

		Date	Month	Year
1	Date of Receipt	11	05	2021
2	Date of Registration	11	05	2021
3	Decided on	01	11	2021
4	Duration of proceeding	173 days		
5	Delay, if any.	113		

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-D-430-2021 dtd. 11/05/2021

Shri Shamsuddin GausuddinComplainant

V/S

B.E.S.&T. UndertakingRespondent

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 Complainant : 1. Shri Zahid Shaikh

On behalf of the Respondent : 1. Shri M.P. Ranaware

Date of Hearing : 21/10/2021

Date of Order : 01/11/2021

Judgment

- 1.0 This complaint/application was received and registered on 11/05/2021 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 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 21/10/2021. Accordingly, the matter was heard on 21/10/2021 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 113 days has occurred in deciding this complaint.
- 2.0 The instant grievance application of the consumer / complainant / applicant is about the high amount of bill of electricity pertaining to the billing month of February 2021.
- 3.0 The following facts do not appear to be disputed between the parties.
- a) The complainant is consumer of the Respondent BEST Undertaking and his consumer a/c no. is 831-001-009. The electric meter installed at the premises of the complainant was bearing no. C106587 and this meter was replaced by new meter no. C2297197 on or about 01/12/2019 as the Respondent BEST Undertaking's concerned officials suspected that the said old meter no. C106587 was recording the consumption of electricity between the months of June 2019 to 21/12/2019, higher than the normally recorded consumption in the earlier period. Therefore, during this period, the respondent charged the complainant with average consumption taking in to account the reading of earlier period.
- b) In view of the aforesaid facts, the Respondent BEST Undertaking changed the old meter on 21/12/2019 and thus old meter no. C106587 was replaced by new meter bearing No. 2297197. When the old meter was changed on 21/12/2019, it was showing the reading of consumption of electricity as 10659 units. Thereafter, the consumer / complainant was being charged for consumption of electricity as per reading shown by the new meter no. 2297197 from 21/12/20019 till January 2021 and the bills were paid by the complainant accordingly. In the month of February 2021, the aforesaid disputed bill was served upon the complainant which is disputed in this complaint by the complainant. The said bill has shown the charges under the following heads:

Rs. 55,5454.21 towards Net Other Charges + Rs. 3,504.66 towards Current month's bill and Rs. 74,043.06 towards Previous month's bill.

In this way the total amount of Rs. 1,33,000.00 was charged by the Respondent Undertaking in the bill for the billing month February 2021.

- 4.0 The complainant's case, as contended in his complaint application and the submissions made by his representative Shri Zhaheed S. Shaikh in the course of hearing before this Forum, may be stated as under :
- a) According to the complainant, the aforesaid amount charged in the billing month February 2021 is higher than the normal consumption of the electricity of the complainant. Particularly the amount of Rs. 55,454.21 mentioned in the bill is disputed by the representative of the complainant being charged without any legal ground, entitlement and reason. According to the complainant the Respondent is not entitled to charge the said amount under the head of Net Other Charges mentioned in the bill. The representative of the complainant has submitted that nothing has been mentioned or explained by the Respondent to the complainant as to under what ground the Respondent is liable to charge the said amount and therefore the Respondent is liable to be restrained from charging such unreasonable amount against the complainant.
 - b) The complainant further submits that even prior to the change of old meter, the complainant had grievance of high bills. In this regard in the month of April 2019, the complainant had given letter to the Respondent making such grievance. It is further case of the complainant that prior to the change of the meter, the complainant had made oral complaints to the Meter Reader. The Meter Reader or the officials of the Respondent Undertaking said that they had checked the old meter and they further said that the meter was faulty and it required replacement. The complainant also received a letter from the Respondent Undertaking that the old meter was replaced with the aforesaid new meter and the amount which was charged, from June 2019 till replacement of meter, was on the basis of the average charges and no additional charges would be applicable, because the old meter was working continuously getting on NO LOAD and the meter was to be replaced under lab test as per Procedure Order.
 - c) The complainant submits that the approval from higher authority to test result says "As per the site investigation report by the Senior Enquiry Inspector Shri Satpute, meter Cr is 7103.00 Kwh, ttl is 1A continuous pulses getting on NO LOAD and working on no load (partial contact) hence meter to be replaced. This response picture was clicked on my son's mobile and is attached in additional evidence from the computer of Customer Care (D) Ward, Supdt. Shri M.P. Rananaware of IGR Cell." According to the complainant, now the respondent is taking the stand which was contrary to their stand taken by them prior to three years. They say that the complainant's meter is faulty in the year 2019 and replaced it with new one. If this is so, according to the complainant, how the Respondent/ BEST Undertaking is now claiming the additional charges after 3 years. The complainant further submits that he received the letter in the year 2019 after the month of May from the Respondent BEST Undertaking stating that the old meter was faulty and needed to be replaced as the meter was not

