

		Date	Month	Year
1	Date of Receipt	07	09	2020
2	Date of Registration	10	09	2020
3	Decided on	05	11	2020
4	Duration of proceeding	58 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 S-B-410-2020 dtd. 10/09/2020

Smt. Shabana alias Shabeena M. ShaikhComplainant

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) : 1. Shri D.S. Bodke

On behalf of the Complainant : 1. Smt. Shabana alias Shabeena M. Shaikh

On behalf of the Respondent (2) : 1. Shri Suhail M. Shaikh

Date of Hearing : 03/11/2020

Date of Order : 05/11/2020

Judgment

- 1.0 The complainant has requested to this Forum to take action against Shri Sarfaraz Shaikh for his illegal act of getting transferred the electric connection, a/c no. 868-612-015 in his name from complainant's name. The complainant has also requested to re-transfer the electricity connection in her name.
- 2.0 The case of the complainant may be stated as under :
 - a) The complaint is with reference to the electric meter pertaining to the consumer no. 868-612-015. This account and its meter was in the name of the complainant, installed at Room no. 12/A, 4th floor, C-Block, Dockyard Road, Mazgaon, Nawab Tank Road, Mumbai - 400 010. However, the complainant's real brother Shri Sarfaraz Shaikh forged the signature of the complainant on the document purportedly No Objection Certificate (NOC) dtd. 03/03/2011 and submitted that document to the Respondent (1) BEST Undertaking to seek change of name for the electricity bill in respect of the aforesaid consumer a/c no. 868-612-015 and sought transfer of electricity meter in his name. The complainant came to know about aforesaid forged NOC and change of name in respect of the aforesaid account on or 14/08/2017 when she got document from BEST Undertaking under RTI.
 - b) According to the complainant she is the legal and lawful tenant of the said premises on which the aforesaid meter is installed. Therefore, the electricity connection and the meter were in her name since long. However, in the year 2011, as noted earlier, the brother of the complainant used forged document and got aforesaid electricity connection and its account transferred in his name illegally. The complainant's brother Shri Sarfaraz Shaikh got the aforesaid transfer done by illegal means and documents. This has been done by him and the Respondent (1) without giving opportunity of hearing to the complainant in this regard.
 - c) The complainant had submitted her grievance before IGRC of BEST Undertaking, but IGRC has rejected the complaint. Therefore, the complainant has approached to this Forum for the redressal of her grievance. She has therefore requested to take proper action against her brother and direct the Respondent (1) BEST Undertaking to re-transfer the electric meter in her name.
- 3.0 The Respondent (2) Shri Sarfaraz Shaikh has filed his reply to the aforesaid complaint of his sister. His case may be stated as under as stated by him in his reply.
 - a) The complaint against him is totally baseless and false. This Forum cannot entertain such complaint under any law.
 - b) It is submitted by the Respondent (2) that the complainant Smt. Shabana alias Shabeena M. Shaikh does not live at the address of the premises where the concerned

electric connection is installed. In fact she is living in Mira Road and she has nothing to do with this premises.

- c) It is also submitted by the Respondent (2) Shri Sarfaraz Shaikh, through his representative who is his real brother Shri. Suhail Shaikh, has submitted the following documents before the BEST Undertaking authorities.
1. Copy of Aadhar Card, Driving License and Election Card of Shri Sarfaraz Shaikh
 2. Copy of Aadhar Card of Shri Suhail Shaikh
 3. Rent receipt of the premises concerned where the electric supply is given. These receipts are from last 17 years.
 4. The complaint letter to J.J. Marg, Byculla & Mira Road Police Station against Smt. Shabana Shaikh in respect of blackmailing and extortion.
 5. Landlord's NOC which states that the Respondent (2) Shri Sarfaraz Shaikh has been the tenant and in possession of the premises since last 20 years.
 6. Reply notice sent by the Landlord.
- d) Referring to the above said documents the Respondent (2) Shri Sarfaraz Shaikh has further submitted that these documents clearly show that the complainant's contentions are totally false and she is trying to claim possession of the concerned premises. She has failed to produce the relevant documents before the authorities and therefore the complaint filed by her before various authorities have been put on hold. The Respondent (2) Shri Sarfaraz Shaikh has also filed his complaint against Smt. Shabana Shaikh in police station. Therefore the Respondent (2) submits that the aforesaid grievance application of his sister may be dismissed.
- 4.0 The Respondent (1) has submitted its reply and opposed the aforesaid grievance application of the complainant, Smt. Shabana Shaikh. The case of the Respondent (1) may be stated as under :
- a) On 10/06/2011 the Respondent (1) received an application for change of name on electricity bill in the name of Shri Sarfaraz Shaikh in respect of consumer a/c no. 868-612-015. The relevant documents were submitted along with this application. Accordingly, the action was taken by the Respondent (1) as per the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 and the name was changed in respect of the said electric connection in the name of Shri Sarfaraz Shaikh.
- b) Thereafter the Respondent (1) received grievance application under Annexure 'C' from Smt. Shabana Shaikh. In that grievance application it was mentioned that her real brother Shri Sarfaraz Shaikh submitted forged signature on NOC dtd. 03/03/2011 to transfer the meter in his name for a/c no. 868-612-015. The Respondent (1) asked the complainant and Shri Sarfaraz Shaikh to produce documents justifying for change of name for electricity meter installation pertaining to the aforesaid grievance. In response to the said requirement of the Respondent (1), the complainant, Smt. Shabana Shaikh filed documents including written submissions of eight pages, copy of

