

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-A-65-09 dt . 26/02/2009

Mr. Mehmood M. KhanComplainant
C/o Late Amir M. Khan

V/S

B.E.S. & T. UndertakingRespondent

Present

Quorum 1. Shri. M.P. Bhave, Chairman
2. Shri. S. P. Goswami, Member
3. Smt. Vanmala Manjure, Member

On behalf of the Complainant 1. Mr. Mehmood Khan
2. Mr. Tahir A. Khan

On behalf of the Respondent 1. Shri. V.S.Khole, Asst. Engineer, A ward,
2. Shri. S.M. Jaunjal, AO.IGR, A ward,
3. Shri. S.R. Sawant, OACCA, A ward
4. Shri. S.S. Kasbe, Sub. Engg. CC A ward

Date of Hearing: 02/04/2009

Judgment by Shri. M.P. Bhave, Chairman

Mr. Mehmood M. Khan, C/o Late Amir M. Khan, Carnac Road, Mumbai - 400 001 has come before this Forum for his grievance regarding removal of outstanding amount and DP Charges from A/c no. 330-001-047.

Brief history of the case

- 1.0 Complainant Mr. Mehood M. Khan is nephew of Late Amir Khan M. Khan. The A/c no. 330-001-047 for the Shop No.12, Grd. Floor, Swastik Chawl, Carnac Road, Mumbai-400 001 is in the name of Late Amir Khan M. Khan.
- 2.0 For the A/c no. 330-001-253 in the name of M/s. M.K. Shopping at room no.29, Grd floor, Swastik Chamber, Carnac Road, Mumbai-400 001, meter was installed on 20/8/1999.
- 3.0 For A/c no. 330-001-256 in the name of Mr. Mohd. Bashir Mohd. Amir to room no 16, Grd floor, Swastik Chamber, Carnac Road, Mumbai-400 001, meter was installed on 27/8/1999.
- 4.0 Meter for A/c no. 330-001-253 was removed on 30/10/2001 and meter for A/c no. 330-001-256 was removed on 27/5/2003 for non payment of electric bill.
- 5.0 As per BEST site inspection report dt. 25/1/2006 supply was found being used for room no. 16 & 29 through complainant's meter no. B032719 of A/c no. 330-001-047. Hence, notices were served to the complainant on 08/2/2006 & 14/12/2006 and asked to make payment of outstanding bill amount of both premises. But complainant neither paid the outstanding amount nor stopped to supply the electricity to the same premises.
- 6.0 BEST debited outstanding amount of Rs.3,07,188/- of A/c no. 330-001-256 and Rs.2,77,304.82 of A/c no. 330-001-253 (total amount 5,84,492.82) in the complainants bill no. 330-001-047 in the month of January 2007.
- 7.0 Mr. Mehmood M. Khan disputed the matter of outstanding bill vide his letter dtd. 14/1/2008 to BEST.
- 8.0 As per complainant, A/c no. 330-001-256 (shop no. 16) and A/c no. 330-001-253 (shop no. 29) do not belong to him and does not know these shops.
- 9.0 As per complainant he never issued rent receipt to any stall in his shop & never allowed to take electric meter for the same.
- 10.0 As per BEST Shop No 29 (M.K. Shopping Centre) Consumer No. 330-001-253 & shop no. 16 (Mohd. Bashir Mohd. Amir) Consumer No. 330-001-256 are occupied and managed by the Alifia Tours & Travels whose office is in mazanine floor of M.K. Shopping Centre. However, it is now difficult to trace/prove/locate the shop No. 29 & 16 of O.S. Premises as the shops lay out and numbering has been changed.
- 11.0 As per complainant, outstanding amount of Rs.3,07,188/- of A/c no. 330-001-256 and Rs.2,77,304.82 of A/c no. 330-001-253 (total amount Rs.5,84,492.82) illegally transferred on A/c no. 330-001-047.

- 12.0 Complainant applied in Annexure 'C' form dtd. 25th Aug. 2008 to IGR Cell, to withdraw the outstanding amount from their bill.
- 13.0 Unsatisfied by the reply dtd. 19/2/2009 from IGR Cell of BEST, the complainant approached CGRF in schedule 'A' format on 26/2/2009.

