

**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-G(N)-220-2014 dtd. 03/02/2014**

Smt. Maneesha Milind Sabnis .....Complainant

V/S

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

**Present**

Chairman

Quorum : Shri R U Ingule, Chairman

Member

1. Shri M P Thakkar, Member
2. Shri S.M. Mohite , Member

On behalf of the Complainant : 1. Shri Rajesh Shah.

On behalf of the Respondent : 1. Shri S.S. Bansode, DECC(F/N)  
2. Shri Sushil Pawar, AMM CC(F/N).

Date of Hearing : 19/03/2014

Date of Order : 11/04/2014

**Judgment by Shri. R.U. Ingule, Chairman**

Smt. Maneesha Milind Sabnis, Room no. 5 & 6, Mata Niwas, Bldg. no. 23, Dr. M.B. Raut Road, Shivaji Park, Mumbai - 400 028 has come before the Forum for dispute regarding high bill in the month of June to September 2013 pertaining to A/c no. 625-261-027\*5.

**Complainant has submitted in brief as under :**

- 1.0 The complainant has approached to IGR Cell on 23/09/2013 for dispute regarding high bill in the month of June to September 2013 pertaining to A/c no. 625-261-027\*5. The complainant has approached to CGRF in schedule 'A' dtd.31/01/2014 (received by CGRF on 31/01/2014) the IGR Cell Distribution Licensee regarding her grievance. The complainant has requested the Forum to issue him correct bill and not to disconnect the electric supply till the order of the forum.

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

- 2.0 Earlier single phase meter no. G 840684 was installed for complainant's premises. The complainant had applied for extension of load vide requisition no. 70506516 dated 24 January 2005. The complainant's single phase meter was replaced by three meter no M038497 in the month February 2005.
- 3.0 This three meter no M038497 was installed at different place than it was proposed to be installed at the time of extension of load. Hence, the meter reader could not find the said meter on meter board and he brought the remark as "Not on Board "still the month June 2013.
- 4.0 In the month June 2013, there was some repairing work was in progress and coincidentally the meter cabin and meter box found open while meter reader was taking meter reading. The meter reader found, meter No M038497 installed in separate meter box adjacent to existing meter cabin and the key of this meter was not available to him at the time of taking meter reading by the complainant. The meter reader found meter reading as 91006 units.
- 5.0 In the month of complainant was billed for 91006 units recorded by the meter reader amounting to RS.9,25,055/- and the complainant took objection for the same.
- 6.0 It seems that, this act of the complainant of hiding the meter was of malafide intention. The complainant is well aware and consuming electricity but not providing key of meter cabin for meter reading. Thus, tried to escape from paying the liability of legitment electricity dues.

## REASONS

- 7.0 We have heard Shri Rajesh Shah for the complainant consumer and for the Respondent BEST Undertaking Shri S.S. Bansode, DECC(F/N) along with Shri Sushil Pawar, AMM CC(F/N). Perused plethora of documents placed before this Forum by either party to the litigation.
- 8.0 At the outset this Forum finds the indulgence of the complainant in resorting to a contrivance and artifice, to evade paying the legitimate electricity dues to the Respondent BEST Undertaking. This Forum finds an avalanche of objections raised before this Forum on behalf of the complainant consumer, in its lame and futile attempt to evade the legitimate electricity dues, claimed by the Respondent BEST Undertaking, that too, after a period of about 96 months.
- 9.0 While gleaning the grains from the enormous unsustainable objections raised by the complainant, this Forum finds that the complainant consumer has candidly admitted in its complaint that she is having flat no. 5 & 6, with which we are concerned in the instant complaint, on the 1<sup>st</sup> floor and on the same floor she is also having flat no, 7 & 8 wherein she has been staying. As such this Forum finds that it is the case of the complainant consumer that in respect of her flat no. 5 & 6 wherein the concerned meter no. M038479 was installed on 02/02/2005 and she has been issued with the electricity bill for '0' unit consumption right from beginning, however all of a sudden thereafter in the month of February 2013 for the first time, she has been served with a bill for 810 units consumption of Rs. 382.00 and thereafter for the month of March, April and May 2013 for the same and identical alleged unit consumption of 810 units. Thereafter to her surprise in the month of June 2013, she has been served with an alleged abnormal high electricity consumption of 91006 units, for Rs. 9,25,055.00, showing the last reading being '0'. This Forum finds that this bill for the month of June 2013 placed before us at Exhibit 'F' pg. 23 by the complainant, has triggered of the controversy, to be resolved in the instant complaint.
- 10.0 This Forum further observes that, admittedly for a huge period of 96 months i.e. from the month of February 2005, the complainant has been paying the electricity charges on its lowest possible level i.e. for '0' consumption of electricity unit. Thereafter for the first time in the month of February 2013, the complainant received the bill for consumption of 810 units which she paid, not only for the month of February 2013 but thereafter went on paying for the same consumption of unit of 810 for the month of March, April and May 2013.