complaint letter dtd. 30/09/2019 addressed to the BEST Undertaking, copy of letter under reference dtd. 14/11/2019 and two electricity bills, copy of the undertaking on bond paper dtd. 25/03/2011 submitted by Shri Sarfaraz Shaikh for change in name, copy of two letters dtd. 14/09/2019 and 19/12/2019 respectively sent to the police through Advocate of Smt. Shabana Shaikh.

- c) On the other hand, the Respondent (2), Shri Sarfaraz Shaikh submitted the documents including rent receipt dtd. 14/09/2019, copy of Adhar Card, copy of driving license, letter dtd. 08/01/2020 of Landlord stating that Shri Sarfaraz Shaikh is tenant and rent receipts for 2003, 2004, 2009, 2012, 2015, 2018 and 2019 being in the name of Shri Sarfaraz Shaikh.
- d) As per the investigation report dtd. 19/10/2019 for confirmation of occupancy carried out by Charge Engineer of Customer Care 'B' Ward, the said room / premises concerned is occupied by Shri Sarfaraz Shaikh and his family, mother, wife and son. The Landlord's letter also supports the aforesaid case of Shri Sarfaraz. According to the Respondent (1), matter about forged signature on NOC as alleged by the complainant, Smt. Shabana Shaikh is subject matter of the police investigation. Therefore, IGRC has rightly rejected her complaint. The complainant's complaint filed before this Forum is also having no merits and substance, therefore, the Respondent (1) has requested to dismiss the grievance filed before it.

5.0 We have heard submission of the parties. They have made their submissions as per their contentions in their respective pleadings which we have noticed here in earlier in detail.

- a) The complainant, Smt. Shabana Shaikh has submitted that the documents produced on record show that the premises on which the electric installation concerned is situated is tenanted premises. According to her, she is the tenant since long i.e. prior to 1991. Therefore, the electric connection, its account and meter etc. were in her name in the record of the Respondent (1). This is not disputed by the Respondents. It is submitted that for change in name of the account holder of the said electric connection from the complainant's name to Shri Sarfaraz Shaikh (brother of the complainant), the Respondent (2) has used the forged document of NOC. He forged complainant's signature on that document and submitted the same to the Respondent (1) to seek change of name in the record of the consumer's account and electric meter. It is submitted that she was not aware about it till 14/08/2017. On 14/08/2017 she got the relevant documents under RTI from Respondent (1). She has submitted that there after she had been pursuing the Respondent (2), brother and other members of family to undo the aforesaid things done by the Respondent (2), Shri Sarfaraz Shaikh. When the matter could not be settled within the family, the complainant submitted grievance application to IGRC for taking the action. It is submitted by the complainant that on the basis of the forged documents the name of Respondent (2) should not have been recorded by removing complainant's name from the record pertaining to the aforesaid electric connection. Accordingly, the

complainant has submitted that the request made in the complaint may be allowed by this Forum.

- b) The representative of the Respondent (2), brother of the complainant has relied on documents including the rent receipts from 2003, Landlord's letter stating that the Respondent (2) is the tenant and in occupation of the premises concerned where the electricity is provided to the aforesaid consumer a/c no. 868-612-015. He has submitted that from 1999 the premises has been in the name of Shri Sarfaraz as tenant and Landlord has also given letters to this effect. The Respondent (2) has submitted rent receipts from 2003. The complainant has given NOC for change of name pertaining to the said account. There is not substance in the allegations about forgery of the NOC, therefore, it is submitted that the grievance application is liable to be rejected.
- c) The representative of the Respondent (1) has submitted that as per the MERC Regulation, the Respondent (1) is required to see documents only. The Respondent (1) is expected to consider the NOC of earlier account holder which in the instant case was submitted by Shri Sarfaraz Shaikh along with rent receipts etc. The Respondent (1) is not expected to personally ask the earlier account holder whether the NOC has been given or not. Therefore, considering the documents given by the Respondent (2), the Respondent (1) has effected the change of name on the basis of the documents and NOC. In such circumstances the representative of the Respondent (1) has submitted that the complaint has no substance and hence it may be dismissed.

