

d	Date	Month	Year	
1	Date of Receipt	10	01	2023
2	Date of Registration	10	01	2023
3	Decided on	09	03	2023
4	Duration of proceeding	60 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.FN-475-2023 dtd.10/01/2023

Smt. Saili Khamkar and Smt. Prachi PatilComplainants

V/S

B.E.S.&T. UndertakingRespondent No. 1

Shri Santosh S. HarwadeRespondent No. 2

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 Complainants : 1. Smt. Saili Khamkar & Smt. Prachi Patil

On behalf of the Respondent (1) : 1. Smt. A.J. Karbhari

On behalf of the Respondent (2) : 1. Shri Santosh Harwade

Date of Hearing : 14/02/2023

Date of Order : 09/03/2023



(Signature)
(Milind Karanjkar)
Secretary
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Judgment

- 1.0 The complainants 1) Smt. Saili Khamkar and 2) Smt. Prachi Patil have grievance about change of name of three consumer accounts in the name of the Respondent No. (2) Shri Santosh Harwade.
- 2.0 The following facts may be stated to be not in dispute.
- a) The old consumer a/c no. 793-725-087 was a residential electric connection in the name of Smt. Sunanda Suresh Harwade. Similarly the consumer a/c no. 793-725-084 was in the name of said Sunanda Hosiery Retail (proprietary concern of Sunanda Suresh Harwade) and it was a commercial consumer account. The said Sunanda S. Harwade is mother of the aforesaid complainants 1) Smt. Saili Khamkar, 2) Smt. Prachi Patil and Respondent No. (2) Shri Santosh Harwade. Thus the complainants 1) Smt. Saili Khamkar and 2) Smt. Prachi Patil are sisters of the Respondent No. (2) Shri Santosh Harwade. In both these consumer accounts, consumers' names were changed from the name of said Smt. Sunanda Harwade and her proprietary concern Sunanda Hosiery Retail respectively to the name of the Respondent No. (2) Shri Santosh Harwade, with effect from 07/12/2019, as per his application. On such change, the consumer a/c no. 793-725-087 was changed to a/c no. 793-725-097 and a/c no. 793-725-084 was changed to 793-725-098.
- b) In respect of the old a/c no. 793-725-087 and 793-725-084, the complainants' mother Smt. Sunanda Harwade had given complaint dated 12/12/2019 to the Divisional Engineer Customer Care (F/N) of BEST Undertaking. Therein the said Smt. Sunanda Harwade had complained that her son i.e. present Respondent No. (2) Shri Santosh Harwade had taken another ration card and, therefore, the Respondent No. (2) Shri Santosh Harwade is trying to change the name of consumer in electricity bills. Hence, in the said complaint, it was stated by said Smt. Sunanda Harwade that the consumer name should not be changed without her consent.
- c) It appears that the Respondent No. (1)/BEST Undertaking enquired regarding the facts mentioned in the above said complaint made by Smt. Sunanda Harwade and observed that during the hearing dtd. 09/01/2020 the complainant Smt. Sunanda Harwade had expressed her willingness to change the name to the name of Respondent No. (2). Therefore, the Respondent No. (1)/BEST Undertaking did not revert back the name of consumer from the name of the Respondent No. (2) to the name of his mother Smt. Sunanda Harwade in respect of the above said two consumer account numbers.



