

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-FN-326-2017 dtd. 11/08/2017

Mrs. Madhu TalwarComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.V. Fulpagare, Member

On behalf of the Complainant : 1. Shri Subhash Talwar

On behalf of the Respondent : 1. Shri P.K. Prabhu, AE, CC(F/N)
2. Shri V.L. Karande, Dy.E CC(F/N)
3. Shri D.K. Lambhate, AAM CC(F/N)
4. Smt. T. Rege, AAO CC(F/N)

Date of Hearing : 21/09/2017

Date of Order : 10/10/2017

Judgment by Shri. Vinayak G. Indrale, Chairman

Mrs. Madhu Talwar, Flat no. E-4, Block no. 1, Mira Mansion, Sion (West), Mumbai - 400 022 has come before the Forum for dispute regarding installation of defective meter and high bill complaint thereon pertaining to a/c no.607-221-031*3.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 15/03/2017 dispute regarding installation of defective meter and high bill complaint thereon pertaining to a/c no.607-221-031*3. The complainant has approached to CGRF in schedule 'A' dtd. 08/08/2017 (received by CGRF on 10/08/2017) as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee.

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

- 2.0 The complainant Smt. Madhu Talwar came before the Forum regarding her dispute about debiting Rs. 1,000.00 towards damaged meter charges in the billing month November 2015 and to compensate for meter no. J110710 and B143722 which were working fast.
- 3.0 Electric Supply was given to the complainant's premises under reference through meter no. F082036 (CG make). This meter was found defective and replaced by meter no. B115551 on 08/02/2012. Meter no. F082036 was tested in a lab. While testing this meter in a lab on 26/06/2012 it was observed that, there was **no display, no pulse output, accuracy cannot be tested.**
- 4.0 Vide technical complaint no. 157834 dtd. 15/10/2013, meter no. B115551 found burnt. Hence, meter no. B115551 was replaced by meter no. J110710 on 16/10/2013. Damaged meter charges amounting to Rs. 1000.00 was debited in billing month November 2013.
- 5.0 The consumer has disputed about levy of burnt meter charges of Rs. 1000.00 in billing month November 2013 vide letter dtd. 09/02/2014 and 11/03/2014. In these letters, the consumer has stated that her meter was not burnt due to over usage of electricity and asked for refund of Rs. 1000.00 charged to her. Accordingly, damaged / burnt meter charges was refunded to her through bill in billing month November 2016.
- 6.0 Vide ID no. 205621 dtd. 24/12/2014, meter no. J110710 was tested on site and found +5.63 % fast on 31/01/2015. Meter no. J110710 was replaced by meter no. B143722 for lab testing. Same was informed to the complainant vide letter dtd. 09/02/2015 having reference no. CC(F/N)/complaints/3041/2015. During testing of meter in a lab on 29/05/2015, meter found working within permissible limits of accuracy. Hence, no amendment was preferred for this meter.
- 7.0 It was observed from the consumption pattern that, meter no. B115551 had recorded monthly average consumption as 503 units, meter no. J110710 had recorded average monthly consumption of 342 units and meter B143722 had recorded average monthly consumption as 378 units. This shows that there is no substance in complaint that meter no. J110710 was fast. It was further observed that slab benefit for the period 08/02/2012 to 14/04/2012 and 12/11/2013 to 20/01/2014 was not given to the consumer. Also consumer had received low bill for the period in which meter no. F082036 was defective till its replacement.

- 8.0 Accordingly, necessary dr/cr was carried out resulting in debit of Rs. 34,810.67 and credit of Rs. 30,097.94 resulting in net credit of Rs. 4712.73. Also DP charges of Rs. 508.76 was refunded. This has reflected in bill for the month August 2014.
- 9.0 As complainant consumer was not satisfied for the rectification carried out, earlier dr/cr was reverted back. Slab benefit for the period from 08/02/2012 to 13/03/2012 and 12/11/2013 to 20/01/2014 was carried out. Defective meter amendment for the period 12/09/2013 to 16/10/2013 has been carried out. Also DP amounting to Rs. 2167.90 and interest amounting to Rs. 8182.03 was refunded. This has resulted in net credit of Rs. 19,470.68 and reflected in bill for the month October 2016.
- 10.0 Meter no. B143772 (Genus make - a reputed manufacturer and installed after testing in lab) which was installed on 31/01/2015 and working till now showing average monthly consumption as 361 units, which is as good as of earlier meter. Due to busy schedule of the complainant, meter no. B143772 could not be tested in presence of the complainant. Vide letter dtd. 27/01/2017, BEST has requested to the complainant to give appointment for testing of meter. Even after repeated oral and written request, the complainant has failed to give an appointment for testing of meter no. B143772 in his presence.

