

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-397-2019 dtd. 17/10/2019

Shri Narsinhbhai V. PatelComplainant

V/S

B.E.S.&T. UndertakingRespondent no

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 no : 1. Shri. A. V. Naik (DECCE)
2. Mrs P. V. Sutar (AAME)

On behalf of the Complainant : 1. Shri Harendra N Patel

Date of Hearing : 27/11/2019

Date of Order : 10/12/2019

Judgment by Shri. Vinayak G. Indrale, Chairman

Mr. Harendra N. Patel, son of deceased consumer Shri Narsinhbhai V. Patel, 7/27 Milan Bldg., 'A' wing, 87 Tardeo Road, Mumbai - 400 034 has come before the Forum for dispute regarding debiting of Rs. 72,360/- towards defective meter amendment in the month of May 2019 pertaining to a/c no. 748-071-071.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell dated 17/07/2019 for dispute regarding debiting of Rs. 72,360/- towards defective meter amendment in the month of May 2019 pertaining to a/c no. 748-071-071. The complainant has approached to CGRF in schedule 'A' dtd. Nil received by CGRF on 05/09/2019 as complainant was not satisfied by the remedy provided by the IGR Cell.

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

- 1.0 Mr. Harendra N. Patel, son of deceased consumer Shri Narsinbhai V. Patel come before the Forum regarding his grievance about debiting Rs. 72,360/- towards defective meter amendment of meter no. C104463 in billing month May 2019 pertaining to a/c no. 748-071-071.
- 2.0 Electric supply was given to the premises through meter no. C104463 under a/c no. 748-071-071. In the month of December 2014, the meter reader while taking meter reading had observed that meter no. C104463 is smoky / rusty and meter reading could not be taken. His complaint was registered under ID 2021300 in the system on 05/12/2014.
- 3.0 When our staff visited the premises for replacement of meter on 02/03/2015 at that time the complainant Shri Harendra N. Patel took the objection for replacement of meter and asked for intimation letter for replacement of meter. The same incident repeated when our staff visited for replacement of meter on 23/12/2015, 15/03/2016, 09/07/2016 and 17/01/2017. A system generated letter sent to consumer on 02/12/2016 with a request to allow for replacement of meter. In spite of constant follow up by telephone calls and letters the complainant did not allow replacing the meter.
- 4.0 As a final intimation was given to the Vigilance Department and meter no. C104463 was replaced by Vigilance Department by meter number C170827. The complainant has complained to GM BEST about replacement of meter by Vigilance Dept. on 28/11/2017. This issue was discussed with GM in presence of the complainant.
- 5.0 Meter no. C104463 was tested in lab on 18/07/2018 in presence of the complainant and found defective. Hence defective meter amendment was preferred from December 2014 to till the replacement of meter i.e. November 2017 on new meter average. In between the complainant was charged on estimated consumption.
- 6.0 From the consumption pattern, it was observed that there is an increase in consumption in the month of August 2014 and September 2014. This consumption may have increased due to addition of electric appliances. Hence amendment amounting to Rs. 72,360/- was preferred on new meter average and debited in billing month May 2019.

- 7.0 As the complainant did not allow to replace the meter during 2014 till November 2017, he is liable to pay the entire amount as carved out as amendment for entire period.

REASONS

- 1.0 We have heard the complainant in person and for the Respondent BEST Undertaking Shri. A. V. Naik (DECCE) and Mrs P. V. Sutar (AAME). Perused the documents filed by the complainant along with Schedule 'A' and documents filed by the Respondent BEST Undertaking along with written statement.
- 2.0 The complainant has vehemently submitted that, the amendment carried out by the Respondent BEST Undertaking for the period from December 2014 to December 2017 is illegal and contrary to the Regulation 15.4.1 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. The Respondent BEST Undertaking has submitted that they have made 7 to 8 attempts to replace the defective meter but the complainant did not allow them to replace it and therefore they have carried out the amendment for the entire period and for that they have obtained sanction from higher authorities. The Respondent BEST Undertaking has further submitted that the complainant cannot take benefit of his own wrong and pray for amendment as per Regulation 15.4.1.
- 3.0 Having regards to the above said submission, the question poses before us is as to whether the amendment carried out on the basis of units recorded by new meter is justified or not ? On this point we have cautiously gone through the record exhibit D i.e. Transmission & Distribution Information Management System and it reveals that for 7 times the Respondent BEST Undertaking made attempt to replace the meter and it is the complainant who did not allow them to replace it. It reveals that from time to time the distribution licensee issued the letter to the complainant and they were visiting the premises of the complainant for replacing the meter. It further reveals that the Respondent BEST Undertaking with the help of Vigilance Department replaced the meter C104463 and installed new meter number C170827.
- 4.0 The complainant has further submitted that, the meter was not tested before him and no communication was issued to him informing the date of testing of meter. We have gone through the record and it reveals that on 27/11/2017, 21/12/2017 and 11/07/2018 the Respondent BEST Undertaking issued letter to the complainant informing to remain present on the date mentioned in the letter for testing of meter. The Respondent BEST Undertaking has placed the report which on page no 23/C and it reveals that meter found no display, no pulse output, no communication, hence meter accuracy cannot be taken. Thus the said meter was found defective. It reveals that the son of the consumer has signed on the Test Report . From the record, it is crystal clear that, the complainant did not allow the Respondent BEST Undertaking to replace the meter as well as did not remain present on the date of testing of meter. This conduct on the part of the complainant goes to show that he was intending to take benefit of low units recorded by the defective meter.

- 5.0 Having regards to the above said reasons, we have least hesitation to arrive at conclusion that, the amendment carried out by the Respondent BEST Undertaking on the basis of units recorded by newly replaced meter is legal and proper. We are saying so because we have gone through the consumption pattern of old meter for the month of September, October and November 2014 and consumption recorded was 244 units, 195 units and 198 units respectively. We have also gone through the consumption recorded by replaced meter C170827 and same is in between 213 to 382 units per month. Considering this consumption pattern, it cannot be said that the amendment bill carved out on the basis of units recorded by newly replaced meter is excessive. We know that, as per Regulation 15.4.1 the Respondent BEST Undertaking is required to carry out the amendment for the period of three months in case of defective meter. But this case is not governed by Regulation 15.4.1 as the complainant by his own act not allowed the Respondent BEST Undertaking to replace the meter and therefore he cannot take the benefit of his own wrong and claim benefit as per Regulation 15.4.1. We have gone through the record and reveals that on the basis of units recorded by replaced meter the Respondent BEST Undertaking has carved out average 304 units per month. The record goes to show that the Respondent BEST Undertaking has given credit of units charged by old meter and there after prepared amendment bill by giving slab benefit.
- 6.0 It reveals that the Respondent BEST Undertaking has not taken any action as contemplated under section 163 of The Electricity Act, 2003 and kept mum for about three years for replacement of defective meter. This conduct on the part of the Respondent BEST Undertaking goes to show that the concerned officer was not diligent while discharging his duty.
- 7.0 For the above said reasons we have arrived at the conclusion that the amendment carried out by the Respondent BEST Undertaking on the basis of units recorded by replaced meter is proper as it is the complainant who intentionally not allowed the Respondent BEST Undertaking to replace the meter as he was getting less electricity charges. It appears that the complainant has not come to Forum with clean hands. The complainant cannot get benefit of his own wrong. Thus the complaint deserves to be dismissed. Accordingly we pass the following order.

ORDER

- 1.0 The grievance no. N-E-397-2019 dtd. 17/10/2019 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