

		Date	Month	Year
1	Date of Receipt	12	03	2020
2	Date of Registration	13	03	2020
3	Decided on	03	11	2020
4	Duration of proceeding	234 days		
5	Delay, if any.	174 days		

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 N-E-409-2020 dtd.13/03/2020

Shri Abrar Ahmed M.M. HussainComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Members

1. Shri R.B. Patil, Member
2. Dr. M.S. Kamath, Member CPO

On behalf of the Respondent : 1. Shri N.N. Samuel

On behalf of the Complainant : 1. Shri Abrar Ahmed M.M. Hussain

Date of Hearing : 29/10/2020

Date of Order : 03/11/2020

Judgment

- 1.0 This complaint was received on 12/03/2020. However, due to pandemic of Covid-19, lockdown was declared by the Government from 23/03/2020 and consequently guidelines were issued by MERC in that respect. For these reasons the matter could not be heard personally by requiring the parties to remain present in the office of this Forum. Thereafter, the amended Regulations were received from MERC on 21/09/2020 in which option has been provided for hearing the parties through Video Conference. Therefore, the parties were asked whether they are ready for hearing through Video Conference. However, they have requested for personal hearing. Accordingly, the matter was heard on 29/10/2020 in person and order is being passed. Therefore, the delay of 174 days has occurred in deciding this complaint.
- 2.0 The complainant has requested this Forum to direct the Respondent BEST to withdraw the demand for alleged arrears of Rs. 14,24,950/- pertaining to a/c 768-143-001 which is added in the bill pertaining to his a/c 768-152-101.
- 3.0 The complainant's case may be stated as under :
 - a) The complainant's name is Shri Abrar Ahmed M.M. Hussain. He had obtained electricity connection from the Respondent in the 2008. He was allotted a/c no. 768-150-673 but presently that account is changed to 768-152-101. This connection is on the premises, the address of which is given in the complaint.
 - b) In the year 2010, the Respondent served a notice dtd. 29/07/2010 to the complainant alleging that the complainant was having electric connection on same premises prior to the year 2002 under the a/c no. 768-143-001. However, the meter pertaining to that account i.e. 768-143-001 was removed due to non-payment of the arrears. So in the said notice dtd. 29/07/2010, the Respondent demanded the complainant to pay the arrears which were Rs. 5,11,062. In the said notice dtd. 29/07/2010, the Respondent had given option to the complainant to explain why the said arrears should not be recovered from him. To the said notice the complainant gave reply vide letter dtd. 11/08/2010 and denied the said claim of the Respondent mentioned therein. Thereafter no further steps were taken by the Respondent. Hence the complainant thought that the Respondent was convinced by the reply given by him.
 - c) After about 9 years of above notice, now in the month of April 2019 the complainant found that in the bill of April 2019 pertaining to his a/c 768-152-101 which admittedly belongs to him an amount of Rs. 27,32,090 was added by the Respondent. On enquiry, the officials of the Respondent informed the complainant that arrears of old a/c 768-143-001 have been added in the bill.
 - d) On receiving the said bill of April 2019 for Rs. 27,32,090 as above, the complainant filed the grievance application in the form of Annexure 'C', before the IGRC of the Respondent. In that complaint the complainant has submitted that he has no liability

pertaining to the said old a/c 768-143-001 and therefore he is not liable to pay the alleged arrears.

- e) The IGRC has rejected the aforesaid grievance application of the complainant holding that the a/c no. 768-143-001 was pertaining to the complainant and his premises.
- f) Being dissatisfied with the above verdict of the IGRC, the present complaint application is filed by the complainant contenting that he has no blood relation with Shri Abrar Ahmed M.M. Shaikh in whose name the earlier a/c no. 768-143-001 was allegedly maintained. According to the complainant he purchased the premises where the meter of his a/c no. 768-152-101 exists in the year 2006 and then for the first time in the year 2008, he obtained said connection on that premises. The complainant has no concern with the earlier a/c 768-143-001. Therefore, the complainant has submitted that the Respondent be directed to withdraw the aforesaid amount from the bill of his a/c 768-152-101.