showing proper reading and average amount was billed as the meter was faulty and not showing readings. This also makes the aforesaid demand of the Respondent Undertaking illegal in respect of the additional amount mentioned in the bill of month of February 2021. Now after the expiry of 3 years in the year 2021 in the time of Covid-19 pandemic, the Respondent Undertaking is demanding additional and unacceptable bill amount.

- d) The complainant further submits that the Respondent never sent any letter to the complainant regarding the alleged issue of their entitlement to claim the additional amount for the period from June 2019 till 21/12/2019 on the ground that the meter was OK and therefore the Respondent Undertaking is entitled to claim the amount after period of 3 years.
- e) For all the aforesaid reasons, the complainant had made grievance application before the Internal Grievance Redressal Cell (IGRC). However, IGRC has not resolved the problem by applying mind and, therefore, the representative of the complainant submits that the grievance application made before this Forum be allowed and the Respondent be directed to modify the bill and to remove the aforesaid amount of Rs. 54,729.20 charged from the bill under the head of total adjustment amount and net other charges.

5.0 The Respondent has filed its reply to the aforesaid grievance application of the complainant before this Forum. The case of the Respondent Undertaking, as mentioned by them in their reply as well as mentioned by their representative Shri. M.P. Rananaware in his submissions before this Forum in the course of hearing, may be stated as under :

- a) The Respondent Undertaking has submitted that the complainant had filed complaint before the IGRC disputing the amount of Rs. 54,729.21 mentioned in the electric bill for the bill month of February 2021. The IGRC had conducted enquiry and heard the parties in respect of the aforesaid complaint of the complainant on 06/04/2021 and thereafter decided it correctly.
- b) According to the Respondent, the consumer was correctly billed as per the meter reading of 3210 taken on 16/05/2019 recorded by the old meter C106587 till the billing month of May 2021. However, in the billing month of June 2019, the Meter Reader brought reading on 17/07/2019 as 4958 units, the consumption for the billing month of June 2019 was found to be 1748 units which was 11 times higher than the consumer's average monthly consumption till May 2019. Hence, according to the Respondent Undertaking, the actual meter reading 4958 was not inserted in the billing system maintained by the Respondent Undertaking. Instead of it, only 400 units on assumption were inserted in the billing system to charge for these units for the billing month of June 2019 by inserting 3610 reading instead of 4958 as on 17/06/2019.

- c) It is further case of the Respondent Undertaking that, as there were obstruction in taking of reading till December 2019, actual meter reading could not be taken by Meter Reader. The estimated meter readings were inserted in the billing system during this period. Hence, the consumer was charged on estimation basis from the billing month of June 2019 to December 2019 i.e. till the replacement of the old meter C106587 by the new meter no. 2297197 dtd. 21/12/2019. When the old meter was replaced as such on 21/12/2019, it was showing the final reading as 10659.
- d) After replacement of the suspected defective old meter no. C106587, the consumption recorded by the new meter no. 2297197 is seems to have been increased in the range of 760 to 1175 units per month. The Respondent got the old meter no. 106587 tested in their Wadala lab and in the said test it was found that the old meter was within the permissible limits of accuracy. In this regard, the Respondent Undertaking has filed that test report along with their reply vide Exhibit 'E' before this Forum. Based on this test report of old meter no. 106587, the complainant's a/c no. 831-001-009 was amended from 16/05/2019 to 13/02/2020 as per the final reading of 10659 shown by the old meter at the time of replacement there on dtd. 21/12/2019. Consequently Rs. 54,729.20 was debited in the billing month of February 2021 after giving slab benefit to the complainant for each month. It is further case of the Respondent that the average units charged to the complainant / consumer during the period from 16/05/2019 to 13/02/2020 is in the lines with average units recorded on new meter.
- e) Thus, according to the Respondent Undertaking, the bill for the month of February 2021 amounting to Rs. 1,33,000/- was charged including the previous month's arrears of Rs. 74,043.06. According to the Respondent Undertaking, thus the bill is perfectly in order and the complainant consumer is liable to pay the same to the Respondent. Therefore, the Respondent has submitted that the complaint filed before this Forum is liable to be dismissed.

