

| | | Date | Month | Year |
|---|------------------------|-----------------|-------|------|
| 1 | Date of Receipt | 14 | 11 | 2021 |
| 2 | Date of Registration | 17 | 11 | 2021 |
| 3 | Decided on | 07 | 12 | 2021 |
| 4 | Duration of proceeding | 13 working days | | |
| 5 | Delay, if any. | — | | |

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

On Portal Grievance No. GN-004-2021 dtd. 17/11/2021

Mina Vijendra Sarsar Complainant

V/S

B.E.S.&T. Undertaking Respondent

Present

Coram : Chairman
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 : Shri Ishtiyag A. Shaikh.

On behalf of the Respondent : Smt. Pramila Nikale

Date of Hearing : 02/12/2021

Date of Order : 07/12/2021

Judgment

- 1.0 The complainant has grievance about Respondent/licensee's decision of imposing of conditions regarding payment of certain dues, as mentioned in Respondent's order of sanction dt. 26-28/10/2021 for new electric-connection to complainant's premises, described in the application/requisition No. 487047, dt. 04/10/2021 as "DRPIII721, GROUND FLOOR, OPP229 F/1 Chawl, Valmiki nagar, Dr. B.A. road, Matunga, Matunga labour Camp, Mumbai -019." (Herein after this premises shall be referred to as premises in question). According to the complainant, the said conditions are not legal and valid but Respondent has declared that without compliance of those conditions, they will not provide electricity to the complainant.
- 2.0 The following facts can be said to be not in dispute between the parties:
- a) The complainant's husband's name is Vijendra Sarsar. The complainant had given an application/requisition No.487047, dt. 04/10/2021 in prescribed format to the Respondent, for giving new electric connection/meter to her premises in residential and low voltage (LV) category. In that application the address of the premises was given as "DRPIII721, ground floor, opp. 229 F/1 Chawl, Valmiki nagar, Dr. B.A. road, Matunga, Matunga labour Camp, Mumbai -019."
- b) On the said application of the complainant, the Respondent has sanctioned the new connection of electricity by sanction order dt. 26/10/2021 and consequently a letter dt. 28/10/2021 has been issued to the complainant informing that the electricity will be provided to the complainant at the said premises on compliance of certain conditions mentioned in the said letter dt. 28/10/2021. The condition about which complainant is aggrieved is that "the requisition is sanctioned as per P.O.262 subject to 791/575/006, recovery of OS of A/C No.791/575/021," and "vigilance clearance for case No.VN/D481/019 & VN/D482/D19"
- c) The consumer a/c No. 791/575/021 is in respect of the premises having address on the electric bill pertaining to the said account as "R: 95/64/WN, ground floor, Walmiki nagar, Dr. Babasaheb Ambekar Road, Anand nagar, Matunga labour camp, Matunga, Mimbai - 400019." Electric bill of this consumer account shows that its account holder is by name "Rajesh Krishan Sarsar." According to the Respondent, about this a/c 791/575/021, there are outstanding/arrears of energy charges amounting Rs. 99,650/- Electric supply to the premises under this account has been disconnected long back in the year 2014, due to nonpayment of said arrears of electricity charges.
- d) The consumer a/c No. 791/575/006 is in respect of the premises having address on the electric bill pertaining to the said account as "R: 229/1/2, ground floor, Walmiki nagar, Dr. Babasaheb Ambekar Road, Anand nagar, Matunga labour camp, Matunga, Mimbai - 400019." Electric bill of this consumer account shows that its account holder is by name "Rani Jaykishan Sarsar." Electric supply to the premises under this a/c 791/575/006, is still going on.