4.0 The Respondent has filed its reply before this Forum and opposed the aforesaid grievance application of the complainant. The case of the Respondent may be stated as under :

- a) The a/c no. 768-143-001 and its meter was in the name of Shri Abrar Ahmed Mohd. Shaikh having address as "10, Ground floor, Coal Bunder Hutments, New Tank Bunder Road, Darukhana, Mazgaon, Mumbai - 400 010". In the year 2002, the meter of that account was removed for non-payment. At the time of removal of the meter, the outstanding arrears were Rs. 1,35,341.04.
- b) The new meter no. E000359 having a/c no. 768-150-673 was obtained on the address of the said premises in the year 2008 and in the name of Shri Abrar Ahmed Mohd. Hussain i.e. present complainant. In view of this, the letter dtd. 29/10/2010 was sent by the Respondent to Shri Abrar A.M. Hussain i.e. the present complainant to make the payment of the outstanding amount Rs. 5,11,062.00 pertaining to old a/c no. 768-143-001. The Respondent has not disputed that the complainant gave reply dtd. 11/08/2010 to the said notice dtd. 29/07/2010 and denied his liability. In the meanwhile due to shifting of the meter in the same premises, complainant's a/c no. 768-150-673 was changed to 768-152-101, which is the current account no. of the complainant.
- c) Thereafter, the Respondent received an enquiry from Audit Dept. of Mumbai Municipal Corporation dtd. 09/07/2018 about non recovery of outstanding amount Rs. 13,18,540.00 pertaining to a/c no. 768-143-001. There upon the Respondent investigated the matter regarding identity of the consumer of the old a/c no. 768-143-001 on 17/11/2018. The report of the officials of the Respondent was received in this regard and according to that report of investigation, the premises and owner of current account i.e. 768-152-101 are the same to whom belongs old a/c no. 768-143-001. In view of such report of the investigating officer of the Respondent a

letter dtd. 28/11/2018 was issued by the Respondent to the complainant stating that he is liable to pay the arrears pertaining to old a/c no. 768-143-001. In the said letter the complainant was given an option to register his grievance, if any with documentary evidence or make the payment of the outstanding amount. However, the complainant did not approach the Respondent nor did he file any grievance. Hence, the outstanding amount of Rs. 14,24,950.00 was debited in the a/c no. 768-152-101 of the complainant.

d) It is further case of the Respondent before this Forum that the complainant had obtained present connection by suppressing the real facts about earlier connection which was disconnected in the year 2002. In the application for new connection in 2008, he mentioned the address of the premises as Room no. 654 and his name was mentioned as Abrar Ahemd Mohd Munazir Shaikh. Due to such wrong information about room number given by the complainant the outstanding are not recovered from the complainant. The complainant's wife has also applied for connection in respect of the same address with some different room number contenting that the Abrar Ahmed Shaikh has given Power of Attorney to her in respect of that premises.

e) Further, contention of the Respondent is that in the area of Darukhana, Mazgaon there is no proper allocation of room numbers and it changes during every survey by public authorities. Due to this, there might be difference in the premises' numbers in the record of the earlier connection and subsequent connection of the complainant.

4.0 We have heard the submissions of the complainant and representative of the Respondent. Both have made submissions almost similar to their respective pleadings which we have noted here in earlier in detail.

a) The complainant has further submitted that all the steps taken by the Respondent were without giving opportunity of hearing to him before adding the aforesaid dues in the bill pertaining to his account. He had gone out for certain religious activities and therefore he was not aware about the alleged enquiries of the Respondent in this regard. The complainant has referred to documents on record including Affidavit dtd. 04/10/2006 of his predecessor entitled Mohammed Muslim who admitted to have sold the premises in question to the complainant in the year 2006. Referring to this document, the complainant has submitted that prior to 2006, he had no concern to the said premises on which he has been given electric connection in the year 2008 on his application. He has no concern with Abrar Ahmed Mohd. Shaikh to whom the earlier account 768-143-001 pertains. Therefore the complainant is not liable to pay the arrears of that account.

b) The representative of the Respondent has submitted that the notice was issued to the complainant before adding the arrears in the bill but the complainant did not co-operate to the officials of the Respondent in the course of investigation pertaining to a/c no. 768-143-001. It is also submitted by the Respondent that the name of the complainant and the earlier consumer is mostly similar and address is also similar and

therefore the contention of the complainant cannot be acceptable that he has no concern with a/c no. 768-143-001. Hence it is submitted by the Respondent that the grievance application of the complainant is liable to be dismissed.