REASONS

- 11.0 We have heard the arguments of Shri Subhash Talwar representative of the complainant and perused the Annexure 'C' dtd. 15/03/2017 filed before IGR along with list of correspondence made by him since 16/12/2013. Perused written statement filed by the Respondent BEST Undertaking along with documents marked at Exhibit 'A' to 'J'.
- 12.0 The complainant who is representative as well as retired electrical and mechanical engineer has vehemently submitted that he has moved to the higher authorities of the Respondent BEST Undertaking for high consumption recorded by meter no. B115551 (electronic) as well as complaint of other meters affixed by removing the meter no. B115551. The grievance of the representative of the complainant for the Respondent BEST Undertaking has not solved his grievance although he approached the Respondent BEST Undertaking for the first time on 16/12/2013. He has further submitted that it was obligatory on the part of the Respondent BEST Undertaking to test the meter in his presence as well as to note down the readings of new meter fixed in place of old meter. We have gone through all the correspondence made by the complainant with the Respondent BEST Undertaking on the dates 16/12/13, 09/02/14, 11/03/14, 11/04/15, 26/05/14, 17/06/14, 16/07/14, 18/08/14, 19/09/14, 12/10/14, 17/11/14, 17/12/14, 19/01/15, 18/02/15 and onwards. Considering the period of grievance of the complainant and coupled with the fact of moving Annexure 'C' dtd. 15/03/2017, the question poses before us is whether this Forum can look into his grievance for the period dtd. 16/12/2013 to 19/01/2015 made by the complainant with the Respondent BEST Undertaking. On this point we have cautiously gone through the Regulation 6.6 of MERC (CGRF & EO), Regulation 2006 which runs as under.

“The Forum shall not admit any grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”

In Regulation 6.6 the word “shall not admit” has been mentioned and it indicates that the said provision is mandatory and not discretionary. In view of this regulation really the Forum could not entertain the grievance of the complainant for the period 16/12/2013 to 19/01/2015. One may say that the complainant has approached the Chief Engineer Customer Care on 16/12/2013 and he ought to have treated this application as Annexure ‘C’, but as per regulation the complainant is required to file the Annexure ‘C’ before IGR in prescribed proforma. It is not in the case of the complainant that no guidance has been given by the Respondent BEST Undertaking to him to move before IGR. Even if we say that the complainant had no knowledge about the regulation to move the grievance before IGR, he cannot plead the said defense of ignorance of regulation or law, otherwise everybody should plead the ignorance of law as a defense.

- 13.0 In view of this legal position we do not entertain the grievance of the complainant for the period from 16/12/2013 to 19/01/2015. In view of this aspect we do not wish to refer all the old correspondence done by the complainant since 16/12/2013 to 19/01/2015 as no purpose will be served as the Forum could not take the cognizance of this grievance.
- 14.0 We have gone through the grievance of the complainant dtd. 18/02/2015 by which he made grievance that meter no. J117017 was running fast and it was defective meter. His further grievance was that the Respondent BEST Undertaking’s officer brought EMCO meter to affix it in place of meter no. J117017 and he refused to sign on any paper regarding replacement of the meter. Again on 22/03/2015 the complainant filed application by giving reference of his earlier correspondence dtd. 18/02/2015 and submitted that replaced meter no. B143722 was affixed in his absence and therefore he will not agree that the reading recorded by the said meter. Thus the grievance of the complainant appears that for replacing the meter, the presence of the consumer was necessary for noting down the reading of replaced meter as well as noting down the reading of new affixed meter. In this point we have cautiously gone through the regulation and do not find any mandatory provision that meter should be tested / affixed in the presence of the consumer. We have gone through the Terms and Conditions of Supply in which clause 18 deals with “Meters and Meter Reading”.
- 15.0 We have gone through the MERC (Electricity Supply Code and Other Conditions of Supply) Regulation 2005 more particular Regulation 14 which deals with meters. The relevant provision finds in Regulation 14.4 regarding Testing and Maintenance of meter. Regulation 14.4.1 speaks that the Distribution Licensee shall be responsible for the periodic testing and maintenance of all the meters. Regulation 14.4.2 speaks about that the consumer may, upon payment of such testing charges as may be approved by the Commission under Regulation 18, request the Distribution Licensee to test the accuracy of the meter. Provided that the consumer may require the

