

		Date	Month	Year
1	Date of Receipt	15	03	2021
2	Date of Registration	15	03	2021
3	Decided on	07	04	2021
4	Duration of proceeding	15 working 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. S-B-426-2021 dtd. 15/03/2021

Shri Afzal Zikar BagsaryaComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Shri R.B. Patil, Member

On behalf of the Respondent : 1. Shri Dilip Bodke

On behalf of the Complainant : Absent

Date of Hearing : 05/04/2021

Date of Order : 07/04/2021

Judgment

1. The complainant has filed the instant complaint before this Forum being aggrieved by the Respondent Undertaking's keeping the application for new connection pending without deciding it for months together and accordingly the complainant has requested to give necessary directions to the Respondent Undertaking to give new connection to the complainant and to supply electricity to him.
2. The case of the complainant may be summarized as under :
 - a) The complainant is a occupier of Room no. 903, Attic floor, 55/57, Rajgarah Mansion, Bibijan Street, Mandvi, Mumbai - 400 003. The complainant had given an application in prescribed format to the Respondent Undertaking for electric Supply to his aforesaid premises. The said application is dtd. 05/10/2020 vide requisition no. 450594 submitted by the applicant to the Respondent. According to the complainant, the Respondent Undertaking has not decided the said application nor has given electric supply to him.
 - b) It is further submission of the complainant that on 15/10/2020, he received a letter no. ESL-9 dtd. 15/10/2020 from Customer Care 'B' Ward of the Respondent. In the said letter, the Respondent's officials asked the complainant to submit some documents with reference to the complainant's aforesaid requisition for electricity connection. The complainant has stated in the complaint that he has submitted some building documents on 19/10/2020 and those documents are EEBP plan, IOD, CC and some other building related documents. Several months have passed, the said requisition / application for electricity connection has been kept pending by the Respondent. The complainant has also given reminder on 27/01/2021 to the Respondent but no needful was done by the Respondent Undertaking. The complainant and his representative have been continuously following up the said application but the concerned officers have been asking to submit revised EEBP plan from MCGM for electric meter. The officer does not understand when and how the building plan is revised. It is submitted that EEBP plan is revised only if the old building is under redevelopment. The complainant has informed to the officials of the Respondent that this is very old building and earlier landlord was using upper floor for godown purpose and for some financial problem the premises was sold to the tenants and the complainant is one of them. The Respondent is not sanctioning the meter connection and the complainant is suffering losses.
 - c) Being aggrieved by the aforesaid conduct of the Respondent, the complainant had submitted complaint in Annexure 'C' to the Internal Grievance Redressal Cell (IGRC) of the Respondent on 09/02/2021 complaining about delay in sanctioning his application for new connection. The complainant has received a letter dtd. 09/03/2021 from IGRC. According to the complainant he has explained to the officials of the

Respondent that earlier landlord was using upper floor for godown purpose and for some financial problem the premises was sold to the tenants. The complainant has given reply to the Respondent's letter vide ESL-9 and submitted building related documents on 19/10/2020. The complainant has not received any ESL-9 dtd. 24/02/2021. The complainant was continuously following up the application for new connection but the officers did not inform him that the plan submitted by the complainant is not visible and to submit the visible plan of EEBP, Tax extract from MCGM, Work completion certificate from Architecture of applied premises. The complainant has informed the officials of the Respondent that MCGM authority do not provide revised EEBP approved plan and the necessary documents have been submitted by the complainant for electric connection.