6.0 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 the relief in respect of re-transfer of the electric connection in her name as requested in this complaint or any other relief as requested ?	No
2	What is the order ?	The complaint is dismissed.

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

- a) It is the contention of the Complainant that though the meter was transferred in the year 2011 in the name of her brother, she became aware of the same only much later and this is the reason why she has approached the Forum and IGRC in the year 2019.

She admits that she first came to know of this transfer on 14/08/2017 when she received a reply to her RTI application made to the BEST Undertaking in which the Undertaking gave her a document purportedly signed by her, which consisted of a “No Objection” to the transfer of the said meter. It is noted that the first complaint regarding such transfer was made to the BEST in November 2019. The Regulation 6.6 of MERC (CGRF & EO), Regulations, 2006 & Regulation 7.8 of MERC (CGRF & EO), Regulations, 2020 state that any complaint by a consumer to any of the forums under the MERC Regulations is to be made within a period of 2 years from the date on which the cause of action arises. Admittedly the complainant states that in the intervening period she was trying for an amicable settlement of the dispute between herself and her brother. There is neither such explanation for the delay mentioned in the complaint, nor application for condonation of delay with any cogent reason is given for condonation of such delay. In these circumstances the complaint, as filed is barred as per regulation 6.6 of the MERC Regulations, 2006 applicable at the given time.

- b) Even on merits, we do not find any Regulation in the MERC Regulations which the BEST Undertaking did not follow while transferring the Meter to the name of complainant’s brother. We have come to the above conclusion for the following reasons:
- i) The Complainant admits that she was living in the same House along with her brother till her marriage in the year 2009. She also claims that it was her ancestral home. It is also an admitted position by the Complainant that the present person in whose name the meter has been transferred also used to live in the same ancestral home. According to Regulation 13.1 of Conditions of Supply, BEST Undertaking can transfer the meter to any person who is the occupant of a particular premises. In this case the said brother Shri Sarfaraz Shaikh clearly and unequivocally qualifies as an occupant and to that extent the transfer cannot be faulted. On the other hand, the Complainant admittedly was not an occupant of the said premises at the time of transfer.
 - ii) It is further seen that the application made by Shri Sarfaraz has a NOC attached - a photocopy of which is available on the file to us. On close scrutiny of the same it is seen that the signature on that document prima facie matches with the signature of the Complainant in the present complaint. In such circumstances if it is the complaint of the Complainant that this signature is forged then she should approach to an appropriate forum or Court to establish the same and get the same scrutinized and appropriate action taken thereon.
 - iii) It is also not the case of the Complainant that she has been paying the electric bills raised between 2011 and 2020 herself. She admits that her brother Shri Sarfaraz Shaikh or one of his representatives has been paying the said bills as raised from time to time.

- iv) The BEST Undertaking has stated in its response to the complaint that they have followed all procedures which were necessary for transferring the name of the meter from the complainant to her brother Shri Sarfaraz Shaikh. Regulations require that the applicant should produce one of several documents and in this case two such approved documents, namely the House Rent Bill in the name of Shri Sarfaraz Shaikh and the NOC of earlier consumer account holder were duly checked before transferring the name of the meter from the complainant to that of her brother Shri Sarfaraz Shaikh.
- v) As admitted by the complainant and the representative of Shri. Sarfaraz Shaikh there is a dispute regarding the ownership of the property in which the electrical meter has been installed. This forum is not the appropriate authority to decide on the merits on who should be the owner of the said premises. The complainant alleges that the rent receipt was changed to the name of her brother from her name by fraud, in which the landlord and her brother were involved. This Forum will not be able to examine it leave alone opine on such contentious issues.

8.0 In view of the above findings, where the complaint is barred by limitation and even on merits the complainant does not have a reasonable case, we are left with no option but to dismiss the complaint. Hence, following order is passed.

ORDER

1.0 The grievance no. S-B-410-2020 dtd. 10/09/2020 stands dismissed.

2.0 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