6.0 We have heard the submissions of parties and noted their submissions as recorded herein earlier. In view of the above submissions of the parties, 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 bills charged by the Respondent Undertaking to the complainant for the period from billing month June 2019 to 21/12/2019, without taking and considering the actual readings of the electric meter, is legal and valid?	In Negative
2	Whether the procedure adopted by the Respondent Undertaking to charge the	In Negative

	additional amount for consumption of electricity during the period from billing month June 2019 to 21/12/2019 and claiming the same in the billing month February 2021 is correct, legal and valid?	
3	Whether the Respondent is required to be direct by this Forum to modify the bills for the period from the billing month June 2019 to 21/12/2019? If yes, what directions are required to be given?	The Respondent is required to be directed by this Forum to modify the bills for the period from the billing month June 2019 to 21/12/2019, as is being directed in the operative order herein below.
4	What order should be passed?	The complaint is allowed in view of the findings recorded on the above said point no. 1 to 3 and in terms of the operative order being passed herein below.

7.0 We record the reasons for aforesaid findings as under :

- a) **We have recorded the admitted facts in the para (3.0) herein earlier.** The contentions of the parties would reveal that during the period from June 2019 to 21/12/2019 the complainant has not been charged on the basis of the actual readings shown by the old meter. This means that during this period the Respondent Undertaking has charged the complainant on average basis and without taking into account the actual reading shown by the old meter no. C106587. We find that this procedure adopted by the Respondent is totally in contravention of the provisions in Clause 13.3.6 of The Code, 2021. The said clause 16.3.6 prohibits the Respondent from billing on estimation for a period more than two (2) billing cycles. Herein the instant case during the period for the billing month June 2019 to 21/12/2019, the Meter Reader of the Respondent Undertaking took the readings but the Respondent Undertaking's officials found that the said readings were shown by the meter 11 times more than the normal readings of the consumption shown during the earlier months. The officials of the Respondent Undertaking themselves had suspected that the meter was not functioning properly as it was showing the higher readings than the normal consumption recorded earlier. It appears that the complainant had also complained about the higher billing. Considering all these circumstances ultimately the Respondent Undertaking changed the old meter no. C106587 on 21/12/2019. It is not disputed that that for the period from June 2019 to 21/12/2019, the Respondent Undertaking had charged on estimation as per the earlier consumption of electricity by the complainant and the complainant had paid that amount. In any way it appears that the Respondent Undertaking has not followed the proper procedure to charge the complainant for the aforesaid period.

- b) It is not disputed that on 21/12/2019 the officials of the Respondent replaced the old meter no. C106587 by the new meter no. 2297197. It is also not disputed that the complainant has paid the bills as per the readings shown by the new meter no. 2297197 after 21/12/2019. The dispute is only about the period from billing month June 2019 to 21/12/2019 i.e. till the replacement of the old meter. The further case of the Respondent is that, after replacement of the old meter they got the old meter C106587 tested at the lab of the Respondent Undertaking. Test report of the lab about old meter is filed by the Respondent with their reply vide Exhibit 'E'. On perusal of this test report, it is seen that the test report is to the effect that old meter no. 106587 was within the permissible limits of accuracy. However, this report cannot be accepted because the Respondent Undertaking has not tested this meter in presence of the complainant. The Respondent has not produced any notice having been served on the complainant calling upon the complainant to remain present at the time of testing of the old meter at their lab. Further even the result of the test has not been informed to the complainant prior to the destruction of the old meter so as the complainant could have fair opportunity to get the meter tested from other agency by paying necessary charges as provided in clause 15.6.2 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (*hereinafter referred to as 'the Code'*). The relevant portion of 15.6.2 reads as under :

