

**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. CGRF/157/2009 dt . 25/11/2009**  
**(pre admission hearing)**

M/s. S. Anand Leather works .....Complainant

V/S

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

**Present**

Quorum 1. Shri. R.U.Ingule, Chairman  
2. Shri. S. P. Goswami, Member

On behalf of the Complainant 1. Shri. Sunil H. Pawar  
2. Shri Ramshankar Gupta

On behalf of the Respondent 1. Shri. P.S. Deshpande, A.O.C.C (G/N)  
2. Shri. B.K. Shelke, D.E. (Vigilance)  
3. Shri. S.S. Jadhav, D.E. (Vigilance)

Date of Hearing: 31/12/2009

Date of Order : 07/01/2010

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

M/s. S. Anand Leather Works, 8 ground floor, Poonwala Chawl, Dharavi Main Road, Dharavi Mumbai – 400 017 has come before Forum vide his application in schedule 'A' dated 22.06.2009. Vide his request letter dtd. 11/8/2009 & 23/11/2009 he has requested for pre-admission hearing of his grievance.

**Complainant's contention in Brief are as under**

1. Complaint approached Respondent's I.G.R. Cell on 10/04/2009 regarding his grievance against mismanagement, Negligence in services, breach of duty & misuse of power by the respondent while registering 2 no. of cases viz, under section 135, 138 & 152 of Electricity Act, 2003 & another u/s 126 of Electricity Act, 2003 & requested not to disconnect his meter & restore his electric supply.
2. Respondent vide letter dtd.27/04/2009 informed to the complaint that his case comes under section 126,135,138 &152 of Electricity Act.2003, & hence it is not in the purview of IGR cell. Respondent's IGR Cell asked him to approach Vigilance Department of respondent for clarification in the case.
3. Unsatisfied by the reply of the respondent Complaint approached CGRF on 22/06/2009 with a plea to hear & decide the case as according to him the matter is of additional / supplementary bill & recovery of the same comes under the jurisdiction of the Forum. He has sought relief as regards to restoration of electric supply, waiver of delayed payment charges accumulated in the present liability / current bill.
4. Vide letter dated 11/08/09 & 23/11/2009 complaint requested Forum for preadmission hearing of his grievance so as to justify his stand.
5. Complaint has prayed before Forum regarding amount of Rs.3,84,150/- paid by him should be credited back in his account, restoration of Electricity Supply & waiver of D.P. charges incurred in the present liability/current Bill.
6. He has pleaded before the Forum to re-amend the bills as per the ledger position. He has requested to transfer the amount paid by him in the regular account instead of suspense account. He has stated that respondent has not clarified their position. He has said that he has not filed objection before assessing officer against the provisional assessment claim. However, he said that he has contacted assessment officer orally. He said that as per section 151 of Electricity Act, 2003 consumer does not have an authority to approach special court. He refuses to accept the charges leveled against him in the case registered u/s 135, 138 & 152 of Electricity Act, 2003 as the respondent has not observed the laid down procedure while registering the case. Also, in another case registered u/s 126 of Electricity Act, 2003 the prescribed procedure mentioned in the Electricity Act, 2003 is not observed. As final order of assessment claim was not served on him he could not approach the Appellate Authority u/s. 127(1) of Electricity Act, 2003. In the instant case The

Assessing Officer is not taken into confidence & not informed. Thus, there is a violation of prescribe procedure mentioned in section 126 & 127 of Electricity Act, 2003 is not observed by the respondent. The occupier / possessor of both the premises is one i.e. Mr. Ramshankar Gupta. Electricity is neither given to the other person nor availed at different tariff / lower tariff, so case booked against him u/s 126 is not valid therefore Electricity charges of Rs.3,84,150/- collected u/s 126 of Electricity Act, 2003 is to be treated as collected by producing additional / supplementary bills & amount be credited back to the consumer's account & be deducted from the present liability.

**In counter Respondent, BEST Undertaking has submitted its contention inter alia as under**

7. On 20/07/09 Meter No.L931675 was installed at complaint's premises under commercial tariff. On 17/08/2007 complainant's old meter was replaced by Meter No.Q980311 against complaint's requisition for higher capacity.
8. Amendment claim of Rs.219801.53 was for the period 17/08/07to28/03/2008 based on the actual consumption recorded by the complaint's meters Amendment claim appeared in the complaint's Electricity Bill in April 2008.
9. On 06/05/2009 complaint's electric supply was disconnected.
10. At present the arrears amount of Rs.868310 is payable by the complaint.
11. Complainant vide his application dtd. 16/6/2009 has made an appeal before the Forum for Redressal of the grievances in connection with 2 Nos. of vigilance cases. Brief history of the cases is as follows :-
12. Case No. VGN/012/T08 : It is a case of theft of electricity by way of tampering the metering device. The case is registered under section 135 of Electricity Act, 2003. Civil liability estimated at Rs.66,175/- for loss of 3577 units along with compounding charges of Rs.27,250/- for connected load of 2.725 KW was preferred to the complainant. Against the said civil liability, the complainant has made an ad-hoc payment of Rs.33,000/- on 09/04/2008 and balance claim amount is awaited from the complainant.
13. Case No. VGN/001/U08 :- The complainant has unauthorisely extended the electric supply to other premises, which was not authorized. Hence, case of unauthorized use of electricity as per section 126, sub section 5 (b) (v) of Electricity Act 2003 was registered

against the complainant. Provisional vigilance claim (civil liability) of Rs.3,84,150/- was preferred to the complainant. Out of the said civil liability, the complainant has made an adhoc payment of Rs.3,62,000/- and vide his letter dated 19/09/2009, requested for review of the vigilance claim.

