

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-FS-381-2019 dtd. 08/05/2019

Shri Bilal Shafiullah KhanComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri K. Pavithran, Member
2. Dr. M.S. Kamath, Member CPO

On behalf of the Respondent (1) : 1. Shri B.K. Shelke, DECC(F/S)
2. Shri Rohit Baile

On behalf of the Complainant : Shri Bilal S. Khan

On behalf of the Respondent (2) : Shri Om Prakash Gupta

Date of Hearing : 28/06/2019

Date of Order : 05/07/2019

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Bilal Shafiullah Khan Room no. 7, Masjid Dargah Compound, Opp. Nirmal Park, Dr. B.A. Road, Mumbai - 400 027 has come before the Forum for dispute regarding connection of electric supply in the name Om Prakash Mulchand Gupta at Shop no. 9, Ground floor, 167/D, Masjid Trust, Next to Voltas Co., Dr. Ambedkar Road, Chinchpokli (E), Mumbai -400 027 for residence pertaining to a/c no. 562-316-006.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell dtd. 28/02/2019 received on 28/02/2019 for dispute regarding new connection of electric supply in the name Om Prakash Mulchand Gupta at Shop no. 9, Ground floor, 167/D, Masjid Trust, Next to Voltas Co., Dr. Ambedkar Road, Chinchpokli (E), Mumbai -400 027 for residence pertaining to a/c no. 562-316-006. The complainant has approached to CGRF in schedule 'A' dtd. 06/05/2019 received by CGRF on 06/05/2019 as no remedy was provided by the IGR Cell of Distribution Licensee on his grievance.

**Respondent, BEST Undertaking in its written statement
in brief submitted as under :**

- 1.0 The complainant Shri Bilal Shafiullah Khan came before the Forum regarding dispute about giving electric supply to Shri Om Prakash Mulchand Gupta at Shop no. 9, Ground floor, 167/B, Masjid Trust, Next to Voltas Co., Dr. Ambedkar Road, Chinchpokali (E), Mumbai - 400 027 for residence pertaining to a/c no. 562-316-006.
- 2.0 The electric supply is given to Shop no. 9 for commercial purpose through meter no. B181194 under a/c no. 562-316-021 in the name of Smt. Prabhavati M. Gupta. Shri Om Prakash Mulchand Gupta had applied for electric supply for residential purpose vide application no. 94404 dtd. 22/06/2012. Along with application, Ration Card, Rent Receipt no. 189 dtd. 06/05/2011, Aadhar Card etc. were attached.
- 3.0 At the time of site investigation, original premises / shop is divided in two parts with separate entrance. Backside portion of the shop is being used for residential purpose. Inter-connected door between the two premises is closed with brick walls (permanently closed). Electric supply is given to the premises through meter no. U183196 under a/c no. 562-316-006 from 30/07/2012.
- 4.0 The complainant is not any way affected consumer in subject complaint. The electric supply for residential purpose is given from 30/07/2012 i.e. almost seven years back. Thus the cause of action is prior to seven years and as per Regulation 6.6 of MERC (CGRF & EO), Regulations 2006, the Forum shall not consider this grievance.

REASONS

- 1.0 We have heard the argument of the complainant in person and for the Respondent BEST Undertaking Shri B.K. Shelke, DECC(F/S) & Shri Rohit Baile. Perused the documents filed by either parties to the proceeding.
- 2.0 We have also heard the arguments of Shri Om Prakash Gupta who has electricity connection for residential premises and for whom the complainant has filed this complaint. The complainant has vehemently argued that he is residing in the premises which is owned by Masjid Trust and has every right to make the grievance for electricity supply given to the premises occupied by Shri Om Prakash Gupta as already electricity supply has been given to the front portion of shop for commercial use. Thus he has submitted that action of the Respondent BEST Undertaking giving two

electricity connections for one set of premises is illegal as it is against the Regulation framed by MERC.

