

		Date	Month	Year
1	Date of Receipt	01	12	2020
2	Date of Registration	01	12	2020
3	Decided on	14	12	2020
4	Duration of proceeding	9 days		
5	Delay, if any.	NIL		

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-FN-418-2020 dtd.01/12/2020

Shri Karam Hussain KhanComplainant

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. Smt. A.J. Karbhari

On behalf of the Complainant : 1. Shri Shailesh Salunkhe

Date of Hearing : 10/12/2020

Date of Order : 14/12/2020

Judgment

- 1.0 Shri Shailesh Salunkhe, representative of the complainant Shri Karam Hussain Khan has filed this complaint before this Forum and has requested to direct the Respondent to restore the supply of electricity to his premises under the a/c no. 668-116-071. The complaint is signed by the said consumer Shri Karam Hussain Khan. It is also signed by the representative, Shri Shailesh Salunkhe. In the complaint, it is mentioned that this complaint is for Shri Karam Hussain Khan & Others. However, the complaint is not signed by others except the consumer Shri Karam Hussain Khan having a/c no. 668-116-071. Therefore, this complaint shall be considered as filed by Shri Karam Hussain Khan only and not the others.

- 2.0 The grievance of the aforesaid complainant Shri Karam Hussain Khan may be stated as under :
 - a) There is a building belonging to Mumbai Municipal Corporation (in short BMC) vide building no. 14. At a distance of 8-10 feet, there is complainant's premises adjoining to the footpath. However, the meter of the complainant's premises is installed in the said building no. 14 of BMC. The said building no. 14 along with other adjoining buildings are declared to be dilapidated by BMC and therefore the BMC has published notice for demolishing those buildings including the building no. 14. In view of these circumstances, the Respondent has disconnected the electric supply to the premises of the complainant which is at distance of 8-10 feet from the said building no. 14. According to the complainant, the said disconnection was done on 14/09/2020 without giving any prior notice to him. According to the complainant the procedure adopted by the Respondent for disconnection is illegal as it is without giving prior notice to the complainant and without making any arrangement for shifting of the meter and the line to other safe place.

 - b) The representative of the complainant in the course of making his submissions before the Forum during the hearing, has submitted that the premises of the complainant is not part of the aforesaid alleged dilapidated building no. 14. The Respondent cannot disconnect the supply without giving prior notice to the complainant. It is submitted that the Respondent was asking orally to the complainant to make application for new electric supply connection and then application shall be processed. It is submitted that if such procedure would be adopted, the complainant would be unnecessarily required to pay for the shifting of the line and meter. It is submitted that the complainant is ready to provide cabin for installation of the meter but the Respondent is not cooperating. In such circumstances, the representative of the complainant, has submitted that the Respondent be directed to restore the electric supply.

- 3.0 The Respondent has given reply to the aforesaid complaint before this Forum in writing. The submissions as put forth by the Respondent, in their reply, and hearing may be stated in brief as under :-

- a) The Respondent has filed reply to this complaint and has opposed the complaint. It is submitted by the Respondent that the complainant has approached this Forum without approaching to Internal Grievance Redressal Cell (IGRC) of the Distribution Licensee. It is admitted by the Respondent that the electric supply was being provided to Shri Karam Hussain Khan under a/c no. 668-116-071. It is not disputed that the Respondent has disconnected the electric supply to the premises of the complainant on 14/09/2020. This was done by removing the cutout at main service to this building no. 14. This was done for the reason that on 11/09/2020, order of BMC was received in the Customer Care F/N Ward of BEST Undertaking wherein it was stated that the BMC's building no. 14 at Punjabi Colony, GTB Nagar, is in dangerous and dilapidated condition and has been declared as C1 category building. In the order it was also stated that the water connection and electric supply was scheduled to be disconnected on 14/09/2020. The Respondent has annexed copy of the aforesaid order of BMC with this reply.
- b) The Respondent has further submitted that meter of the premises of the complainant having a/c no. 686-116-071 was installed in cabin situated in the said building no. 14. Therefore in view of the aforesaid order of BMC, the disconnection has been carried out.
- c) The complainant's representative had made request letters dtd. 24/09/2020 and 13/10/2020 against said disconnection of supply. On 09/11/2020, the representative of the complainant was informed that disconnection has been carried out in the aforesaid circumstances and considering the order of MCGM regarding dilapidated condition of the building. In the reply letter dtd. 09/11/2020, the Respondent had informed to the representative of the complainant that the consumers of other building nos. 5,7,12,13,17,19,21 having shops located at different locations and whose electric supply was disconnected on similar lines have raised demand applications for electric supply on similar lines. This process has been already started and some of the meters have been already installed. The Respondent has requested the representative of the complainant to apply on same lines for new meter and connection so that the complainant's supply could be restored.
- d) It is further submitted by the Respondent that in same locality electric supply of building no. 24 was disconnected due to similar reason on 16/03/2020 in pre-corona lockdown period. During Corona lockdown period the Hon'ble High Court had given interim stay for disconnection of electricity / water and had asked the BEST Undertaking to restore supply. Now again the court has vacated the stay and as per MCGM's instruction, supply to building no. 24 is disconnected on 24/11/2020. In view of aforesaid circumstances the Respondent has submitted that the complaint has no merit and it is liable to be dismissed.
- 4.0 The representative of the Respondent has submitted in the course of hearing before this Forum that the notice is not required to be served in emergent situation like dilapidation, demolition of the premises as prevailing in the instant case and in view