15.6 *Testing of Defective Meter*

- 15.6.1. *The Distribution Licensee shall have the right to test any meter and related apparatus at any time if there is a reasonable doubt about accuracy of the meter.*
- 15.6.2. *The Consumer may, upon payment of such testing charges as may be approved by the Commission under Schedule of Charges can request the Distribution Licensee to test the accuracy of the meter by applying to the Distribution Licensee: Provided that the Distribution Licensee may get the meter tested at its own laboratory or any other facility as may be approved by the Commission: Provided further that if a Consumer disputes the results of testing carried out by the Distribution Licensee, the meter shall be tested at a National Accreditation Board for Testing and Calibration Laboratory (NABL) accredited laboratory chosen by the Consumer at the cost of the Consumer: Provided further that in case of testing on the Consumer's request, if the meter is found to be beyond the limits of accuracy prescribed in the Central Electricity Authority (Installation & Operation of Meters) Regulations, 2006 as amended from time to time, the Distribution Licensee shall refund the test fee along with interest for the period the fees has been held by the Distribution Licensee, at a rate equivalent to the Bank Rate of the Reserve Bank of India to the Consumer by adjustment in the subsequent bill: Provided further that the bills of the consumers shall be reconciled based on the*

meter testing results for a maximum period of Six (6) months or from the date of last testing, whichever is shorter, on the basis of the test report.

- c) Thus, in the aforesaid circumstances it will have to be presumed that the meter was defective. In such circumstances the proper procedure that will have to be followed for billing is given in clause 16.4.1. The relevant portion of this provision is noted as under:

16.4. Billing in the Event of Defective/ stuck/stopped/burnt Meters

16.4.1. Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the Consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill:

Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 16.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case:

Provided further that, in case the meter is stuck, burnt, lost or has stopped recording, the Consumer will be billed for the period for which the meter is stuck or has stopped recording or for the period for which meter was not available due to burning or loss of meter, up to a maximum period of Three (3) months, based on the consumption during the corresponding period in the previous year when readings were taken or the average consumption of the previous Three (3) billing cycles for which the meter has been read by the Distribution Licensee, whichever is higher: Provided further that if it is established in the licensee's enquiry that the loss of meter was due to act of the Consumer and/or with his connivance, the Consumer shall be billed as per Regulation 10.

- d) Thus, in view of the aforesaid provision of clause 16.4.1, the Respondent Undertaking should have charged the complainant for the billing period from June 2019 to 21/12/2019 under and as provided in this provision. However, this has not been done by the Respondent Undertaking as above. The Respondent Undertaking is entitled only to charge the complainant as provided in 2nd proviso to clause 16.4.1 noted herein earlier. As this is not done by the Respondent Undertaking in the facts and circumstances of the case, the necessary directions are required to be given by this Forum to the Respondent Undertaking accordingly in this regard.
- e) In view of the aforesaid discussion, we have recorded negative findings on point (1) & (2). In respect of point (3), we hold that the necessary directions are required to be

given to the respondent Undertaking for necessary modification/revision of the bills for the billing period from June 2019 to 21/12/2019 and it is required to be directed by this Forum that the Respondent Undertaking should revise the bills for the aforesaid period and charge the complainant as provided in the 2nd provision of clause 16.4.1 as noted herein above. Accordingly, we have answered the point (3). In these terms, the complaint deserves to be disposed off and accordingly we have answered point (4). Hence, we pass the following operative order.

ORDER

- 1.0 The grievance no. S-D-430-2021 dtd. 11/05/2021 is disposed off in the following terms.
 - a) The Respondent Undertaking is directed to revise the bills pertaining to the billing period from June 2019 to 21/12/2019 so as to charge the complainant as provided in 2nd proviso to clause 16.4.1 of “the Supply Code”.
 - b) After such charging under 2nd proviso of clause 16.4.1, the necessary debit/credit be made in the consumer’s account and revised bill to be served on the complainant.
 - c) The aforesaid directions shall be complied with by the Respondent Undertaking within two billing cycle after receiving this order.
- 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