- 5.0 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 Respondent has established that the complainant is the same person to whom pertains the earlier a/c no. 768-143-001 and its meter ?	No
2	What order is required to be passed by this Forum in this complaint application?	The complaint application is allowed in terms of the order being passed herein after to direct the Respondent to withdraw the amount of arrears pertaining to a/c no. 768-143-001 from the bill pertaining to the complainant's a/c 768-152-101 and if required to give fresh bill by excluding such demand of arrears and interest thereon.

- 6.0 **We record our reasons for the aforesaid finding on the above points as under :**

- a) It is not disputed that in the year 2008, fresh electric connection was given to the complainant by name Abrar Ahmed M.M. Hussain as mentioned in his application for new connection submitted on 09/07/2008. Copy of this application is found in the document submitted by the Respondent. Along with this application, a copy of payment receipt of Rs. 600/- to Mumbai Municipal Corporation in respect of Shop & Establishment registration is submitted. In that receipt the name of the complainant is mentioned as Abrar Ahmed Mohd. Munazir Hussain Shaikh. Pointing out this surname mentioned in this receipt the representative of the Respondent submitted that the earlier account holder's surname was also Shaikh and therefore he submits that both the consumers are one and same person. However, such criteria alone cannot be sufficient for number of reasons and facts of the instant case. The peculiar facts of the complainant's electricity connection and application etc. are that the complainant had purchased the said premises in the year 2006. Had the complainant been owner of the said premises prior to the year 2006, it was not required for him to purchase it in the year 2006 by making payment of consideration thereof to its earlier owner or occupier. Why would have he paid consideration to purchase that premises ? This question does not find any answer, if case of the Respondent is accepted.

- b) The Respondent's reply filed before this Forum shows that the disputed premises where meter of a/c no. 768-152-101 was installed in the name of the complainant, is in the slum area. According to the Respondent the allocation of numbering of houses in slum area is not permanent. This circumstances also does not support the Respondent's case that the consumer of earlier account and current account as well as the premises of the accounts are similar.
- b) The application of the complainant and document submitted there with in the year 2008 for taking electricity connection mentions the address of the premises on which connection was sought as room no. 654, Coal Bunder, New Tank Bunder Road, Darukhana, Mazgaon, Mumbai - 400 010. Consequently, the same address is mentioned in the electricity bills pertaining to the complainant and his a/c no. 768-152-101. The Respondent has not submitted any document or any application for connection in respect of the earlier a/c 768-143-001 except the bills prepared recently in the year 2019. No document prior to the year 2002 pertaining to the a/c no. 768-143-001 is submitted or produced before this Forum by the Respondent to ascertain whether the claim of the Respondent is correct that the complainant and his present premises are the same of the earlier a/c no. 768-143-001. The Respondent has submitted before this Forum that no such record is available with them in respect of the application for connection of the earlier a/c no. 768-143-001.
- d) For all the aforesaid reasons according to the Respondent, the consumer of the earlier a/c no. 768-143-001 was Abrar Ahmed Mohd. Shaikh and address of the premises was also Coal Bunder hutment, Ground floor, New Tank Bunder Road, Darukhana, Mazgaon, Mumbai - 400 010. However, the complainant's name and his address of his premises though to some extent are similar, it cannot said to be the same. The complainant's name is Abrar Ahmed Mohd. Munazir Hussain and surname Shaikh is also mentioned in his receipt of Shop & License registration but the two names cannot he said to be same. In the aforesaid circumstances namely that the complainant has produced documents about purchase of the premises no. 654, Coal Bunder hutment, Ground floor, New Tank Bunder Road, Darukhana, Mazgaon, Mumbai - 400 010 in the year 2008.
- e) For all the above said reasons, we have recorded negative points for determination for point no. (1) and resultantly the present complaint application deserves to be allowed to direct the Respondent to withdraw the aforesaid demand of arrears pertaining to old a/c no. 768-152-101. Accordingly point (2) has been answered by us as above. Hence, we pass the following order.

ORDER

- 1.0 The grievance no. N-E-409-2020 dtd. 13/03/2020 stands allowed.
- 2.0 The Respondent is directed to withdraw the demand made by it about total arrears including DP and interest levied after debiting of the same pertaining to the a/c no. 768-152-101 and if required to issue fresh bill for a/c no. 768-152-101 by excluding the amount of arrears of earlier a/c no. 768-143-001
- 3.0 Copies of this order be given to all the concerned parties.

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

sd/-
(Dr. M.S. Kamath)
Member

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