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- d) There was a third electric connection a/c no. 793-725-040 in the name of Shri Suresh G. Harwade. Shri Suresh G. Harwade was father of the complainants 1) Smt. Saili Khamkar and 2) Smt. Prachi Patil and Respondent No. (2) Shri Santosh S. Harwade. The said Shri Suresh G. Harwade died and after his death the said a/c no. 793-725-040 was transferred to the name of the Respondent No. (2), as per his application with effect from 19/12/2017. After the change of name, the consumer a/c no. 793-725-040 was changed to a/c 793-725-088 as commercial account.
- e) The present complaint/grievance application is about all the said three accounts.
- 3.0 The case of the complainants 1) Smt. Saili Khamkar and 2) Smt. Prachi Patil may be stated as under:
- a) The aforesaid Smt. Sunanda S. Harwade, the mother of the complainants and the Respondent No. (2), had made complaint dtd. 12/12/2019 and taken objection about the change of name of consumer to the name of Respondent No. (2). Thereupon, complainant 1) Smt. Saili Khamkar was telephonically informed by the official Respondent No. (1) that on 09/01/2020 the hearing in the matter will take place in the office of the concerned Customer Care Ward of BEST regarding the aforesaid complaint. When the complainants went for hearing, the official of the BEST Undertaking by name Smt. A.J. Karbhari asked both the complainants to sit out of the room, where the hearing was to take place. However, the said official made an enquiry with Smt. Sunanda Harwade, in the absence of the complainants. According to the complainants, their mother Smt. Sunanda Harwade could not understand the questions allegedly put to her in the enquiry because she was suffering from mental illness and she was unable to express her views. She was asking the said official Smt. Karbhari to call her daughters inside the room but the official did not call the complainants in the room. Thus, without giving sufficient and proper opportunity to complainant's mother Smt. Sunanda Harwade, the said official of the Respondent No.1, wrongly held that the complainant Smt. Sunanda Harwade (mother of the complainants before us) did not take any specific stand about her complaint and, therefore, as per the complaint of Smt. Sunanda Harwade no action was taken for change of name of the consumer from the Respondent No. (2) to the original consumer i.e. Smt. Sunanda Harwade.
- b) The complainants have submitted that their mother Smt. Sunanda Harwade is a patient of mental illness and they have produced medical certificate to this effect issued by J.J. Hospital.
- c) The complainants have further submitted that the Respondent No. (2) Shri Santosh Harwade has submitted Indemnity Bonds to the Respondent No. (1) BEST Undertaking



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along with his application for change of name from his mother and father to his own name in respect of the aforesaid three consumer accounts. It is submitted that in the said bond, he has stated that he has made all the statements in his applications for change of name correctly and if his statements in those applications are found incorrect, the change effected in his name may be reverted back. In this regard, the complainants have submitted that in respect of all the three aforesaid accounts along with his applications for change of name, the Respondent No.(2) annexed and relied upon a pedigree regarding the family. It is submitted by the complainants before us that in the said pedigree the Respondent No.(2) has mentioned false information that he alone is member of the family of his father and mother. In that pedigree there is no mention about existence of daughters of Smt. Sunanda Harwade and Shri Suresh Harwade. In view of this, it is submitted by the complainants before us that the Respondent No. (2) has obtained the change of name of consumer in respect of the aforesaid three accounts by giving false information and, therefore, it is necessary that the consumer's name may be reverted back in respect of the aforesaid three accounts to the name of their mother Smt. Sunanda Harwade and father Shri Suresh Harwade respectively.

4.0 The Respondent No.(1) has filed its reply to the aforesaid complaint filed before this Forum. Its case may be stated as under:

a) Along with his application for getting the name of consumer changed on the electricity bill of old a/c no. 793-725-087 (residential tariff) to his name, the Respondent No. (2) Shri Santosh Harwade had submitted copies of following documents to the Respondent No. 1/BEST Undertaking on 07/12/2019:

- i) Photopass of Respondent No. (2) Shri Suresh Harwade.
- ii) NOC of previous consumer i.e. Smt. Sunanda Harwade.
- iii) Indemnity Bond dtd. 17/10/2019 along with family tree/pedigree dated 16/10/2019.

b) Similarly, Along with his application for getting the name of consumer changed on the electricity bill of old a/c no. 793-725-084 (commercial tariff) to his name, the Respondent No. (2) Shri Santosh Harwade had submitted copies of following documents to the Respondent No. 1/BEST Undertaking on 07/12/2019:

- i) NOC of Smt. Sunanda S. Harwade.
- ii) Shop and Establishment renewal certificate of Sunanda Hosiery Retail employed by Smt. Sunanda S. Harwade.
- iii) Shop and Establishment certificate of same premises in the name of Santosh Hosiery Retail employed by Shri Santosh S. Harwade.



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iv) ID proof and address of old consumer a/c no. 793-725-087 in the name of Smt. Sunanda Harwade and new a/c no. 793-725-097 in the name of Shri Santosh Harwade.

v) ID proof of Smt. Sunanda Harwade.

c) The Respondent No.(1) has also submitted that along with his application for getting the name of consumer changed on the electricity bill of old a/c no. 793-725-040 (commercial tariff) to his name, the Respondent No. (2) Shri Santosh Harwade had submitted copies of following documents to the Respondent No. 1/BEST Undertaking on 19/12/2017:

- i) Receipt of Shop & Establishment dtd. 18/12/2017 towards the processing fees for E-application to change of name of the employer of Santosh General Stores from Shri Suresh Harwade to Shri Santosh Harwade.
- ii) Death Certificate of Shri Suresh Harwade dtd. 12/06/2013.
- iii) Indemnity Bond dtd. 14/12/2017 executed by the Respondent No. (2) Shri Santosh Harwade.

d) As far as the complaint dtd. 12/12/2019 given by Smt. Sunanda Harwade is concerned, the Respondent No.(1) has pleaded in its reply that Smt. Sunanda Harwade had complained that her son Shri Santosh Harwade is trying to get the name changed from her name to his own name in respect of the aforesaid accounts and therefore in the complaint, Smt. Sunanda Harwade requested not to change the consumer name without her consent. The Respondent No(1) in the reply has further submitted that it was noticed that name of consumer on the electricity bill of consumer a/c no. 793-725-087 had already changed on 07/12/2019 to the name of Shri Santosh Harwade and new a/c number was given to it as a/c No.793-725-097. Therefore, office of the Respondent No.(1) had advised to the said Smt. Sunanda Harwade to raise the dispute by giving proper complaint. In view of this, hearing was held on 09/01/2020 as per the Procedure laid down in the Order no. 236 dated 03/05/2017. The said complainant Smt. Sunanda Harwade and her son Shri Santosh Harwade were present for hearing. According to the Respondent No. (1), since the complainant Smt. Sunanda Harwade was herself the old consumer, only she was permitted to attend the hearing. During the hearing, Smt. Sunanda Harwade said that she could not write but can read little bit and she had given her thumb impression on the complaint letter dtd. 12/12/2019. The Respondent No.(1) has further stated in their pleading that in the course of hearing, when she was asked as to who wrote the complaint letter, Smt. Sunanda Harwade asked Shri Santosh Harwade to reply the said query. Again upon asking whether she had objection for change of name on the electricity bill in favour of Shri Santosh Harwade, she did not say anything and kept quiet. Again when she was asked as to whether she had given her thumb impression on this complaint letter, she gave



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no reply. In view of such circumstances, according to the Respondent No. (1), it was inferred by the official of the Respondent No (1) that Smt. Sunanda Harwade did not take any confirm stand regarding her objection for change of name of consumer in electricity bill of a/c no. 793-725-087 and 793-725-084 and, therefore, the concerned official of the Respondent No.(1) decided not to revert the name of the consumer in respect of the said consumer account to the name of Smt. Sunanda Harwade.

- e) According to the Respondent No.(1), for change in the name of the consumer in respect of a/c no. 793-725-040 (commercial tariff), the Respondent No. (2) Shri Santosh Harwade had submitted receipt of Shop & Establishment dtd. 18/12/2017 regarding payment towards the copy of processing fees for e-application for change of name of the employer of Santosh General Stores from Shri Suresh Ganpat Harwade to name of Respondent No.(2) Shri Santosh Suresh Harwade. He had also submitted death certificate of his father Suresh Harwade showing date of death as 12/06/2013. According to the Respondent No.(1), in view of these documents, the said a/c no. 793-725-040 was changed to the name of the present Respondent No. (2) Shri Santosh Suresh Harwade.
- f) According to the Respondent No. (1), the action regarding change of name of the consumers on the electricity bills in respect of all the 3 accounts, will be taken as per the directions which may be given by this Forum.
- 5.0 The Respondent No.(2) has filed his reply and opposed the aforesaid complaint given to this Forum by the complainants. This case may be stated as under.
- a) It is true that he had made application to the Respondent No. (1) for change of name of consumer in respect of all the aforesaid 3 consumer accounts to his own name and he submitted all necessary documents in support of his application. He submitted NOC of his mother for the aforesaid change. According to him the change was effected in his name legally and on the basis of valid documents and there is no illegality committed by the Respondent No. (2). According to him, he received a letter dtd. 31/12/2019 issued by the Respondent No. (1)'s official Smt. A.J. Karbhari regarding objection taken for change of name and such objection was taken by his sisters namely Smt. Saili Khamkar and Smt. Prachi Patil. In the said letter dtd. 31/12/2019, the hearing was proposed to take place on 09/01/2020. After hearing the parties, on 14/01/2020, the said official of the Respondent No.(1) recorded findings. In that hearing it was found that there was no objection of mother Smt. Sunanda Harwade to transfer electric bill to the name of the Respondent No. (2). It is submitted that in the said findings, the official of the Respondent No.(1) has recorded that Smt. Sunanda Harwade had not taken any firm stand in respect of her complaint and, therefore, the change effected in the name of the Respondent No. 2 was found by the said official to



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be not in dispute. According to the Respondent No. (2), the said change need not be disturbed and, therefore, present complaint is liable to be dismissed.

