

		Date	Month	Year
1	Date of Receipt	30	08	2021
2	Date of Registration	30	08	2021
3	Decided on	30	11	2021
4	Duration of proceeding	91 days		
5	Delay, if any.	31 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. N-FS-441-2021 dtd. 01/9/2021

Shrimati Meghana w/o Kishor Matkar
(d/o Gajendra Parulekar)

..... Complainant

V/S

B.E.S.&T. Undertaking

.....(1) Respondent

Shri Yogesh Gajendra Parulekar.

.....(2) Respondent

Present

Chairman

Coram :

Shri S.A. Quazi, Chairman

Members

1. Shrimati Anagha A. Achrekar Independent Member.
2. Shri S.S. Bansode, Technical Member.

On behalf of the Complainant : Shrimati Meghana w/o Kishor Matkar.

On behalf of the Respondent (1) : Shri R.B. Patil, DECC(F/S)

On behalf of the Respondent (2) : Shri Yogesh Gajendra Parulekar.

Date of Hearing : 22/11/2021

Date of Order : 25/11/2021

Judgment

- 1.0 This complaint/application was received on 20/09/2021 and registered on 23/09/2021 in the office of the Forum. However, due to pandemic of Covid-19, lockdown was declared by the Government from 23/03/2020 onwards and it was extended from time to time and subsequently the guidelines were issued by MERC in that respect. The complainant was not ready for hearing through Video Conferencing. For these reasons, the matter could not be heard for long period. Now the lock down conditions have been relaxed to some extent. Therefore, the matter was fixed for hearing physically on 25/11/2021. Accordingly, the matter was heard on 25/11/2021 and was reserved for passing judgment. Hence, now the judgment is being given. For these reasons the matter could not be decided within the time prescribed by the MERC Regulations. Therefore, the delay of 31 days has occurred in deciding this complaint.
- 2.0 The complainant of this complaint is one Shrimati Meghana w/o Kishor Matkar (d/o Gajendra Parulekar). Her complaint is about change of name of the consumer in the name of second Respondent Shri Yogesh from the name of the original consumer Shri Ashok Parulekar in respect of a/c no. 676-043-417 (new a/c 676-043-030) pertaining to meter no. F065426. The complainant has requested this Forum to direct the Respondent/BEST Undertaking to change the name of the consumer from the existing consumer Shri Yogesh Gajendra Parulekar to the name of the original consumer Late Shri Ashok Parulekar or to include complainant Shrimati Meghana w/o Kishor Matkar (d/o Gajendra Parulekar) also as consumer in respect of the said consumer account.
- 3.0 The following facts can be said to be not in dispute between the parties:
 - a) It is not disputed that there is a premises having address as “ C-30, First Floor, C-Spring Mill Chawl, G.D.Ambekar Marg, Dadar (E) Mumbai-400014.” The first Respondent/Licensee had given electric connection to the said premises in the name of Shri Ashok Rajaram Parulekar, who was serving in Spring Mill of Bombay Dyeing Mfg. Co. Ltd. at Dadar Mumbai. This connection was given as such on 16/10/1967. It's consumer a/c number was 676-043-417.
 - b) The complainant as well as the second Respondent are not at dispute about the facts namely: Ashok Parulekar's brother Gajendra Parulekar was also living with his family in the said premises and said brother was also serving in the Spring Mill of Bombay Dyeing Mfg. Co. Ltd. at Dadar Mumbai. Ashok Parulekar and his family went to stay in some other premises way back in the year 1975, but his brother Gajendra and Gajendra's family (including complainant as daughter and second Respondent as son) continued to stay in the said consumer-premises. However, the electric connection remained in the name of Ashok Parulekar till it was changed to the name of second Respondent on 31/01/2019. The said consumer Ashok Parulekar has died on 15/01/2003. Gajendra Parulekar and his wife have died respectively on 15/04/2010

and 24/01/1997. The Complainant has also got married and is staying with her husband at some other premises.

- c) On the application of the second Respondent/Yogesh, the first Respondent/Licensee has changed name of the consumer from the name of Ashok Parulekar to the name of the second Respondent/Yogesh on 31/01/2019. Being aggrieved about it, the complainant had disputed the said change by submitting her applications/complainants dt. 09/02/2021 and 10/03/2021, through her advocate, to the first Respondent on various grounds. However, by letter dt.10/06/2021, the first Respondent communicated to the complainant that she remained absent on the date of hearing and thus she could not show her occupation over the premises and therefore, First Respondent would not reverse its order about change effected in favour of the second Respondent. Being aggrieved by the said change and the stand taken by the first Respondent, the complainant has filed the instant grievance application before this Forum.