- e) According to Respondent, FIR was lodged to Matunga police station on 25/11/2019, by official of vigilance department of the Respondent/licensee alleging that in the raid conducted by the vigilance department on 25/11/2019, nine persons named as suspected persons in this FIR were found taking electricity from Respondent's electric-meter cabin No. 791, by connecting wires unauthorisedly in the cabin, to their respective premises as described, by referring structure numbers (1) to (9), in the sketch map filed before this forum along with copy of FIR. In this FIR in the list of (9) suspected persons, at serial No. (5) Rajesh Kisan Sarsar and at sr. No. (6) Vijendra Tekram Sarsar are mentioned.
- f) According to Respondent, vigilance department has ascertained the amount of charges and penalty of the aforesaid theft of electricity, individually against each of the nine premises and the aforesaid nine suspected persons mentioned in the aforesaid FIR. According to Respondent, the premises pertaining to vigilance case No.VN/0481/D19 and the premises pertaining to vigilance case No. VN/0482/D19 are situated opposite to each other. According to Respondent, vigilance case No.VN/0481/D19 is jointly pertaining to Rajesh Kisan Sarsar and Vijendra Tekram Sarsar (husband of the complainant), who are brothers inter-se. As per revised assessment made by assessing officer on 22/01/2020, an amount of Rs.79,004/- is due towards the theft and compounding charges under this vigilance case. According to Respondent, vigilance case No. VN/D482/D19 is pertaining to Vijendra Tekram Sarsar and an amount of Rs.12,657/- is due towards the theft and compounding charges under this vigilance case.

3.0 The Complainant's case, as is mentioned in the grievance application and as submitted by her representative, in the course of the hearing before this forum, may be stated as under:

- a) According to the complainant, since so many years she had been making applications to the Respondent for giving electric connection to her above described premises, but again and again the Respondent is asking her, as condition precedent, to pay the alleged dues pertaining to other persons and other premises. Therefore, she gave complaint dt. 30/08/2021 to the Internal Grievance Redressal Cell (IGRC) of the Respondent in this regard. On 01/10/2021, the IGRC has replied to the complainant stating that as her application/requisition No.363965 dt.30/06/3018 and another application/requisition No.363965 dt.30/06/3018, for giving electric connection to her premises described herein earlier, have already been rejected, if she makes fresh application for electric connection, the Respondent would allow it. Therefore, on 04/10/2021, the complainant gave fresh requisition for new electric connection. But again the Respondent is asking the complainant to pay the alleged arrears of consumer a/c No.491/575/021 and vigilance clearance for case No.VN/D481/019 & VN/D482/D19.
- b) It is submitted by the complainant's representative that the alleged arrears have no concern with the complainant or her premises. Therefore, demand of the Respondent

that the complainant should pay the said arrears is illegal and invalid. Thus, the said demand as condition precedent for giving electric connection to the premises of the complainant is also illegal and it amounts to refusal to give connection on invalid grounds.

- c) It is submitted by the complainant's representative that in the sketch map produced with copy of FIR, the structure marked as No.5 is the premises for which the complainant is seeking the new connection. According to him, his this submission is supported by the sketch map prepared by the official of the Respondent/licensee, when he visited the site to investigate about the premises for which the complainant has given application for new connection. This sketch is produced by the Respondent with their reply at page 39/c. Pointing out these circumstances, it is submitted by the representative of the complainant that complainant is at the most liable to pay the arrears pertaining to this premises only and not pertaining to any other premises or to any other person. In the course of hearing, the representative of the complainant has submitted that the complainant admits that the dues amounting to Rs. 12,657/- in respect of vigilance case No.VN/0482/D19 are pertaining to complainant's premises, to which she is seeking new electric connection. He has submitted that the complainant has paid Rs. 5,500/- out of said amount by receipt dt.06/09/2021 and she is ready to pay remaining of said amount. In the course of hearing, the receipt of payment of said amount Rs. 5,500/- is also produced by him before this forum.
- d) It is also submitted by the representative of the complainant that the case of the Respondent that the complainant is liable to pay the arrears pertaining to consumer a/c No. 701/575/006, 791/575/021, and vigilance case VN/0481/D19, has no basis and it is not acceptable in law.
- e) The complainant has, therefore, requested to direct the Respondent/licensee to accept the remaining of amount of Rs.12,657/- towards due of vigilance case VN/0481/D19 from the complainant and to provide the electricity to the premises of the complainant by installing electric meter at the said premises of the complainant .