14. In both the cases, as the complainant has not made further payment towards vigilance claim as well as compounding charges as applicable in respective cases, the cases are yet not closed from our side.
15. As regards to Vigilance Case NO. VGN/012/t08, which is a case of theft of electricity registered under section 135 of E. Act, 2003, the complainant has to submit his written representation and verbal contentions to the reviewing authority of the respondent and if complainant is not satisfied with the judgement given by the reviewing authority, then the case may be tried at special courts formed under Electricity Act, 2003.
16. As regards to Vigilance Case No. VGN/001/U08, which is a case if unauthorized use of electricity registered under section 126 of E. Act, 2003, if the consumer is having certain disputes, then he has to put up his grievances / contentions before the Assessing Officer of the respondent and if complainant is not satisfied with the final assessment given by the Assessing Officer, then he may go for appeal before the Appellate Authority as specified under Electricity Act, 2003. In this case the appellate authority is "Electrical Inspector" of the respective division.
17. As the Forum is not having jurisdiction on the above case, the complainant may be directed to approach the appropriate authorities i.e. Special Court with respect to Case No. 1 and Electrical Inspector for Case No. 2.
18. Respondent stated that as per the procedure in vogue initially the amount paid is put in the suspense account & afterward adjusted in the regular account.

### **Reasons**

19. We have heard the representative of the complainant and that of the respondent licensee. Perused papers.
20. We may observe at this juncture that an attempt of the complainant to file the complaint before this Forum has been heavily resisted by the respondent licensee on a solitary ground that the action taken by the respondent licensee against the complainant does not fall within the jurisdiction conferred on this Forum. Therefore for want of any

jurisdiction envisaged under regulation 6.8 provided under MERC (CGRF & EO) Regulation, 2006, this Forum has been expressly barred from entertaining such complaint.

21. In order to ascertain whether this Forum is having any jurisdiction to entertain the complaint sought to be preferred before us by the complainant, we have given the instant opportunity to the complainant to make his submission on this aspect and the outset we observe that the complainant has miserably failed in showing any availability of jurisdiction to this Forum to entertain the complaint.
22. As per the pleadings submitted by the complainant before this Forum the officials of the Vigilance department of the respondent licensee gave a surprise visit to the establishment of the complainant on 8/4/2008. In the said visit the Vigilance department of the respondent licensee found the alleged indulgence of the complainant u/s 135 and 138 of the Electricity Act, 2003 i.e. theft of electricity and interference with the meter on the part of the complainant. As contended by the complainant the respondent licensee thereafter proceeded to take a recourse to section 152 for compounding the said offences allegedly committed by the complainant. In regard to this action initiated by the respondent licensee u/s 135 and 138 of the Electricity Act, 2003 this Forum finds that as per the provisions provided under regulation no. 6.5 clause (b), in regard to offences and penalties provided u/s 135 to 139 of the Electricity Act, 2003, entertaining such allegations submitted in the complaint, have been expressly excluded from the jurisdiction conferred on this Forum. In view of such statutory provision provided under regulation 6.8, it is blatantly evident that for want of any jurisdiction available to this Forum, no merits and demerits in the contentions raised by the complainant can be looked into by this Forum.
23. The complainant has also sought to prefer a complaint before this Forum alleging illegality on the part of the respondent licensee in the action initiated by it u/s 126 of the Electricity Act, 2003. In this regard we observe that the Vigilance department of the respondent in its surprise visit to the establishment of the complainant allegedly found the use of electrical energy at M/s. Om Enterprises as unauthorized extension of load, when the meter was sanctioned for M/s. S. Anand Leather Works of the complainant. Significant to observe that the complainant has already remitted the consumption charges assessed by the concerned authority. A bare perusal of explanation provided at the foot of said section 126 (6) manifest that an usage of electricity for the premises other than those for which the supply of electricity was authorized, has been defined as 'unauthorized use of electricity'.
24. At this juncture it is expedient to advert a statutory provision provided under clause (a) of regulation 6.8. Therein a matter pertaining to unauthorized use of electricity as provided u/s 126, has been expressly excluded from the jurisdiction conferred on this Forum. Admittedly the action initiated by the respondent licensee against the

complainant referred to above, has been u/s 126 of the Electricity Act, 2003.

25. In the aforesaid reasons, this Forum is of a considered view that in regard to allegations submitted in both the cases sought to be complained before this Forum, jurisdiction to entertain the merits & demerits therein, has been expressly excluded under regulation 6.8 of the MERC (CGRF & EO) Regulation, 2006. In the net result the complainant cannot be allowed to file the complaint containing the aforesaid allegations for redressal of the same from this Forum. Accordingly we proceed to pass the following order.

**ORDER**

1. The complainant not allowed to file the complaint no. CGRF/157/2009 dt . 25/11/2009 before this Forum, for want of jurisdiction.
2. Copies be given to both the parties.

(Shri. R.U. Ingule)  
Chairman

(Shri.S.P.Goswami)  
Member