that the complainant has consumed the electricity from April 2017 to 30/11/2021 unauthorizedly. If the Respondent wants to say that the complainant has consumed the electricity during the said period unauthorizedly, then the Respondent should have taken steps in respect of theft of electricity. In such case, the Respondent should have adopted the procedure laid down in section 126 of Electricity Act, 2003. However, no such steps have been taken by the Respondent. The Respondent simply charged the complainant for the consumption as per normal procedure by issuing enhanced bills for the period from April 2017 to December 2021 for Rs. 46,625.00 and later on this amount was enhanced to Rs. 88,806.00 by including the bills for consumption during the period upto December 2022 and for non-payment of the said amount the Respondent has disconnected the supply and also removed the




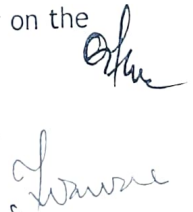
M. Karanjkar
 (Milind Karanjkar)
 Secretary
 CGRF BEST

meter. We think that such procedure adopted by the Respondent is not in consonance with the provisions of Electricity Act, 2003 as well as MERC Regulations, 2020. Therefore, the non-payment of the amount demanded by such illegal way, cannot become a valid reason for the Respondent to disconnect the supply to the premises of the complainant.

- e) It is further to be noted that admittedly there is a dispute as to when actually the complainant occupied the premises. The Respondent is relying on the letter dtd. 30/11/2021 issued by the Municipal Corporation stating that the premises has been allotted to the complainant w.e.f. 30/05/2017 and from that date the premises is in the occupation of the complainant. This letter has been produced by the Respondent. It appears that this letter has been addressed by the Head Clerk of MCGM to the Supdt. Customer Care (D) ward. On perusal of this letter no doubt it appears that in this letter the fact about the allotment of the premises to the complainant w.e.f. 30/05/2017 is mentioned and also it is stated that since then the complainant is occupying the premises. The complainant has submitted that this letter has been issued as per the format available with the MCGM and therefore it cannot be inferred from it that the actual occupation of the premises was taken by the complainant from 30/05/2017. The complainant is consuming the electricity in this premises through the meter installed therein only from 30/11/2021 and not prior to it. We have examined this submission of the complainant. What we find is that the case of the Respondent is not that it started supplying the electricity to this premises from 30/05/2017. Therefore this letter is not relevant to ascertain that the complainant started consuming the electricity from 30/05/2017 onwards. As the Respondent's case is that the complainant has unauthorisedly used the electricity from 30/05/2017, the Respondent cannot charge the complainant as per the normal procedure of billing without following the procedure laid down in section 126 of Electricity Act, 2003.
- f) It may be noted that there is a dispute between the parties as to since when the complainant actually started consuming the electricity in the said premises and it is the case of the complainant that after the change of name from 30/11/2021 and after the Respondent restored the supply from 30/11/2021, the complainant had made complaint to the Respondent that he was receiving the high bills than the actual consumption. In this regard the complainant has produced a copy of the grievance application dtd. 22/12/2022 vide Exhibit - 'G' annexed to pleading of the complainant. On receiving such complaint, it was for the Respondent to check the meter to ascertain as to why the meter was showing the reading inspite of the fact that the Respondent had already disconnected the supply from May 2017 till 30/11/2021. The meter was not checked by the Respondent. On the contrary, the Respondent has removed the meter for non-payment of the bills by the complainant. Without testing the meter, it is unfair on the




(Milind Karanjkar)
Secretary
CGRF BEST

part of the Respondent to charge the complainant for the alleged consumption of the electricity during the period from May 2017 to 30/11/2021.

- g) For all the aforesaid reasons, we hold that the demand made by the Respondent for Rs. 88,806.00 as noted earlier is illegal and invalid and therefore we have recorded negative findings on point no. (1). As we have recorded negative findings in point no. (1), we hold that the Respondent will have to be directed by this Forum to withdraw the said demand and to issue modified bills to the complainant for the period from 30/11/2021 till the date of removal of the meter on the basis of the actual consumption recorded from 30/11/2021 till the removal of the meter and to restore the electric supply to the complainant after payment of the dues as per the modified bills. The Respondent may be directed to make compliance of this order regarding modification of the bills within one month from the date of receipt of this order and to restore the supply within 15 days from the date of clearance of the dues by the complainant as per the modified bills. Accordingly we have answered point no. (2) and pass the following order.


ORDER

1.0 The grievance no. D-483-2023 dtd. 29/03/2023 is allowed in following terms :-

- a) The Respondent is directed to withdraw its demand of Rs. 88,806.00 made to the complainant and to issue modified bills on the basis of the actual consumption recorded during the period from 30/11/2021 till the date of removal of the meter. The Respondent shall comply with this direction within one month from the date of receipt of this order.
- b) The complainant shall pay the dues of the electric charges as per the modified bills which shall be given to him by the Respondent as per the direction given in clause (a) herein above.
- c) After the complainant clears the dues as per the modified bills as directed in clause (b) herein above, the Respondent shall restore the supply to the premises of the complainant within 15 days.

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


(Smt. Mahisha K. Daware)
Technical Member


(Smt. Anagha A. Acharekar)
Independent Member


(Shri S.A. Quazi)
Chairman