4.0 The case of the complainant, as stated by her in the instant complaint/grievance application and the correspondence made by her to the first Respondent/Licensee, filed on record, as well as she has made oral submissions in the course of hearing, may be stated as under :

- a) The change in respect of the consumer was effected without giving prior notice to the heirs of deceased consumer Ashok and to the heirs of Gajendra Parulekar, including to the complainant. The complainant sent letters dt. 9/2/2021 and 10/03/2021 to first Respondent stating that she came to know that the change has been effected without her consent and therefore her name be also mentioned as joint consumer. Thus complainant came to know about the change in or about the month of Feb.2021 only and immediately thereupon she has taken steps to challenge it within prescribed time.
- b) Admittedly the original consumer was Ashok Parulekar, but the second Respondent gave false information to the first Respondent about Ashok Parulekar by stating in the indemnity bond/affidavit that Ashok Parulekar was unmarried. In fact Ashok Parulekar was married and has left behind him his widow and children as heirs. The complainant has produced copy of marriage certificate about marriage of Ashok Parulekar.
- c) According to the complainant, the second Respondent has even suppressed from the first Respondent that complainant is his sister and she is also heir of Gajendra Parulekar. Later in the course of enquiry by the Internal Grievance Redressal Cell (IGRC) of first Respondent, in his reply, the second Respondent has admitted that complainant is his sister, but he has denied her rights in the premises on false grounds. According to the complainant she is also having rights and interest in the said premises and therefore her name should also be recorded as joint consumer else it would be appropriate to direct to reverse the change to the name of original consumer Ashok Parulekar.

- d) According to the complainant, the second Respondent has no personal occupation over the premises and he has let out it to tenant. Therefore contention of the first Respondent is not correct that on the basis of occupation of second Respondent, he is entitled for effecting the change in his favour. It is submitted that the second Respondent has not submitted all the relevant documents of no objection certificates of all heirs of original occupiers/tenants, as are required for change of name of consumer, to the authorities of the Respondent/BEST Undertaking.
- e) According to the complainant, the IGRC of the First Respondent has neither sent nor served notice upon her to communicate date of hearing in respect of her grievance application dt. 09/02/2021 and 10/03/2021. Therefore, their decision on her applications is not acceptable as they have not provided her reasonable opportunity of being heard. According to the complainant, this conduct of the Respondent violets the mandate of the provisions of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations.
- f) The further contention of the complainant in the complaint is that the authorities of the first Respondent have not provided any relief to the complainant under the aforesaid provisions of the MERC Regulations and therefore the complainant is seeking the relief from this Forum and has requested to direct the first Respondent to change the name of the consumer in the name of the complainant jointly with the second Respondent or to revert the change back to the name of the original consumer Ashok Parulekar, in respect of the aforesaid account number and meter of the premises.
- 5.0 The first Respondent/BEST Undertaking has filed its reply and has submitted that the instant grievance application is liable to be dismissed in view that presently the second Respondent is occupying the premises as per the documents on record. The case as pleaded by the Respondent/Undertaking may be summarized as under :
- a) The first Respondent has submitted that the second Respondent has produced documents including Aadhar card, PAN Card, ration card, indemnity bond and electric bill in the name of original consumer, along with his application dt. 31/01/2019, for change of name of consumer from the name of Ashok Parulekar to his own name. Considering these documents, it is clear that the original consumer has died and at present the second Respondent is occupying the premises. The representative of the first Respondent has submitted that the provisions of clause 12.3 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code And Standards of Performance of Distribution Licensees Including Power Quality) Regulations, 2021, (hereinafter it shall be referred to as MERC supply code 2021) provides that in the matters of application for change of name of consumer, in the absence of consent letter of transferor, proof of occupancy of premises may be sufficient to effect the change. Therefore the decision taken by the first Respondent may be maintained.

- b) According to the first Respondent, the complaint of the complainant was properly enquired into by the Respondent. In the due course the notice was sent to the complainant by ordinary post informing her date of hearing, but she remained absent, for hearing before the IGRC.
- c) According to the representative of the first Respondent, the complaint filed before this forum is beyond the prescribed period of two years, prescribed by MERC Regulations.
- d) According to the representative of the first Respondent, the complainant had not produced marriage certificate of original consumer Ashok Parulekar before the first Respondent and for the first time she has produced before this forum. However he has conceded that as per supply code of the first Respondent, which in practice, if anybody makes or affirms false affidavit or document to mislead the licensee to get name changed, the change of name of consumer may be reverted back to the earlier consumer.