Distribution Licensee to get the meter tested at such facility as may be approved by the Commission. The amended Regulation 14.4.2 speaks that the consumer may, upon payment of such testing charges as may be approved by the Commission under Regulation 18, request the Distribution Licensee to test the accuracy of the meter. Provided that the consumer may require the Distribution Licensee to get the meter tested at such facility as may be approved by the Commission. The Commission hereby notifies that all the meter testing laboratories, in India, which have been accredited by the 'National Accreditation Board for Testing and Calibration Laboratories' (NABL), set up by the Govt. of India, and whose accreditation remains valid at the time of the meter testing shall be considered as being on the list of the Testing Laboratories approved by the Commission. Providing a list of such laboratories to the concerned consumer, shall be the responsibility of the concerned Distribution Licensee.

- 16.0 In view of all these regulations, it appears that in routine course when a complaint is received by Distribution Licensee for high bill, it is for the Distribution Licensee to test it on the spot as well as in laboratory and to act upon the result of test report. If the consumer has made any request to test the meter then it is obligatory on the part of the Distribution Licensee to test the meter in his presence and for that the consumer must pay the testing charges. In the instant case the complainant has made grievance of high bill but had never made any request as per Regulation 14.4.2 to test the accuracy of the meter. The complainant without adopting the procedure laid down in above said regulation had only made capital that the meter was never tested before him likewise meter was not replaced and affixed in his presence. On this point we wish to observe that the act done by public servant during discharging of his official duty can be held as act done by him as per law unless contrary is proved.
- 17.0 In the instant case it is not the grievance of the complainant that the Respondent BEST Undertaking had any reason not to act as per regulation. The representative of the complainant has further submitted that in proforma testing report in last columns the consumer's signature is mentioned and therefore it is mandatory on the part of Distribution Licensee to test the meter in his presence. We do not find any substance in this submission as when the complainant makes the request for testing the meter in that case it is necessary to test the meter in his presence.
- 18.0 We have gone through the written statement filed by the Respondent BEST Undertaking and it appears that meter no. J110710 which was tested on site found to be fast by +5.63%. It further reveals that on 29/05/2014 the said meter J110710 was tested and it was found accurate within limit of accuracy. The said report is at Exhibit 'G'. It further reveals that the meter no. J110710 was replaced by new meter no. B143722. The Respondent BEST Undertaking has submitted that even after replacement of meter no. J110710, the consumer's new meter no. B143722 is also showing monthly average consumption 342 units per month. We have gone through the Meter Ledger Folio at Exhibit 'F' and found that the average consumption of replaced meter no. B 143722 is on equal footing of consumption recorded by J110710.

- 19.0 The complainant has submitted that the replaced meter no. B143722 is also recording high consumption. If the complainant had any grievance of high consumption recorded by meter no. B143722 then he has every right to move the application before Distribution Licensee and get tested the meter on payment of requisite charges. The meter no. B143722 was tested on spot and meter testing result was OK.
- 20.0 Having regard to the grievance of the complainant we think it just and proper to give an opportunity to the complainant to get tested the meter in the lab on payment of requisite charges with a view to remove doubt from the mind of the complainant for high bill. Thus the complaint deserves to be partly allowed as under.

ORDER

1. The complaint no. N-FN-326-2017 dtd. 11/08/2017 stands partly allowed.
2. The complainant is directed to deposit the testing charges of meter no. B143722 with Respondent BEST Undertaking as per MERC Regulation within 15 days from the date of receipt of order.
3. After depositing the testing charges, the Respondent BEST Undertaking should test the meter no. B143722 in presence of the complainant and to act upon the results of testing of said meter and to issue revised bill, if any in respect of consumption recorded by the said meter.
4. The Respondent BEST Undertaking is directed to comply the order within one month from the date of receipt of this order and compliance be reported within 15 days there from to the Forum.
5. Copies of this order be given to both the parties.

Sd/-

(Shri S.V. Fulpagare)
Member

Sd/-

(Shri V.G. Indrale)
Chairman