

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. 22853561

Representation No. N-E- 230 dtd. 02/07/2014.

Shri Bilal KhanComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri R U Ingule, Chairman

Member

1. Shri M P Thakkar, Member
2. Shri S.M. Mohite , Member

On behalf of the Complainant :
1. Shri Rajesh L Shah
2. Shri Davinder Singh

On behalf of the Respondent :
1. Shri D. N. Pawar, (DECCE)
2. Smt S. K. Utale (AAMCC)
3. Shri G. D. Deshmukh (Supdt Vig)
4. Smt P. S. Kirtikar (AAOL)

Date of Hearing : 21/08/2014 & 26/08/2014

Date of Order : 02/09/2014

Judgment by Shri. R.U. Ingule, Chairman

Mr. Bilal Khan,(M/S Continental Steel Traders) 4, Ground Floor, Plot No 162, Darukhana, Mumbai 400 010 has come before the Forum for refund of amount of Rs 8,00,000/- paid under Section 135 of E.A. 2003 after acquitted from said charge by court pertaining to A/c no.700-912-007.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 01/04/2013 for dispute regarding refund of amount of Rs 8,00,000/- paid under Section 135 of E.A. 2003 after acquitted from said charge by court pertaining to A/c no.700-912-007. The complainant has approached to CGRF in schedule 'A' dtd. NIL (received by CGRF on 27/06/2014) as no remedy is provided by the IGR Cell Distribution Licensee regarding his grievance.

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

- 2.0 Complainant Shri Bilal Khan's premises was raided by Vigilance department on 05/01/2007. A case of theft of electricity was registered in respect of tampered meter installed for the complainant's premises under reference under section 135 of Electricity Act 2003 and police case was lodged at Sewree Police Station vide LAC No 10/07 dated 05/01/2007.
- 3.0 Vigilance claim of Rs 22,78,008/- was preferred to the complainant and the complainant has deposited Rs 8,00,000/- against this claim.
- 4.0 According to Sub Regulation (b) of Regulation 6.8 of MERC (CGRF & EO) Regulation 2006 , offences and penalties under section 135 to 139 of Electricity Act 2003 shall be excluded from the Jurisdiction of the Forum. Therefore the complainant made by the complainant before the Forum is not maintainable.

REASONS

- 5.0 We have heard Shri Rajesh L Shah and Mr. Davinder Singh for the Complainant and for the Respondent BEST Undertaking Shri D. N. Pawar, (DECCE), Smt S. K. Utale (AAMCC), Mr. G. D. Deshmukh (Supdt Vig) and Mrs. P. S. Kirtikar (AAOL). Perused documents placed before us.
- 6.0 The instant matter on our hand, has been an open and shut case. Admittedly the Respondent BEST Undertaking has initiated action against the complainant under section 135 of the Electricity Act, 2003. Admittedly under Regulation 6.8(b) provided under MERC (CGRF & EO) Regulation, 2006, the jurisdiction to decide such cases, has been taken away from this Forum. The complainant, on the base of acquittal order dtd. 18/06/2009 passed by the Hon'ble Additional Sessions Judge Shri S.M. Shembole under complaint no. Electricity Special Case No. 56 of 2008, has approached the IGR and this Forum for redressal of his grievance.

7.0 However, during the hearing, the Respondent BEST Undertaking has placed on file a copy of an appeal moved before the Hon'ble High Court challenging the aforesaid acquittal order passed by the Hon'ble Additional Sessions Judge. This Forum therefore is of a view that the grievance sought to be redressed from this Forum still lies within the purview of Section 135 of E.A. 2003, as there is no finality to the criminal allegation made against the complainant by the Respondent BEST Undertaking. The complaint therefore is liable to be dismissed on this ground, for want of jurisdiction. We therefore proceed to pass the following order.

ORDER

1. The complaint No. N-E)- 230-2014 dated 02/07/2014 stands dismissed, for want of jurisdiction.
2. Copies of this order be given to both the parties.

(Shri S.M. Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman