

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-380-2019 dtd. 30/04/2019

Shri Narendra H. SawantComplainant

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. Smt. Pramila Sutar, AAM CC(E)
2. Shri Rahul Kabir, AAO CC(E)

On behalf of the Complainant : Shri Narendra H. Sawant

On behalf of the Respondent (2) : Shri Pratapsingh H. Sawant

Date of Hearing : 28/06/2019

Date of Order : 08/07/2019

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Narendra H. Sawant, Room no. 67, 4th floor, 5 Khatua Chawl, Hafiz Ali Khan Bahadur Marg, Jacob Circle, Mumbai - 400 011 has come before the Forum for dispute regarding transfer of electricity bill in the name of Shri Pratapsingh H. Sawant having electric supply at above mentioned address.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell dtd. 11/01/2019 received on 11/01/2019 for dispute regarding transfer of electricity bill in the name of Shri Pratapsingh H. Sawant having electric supply at above mentioned address. The complainant has approached to CGRF in schedule 'A' dtd. NIL received by CGRF on 24/04/2019 as the complainant was not satisfied by the remedy 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 Shri Narendra Haribhau Sawant came before the Forum for dispute regarding transfer of electricity bill in his brother's name Shri Pratapsingh Haribhau Sawant from February 2018 pertaining to a/c no. 537-655-624 (old), 537-655-013 (new).
- 2.0 Electric supply was given in the name of Shri Ananda K. Jagtap from 15/10/1959. The electricity bill was transferred in the name of complainant from 08/04/1993. The documents pertaining to said change of name are not available.
- 3.0 Shri Pratapsingh Haribhau Sawant has raised objection for change of name of electricity bill vide letter dated 11/07/2016. On 15/12/2016 Shri Pratapsingh Haribhau Sawant had applied for change of name of electricity bill and submitted requisite documents. During the investigation, it was found that said premises is occupied by Shri Pratapsingh Haribhau Sawant. After submission of additional supporting documents as per Legal Department's advice, the change of name was effected from February 2018.
- 4.0 On 15/06/2018, complainant has made complaint to Divisional Engineer 'A' ward (copy marked to GM) regarding transfer of electricity bill in the name of Shri Pratapsingh Haribhau Sawant. This letter was replied suitably vide letter dated 23/07/2018.
- 5.0 The complainant has lodged complaint in Annexure "C" Format on 11/01/2019. Accordingly hearing was conducted on 27/02/2019. During the hearing, Shri Pratapsingh Haribhau Sawant submitted following documents.
 - i) Rent receipt no 895 dated 23/07/1991 in the name of old tenant,
 - ii) Electricity bill of the year 1991 in the name of old tenant,
 - iii) Death certificate of Shri Ananda K Jagtap,
 - iv) Sale agreement
 - v) Affidavit copy,
 - vi) General power of attorney etc.
- 6.0 Complainant has submitted following documents to prove his occupancy
 - i) Adhar Card
 - ii) Passport,
 - iii) Union bank pass book
 - iv) MTNL bill for the period 01/01/2019 to 31/01/2019.
 - v) Domicile certificate etc.
- 7.0 During the site investigation on 27/03/2019, the premises was found closed permanently. For site inspection premises was opened by the complainant. There is a

property dispute between two brothers and the electricity bill was transfer in the name of Shri Pratapsingh Haribhau Sawant on the basis documents submitted by him.

Say of Shri Pratapsingh Haribhau Sawant

- 1.0 The said complaint is about of property dispute between two brothers. The premises under reference is occupied by me. I have submitted all relevant documents to BEST Undertaking proving my occupancy / tenancy.
- 2.0 The case no. 1160/2019 is filed by me before City Civil Court, Mumbai and awaited for the order of the Court till then I request the Forum not to take any decision regarding this matter.
- 3.0 Shri Narendra Haribhau Sawant is misleading to the BEST Undertaking by submitting forged and false documents. He is purposely not submitting genuine documents before the BEST. He is not replying notices served by BEST Undertaking.

