

		Date	Month	Year
1	Date of Receipt	01	11	2021
2	Date of Registration	03	11	2021
3	Decided on	09	02	2022
4	Duration of proceeding	98 days		
5	Delay, if any.	38 days		

**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. FN-001-2021 dtd. 03/11/2021.**

M/s Babu & Parekh Securities (P) Ltd. ....Complainant

V/S

B.E.S.&T. Undertaking .....Respondent

**Present**

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Shri S.S. Bansode, Technical Member

On behalf of the Respondent : 1. Smt. Akhila Karbhari

On behalf of the Complainant : 1. Shri Davinder Singh Sudan

Date of Hearing : 01/02/2022

Date of Order : 09/02/2022

## Judgment

- 1.0 This complaint was received on 01/11/2021 and registered on 03/11/2021 in the office of the Forum. However, due to pandemic of Covid-19, lockdown was declared by the Government from 23/03/2021 onwards and it was extended from time to time and subsequently the guidelines were issued by MERC in that respect. The consumer was not disclosed that he was ready for hearing through Video Conferencing. For these reasons, the matter could not be heard for long period. After relaxation of lockdown, the matter was fixed for hearing physically on 01/02/2022. Accordingly, the matter was heard on 01/02/2022 and now the judgment is being given. For these reasons the matter could not be decided within the time prescribed by the Regulations. Therefore, the delay of 38 days has occurred in deciding this complaint.
- 2.0 The complainant has filed this grievance application with a grievance that the Respondent / Distribution Licensee has failed to consider and allow his application for change of complainant's tariff category from commercial to residential.
- 3.0 The case of the complainant may be stated as under:
  - a) The complainant has stated in the complaint filed before this Forum that an application for tariff change from commercial to residential dtd. 02/03/2021 was filed by the complainant to the Respondent Licensee. However, the Respondent's officials were not processing his said application and they were ignoring and avoiding to consider the application. Therefore, the complainant made an application under Annexure 'C' dtd.05/08/2021 to the Customer Care F/N ward of the Respondent. For about two months, no action was taken from the Customer Care F/N ward. When the time of two months was over, the complainant's contractor went to the IGRC and then the Respondent issued a letter. In this letter they have mentioned that they have already sent an email dtd.06/08/2021 to the effect that the complainant was required to submit certain documents for change of tariff. According to the representative of the complainant, the complainant did not receive any such email dt.06.8.2021. But it appears that the respondent has produced copy of that email in this proceeding before this forum. It appears that in that email the Respondent has mentioned that the application of the complainant for change in tariff could not be processed for the reason that documents related to the premises and the registered consumer, such as ration card, gas connection card, passport, driving license etc. are not attached and also registration fees for carrying out change of tariff is not paid, which is required to be paid by the complainant. According the representative of the complainant, no such documents are required to be produced by the consumer in support of an application for change of tariff. He submits that the practice is that after receiving such application for change of tariff-category, the officials of the licensee ask the applicant to pay the amount of fees and then they visit the consumer premises to verify the case about change in tariff. On the basis of report of visiting official the application for change of tariff is decided by the respondent. No such steps have been taken by the

respondent in respect of complainant's said application, according to the representative of the complainant.

- b) It is also submitted by the complainant that on 02/03/2021 when he had gone to submit the application for change of tariff, the officials of the Respondent were not accepting the same. The concerned official present there orally stated to the complainant that unless consumer name from the name of the complainant company is changed to a individual person, no change of tariff to residential category could be done. The official of the respondent have accepted the application only when the complainant approached to higher officials.
- c) The representative of the complainant has submitted that there is no provision in the MERC Regulations or any other rules about requirement for production of the aforesaid documents by consumer for change of tariff. He has also submitted that it is not necessary for the consumer to mention in the application as to what residential activity is going on for change of tariff etc. Hence, he has submitted that he has neither made any pleading in the instant grievance application nor mentioned in his application submitted to the Respondent for change of tariff, as to what residential activity is going on in the premises.
- d) In such circumstances, the complainant submits in the grievance application that the Respondent be directed to allow the aforesaid application for change of tariff from commercial to residential tariff and issue bills accordingly.

4.0 The Respondent has filed reply and opposed the aforesaid complaint. The case of the Respondent as mentioned in their reply and as submitted by the representative of the Respondent may be stated as under:

- a) It is admitted that the consumer M/s Babu & Parekh Securities (P) Ltd. is holding the aforesaid consumer a/c bearing no. 202-000-124. It is also admitted that the complainant had submitted the application for change of tariff from commercial to residential on 02/03/2021. However, it is submitted by the Respondent in their reply that till 17/04/2021, various attempts were made by the Customer Care F/N ward to send an email to the applicant but the emails were not going through. Later on vide email dtd. 06/08/2021, the applicant was replied by Customer Care F/N ward stating that application for change of tariff was received at Customer Care Ward but it could not be processed as documents mentioned in the said letter were not produced and registration fee was also not paid by the complainant. The copy of email dtd. 06/08/2021 is produced by the Respondent with the reply. Accordingly, the complainant was also informed in writing on 04/10/2021 vide CC(F/N)/AAM/Annex-C-57/420/2021 that their application for change of tariff could not be processed for want of documents.

b) The Respondent has therefore submitted that the complainant be directed to comply with the requirements regarding submission of the documents and pay the registration fees so that the Respondent may process his application in future.