Consumer in his application and during Hearing stated the following

1. As per complainant, A/c no. 330-001-256 (shop no. 16) and A/c no. 330-001-253 (shop no. 29) do not belong to him and does not know these shops. Also complainant showed list of tenancy from BMC to the BEST officers in which room nos. 16 & 29 were not mentioned.
2. As per complainant, he never issued rent receipt to any stall in his shop & never allowed to take electric meter for the same.
3. Complainant disputed the matter of outstanding bill vide his letter dtd. 14/1/2008 to BEST.
4. Complainant received a letter from BEST on 31/3/2008 in this regard. As per complainant inspection done of the premises in the given letter is bogus.
5. As per complainant outstanding amount of Rs.3,07,188/- of A/c no. 330-001-256 and Rs.2,77,304.82 of A/c no. 330-001-253 (total amount 5,84,492.82) illegally transferred on A/c no. 330-001-047*8.
6. Unsatisfied by the action taken by BEST against their complaint in Annexure 'C' format 25/8/2008, the complainant approached CGRF in schedule 'A' format on 26/2/2009.
7. Complainant prayed to the Forum to accept this case & take necessary action against BEST and to withdraw the O.S. amount with DP charges from A/c no. 330-001-047*8.
8. Complainant at the time of Hearing shown to the Forum Society Letter and BMC Assessment Certificate, in which shop nos. 16 & 29 are not mentioned.
9. As per complainant, BEST also agreed in their brief history which is submitted to Forum that same premises are not traceable.
10. Complainant states that he has not supplied electricity to the shop no. 16 and 29 as BEST has given letter to pay the O.S. amount. Complainant requested Forum to cancel the O.S. amount from his account.
11. Complainant told that the Rent Receipts submitted to BEST at the time of paper compliance by the previous applicant are bogus. Requisition form, Rent Receipt & Test Report is written by one person. Also, he pointed out that in the rent receipts given by previous applicant are of Swastik Chamber having address of Annes Chamber which was not verified by BEST at the time of giving meters.

12. Complainant pointed out if cheques submitted were bogus why action was not taken against concerned person. Also, electricity was not disconnected from last 4 years.
13. As per complainant M.K. Shopping centre is having approximate 400 stalls which are in between two buildings. Complainant shop is in the building at ground floor, Swastik Chamber, Carnac Road, Mumbai.
14. Complainant told that in year 2004 his meter was installed at that time OS amount was not recovered from him. Complainant paid arrears amount of Rs.72,800/- against his account to BEST at the same time.

BEST in its written statement and during Hearing stated the following:

1. While carrying recovery of outstanding bill amount of consumer No. 330-001-253 which was standing in the name of M.K. Shopping Centre address 29, Grd. Swastik Chamber, Carnac Road and Consumer No. 330-001-256 standing in the name of Mhd. Bashir Mohd. Amir Add:- 16, Grd. Swastik Chamber, Carnac Road, it was reported that electricity meter of both the premises were removed on 30/10/2001 and 27/05/2003 respectively for non payment of electricity bills. However, as per our site inspection report dtd. 25/01/2006. Supply was found being used through the complainant Amir Madan Khan's Meter No. B 032719, A/c No. 330-001-047.
2. Hence notice was served to the complainant on 08/02/2006 vide ref. No. AECC(A)/OSCCA/OACCA(Sub)/OS-1/1771/2006 dtd. 07/02/2006 asking to make the payment of outstanding bill amount of both the premises.
3. On 14/12/2006 vide BEST's letter No.SCS/SES A&B/OS Recovery/490/06 dtd. 11/12/2006, BEST once again informed to make the payment of O.S. amount and stop supplying electricity to the O.S. premises through his Meter No.B 032719 otherwise, BEST will be compelled to disconnect electricity connection as per sec. 138 of Electricity Act 2003, but consumer did not acknowledge the same letter.
4. Hence the OS amount of Rs.2,77,305/- and Rs.3,01,788/- of Consumer No. 330-001-253 (M.K. Shopping Centre) Shop No.29 and A/c No. 330-001-256 (Mohd. Bashir Mohd. Amir) Shop No. 16 respectively debited in complainant's electricity bill No. 330-001-047 in the month of Jan.07.
5. On 03/09/2007 Mr. Maqsood Khan proprietor/owner of the Alifia Tours & Travel, 11/12, Swastik Chambers, Mezzanine floor above M.K. Shopping Centre, Carnac Road, Mumbai who is using supply under this A/c and who is managing & controlling M.K. Shopping Centre and Mohd. Bashir Mohd Amir visited and discussed with the Supdt. (ES) A & B Consumer (S) and sought a month time to make the payment but he did not turn back again. Then complainant Mr. Mehmood M. Khan vide his 1st letter dtd. 19/01/2008 after a period of one year disputed the same stating that he is a nephew of late Amir Khan and he is not