- 11.0 In considered view of this Forum in an ordinary course, the consumer is expected to raise an objection as to why despite not consuming a single unit of electricity, she has been served with the electricity bill that too, for consumption of 810 units. However, as observed above admittedly the complainant consumer has paid the electricity bill that too for four months in a row without raising even any whisper and demur before the Respondent BEST Undertaking. As such when the complainant consumer found to be confronted with such adverse facts and circumstance, she came with unjustified plea that in the month of February 2013 she **'simply'** paid the charges for consumption of 810 units. In the next month again she paid electricity charges for 810 units under **'belief'** that such bill could be proper and correct. Thereafter also she received a bill for 810 units which she paid. However, she paid the same in **'good faith.'** Thereafter when she received the fourth bill for the month of May for same identical 810 units she **once again** paid the same in **'good faith.'**
- 12.0 An obvious question emanate from this admitted set of facts, as to why the complainant consumer went on paying electricity charges that too for same and identical and impracticable consumption of 810 units for four months in a row, when admittedly she was not staying in the concerned flat no. 5 & 6 and not consumed single unit. However to reiterate in her lame attempt to defend her, the complainant found to have taking a recourse to the terms like paying in **"belief and good faith"**. In consider view of this Forum this admitted set of facts certainly pierce the camouflage resorted to by the complainant viz she was not in occupation of the flat no. 5 & 6 and was not consuming any electricity at all.
- 13.0 Much hue and cry has been made by the representative Shri Rajesh Shah for the complainant, that after issuance of electricity bill for 810 units consumption for the aforesaid four months, thereafter the Respondent BEST Undertaking cannot alter the said consumption readings by showing the consumption being 17217, 17832, 19677 and 19062 units. The complainant further elaborated that thereafter the Respondent BEST Undertaking has served the electricity bill under consideration for the month of June 2013 placed on file before this Forum at Exhibit 'F', showing the last reading being '0' and the consumed electricity unit being 91006 and charging the complainant for Rs. 9,25,055.00. The complainant therefore vehemently submitted that in this manner the Respondent BEST Undertaking has been guilty of tampering with its own record.
- 14.0 In this context, the representative Shri S.S. Bansode, DECC(F/N) for the Respondent BEST Undertaking has strenuously urged that the documents placed on file at Exhibit H-4 by the complainant itself would show the falsity in the said contention raised by the complainant.