5.0 We have heard both the parties and noted their submissions as above. 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, on the basis of pleadings in the instant grievance application and contentions made in their application dt. 02.3.2021 submitted to the respondent/licensee, the complainant is entitled for seeking directions from this Forum, to the Respondent/ Distribution Licensee, to change the tariff from commercial to residential category ?	In Negative
2	What order should be passed by this forum to dispose off this grievance- application.?	The complaint will have to be dismissed with liberty to the complainant to submit fresh application to the Respondent for change of tariff from commercial to residential and with directions to the Respondent to process such application within one month of submission of such application to them, as is being directed in the operative order being passed herein below.

6.0 We record reasons for aforesaid findings as under :

a) It is not disputed that the complainant had made an application to the Respondent / Distribution Licensee for change of tariff from commercial to residential on 02/03/2021. The Respondent has also produced a copy of email dtd. 06/08/2021 addressed to the complainant. In this email, the Respondent has mentioned that though complainant's application is received for change in Tariff, it could not be processed for the following reasons: 1) Documents related to said premises in the name of registered consumer such as Ration Card / Gas connection card / Aadhar card /

Passport / Voter ID / Driving License etc. are not attached and 2) Also registration fees for carrying out change of Tariff is required to be paid.

- b) The complainant has submitted that this email dtd. 06/08/2021 was not received by him. However, it appears that copy produced by the respondent appears to be of the print-out taken from the electronic process. Hence the contention of the respondent appears to be correct that this email was sent to the complainant and the copy produced is the copy of this letter. Therefore, it can be said that it was sent by the Respondent to the complainant to ask the complainant to produce the documents and pay the fees to process the application. No doubt, in sending such letter, there was delay for about three months after submission of the application dtd. 02/03/2021. The respondent has submitted that the reason for such delay was that they were attempting to send it through email, but for some technical reason it was not going forward. We think that this explanation can be accepted, because possibility of such a technical difficulty cannot be ruled out. Moreover, ultimately this letter was issued in which the Respondent had mentioned the reason for not processing the said application. The reason as noted earlier was that the documents were not submitted and registration fee was not paid by the complainant. In such circumstances the request of the complainant made to this Forum to direct the Respondent to change the tariff from commercial to residential will have to be examined.
- c) With reference to above we have examined the said application dtd. 02/03/2021 submitted by the complainant to the Respondent for change of tariff. The copy of this application dtd.02/03/2021 is produced by the complainant with the complaint filed before this Forum. In this letter / application, what is mentioned by the complainant is that “with reference to the above subject we request you to arrange to take necessary action for change of our electrical tariff from commercial to residential at the earliest, please.” Only this has been mentioned in the said application dtd. 02/03/2021 and nothing has been mentioned as to what residential activity is going on in the premises. No ground has been mentioned as to why the tariff is required to be changed from commercial to the residential category. It is also not mentioned who is presently residing in the premises. It is also not mentioned from what date the user has been changed from commercial to residential. These are basic particulars which would be necessary to be mentioned in an application for change of tariff from commercial to residential. Even if no rule or regulation exists to prescribe a format of such application, such particulars would be necessary to be mentioned in an application for change of tariff from commercial to residential. We do not find substance in the submission of the representative of the complainant that the complainant has not given such particulars in the application because the respondent has format of such application which does not have any column/clause for giving such particulars. The reason for not accepting the said submission is firstly that such alleged format of respondent is not prescribed by any rule or regulation and secondly the said application 02/03/2021 for change of tariff itself does not appear to be as per any format prescribed by the respondent. It was a simple letter dt.02/03/2021 in which simply it was asked to take steps to change the tariff. In this letter necessary facts and

particulars about the aforesaid points could have been easily mentioned by the complainant. Moreover, even in the grievance application filed before this forum necessary facts about the aforesaid points have not been pleaded by the complainant. In absence of all such particulars in the application for change of tariff it is difficult even for this forum to direct the Respondent to change the tariff. In the course of hearing the complainant's representative had stated that the premises is used for residence of driver of the complainant/company. However, no details of the same have been given. In such circumstances we hold that on the basis of such vague application submitted to the respondent and to this Forum, we cannot direct the Respondent to change the tariff from commercial to residential as requested in the instant complaint. Therefore, we have recorded negative findings in point no. (1).

- d) In view of negative findings recorded on point No (1), we hold that the complaint filed before this Forum will have to be dismissed. However, liberty will have to be given to the complainant to file / submit fresh application to the Respondent for change of tariff from commercial to residential and the Respondent will have to be directed that if such fresh application is made by the complainant, the Respondent shall process such application within one month from submission of such application. Hence the instant grievance application will have to be dismissed with the aforesaid liberty to the complainant to file fresh application to the Respondent with direction to the respondent to process it accordingly, as is being directed in the operative order being passed herein below. Accordingly, we have answered point no. (2) and, therefore, we pass the following order.

### **ORDER**

- 1.0 The grievance No FN-001-2021dtd. 03/11/2021 stands dismissed with liberty to the complainant to file / submit a fresh application to the Respondent for change of tariff from commercial to residential and if such application is submitted by the complainant, the Respondent shall process it within one month from submission of such application as per prevailing practice.
- 2.0 Copies of this order be given to all the concerned parties.

Sd/-  
(Shri. S.S. Bansode)  
Technical Member

Sd/-  
(Smt. Anagha A. Acharekar)  
Independent Member

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