known about this O.S. amount bills. He also said that one more meter has been installed in his premises under the installation No. 10149904 (330-001-076) in the name of Mohd.Iqbal Shaikh without his permission.

6. Premises of shop No 29 (M.K. Shopping Centre) Consumer No. 330-001-253 & shop no. 16 (Mohd. Bashir Mohd. Amir) Consumer No. 330-001-256 are occupied and managed by the Alifia Tours & Travels whose office is in mazanine floor of M.K. Shopping Centre. However, it is now difficult to trace/prove/locate the shop No. 29 & 16 of O.S. Premises as the shops lay out and numbering has been changed.
7. As per the ID papers, supply was given to the shop No. 26 & 19 and rent receipt for the said shops were given by the society, but in new tenant list given by the Swastik Chamber, no shop. No 26 & 19 is shown.
8. The payment made against the electricity bill of the complainant vide Cheque no. 582778 dtd. 21/04/2005 for Rs.20,000/- and cheque no. 595386 dtd. 21/06/2005 for Rs.10,868/- were also dishonoured. The said cheques were issued by the Alifia Tours & Travels.
9. It is also noticed that payment made against the consumer No. 330-001-256 (shop No.16, standing in Mohd. Bashir Mohd. Amir) vide cheque no. 237291 dtd. 14/02/2001 for Rs.69658 and vide cheque no. 266028 dtd. 14/08/2001 for Rs.1,00,700/- were dishonoured. Payment made against Consumer No. 330-001-253 Shop No. 29, standing in the name of M.K. Shopping Centre vide cheque no. 133526 dtd. 22/02/2001 for Rs.1,55,886/- and Cheque No. 266025 dtd. 11/06/2001 for Rs.1,91,606/- were also dishonoured. All the cheques were of Bombay Mercantile Co-op Bank Ltd. Musafir Khana Branch.
10. BEST replied to the complainant regarding his grievances in Annexure 'C' dated 25/8/2008 vide letter No.CCA/AOIGR/OACCAIII/'C' Form/35/9935/2009 dtd. 19/02/2009 to make the payment of entire outstanding bill amount.
11. In view of above, BEST request the Hon'ble Forum to ask the consumer to pay the entire outstanding amount of electricity bill to clear the case.
12. At the time of Hearing BEST stated that owner of Alifia Tours & Travel is using electricity from complainant's meter.
13. BEST states that Alifia Tours & Travel and consumer is same.

Observations

1. The premises where arrears originated are of Shop nos. 16 & 29 at Swastik Chawl/Chamber, Carnac Road. However, these numbers are not mentioned in the society letter & BMC Assessment Certificate.

2. At the time of paper compliances the rent receipt submitted by previous consumer is of Swastik Chamber having address of Annes Chamber. As explained by complainant, Annes Chamber is adjacent to the Swasik Chamber.
3. BEST reported that 4 nos. of cheques submitted by previous consumer were bounced. It appears that, BEST has not taken any action against those persons who submitted the cheques. All the cheques were of Bombay Mercantile Co-op Bank Ltd.
4. In its written reply, BEST has stated that "it is now difficult to trace/prove/locate the shop No. 29 & 16 of O.S. Premises as the shops lay out and numbering has been changed".
5. Copy of inspection report dtd. 25/1/2006 is not submitted to the Forum by BEST earlier or at the time of Hearing.
6. From the above observation it is clear that the defaulting premises and the present premises has not proved to be same. Therefore, complainant is not liable to pay outstanding amount of defaulted consumer.

ORDER

1. BEST is directed to removed the OS claim amount of Rs.5,84,492.82 from complainant's account.
2. Copies be given to both the parties.

(Shri. M. P. Bhawe)
Chairman

(Shri. S. P.Goswami)
Member

(Smt.Vanmala Manjure)
Member