REASONS

- 1.0 We have heard the argument of representative of the complainant as well as Respondent (2) Shri Pratapsingh Haribhau Sawant and for the Respondent BEST Undertaking Smt. Pramila Sutar, AAM CC(E) & Shri Rahul Kabir, AAO CC(E). Perused the documents filed by either parties to the proceeding.
- 2.0 The complainant is aggrieved by the order passed by the Respondent BEST Undertaking effecting the change of name in the name of his brother Shri Pratapsingh Haribhau Sawant approached the Forum to set aside the name of Shri Pratapsingh Haribhau Sawant and restore his name as per the Undertaking given by Shri Pratapsingh Haribhau Sawant while effecting the change of name.
- 3.0 The representative of the complainant has vehemently submitted that Shri Pratapsingh Haribhau Sawant is neither lawful occupant of the premises for which the electricity connection was given nor he has produced any documents to prove his lawful possession and irrespective of this fact the Respondent BEST Undertaking has effected the change of name in the name of Shri Pratapsingh Haribhau Sawant and struck out the name of Shri Narendra Sawant, complainant.
- 4.0 On this point, we have gone through the documents filed by Shri Pratapsingh Haribhau Sawant in support of his application for change of name. He has relied upon the Xerox copy of Ration Card placed on record at pg. 81/C. It appears that only the name of Shri Pratapsingh Haribhau Sawant is shown and address given on Ration Card is 5/67-B, Khatua Chawl, Hafiz Ali Khan Bahadur Marg, Jacob Circle, Mumbai - 400 011. The complainant has submitted that the said Ration Card has been cancelled by the Revenue Authorities. Shri Pratapsingh Haribhau Sawant has also placed on record Xerox copy of Adhar Card in which the address is shown as per Ration Card. Shri Pratapsingh Haribhau Sawant has also placed on record so called tenancy agreement

dtd. 03/01/2018 entered in between Drupadabai, Satyawar, Suresh, Sanjay, Radhubai, Suvarna and Pratapsingh.

- 5.0 After going through the said agreement it appears that the said premises was previously occupied by deceased Ananda K. Jagtap and his legal heirs executed the said agreement in favour of Shri Pratapsingh Haribhau Sawant. It is dated 03/12/2017 and same is struck off and written as January 2018. From these documents it cannot be concluded that Shri Pratapsingh Haribhau Sawant was in lawful occupation of the said premises. In legal sense agreement for transfer of tenancy is not a conclusive proof to ascertain the lawful possession. The question arose in this case is who is the landlord of the said premises. In the absence of any document i.e. consent letter of landlord, it cannot be held that Shri Pratapsingh Haribhau Sawant was in lawful occupation of the premises. The said agreement goes to show that Late Ananda K. Jagtap was a tenant of said premises no. 67/B. It appears that the said premises for which electricity connection has been supplied is under development and therefore the dispute arose in between Shri Pratapsingh Haribhau Sawant and Narendra H. Sawant regarding change of name. It is pertinent to note that in electricity bill itself it is specifically mentioned that the name recorded in the electricity bill is not a proof of lawful occupation. Irrespective of this fact when the property is under development the so called occupants are trying to get effect of their name on electricity bill.
- 6.0 Thus having regard to the provision of Regulation 10 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 for change of name it appears that Shri Pratapsingh Haribhau Sawant has not filed relevant documentary evidence required for effecting the change of name. Under such circumstances the action of the Respondent BEST Undertaking effecting the change of name of Shri Pratapsingh Haribhau Sawant appears to be not proper as well as in accordance with MERC Regulation 10.
- 7.0 Under such circumstances, in view of Undertaking given by Shri Pratapsingh Haribhau Sawant while filing the application for change of name, the name of his brother Shri Narendra H. Sawant is required to be restored so as to maintain status-quo prior to filing the application for change of name.
- 8.0 Having regard to the above said discussion it reveals that the premises bearing no. 67 consists two parts having two electric connections. Now it is for the Respondent BEST Undertaking to take appropriate action as they cannot give electricity connection for one premises as it will cause loss to the BEST Undertaking as the Respondent BEST Undertaking is required to give slab benefit. It reveals that since in the beginning the two electric meters in above said premises, room no. 67/A & 67/B are in the name of Shri Narendra Sawant. Thus the said position is required to be restored in view of Undertaking given by Shri Pratapsingh Haribhau Sawant while filling the application for change of name. The action of the Respondent BEST Undertaking effecting the change of name of Shri Pratapsingh Haribhau Sawant appears to be not in accordance with Regulation 10 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 as Shri Pratapsingh Haribhau Sawant has not filed consent letter of

landlord for effecting change of name. Respondent (2) has submitted that the Respondent BEST Undertaking has rightly recorded his name in the electricity bill of premises 67/B. We do not find force in this submission.

9.0 Having regard to the above said reasons the the complaint deserves to be allowed. In result we pass the following order.

10.0 Due to administrative reason there is mere delay in deciding this complaint.

ORDER

1.0 The grievance no. N-E-380-2019 dtd. 30/04/2019 stands allowed.

2.0 The name of Shri Narendra Sawant be restored in electricity bill pertaining to a/c no. 537-655-013 and name of Shri Pratapsingh Haribhau Sawant is to be struck off.

3.0 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