- d) According to the complainant there are many other buildings where the Respondent has provided electric meter on very old plan and on undertaking bond. Similar type of case is about Giyani Court i.e. case no. S-D-55-2018 dtd. 22/05/2018, in which CGRF has directed the Respondent to provide electricity to the consumer. The complainant has also referred to the case of Munna Kudia decided by CGRF under case no. S-B-114-2011 dtd. 17/02/2011. The case of Aafiya Heights, Ramesh Multi Work & Lavina Elect. Works and Ismail M. Bilakhya (as mentioned in para (6) complainant's submission on separate sheet) have also been referred to in the complaint by the complainant in which the directions were given by CGRF to give connection.
 - e) Citing the aforesaid circumstances the complainant has submitted that he is entitled for the electric connection and accordingly the Respondent be directed to decide his application and given the connection.
3. The Respondent has filed reply before this Forum and opposed this complaint. The case of the Respondent, as mentioned, may be summarized as under :
- a) It is not disputed that the complainant has filed application / requisition for new connection in the aforesaid premises. It is submitted that the complainant Shri Afzal Z. Bagsarya and four others have given requisition for electric connection for their respective premises. The said premises are in one and same building. The applicants have submitted maintenance receipt, Adhar / PAN card as proof of their respective room numbers. Since the applicants, including the present complainant, belong to same building and the Respondent's requirement for documents is common for all, the only one ESL-9 letter in the name of the complainant Shri Afzal Bagsarya was issued by the Respondent and it was handed to Shri Subhan T. Khan of Noble Electricals. In that letter, the Respondent had asked the applicant to submit EEBP approved plan, CC, Work completion Certificate, NOC of PWD and CFO, OC from BMC. In response, the complainant Shri Afzal Bagsarya informed the department of the Respondent, vide his letter dtd. 17/10/2020 that earlier landlord was using the upper floor i.e. above 4th floor as godown purpose and due to losses in market he sold the premises to the tenants. The complainant further submitted in the said letter that since building was

very old, the tenants have done some tenantable repairs and after completion of repair work they have applied for the new connection.

- b) According to the Respondent, the applicant was asked to provide EEBP plan, NOC from CFO and PWD for the reason that plan of year 1960 submitted by the applicant along with letter dtd. 17/10/2020 was not visible and if the height of the premises is more than 15 meter, NOC from PWD and CFO is must as per regulation of 2010. In the instant case applied premises is situated from 5th to 8th and Attic floor.
- c) The Respondent in the reply filed before this Forum has further submitted that the Respondent has denied new meter connection for the reason that the applicant has failed to submit documents i.e. OC from Architect, NOC from CFO and PWD, BMC tax assessment copy as mentioned in ESL-9 dtd. 13/10/2020, within stipulated time i.e. 15 days from the date of receipt of ESL-9. Thus all the aforesaid five applications for new connection were auto cancelled by the computer system itself. The Respondent further cites the reason for denial of new connection to the applicant / complainant that after cancellation of application by their computer system itself, the applicants should have been approached the Respondent's office to revise the same.
- d) The Respondent has further stated in the reply before this Forum that the complainant Shri Afzal Bagsarya has sent a letter dtd. 27/01/2021 in which he has broadly mentioned that he had submitted all necessary documents on 17/10/2020 as per ESL-9 dtd. 13/10/2020. Even though the applications are pending and not received any reply from the Respondent. Thereafter the applicant has filed an application dtd. 09/02/2021 under Annexure 'C' to IGRC and IGRC has given order dtd. 09/03/2021 to the complainant.
- e) The Respondent has further submitted in their reply that Asst. Adm. Officer of the Connection Management Section of the Respondent has given reply to the complainant on 24/02/2021 and requested the complainant to submit the documents i.e. EEBP approved plan as copy submitted by the complainant is not clear to ascertain the applied premises. The complainant was also asked to produce property extracts as documents on record are showing premises of four floors only and MCGM Tax Assessment copy not justified. These circumstances were informed to the complainant with reference to his aforesaid requisition by the aforesaid letter dtd. 24/02/2021.
- f) According to the Respondent, as per the record the electric supply was provided to ground to 4th floor only. Certain documents have been referred to by the Respondent in their reply in this regard and this is based on the Respondent's own enquiry. These circumstances are mentioned in para 11 to 15 of the reply submitted by the Respondent before this Forum.