- b) According to the Respondent No. (2), the said complaint was given to the Respondent No. (1) in the name of mother Smt. Sunanda Harwade by the present complainant Smt. Saili Khamkar and Smt. Prachi Patil by obtaining her thumb impression only on handwritten application in Marathi. According to the Respondent No.(2), as the objection was not true and genuine, the official of the Respondent No. (1) has rightly rejected it.
- c) According to the Respondent No. (2), he has 4 married sisters by name, 1) Smt. Urmila Patil, 2) Smt. Prachi Patil, 3) Smt. Saili Khamkar and 4) Smt. Varsha Khande. All of them have claimed their share in the property of the father and mother through their Advocate, Shri A.H. Pawaskar vide his legal notice dtd. 09/06/2022. To that notice, the Respondent No.(2) gave reply through his Advocate on 07/09/2022 and brought to their notice that each of them has received their share in the property of father.
- d) Out of 4 married sisters, 2 sisters i.e. Smt. Saili Khamkar and Smt. Prachi Patil were not satisfied even though they have received their share in the property of their father. They are blackmailing the Respondent No. (2) to knock-out money from him. With such intention, they have raised the present dispute. It is submitted by the Respondent No. (2) that on 09/01/2020 when his mother Smt. Sunanda Harwade along with Complainants participated in the hearing before the Respondent No. (1)'s official Smt. A.J. Karbhari in respect of the aforesaid objection of mother Smt. Sunanda Harwade, they ought to have produced medical certificate of mother, if it was issued on 13/12/2019 and if it was in their hand on 13/12/2019. The fact that in the hearing dtd. 09/01/2020, the complainants did not produce that medical certificate of mother, it shows that they have procured the said medical certificate back dated and after 09/01/2020 and it was not issued on 13/12/2019 as claimed and produced before this Forum. Respondent No.(2), therefore, submits that the entire evidence about medical illness about their mother is bogus and required to be discarded.
- e) Therefore, according to the Respondent No. (2), the complaint of his sisters filed before this Forum, is liable to be dismissed. In respect of the family tree/pedigree being given by him to the Respondent No.(1) for getting the name of consumer changed, the Respondent No.(2) has pleaded before this Forum that the family tree was given by him as per the say of his mother along with his application for change in the consumer name. His mother insisted that the names of his 4 sisters be dropped as they have received their shares.



- 6.0 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 change of consumer-name effected in respect of all the aforesaid 3 old accounts 793-725-087, 793-725-084 and 793-725-040 to the name of the Respondent No. (2) Shri Santosh Harwade is liable to be reverted back to old consumer names, on account of his giving false information to the Respondent No. (1) that he is the only heir of his parents and the names of his 4 sisters were suppressed from the family tree / pedigree ?	Affirmative
2	What order should be passed to dispose of this grievance application?	The complaint is allowed in terms of the operative order being passed herein below.

7.0 We record reasons for aforesaid findings as under :

- a) We have noted the admitted facts herein earlier. There are 2 accounts mentioned herein earlier which were in the name of the Smt. Sunanda Harwade, mother of the complainants and Respondent No. (2) and one consumer account was in the name of their father. It is not disputed that in all 3 accounts, the consumer's name has been changed to the Respondent No. (2) Shri Santosh Harwade as noted herein earlier.
- b) It appears that aforesaid change was effected on the basis of the documents submitted by the Respondent No. (2) to the Respondent No. (1). These documents include the Indemnity Bond given by the Respondent No. (2) to the Respondent No. (1). There is a clause in this bond to the following effect.

"In case of any fraudulent document submitted by me, I shall be solely and exclusively responsible for the criminal proceeding or any court proceeding initiated and B.E.S. & T. Undertaking & any employee thereof, shall not be responsible for the same. I undertake to make the payment to the B.E.S. & T. Undertaking of all debts due and payable with respect to the present registered consumer that may arise at subsequent date.



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I also undertake to keep the B.E.S. & T. Undertaking indemnified of any consequences at any time in case of any dispute on account of transfer of the above connection to my name.

This undertaking will be binding on myself and my executors and administrations."