4.0 The Respondent/BEST Undertaking (Licensee) has filed its reply and has submitted that the instant grievance application has no merits and it is liable to be dismissed. The case, as pleaded by the Respondent/Undertaking and as urged by their representative in the course of hearing, may be summarized as under:

- a) After receiving the said application/requisition No.487047, dt.04/10/2021 of the complainant for new connection, the official of the Respondent has visited the site of the premises in question for which the connection is applied. The site visit was to know its situation, whereabouts and topography etc. of the premises in question. It is found from the enquiry that electricity is taken to this premises in question from the premises of existing consumer a/c No.791-575-006, which is in the name of one Rani Jaikishan Sarsar.

- b) In the enquiry about said requisition/application of the complainant, it is also revealed that earlier to this requisition also the complainant had applied for new electric connection on two occasions on 22/06/2018 and 08/04/2019. On both the occasions the Respondent/licensee has sanctioned the new connection to the premises in question subject to payment of outstanding amounts of consumer a/c No.791-575-021, to which supply has been disconnected, due to nonpayment of dues, long back in the year 2014. Complainant's husband's brother Rajesh is the holder of this account .791-575-021. On both the occasions, the complainant did not pay the aforesaid outstanding amount. Hence both the IDs of earlier requisitions were auto closed.
- c) In the enquiry about said requisition/application of the complainant, it is also revealed that vigilance department's two cases bearing No.VN0481/D19 and VN0481/D19 belong to complainant's said husband Vijendra Sarsar and these cases are pending for payment of dues. The vigilance department has given clearance subject to payment of both these cases.
- d) For the above reasons, the Respondent has sanctioned complainant's said application/requisition No.487047 dt. 04/10/2021, subject to payment of outstanding dues of a/c No. 791-575-021 and the said two vigilance cases bearing No.VN0481/D19 and VN0481/D19. Accordingly, ESL-4 was sent by the Respondent to the complainant. However, instead of complying it, the complainant has filed this grievance application before this forum on incorrect facts and grounds, which the Respondent is strongly opposing.
- e) In the reply, the Respondent has mentioned that the vigilance case No. VN/0482/D19 was in the name of the complainant's husband Vijendra Sarsar in respect of the same premises for which the complainant is seeking the electric connection by the aforesaid application/requisition No.487047 dt. 04/10/2021. In the reply, the Respondent has further mentioned that the vigilance case No. VN/0481/D19 was in the name of the complainant's husband Vijendra Sarsar and her brother-in-law Rajesh Kishan Sarsar. Hence, the complainant is liable to pay the outstanding of these vigilance cases if she wants the electric connection in the premises in question. However, in the course of hearing before this forum, the representative of the Respondent has filed written note stating that

“While submitting the reply of above referred complaint in “Our Clarification” the vigilance case nos. are interchanged inadvertently due to oversight.

The correct details regarding Vigilance cases are as below:

| Sr. No. | Vigilance case No. | Name | Remarks |
|---------|--------------------|---|--------------------------|
| 1 | VN/481/D19 | Vijendra Tekaram Sarsar (Applicant's husband) & Rajesh Kishan Sarsar (Applicant' brother-in-law). | This premises is same as |

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|---|------------|---|---|
| | | | applicant's premises |
| 2 | VN/482/D19 | Vijendra Tekaram Sarsar (Applicant's husband) | This premises is opposite to applicant's premises |

You are requested to read as above. The mistake is regretted, please.”

- a) Thus, according to the representative of the Respondent, with the aforesaid clarification the reply of the Respondent be read.
- b) For all the aforesaid circumstances, the representative of the Respondent has submitted that the instant grievance application is liable to be dismissed.

5.0 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. N. | Points for determination | Findings |
|--------|---|--|
| 1. | Whether complainant is required to make any compliance about consumer a/c No. 791-575-006? | In negative. |
| 2. | Whether the complainant is liable to pay the arrears of consumer a/c No.791-575-021? | In negative. |
| 3. | Whether the complainant is liable to pay the arrears of vigilance case No.VN0482/D19? | In negative. |
| 4. | Whether the complainant is liable to pay the arrears of vigilance case No.VN0481/D19? | In affirmative. |
| 5. | To what relief, if any, the complainant is entitled from this Forum and what order is required to be passed to dispose of this grievance application? | The complainant is entitled to get new connection to the premises in question, after paying the outstanding dues pertaining to vigilance a/c No.VN0481/D19 and hence Respondent is being directed to give electric |