6.0 This Forum had issued notice to the present registered consumer in whose favour the change is effected. He is described as second Respondent/Yogesh Parulekar. The said consumer/second Respondent has appeared before this forum and opposed the instant grievance application, by filing his reply and documents. His case may be stated as under :

- a) The present consumer/second Respondent is the legal consumer under new consumer a/c no. 676-043-030 since 31/01/2019 in the aforesaid premises. He had produced all necessary documents to show that he is occupying the premises to the exclusion of the complainant. Therefore, the first Respondent has taken right decision to change the name of consumer from the name of late Shri Ashok Parulekar to the name of the second Respondent.
- b) Referring to the facts about allotment of the premises by the Bombay Dyeing Manufacturing Co. to its employees, it is submitted by the Second Respondent that his father Gajendra was allotted the premises by the company to reside in it as tenant. After deaths of father, mother and sister, the second Respondent is the only legal heir entitled to occupy the premises as per the provisions of the Maharashtra Rent Control Act, as he was living with the father (tenant) at the time of death of the father. The complainant was not living as such in the premises. She has got married so she is residing in other premises with her husband. Therefore she cannot claim any occupancy rights in the said tenanted premises. The second Respondent is paying the electricity bill without any delay. He is in exclusive and settled occupation and possession of the said premises along with his family members. In support of this contention the present consumer has referred to the following documents in his reply:
 - i) Copy of Aadhar card, election card, PAN Card, marriage certificate and ration card of himself showing address at consumer premises.
 - ii) Copy of death certificate of his father, mother and uncle.

- iii) Copy of employee ID of service of his father with Bombay dyeing co.
 - iv) Copy of Aadhar card of complainant showing her address at Antop hill premises.
 - v) Copy of covering letter dt. 20/01/200 with list of occupants of the premises in the building of Bombay dyeing co. issued by Municipal Corporation, stating that the second Respondent is occupying the premises room no. 30 in building No. 3.
- c) According to the second Respondent, it is true that he has stated in his indemnity bond, submitted to the first Respondent, that electricity bill and consumer account is in the name of his unmarried uncle Ashok Parulekar, who has expired on 15/01/2003. However, his intention was not malafide in stating that his uncle as unmarried. His intention was bonafide that the name of consumer who has left the premises long back and then he has also died long back should be removed from the record and in place of his name, the name of the present and actual occupier should be recorded without any further delay.
- d) The second Respondent has submitted that the grievance application of the complainant, may be dismissed by this forum.

7.0 We have heard the parties. In view of the respective pleadings, submissions and the documents of the parties, 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 grievance application is filed before this forum within limitation period prescribed by the MERC Regulations?	In Affirmative
2	Whether the decision of the first Respondent/licensee to change the name of consumer in respect of consumer a/c No. 676/043/417 from the name of Ashok Rajaram Parulekar to the name of second Respondent/Yogesh Gajendra Parulekar is legal and valid? If no, to what relief the complainant is entitled in this grievance application?	The decision of the first Respondent/licensee to change name of consumer from the name of Ashok Parulekar to the name of second Respondent Yogesh Parulekar is not legal and valid. Therefore the first Respondent is directed to restore consumer account to the name of original consumer Ashok Parulekar, with observation that if fresh and appropriate application for change of name is made by any party, including the second Respondent and the complainant, the first Respondent shall decide it on its own merits by giving proper notices to all the concerned parties including land lord and heirs of deceased occupiers.