- c) In view of the aforesaid contents of the Indemnity Bond, we will have to see whether the Respondent No. (2) had given any incorrect information or had suppressed any material information at the time of applying for the change of consumer name in respect of the aforesaid accounts. On perusal of the documents on record, it appears that the Respondent No. (2) along with his application for change of name had given a note about family tree under his signature. In that family tree he has mentioned that late Suresh Harwade was his father and Smt. Sunanda is mother and the Respondent No.(2) Shri Santosh is their son. In the said document of family tree it is stated as if it is the statement of Smt. Sunanda Harwade that "I Sunanda Suresh Harwade say that I have no objection if concerned authority will transfer the said meter in the name of my son Mr. Santosh Suresh Harwade, from my name." Then this document of family tree is signed by Shri Santosh Suresh Harwade and there is no signature of Smt. Sunanda Harwade. There is only thumb impression on it but this document does not satisfy that it is thumb impression of Smt. Sunanda Harwade. Thus the information given in the aforesaid document called family tree is apparently incorrect and false because it does not disclose the information that apart from Shri Santosh Harwade, the deceased Suresh Harwade and his wife Smt. Sunanda have other children namely the complainants, Smt. Saili Khamkar, Smt. Prachi Patil and other 2 sisters. To this, the Respondent No. (2) in his reply has tried to give explanation that his mother had insisted that the names of the complainants and their 2 sisters were not required to be mentioned in the family tree because they have already got their shares in the property of their parents. However, the fact remains that this document of family tree is not correct and by suppressing the names of the complainants and their sisters from pedigree, this document has been prepared and such document containing false information has been submitted to the Respondent No. (1) to get the change of name of consumer in respect of all the 3 accounts.
- d) In view of this, the aforesaid clause contained in the Indemnity Bond of the Respondent No. (2), submitted while getting the consumer-name changed, would come into operation in view that the information given at the time of said application for change of consumer-name is proved to be false and incorrect. Therefore, the change effected in the name of the Respondent No. (2) as above in respect of all the 3 accounts is liable to be reverted back to the earlier consumers namely in respect of a/c no. 793-725-087 (old), 793-725-097 (new); 793-725-084 (old), 793-725-098 (new) in the name of the complainants' mother Smt. Sunanda Harwade and in respect of 793-725-040 (old), 793-725-088 (new) in the name of the complainants' father Late Suresh Harwade.



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- e) The Respondent No. (2) has relied on the alleged NOC of his mother given along with his application for change of name. However, from the medical certificate produced by the complainants along with their complaint before this Forum vide Exhibit 'D' (pg. 14-18), it appears that the said Smt. Sunanda Harwade is suffering from some mental illness, which renders her mentally incapable to take correct decisions. Therefore, we find substance in the submission of the complainants that their mother was not in a position to take proper decision and hence the alleged consent given by her, will have to be seen as doubtful. This is also corroborated by the enquiry-report of official of Respondent No. (1) filed with their reply before this Forum. It shows that in the course of enquiry held by Smt. A.J. Karbhari on 09/01/2020 in her office, Smt. Sunanda Harwade did not give any proper response to the questions asked by the said official Smt. A.J. Karbhari to her, as we have noted herein earlier while noticing the pleading of the Respondent No. (1) filed in this Forum. Therefore, *prima-facie* the alleged no-objection of Smt. Sunanda Harwade cannot be said to be a consent given by her with free will. Therefore *prima-facie* we find that the Respondent No. (2) has given false information to get the consumer-name changed in respect of all aforesaid 3 accounts and hence the change effected in the consumer-name in favour of Respondent No. (2) is liable to be reverted back to the earlier account holders in respect of all the 3 accounts. Accordingly, we have answered point no. (1) in affirmative.
- f) We also hold that the present complaint will have to be allowed so as to give direction to the Respondent No. (1) to revert back the consumer name from the name of the Respondent No. (2) to the name of Smt. Sunanda Harwade in respect of a/c no. 793-725-087 (old) and 793-725-097 (new) and 793-725-084 (old) and 793-725-098 (new) and to revert back consumer name from the name of the Respondent No. (2) to the earlier account holder namely Late Suresh Harwade in respect of a/c no. 793-725-040 (old) and 793-725-088 (new). In these terms, the present complaint will have to be allowed and accordingly we have answered point no. (2). Hence, we proceed to pass the following order:

ORDER

1.0 The grievance no. FN-475-2023 dtd.10/01/2023 is allowed in following terms:

- a) The Respondent No. (1) is hereby directed to revert back the consumer name from the name of the Respondent No. (2) to the name of Smt. Sunanda Harwade in respect of a/c no. 793-725-087 (old) and 793-725-097 (new) and 793-725-084 (old) and 793-725-098 (new).


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- b) The Respondent No. (1) is also directed to revert back consumer name from the name of the Respondent No. (2) to the earlier account holder namely Late Suresh Harwade in respect of a/c no. 793-725-040 (old) and 793-725-088 (new).
- c) The Respondent No. (1) shall comply this order within 15 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