| | | |
|--|--|---|
| | | <p>connection to the premises in question after this compliance and other compliances, if any, which are not disputed in this complaint about production of documents. In these terms the instant Grievance application is partly allowed and disposed of, as is being directed in the operative order being passed herein below.</p> |
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6.0 We record reasons for the aforesaid findings on point No. (1) to (5), 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. We have also noted the admitted facts in Para-2 herein earlier.
- b) At the outset, it is necessary to observe here that as per the provisions of clause 12.5 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensee including Power Quality) Regulations, 2021, (hereinafter it shall be referred as Supply Code 2021) charge of the dues of the electricity and other charges shall remain on the premises to which the electricity provided. The provisions of said clause 12.5 of the Supply code 2021 may be quoted here as under :

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.*

There is no provision of rule or regulation which says that dues with reference to anybody shall be charge on any other person or individual. In view of this principle laid down in the said Supply Code 2021, the facts of the instant case will have to be examined by this forum to find out what are the dues pertaining to the premises in question.

- c) Keeping the aforesaid principles in mind, if we examine the question as to whether the dues or arrears about consumer a/c No. 791-575-021, consumer a/c No. 791-575-006 and vigilance case No.VB/0481/D19 are pertaining to the premises in question, to which

the complainant is seeking electric connection, we find answer to this question in negative.

- d) It may be noted that as far as consumer a/c No. 791-575-006 is concerned, it is nobody's case that it pertains to the premises in question where the complainant is seeking the electric connection. In the course of hearing the representative of the Respondent has submitted that this consumer a/c No. 791-575-006 is mentioned in the sanction order only to say that from premises of this account, supply was found to be provided to complainant's premises, but there is no due to be recovered about it from the complainant. Therefore, we hold that the complainant is not required to make any compliance about the consumer a/c No. 791-575-006. Hence, we have recorded negative findings on point No. 1.
- e) The addresses of the premises of complainant and the premises of consumer a/c No. 791-575-021, though are of same locality but the two premises are different. Hence it can be said that the premises to which applicant is seeking connection is different than the premises of consumer a/c No. 791-575-021. Both the parties have also come with the case that the two premises are situated opposite to each other and thus are different from each other. The Respondent is alleging that complainant is liable to clear the dues of this consumer a/c No. 791-575-021, firstly because this account belongs to one Rajesh who is brother of her husband Vijendra and secondly because vigilance case No.VN/0482/D19 pertains to the premises of this a/c No. 791-575-021. Once we have held that premises in question, to which the complainant is seeking electric connection, is different than the premises of consumer a/c No. 791-575-021, for none of the aforesaid two reasons cited by the Respondent, complainant is liable to clear the dues of this consumer a/c No. 791-575-021. It is so because the complainant or her premises have no concern with the said consumer a/c No. 791-575-021. This is held so taking into consideration the above provisions of clause 12.5 of Supply Code 2021.
- f) The crucial question is which of the two vigilance cases bearing No. VN/D481/019 & VN/D482/D19 and vigilance case No.VN/0482/D19 belongs to the premises in question to which the complainant is seeking electric connection. According to the complainant, the vigilance case No. VN/D482/D19 belongs to the premises in question to which she is seeking electric connection and vigilance case No. VN/D481/D19 belongs to the premises of consumer a/c No. 791-575-021. According to the Respondent, the vigilance case No. VN/D481/D19 belongs to the premises in question to which the complainant is seeking electric connection and vigilance case No. VN/D482/D19 belongs to the premises of consumer a/c No. 791-575-021.
- g) We have examined the contentions of the parties and documents on record and we find that the vigilance case No. VN/D481/D19 belongs to the premises in question to which the complainant is seeking electric connection and vigilance case No. VN/D482/D19 belongs to the premises of consumer a/c No. 791-575-021. We find this as such on examining the documents of electric bill pertaining to consumer a/c No. 791-575-021,