- 15.0 Shri S.S. Bansode, DECC(F/N) has submitted before this Forum that the Respondent BEST Undertaking in respect of its about 9.50 lacs consumers maintaining its record in regard to electricity units consumed by its consumer on individual basis in IT Dept. under in software programme called as “KLG System”. Therefore, the document referred to above at Exhibit H-4 placed before us by the complainant herself, manifests that since there was ‘0’ unit consumption under this KLG system the unit consumption has been shown as 810 for four months which admittedly paid by the complainant consumer. It is in the month of June 2013 by showing initial reading as ‘0’ unit, recorded unit consumption for the first time shown as 91006, accordingly the complainant has been served with electricity bill under consideration for the month of June 2013. It is thus crystal clear that by showing the initial reading as ‘0’, the Respondent BEST Undertaking has charged the complainant for the entire consumption of 91006 units as physically recorded by its Meter Reader. Now the Respondent BEST Undertaking was therefore under obligation to refund the electricity charges paid by the complainant for 810 units for these four months, which have not been physically recorded by the meter reader, but generated by the said “KLG” software programme. Shri S. S. Bansode (DECC (G/N). Further submitted that, therefore, under the said KLG electronic system as per the programme fed therein for the same month of June, for refunding such excess electricity charges received from the complainant, the reading has been shown as 17217, 35049, 54726 and 73788 for providing a data to the billing section for giving slab benefit on per day basis of during the billing period.
- 16.0 At this juncture, it is significant to observe that Shri S.S. Bansode for the Respondent BEST Undertaking has further submitted that the billing section has worked out the benefit to be remitted to the complainant consumer for giving her slab benefit right from the date of installation of the meter no. M038479 viz dtd. 02/02/2005. Accordingly, in the subsequent electricity bill such debit / credit worked out manually have been effected therein after verifying the same from its Audit Dept. This Forum thus finds that the complainant consumer has been charged for consumption of 91006 units for the entire period commencing from 02/02/2005 in the electricity bill for June 2013 and thereafter electricity charges paid in excess by the complainant consumer in the past period has been refunded along with giving her slabwise benefit to which she was entitled to, and ultimately the account of the complainant was debited with Rs. 5,73,417.65. The work sheet has been placed before this forum at Exhibit-F page No. 113. This Forum finds a merit in a said contention raised by Shri S.S. Bansode for the Respondent BEST Undertaking as there is cogent evidence placed before us in support of it. To conclude on this aspect we find the allegation made by the complainant that the Respondent BEST Undertaking has tampered with its record in order to victimize the complainant, devoid of any merit. We find no prejudice has been caused to the consumer complainant.

- 17.0 Now we turn to advert to another vital contention raised by the complainant consumer that for the last about 96 months, the flat no. 5 & 6 have not been occupied by her as on the same floor she has been staying in flat no. 7 & 8. Therefore she has not at all consumed 91006 units in the month of June 2013 and the Respondent BEST Undertaking has been wrongly contending that for the first time it has noticed and recorded such consumption of unit by the meter no. M038479, as for the first time the said meter came to the notice of its official coincidentally, as some of the repair work was going on nearby meter cabin and therefore the door of the meter box wherein meter no. 038479 installed, was open and therefore came to the notice of the Meter Reader.
- 18.0 In this connexion, this Forum finds that the photograph of the said meter box placed before us at Exhibit 'E' pg. 09 by the Respondent BEST Undertaking, manifests that the said meter box was under lock and key and there is no any indication or appearance that in the said wooden cabinet there could be any electricity meter. We further find that adjacent to this wooden box there has been a vertical wooden cabinet consisting of several electric meters installed therein and there is a clear indication on the said meter cabinet about the installation of such meters therein. However, this Forum does not find any such indication on the wooden cabinet wherein the meter under consideration has been installed. Besides it, we find a merit in the contention raised on behalf of the Respondent BEST Undertaking that it is highly unsustainable that the consumer like the complainant would go on paying even minimum charges of electricity for '0' units consumption for such a huge period of 96 months, when as per her contention she has not been staying therein. Besides it, without registering any protest or whisper, she has paid the charges for 810 units for four months. Therefore these admitted set of facts makes it clear that the complainant had every design and plan to conceal the meter no. M038479 in a wooden boxes under lock and key and went on enjoying payment of electricity charges for '0' unit consumption, that too, for about 8 years in a row. Thus, we find that complainant was very much occupying the premises viz flat no. 5 & 6 and same was not vacant at all as contended by her. On perusing the supporting documents placed before us referred to above, we uphold the said contention raised on behalf of the Respondent BEST Undertaking.
- 19.0 At this juncture, this Forum finds that the above contention raised by the Respondent BEST Undertaking further gets fortified and strengthen by perusing a bill served on the complainant for the month of September 2013 placed before us at Exhibit 'K' page no. 39 by the Respondent BEST Undertaking. A bare perusal of the same manifests that after month of June 2013 wherein consumption of unit has been recorded as 91006 units immediately thereafter in the month of July 2013 complainant has consumed 643 units and in the month of August 2013, 1092 units and thereafter in September 2013, 847 units. Thus it shows that from the month of June 2013 which has been in dispute, thereafter also the complainant has consumed the electricity through same meter no. M038479.