8.0 We record reasons for aforesaid findings as under :

- a) We have noted the contentions of the parties as mentioned by them in their pleadings as well as in their oral submissions. We have also perused the documents submitted by the parties on record in the course of hearing.
- b) The parties have relied on voluminous documents in support of their respective cases. However, except the copy of indemnity bond of second Respondent, submitted by him in support of his application dt. 31/01/2019 to the first Respondent and the marriage certificate about marriage of original consumer Ashok Parulekar, it is not necessary to refer each and every documents produced by the parties, in view of the facts, which are not in dispute, as noted herein earlier in para (3)
- c) It is not disputed by the parties that in the year 1967 the electric connection was given to the premises in the name of one Ashok Rajaram Parulekar. After more than 50 years this name has been removed by the first Respondent on 31/01/2019, from the consumer account, on the application of the second Respondent. We accept the contention of the complainant that this decision of the first Respondent was taken by it without serving any prior notice upon the complainant. It is not the case of the Respondents that before the change was effected the complainant was served with any notice. Even after the said change the first has not served any notice informing about the order. The Complainant says that she came to know about it in Feb.2021. The Respondents have not denied about this. Therefore, we do not find any reason to disbelieve the said statement of the complainant that she came to know about the change in consumer name in Feb.2021. Therefore from this date of knowledge of the order of change, the limitation of two years to file grievance before this forum as prescribed in clause 7.8 of MERC (CGRF & EO) Regulations, 2020 would start. Hence it is held that the grievance filed before this forum on 01/09/2021 is well within limitation of two years from Feb. 2021. Therefore we have recorded affirmative findings on point No. 1.
- d) It is not disputed by the parties that in the year 1967 the electric connection was given to the premises in the name of one Ashok Rajaram Parulekar. After more than 50 years this name has been removed by the first Respondent on 31/01/2019, from the consumer account, on the application of the second Respondent. In such circumstances, it can apparently be inferred that said Ashok Rajaram Parulekar had some interest in the premises. In normal course children or widow of such long standing holder of consumer account would come forward with application for change. The first Respondent does not appear to have made proper enquiry in this regard, when second Respondent made application for change of name. The first Respondent has not produced any document which can show that before effecting the change in favour of the second Respondent, the first Respondent sent it's officials to visit the site of the premises to enquire as to who is actually occupying the premises, if only proof of

occupancy has to be preferred in absence of documents of transfer or consent letter of registered consumer or his heirs.

- e) The complainant and the first Respondent are not children of the original registered consumer-account holder Shri Ashok Parulekar. They have come with case that their father Gajanan Parulekar was both of Ashok Parulekar and families of both brothers were residing the premises jointly and in 1975 Ashok Parulekar left the premises and then Gajendra Parulekar and his family, including complainant and second Respondent continued their stay in the premises. No document has been produced to show that Ashok Parulekar has surrendered his rights. On the contrary the second Respondent is claiming that originally premises was given to his father Gajendra on tenancy and not to Ashok Parulekar by the so called land lord/ Bombay Dyeing Co. Ltd. But no rent receipt in the name of Gajendra is filed by the second Respondent before the first Respondent along with the application for change. In such circumstances, reliance placed by the first Respondent merely on the documents produced by the second Respondent, without making enquiry about the heirs of original registered consumer Ashok Parulekar was not proper exercise of powers given to it under the Regulation 10 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 corresponding Regulation 12 (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021. The said Regulation 12 as applicable after amendment is quoted herein as under :

12. Change of Name

12.1 A connection may be transferred in the name of another person upon death of the Consumer or, in case of transfer of ownership or occupancy of the premises, upon application for change of name by the new owner or occupier: Provided that such change of name shall not entitle the Applicant to require shifting of the connection to a new premises.

12.2 The application for change of name shall only be submitted online for Urban Area accompanied by such charges as are required under the approved Schedule of Charges of the Distribution Licensee: Provided that application for change of name in Rural Area may be submitted online or in hard copy form.

12.3 The application under Regulation 12.2 shall be accompanied by

a) consent letter of the transferor for transfer of connection in the name of transferee;

b) in the absence of a consent letter, any one of the following documents in respect of the premises: (i) proof of ownership of

premises/occupancy of premises; (ii) in case of partition, the partition deed; (iii) registered deed; or (iv) succession certificate;

c) photocopy of licence / permission with respect to the purpose for which electricity is being supplied to the premises, if required by statute.

12.4 The Distribution Licensee shall communicate the decision on change of name to the Consumer within the second billing cycle from the date of application for change of name: Provided where the Distribution Licensee disallows or refuses to the change of name, it shall do so after affording the Consumer concerned a reasonable opportunity of being heard in the matter: Provided further that the Distribution Licensee shall communicate the reasons of refusal in writing to the Consumer.

12.5 Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased Consumer or the erstwhile owner / occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner / occupier of the premises, as the case may be.