- 3.0 The Respondent BEST Undertaking has submitted that front portion of the shop is used for commercial purpose and the back portion of the shop is used for residential purpose and the said premises have been separated by constructing brick wall and therefore by visiting the premises, the Respondent BEST Undertaking has rightly given electric supply in the year 2012. According to the Respondent BEST Undertaking, the complainant has filed this grievance after seven years of giving electric supply to Shri Om Prakash Gupta, therefore as per Regulation 6.6 MERC (CGRF & EO) Regulation, 2006 it is barred by limitation as the Forum shall not admit any grievance unless it is filed within two years from the date on which the cause of action has arisen. It is further submitted by the Respondent BEST Undertaking that the complainant Shri Bilal Khan has no locus-standi to file the complaint. Shri Om Prakash Gupta has submitted that only with a view of harass him this complaint.
- 4.0 Considering the above said submission and after going through the documents filed by the parties, the question poses before us to whether the complainant has locus-standi to file this complaint. We think it just and proper to reproduce the definition of “Consumer” as defined u/s 2(15) of Electricity Act, 2003.

“Consumer” means any person who is supplied with electricity for his own use by a Licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.

Likewise we think it just and proper to reproduce the definition of “Applicant” and “Grievance” as enumerated in MER Regulation 2005 and 2006.

“Applicant” means a person who makes an application for supply of electricity, increase or reduction in contract demand / sanctioned load, change of name, disconnection or restoration of supply or termination of agreement, as the case may be, in accordance with the provisions of the Act and the rules and regulations made thereunder.

“Grievance” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and (b) grievances in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.

Likewise we think it just and proper to refer the definition of “Forum” as enumerated in Cl 2.1 (e).

“Forum” means the forum for redressal of grievances of consumers required to be established by Distribution Licensees pursuant to sub-section (5) of Section 42 of the Act and these Regulations.

- 5.0 Considering the above definitions of Consumer, Grievance & Forum, it is crystal clear that the complainant Shri Bilal Khan has no *locus-standi* to move this complaint. In definition of “Forum” it is specifically mentioned that the Forum is established for redressal of grievance of consumer. If viewed from all these angles, we have least hesitation to hold that the complainant has no right to file the complaint as he has filed this complaint for electricity supply given by the Respondent BEST Undertaking to the residential premises of Shri Om Prakash Gupta is illegal.
- 6.0 The complainant in written submission has contended that Shri Om Prakash Gupta has changed the use of premises without sanction of BMC and therefore it is illegal. It is further submitted that Shri Om Prakash Gupta has not filed register tenancy agreement or leave & license agreement and therefore electric supply given by the Respondent BEST Undertaking is illegal. If this would be the case, then the complainant is supposed to file the application for change of use before the Commissioner of Municipal Corporation.
- 7.0 The complainant has submitted that he came to know about the order dtd. 12/09/2018 passed by MERC and in the month of January 2019 on the website of BEST Undertaking and therefore is grievance is within limitation. We are unable to accept this submission as already provisions have made in Cl. 1.14 of BEST’s Terms and Conditions of Supply approved by MERC. We think it just and proper to reproduce the said definition.

Cl. 1.14 - Installation means “the whole of electric wires, fittings, motors and apparatus erected and wired by or on behalf of the consumer on one and the same set of premises.”

- 8.0 In view of this definition of Installation, the Distribution Licensee has only right to give one electric supply to one and same set of premises. Cl 1.14 of Terms and Conditions of Supply has been incorporated with a view to safeguard the interest of Distribution Licensee as if two electric supply is given to one set of premises then there will be loss to the BEST Undertaking as they will have to give slab benefit to the consumer.
- 9.0 After going through the record it appears that the electric supply has been given in the year 2012 and the complainant has filed this complaint in 2019 i.e. after seven years. We think it just and proper to reproduce Cl. 6.6 of MERC (CGRF & EO) Regulation, 2006.

“The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”

10.0 Having regard to the above said reasons we do not find any substance in the complaint filed by the complainant Shri Bilal Khan. The complaint deserves to be dismissed. Accordingly we pass the following order.

ORDER

1.0 The grievance no. N-FS-381-2019 dtd. 08/05/2019 stands dismissed.

2.0 Copies of this order be given to the concerned parties.

Sd/-

(Shri K. Pavithran)
Member

Sd/-

(Dr. M.S. Kamath)
Member

Sd/-

(Shri V.G. Indrale)
Chairman