sketch map prepared by the official of the Respondent by visiting the site of the premises in question of complainant and sketch map prepared by the officials of vigilance department while raiding and lodging FIR about theft of electricity, in the year 2019, in the area where the premises in question of complainant and the premises of a/c No. 791-575-021 are situated. This FIR was lodged to Matunga police station on 25/11/2019, by official of vigilance department of the Respondent/licensee alleging that in the raid conducted by the vigilance department on 25/11/2019, nine persons named as suspected persons in this FIR were found taking electricity from Respondent's electric-meter-cabin No. 791, by connecting wires unauthorisedly in the cabin, to their respective premises as described, by referring numbers (1) to (9), in the sketch map filed before this forum along with copy of FIR. In this FIR in the list of (9) suspected persons, at serial No. (5) Rajesh Kisan Sarsar and at sr. No. (6) Vijendra Tekram Sarsar are mentioned. At page 53/C of documents produced by the Respondent with their reply, there is a copy of sketch map which is said to be copy of the sketch prepared by the officials of the vigilance department while raiding various premises in the locality of the premises in question and the premises of a/c No.791-575-021. In this sketch map it is readable that there is a table given in which it is described as to which of the nine vigilance cases belongs to which of the premises numbered from (1) to (9) In this table number 481 denoting to vig. Case No. 481 is written opposite to number 5 denoting to premises number (5) and number 482 denoting to vig. Case No. 482 is written opposite to number 6 denoting to premises number (6) In the copy of sketch with copy of FIR produced by the complainant, this table is not readable and therefore it does not throw light on the question as to which of premises described in the sketch by number 5 or 6 which of the above vigilance cases belongs. Hence that copy of sketch produced by the complainant is not reliable. In this sketch map the structure of premises denoted by figure of 5 and structure of premises denoted by figure of 6 are shown as situated in front of each other. Admittedly complainant's premises in site visit sketch map produced by the Respondent with their reply at page 39/C, is shown by letter "A". If the two sketch maps are examined together it would appear that the structure of premises denoted by letter "A" in the site sketch map at page 39/C is exactly same which is denoted by figure-5 in the above said copy of sketch produced at page 53/C with the reply of the Respondent.

- h) The other paper sheets about initial assessment of compensation of theft etc. prepared by the officials of the Vigilance Dept. about vigilance case have reference of consumer a/c no. 791-575-021. But this reference appears to be only because the husband of the complainant is brother of the holder of said consumer account, and as both premises are situated opposite to each other. But it does not prove that the complainant's premises has any concern with said consumer account. After this analysis of documents on record, we have no doubt in holding that vigilance case No. VN/D481/D19 belongs to the premises in question to which the complainant is seeking electric connection and which is denoted by figure-5 in the copy of sketch produced at page 53/C with Respondent's reply and vigilance case No. VN/D481/D19 belongs to the premises of consumer a/c No. 791-575-021, which is denoted by figure-6 in the copy of sketch produced at page 53/C with Respondents reply.

- i) For all the above reasons, we have recorded negative findings on point No.(2), (3) and affirmative findings on point No.(4).
- j) In view of the negative findings on point No. (1) to (3) and affirmative findings on point No. (4) recorded as above, we hold that **the complainant is entitled to get new connection to the premises in question, after paying the outstanding dues pertaining to vigilance a/c No.VN0481/D19 and hence Respondent is being directed to give electric connection to the premises in question after this compliance and other compliances, if any, which are not disputed in this complaint about production of documents. In these terms the instant Grievance application is being partly allowed and disposed of, as is being directed in the operative order being passed herein below.** Accordingly, we have answered the point (5) and in the aforesaid terms the present complaint is required to be allowed and disposed of by this forum. Hence we pass the following order.

Order

1. The instant grievance application No. GN-004-2021 dtd. 17/11/2021 stands allowed and disposed of in the following terms.
- a) The Respondent / Licensee/Undertaking is directed to **give new electric connection to the premises in question, after accepting the outstanding dues pertaining to vigilance a/c No.VN0481/D19 from the complainant and after completion of other compliances, if any, which are not disputed in this complaint about production of documents.**
- b) The complainant shall make the compliances within one month from the receipt of this order and the Respondent shall comply its part as per this order within 15 days from the date of completion of complainant's compliance.
- 2.0 Copies of this order be given to all the concerned parties.

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

Sd/-
Smt. Anagha A. Achrekar
(Member)

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