- 20.0 In our considered view bill for the month of September 2013 shatters the lame defense raised by the complainant consumer that she was not occupying the said premises viz. flat no. 5 & 6 as she was staying in the nearby flat no. 7 & 8 on the same floor. In this context representative Shri S. S. Bansode (DECC) for Respondent brought to our notice a vital aspect of the matter that consumption of 91006 units for 96 months, shows average monthly consumption by complainant being '948 units'. While average monthly consumption for the months of July, August and September 2013 comes to 861 units. These two monthly average consumption viz 948 units and 861 units squarely established that bills for the month of June, July , August and September 2013, are neither false, nor inflated one. We uphold the submission made on behalf of Respondent.
- 21.0 Now I turn to another contention raised by the representative Shri Rajesh Shah for the complainant that, the document placed on file by the Respondent BEST Undertaking at Exhibit 'C' pg. 93 gives a sketch drawn by the Investigation Inspector of the Respondent BEST Undertaking shows the presence of the cabinet wherein the meter under consideration viz. M038479 proposed to install. Therefore the Respondent BEST Undertaking was very well aware about the installation of the said meter in the said wooden cabinet. In this context, this Forum observes that the said sketch has been drawn by the Investigation Inspector that too in the year 2005. Besides it this Forum observes that the job of recording the reading is assigned to the 'meter Reader' and not to the 'Investigation Inspector', that too, if such meter is visible to the Meter Reader. To reiterate, the complainant found concealing the meter no. M038479 in wooden cabinet under lock and key, giving no indication even remotely, having such meter therein. This Forum further finds that there is certainly a lapse on the part of the Respondent BEST Undertaking not to find out the meter no. M038479 during such huge period of 96 months. However, such lapse on the part of the Respondent BEST Undertaking, in view of this Forum, has been bonafide one and therefore we cannot allow the complainant to take the undue advantage of the same and deprive the Respondent BEST Undertaking its legitimate revenue by taking such recourse to subterfuge.
- 22.0 The representative Shri Rajesh Shah has made further futile and abortive efforts to take recourse to 15.3.2 MERC Regulation. In view of this Forum, it is blatantly manifest in this regulation that the meter contemplated there in needs to be known and visible to the Meter Reader. The last but not the least contention raised by the representative Shri Rajesh Shah has been the electricity charges claimed by the Respondent BEST Undertaking has been barred by limitation provided u/s 56(2) of the Electricity Act, 2003. In this context, this Forum observes that Hon'ble Division Bench of the Bombay High Court in a case of *M/s Rototex Polyester v/s Administration, Administrator Dadra Nagar Haveli, Electricity Department, Silvassa (W.P. no. 7015/2008 order dtd. 20/08/2009)* has held that the electricity bill envisaged u/s 56/(2) becomes "*first due*" when a "*valid bill*" has been served on the consumer. The Hon'ble Bombay High Court has elaborated in this judgment that it is open to the

licensee to correct its electricity bill, if the same has been *under billed* due to clerical mistake of human error or such like mistakes. Therefore, in respect of serving a “*valid and revised bill*” the defense of bar of limitation, cannot be raised by the consumer. This Forum may observe at this juncture that this judgment of the Hon’ble Division Bench of Bombay High Court, has not been overruled by any other judgment of the superior court. Therefore, it holds the field and certainly advance the case of the Respondent BEST Undertaking.

- 23.0 In the aforesaid observation and discussion, we do not find any merit in the baseless and unsustainable contention raised by the complainant consumer. The complaint therefore needs to be dismissed. Accordingly, we do so.

**ORDER**

1. The complaint no. N-G(N)-220-2014 stands dismissed.
2. Copies be given to both the parties.

(Shri S.M. Mohite)  
Member

(Shri M P Thakkar)  
Member

(Shri R U Ingule)  
Chairman