- g) Ultimately the Respondent has submitted before this Forum that instant complaint is liable to be rejected. This matter was kept for hearing parties on 25/03/2021. However, a letter was received from the complainant stating that he wanted to withdraw the complaint since he was out of state and he would file his grievance later on same cause of action. However, such conditional withdrawal was not allowed by the Forum and therefore the matter was postponed for hearing of submissions on 05/04/2021. Accordingly, the matter was taken up on 05/04/2021 for hearing. The complainant and his representative remained absent. The representative of the Respondent was present. The office had received e-mail from the complaint seeking adjournment. But as the matter was to be decided within time prescribed by the MERC Regulations the said request is rejected. In such circumstances under clause no. 8.14 of MERC(CGRF & EO) Regulations, 2020 we have taken up the hearing ex-parte in absence of the complainant. Heard the representative of the Respondent and reserved the matter for order and accordingly the order is being passed.
4. In view of the pleadings of the parties and oral submissions of the representative of the Respondent, 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 requisition / application of the complainant has been decided by the Respondent and the Respondent has informed the complainant about rejection of his application and reasons for rejection of application ?	Negative
2	To what relief, the complainant is entitled from this Forum ?	The complainant is entitled for relief of directions to the Respondent to decide the application / requisition of the complainant and to inform the complainant accordingly with brief reasons of rejection if the requisition is being rejected.

5. **We record reasons for aforesaid findings as under :**

- a) From the contents of the complaint and documents submitted by the complainant before this Forum along with complaint and from the reply and documents submitted by the Respondent before this Forum and also from the oral submissions of the representative of the Respondent it appears that it is not disputed that the

complainant has submitted application / requisition to the Respondent Undertaking for new connection of electric supply to the premises i.e. 903, Attic floor, 55/57, Rajgarah Mansion, Bibijan Street, Mandvi, Mumbai - 400 003. In accordance with this application, the Respondent had made communication with the complainant on 15/10/2020 thereby asking the complainant to produce documents i.e. EEBP plan, IDO, CC. Admittedly on 19/10/2020 the complainant submitted his letter along with certain documents including the EEBP plan. According to the Respondent, again they sent a letter to the complainant to submit the EEBP plan and other documents. It is further case of the Respondent that as the complainant has not submitted the documents within fifteen days of such communication the requisition / application of the complainant got auto rejected. However, when in the course of hearing, the query was made by members of the Forum to the representative of the Respondent, he was unable to show any communication or correspondence made by the Respondent to the complainant informing the complainant that his application / requisition has been rejected and informing him the brief reasons for the rejection. In such circumstances the contention of the complainant that his application has not been decided will have to be accepted. Secondly the Respondent could not point out from the correspondence made to the complainant or even from the record of the Respondent that the application has been rejected and what are the reasons of the rejection.

- b) The representative of the Respondent has submitted that the building was approved for four floors only and from 5th floor onwards approval and other documents were not available nor the complainant has produced the same and therefore the application is rejected. We are unable to accept such submissions unless it is shown from record of the Respondent that the requisition for new connection has been rejected and it is informed to the complainant, with reasons of rejection. Failure to decide the application by recording brief reasons and to communicate the same to the complainant is against the principles of natural justice. The complainant is entitled to know the fate of his application for new connection. In such circumstances we hold that the Respondent has not decided requisition / application for new connection submitted by the complainant and said application is treated as pending with the Respondent. Accordingly we have recorded negative on point (1).
- c) Having held that the application of the complainant is still pending before the Respondent, it is necessary that the Respondent should decide the application either this way or that way by giving brief reason for the same and it is also duty of the Respondent to communicate the complainant about its decision with brief reason thereof. Hence, the complainant is entitled to relief of direction to the Respondent to decide the application and inform to the complainant about its decision with brief reason thereof. Hence, in these terms the complaint will have to be decided by this Forum. Accordingly we have recorded our reasons and pass the following order.

ORDER

The grievance no. S-B-426-2021 dtd. 15/03/2021 stands disposed off in following terms :-

- a. The Respondent is directed to decide the requisition of Shri Afzal Z. Bagsarya for electric connection within 15 days from the date of receipt of the order and inform its decision to the complainant with brief reason thereof, in case it is being rejected.
- b. Copies of this order be given to all the concerned parties.

Sd/-
(Shri. R.B Patil)
Member

Sd/-
(Shri S.A. Quazi)
Chairman