of the declaration by MCGM that the building has become dangerous. It is also submitted that the complainant should have made necessary application for shifting of the line and meter in the above circumstances and that application can be considered by the Respondent as per the prevailing rules and regulations. It is submitted that there is no procedure for giving any prior notice to the consumer before disconnection in view of emergency as noted above. In this regard reference is made to Regulation 17 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulations 2005 in which Regulation 17.1 provides that continuity of the supply may be exempted in case of cyclone, floods, storms or any situation of like nature.

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 complainant is entitled for restoration of electric supply from the building no. 14 which is declared to be dilapidated by MCGM ?	No
2	What order should be passed ?	The complaint is dismissed.

6.0 **For the aforesaid finding we record our reasons on the points for determination as under :**

- a) Admittedly the building no. 14 pertaining to MCGM is said to have been declared as dilapidated by MCGM and notice has been published to this effect by pasting the same on said building. The Respondent's submissions in reply and documents produced by the Respondent with their reply show that the MCGM has issued notice to the Respondent contending that the aforesaid building no. 14 has become dilapidated and dangerous to the property and life of residents of the said building and public, therefore supply of water and electricity of this building is required to be disconnected and accordingly the Respondent has been requested by MCGM to disconnect the electric supply to this building.
- b) In such circumstances we do not find any merit in the submissions of the representative of the complainant that it was obligatory on the part of the Respondent to personally serve notice to the complainant before disconnecting the electric supply. It may be noted that MCGM had already published notice regarding necessity of demolishing of this building by pasting it on the premises of building. It may also be noted that the electric supply provided to the premises was through the meter, which was installed in the premises of the said building no. 14 which is required to be demolished by MCGM in

view of it having become dangerous to life and property of public at large. We find merit in the submissions of the representative of the Respondent that Regulation 17 (1) of the MERC (Electricity Supply Code & Other Conditions of Supply), Regulations 2005, it is provided that Distribution Licensee shall take all reasonable measures to ensure the continuity, quality and reliability of supply of power to the consumer. However, it is further provided in clause (1) of this Regulation no. 17 that this rule shall not be applied when the Distribution Licensee is prevented from giving the aforesaid service by cyclone, floods, storms or other occurrences beyond his control. The facts of the present case show that the building in which the meter of the complainant is situated, has become dangerous being dilapidated and therefore it is beyond the control of the Respondent to continue the supply through this meter to the complainant, from the said dilapidated building. In Regulation 17.2 of MERC Regulation, 2005 it is provided that Distribution Licensee shall be entitled to temporarily discontinue the supply subject to giving advance public notice. However, the Respondent submits that this clause is not applicable because the discontinuation of electric supply in this case is not temporary. The restoring of electric supply may be dealt with under other prevailing provisions of Electricity Act, 2003 and regulations made there under. The Respondent was asked to make proper application in this regard. If such an application is made, that would be dealt with in accordance with the prevailing rules and regulations. We find merit in the said submissions of the representative of the Respondent. In view of these observations we hold that the act of the Respondent to discontinue electric supply to the premises of the complainant from the meter installed in dilapidated premises as declared by MCGM, cannot be said to be illegal. We observe that if any application for shifting of line or meter is made by the complainant to the Respondent, the Respondent shall be binding to deal with such application in accordance with the prevailing rules and regulations provided under Electricity Act, 2003.

- 7.0 With these observations we have recorded our findings on point 1 and 2 as above and we hold that the instant complaint is liable to be dismissed. Accordingly, we proceed to pass the following order.

ORDER

- 1.0 The grievance no. N-FN-418-2020 dtd. 01/12/2020 stands dismissed.
- 2.0 Copies of this order be given to all the concerned parties.

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

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