- f) Thus, from the aforesaid provisions of Regulation 12 it would appear that it is the responsibility of the Distribution Licensee to deal with an application for change of name of the consumer in view of the guidelines given in the said Regulation 12. In short on receiving such application, the Distribution Licensee is expected to decide the application after giving opportunity of hearing to all concerned parties, particularly when the registered consumer's heirs are not the applicants for change. In the instant case neither second Respondent nor the complainant is heir of said registered consumer Ashok Parulekar. Probably the first Respondent got misled from the statement of the second Respondent in his affidavit-cum-bond-cum-declarations dt. 10/02/2019, submitted by him before first Respondent in support of his application for change of name. Copies of that document are produced by all the parties with their pleadings before this forum. The statement in the said affidavit gives an impression that the original consumer Ashok Parulekar has left no wife or children as heir. The relevant portion of said affidavit is as under:

“I say that Electricity bill bearing Meter No. F065426 and consumer No. 767-043-417*8 pertaining to the above said premises stands in the name of my unmarried uncle SHRI ASHOK RAJARAM PARULEKAR who expired on 15/01/2003 and my father GAJENDRA RAJARAM PARULEKAR who expired on 15/04/2010 and my mother SUJATA GAJENDRA PARULEKAR who also died on 24/01/1997 and I am the only legal heir of the above named deceased.”

- g) We find force in the case of the complainant that the above statement of the second Respondent is not true that Ashok Parulekar was unmarried and the second Respondent is only heir of Ashok Parulekar. This inference can be drawn from the copy of marriage certificate produced by the complainant in the course of hearing before this forum. This document shows that Ashok Parulekar had married to one Armaity Ashavaid on 16th Feb.1976 in presence of the Registrar of Marriages at Mumbai and the marriage was accordingly registered. When this document was produced before the forum the first Respondent's representative submitted that this shows that the second Respondent made untrue statement in his affidavit filed by him before the first Respondent and on this basis the change effected in consumer-name in favour of second Respondent may be cancelled as per the Respondent's Conditions no. 13.6 of their Terms and Conditions of Supply. The second Respondent's response about this marriage certificate and his above statement in his affidavit is that it is true that his said statement in the affidavit is untrue but there was no malafide on his part.
- h) We have examined the above circumstances. The above explanation of the second Respondent about untrue statement in respect of his uncle Ashok, can not acceptable. The effect of this statement in the affidavit is that the second Respondent got the name of consumer changed in his favour by suppressing true facts from the first Respondent and this is apparently done by the second Respondent to mislead the first Respondent to arrive at the decision that he is the only heir of original consumer Ashok and his brother Gajendra Parulekar. We find that this is sufficient reason to hold that the decision of the first Respondent/Licensee about change of consumer-name in the name of the second Respondent/Yogesh from the name of original holder of consumer account Shri Ashok Parulekar is not legal and valid. Accordingly we have recorded affirmative findings on first part of the point No.2.
- i) As far as second part of point no. 2 is concerned, it is about as to what relief the complainant is entitled. The complainant has submitted that her name be recorded in the record as joint holder of consumer account or the change effected in favour of the second Respondent be cancelled and the original consumer Ashok Parulekar's name be restored to the account as consumer. As far as first part of this request is concerned, we cannot allow it, firstly because complainant has not filed any prescribed application to effect the change in her name and secondly because the change effected in favour of the second Respondent itself is held illegal and invalid and thus it is liable to be cancelled and therefore question of joint recording in the names of complainant and the second Respondent does arise. However, the second alternate request of the complainant can be granted by this forum by directing the first Respondent to cancel the change effected in favour of the second Respondent and restore the name of original consumer Shri Ashok Parulekar in respect of the said connection and consumer account. This will have to be directed and liberty will have to be given to the first Respondent to decide any application of change, if filed in future afresh by any party, including the complainant and the second Respondent, on it's own merits.

- j) Accordingly, we have answered the point(2) and in the aforesaid terms the present complaint is required to be disposed off by this Forum. Hence we pass the following order.

Order

1. The instant grievance no. N-FS-441-2021 dtd. 01/09/2021 filed before this Forum stands partly allowed and disposed of in the following terms.
 - a) The first Respondent / Licensee/Undertaking is directed to remove the name of the second Respondent Yogesh from the record of the said consumer account pertaining to the said connection and consumer account No. 676-043-417 and to restore the name of original/earlier consumer Ashok Parulekar as consumer.
 - b) The first Respondent/Licensee shall be at liberty to decide any application of change, if filed in future afresh by any party, including the complainant and the second Respondent, on it's own merits, after giving notice to the heirs of earlier consumer Shri Ashok Parulekar and heirs of his brother Shri Gajanan Parulekar.
 - c) 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