

**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. S-A-330-2017 dtd. 28/08/2017**

Mr. Shashikant R. Salvi &  
Mr. Rashmikant R. Salvi .....Complainant

V/S

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

**Present**

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.V. Fulpagare, Member

On behalf of the Complainant : 1. Shri Shashikant R. Salvi  
2. Shri Vaibhav S. Salvi

On behalf of the Respondent : 1. Shri N.V Bhandari, DECC(A)  
2. Shri V.S. Khole, AECCA-1  
3. Shri M.A. Bhosale, Sup (P)

Date of Hearing : 12/10/2017

Date of Order : 27/10/2017

**Judgment by Shri. Vinayak G. Indrale, Chairman**

Mr. Shashikant R. Salvi & Mr. Rashmikant R. Salvi, 106, Shalaka, Opp. Cooperage, Ground, M.K. Road, Mumbai - 400 021 have come before the Forum for dispute regarding stopped meter no. L771486 during 1996 and thereafter demanding revise bill amounting to Rs. 86,174.00 towards defective meter amendment for the period 1996 to 1999 vide letter dtd. 09/12/1999 pertaining to A/c no. 300-475-165\*7.

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

The complainant has approached to IGR Cell on 07/04/2017 dispute regarding stopped meter no. L771486 during 1996 and thereafter demanding revise bill amounting to Rs. 86,174.00 towards defective meter amendment for the period 1996 to 1999 vide letter dtd. 09/12/1999 pertaining to A/c no. 300-475-165\*7. The complainant has approached to CGRF in schedule 'A' (received by CGRF on 23/08/2017) 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 Shri. Shashikant R. Salvi & Rashmikant R. Salvi came before the Forum regarding their grievance about stopped meter no. L771486 in 1996, demand notice of Rs. 86174/- towards defective meter amendment for the period 1996 to 1999 vide letter dtd. 09.12.1999 pertaining to A/c no. 300-475-165 and other billing / disconnection issues.
- 3.0 Electric supply was given to Shri R P Salvi for the premises under reference for residential purpose. During investigation consumer's meter L771486 found burnt. Meter number L771486 was replaced by meter number L830711 on 14/08/1999. On 19/04/2001, the consumer was served bill amounting to Rs 86,174.77 towards defective meter amendment for the period from 17/05/1996 to 14/08/1999.
- 4.0 The consumer did not pay this amount and approached Consumer Dispute Redressal Forum vide complaint no. 200/2003 on 14/08/2003 to redress his grievance. Hon'ble, Consumer Redressal Forum vide its Interim Order dtd. 26/08/2003 ordered the complainant, " to deposit Rs. 10,000/- with Opposite Party within 7 days from the date of this order and go on paying regular bills as per the power consumption or Rs. 2000/- per month whichever is less. The Opposite Party is hereby restrained from disconnecting the electric supply of complainants/ Applicants."
- 5.0 Consumer was paying Rs. 2000/- per month even though his monthly electric bill was very much on higher side i.e. 4000/- to Rs. 10,000/- per month. Thus the consumer was using more electric power but paying less.
- 6.0 The meter no. L830711 was tested at our laboratory at Wadala on 09/05/2007. As per O/T report accuracy of the meter was +3.29% (permissible limit is +3%).
- 7.0 Hon'ble Consumer Disputes Redressal Forum, South Mumbai has dismissed the complainant's complaint no. complaint no. 200/2003 dated 20/08/2003 on 05/03/2010 and the Interim Order dtd. 26/08/2003 is also set aside. Being aggrieved by this Order the complainant had filed an appeal before the Hon'ble, State Consumer Disputes Redressal Commission, Maharashtra, Mumbai. In the final Order of the State Consumer Disputes Redressal Commission, the appeal was partly allowed and Respondent BEST Undertaking was directed to issue a bill to the appellant ( Complainant) for the period from 15/07/1997 to 01/05/1998 and 01/05/1998 to 14/08/1999. As per order of the Hon'ble State Consumer Disputes Redressal Commission, the consumer was asked to pay outstanding claim of Rs. 23,309/- for the period 15/07/1997 to 01/05/1998 and Rs. 35870/- for the period 01/05/1998 to 14/08/1999. Total claim amounts to Rs 59,126/- He was also asked to pay the current bill upto July 2011 of Rs. 7,45,991/-.

However, the consumer did not comply the same and filed Writ Petition no. 663 of 2012 in the Hon`ble High Court, Mumbai on 09/02/2012.

- 8.0 On 02.04.2012 the consumers' representative approached to the GM, BEST and requested him to test the meter number. M060737 which was removed by BEST in their presence. The meter number M060737 was tested on 09/04/2012 at Wadala Meters Dept. Lab which was witnessed by the consumers' representative Shri. S. R. Salvi. The meter was found correct in accuracy and the same Test Report was acknowledged by him.
- 9.0 On 17.04.2012 consumer's representative Shri. S.R.Salvi approached to GM BEST and requested him to consider matter sympathetically and waive the interest charges and delayed payment charges since Jan 2002, allow him to make the payment in installments and to restore the electric supply and agreed to withdraw the Writ Petition no 663 of 2012 which is filed by him in the High Court, Mumbai by mutually agreed terms and conditions.
- 10.0 By considering his request, delayed payment charges of Rs. 90,602.47 for the period from January 2002 to Sept. 2006 was waived and told him that the delayed payment charges and interest on arrears from October 2006 to April 2012 could not be waived as there is no provision in the schedule of Electricity Tariff approved by MERC.
- 11.0 The same was informed to the consumer vide letter CCA/DECC'A'/AECC'A'/35392/2012 dtd. 15.06.2012 and requested him to pay electricity bill amount of Rs. 7,24,683.91 upto April 2012 in two installments. and to pay the claim amount of Rs. 59,179/- calculated as per order of State Consumer Disputes Redressal Commission. He was also requested to withdraw the Writ Petition No. 663 of 2012 filed by him in the High Court, Mumbai. The complainant did not agree and continued with the Writ Petition in the High Court.
- 12.0 During the course of hearing in High Court Mumbai, the chairman Shalaka Sangh Co-Op Hsg. Society submitted an affidavit to the court in which it was mentioned that temporary electric supply was given to the complainant premises as per his request letter dated 01/07/2010 on humanitarian grounds through general meter of society. The same temporary electric supply was disconnected on 03/02/2012 as it attracts unauthorised extension of electric supply as per section of 126 of Electricity Act 2003. The Hon'ble court was informed during hearing that, the total outstanding amount payable was Rs. 10,56,530.31.as on August 2012 including the penalty for unauthorised extension of electric supply Rs. 1,50,355.46/- and only after payment of this amount the electric supply of the complainant can be restored. The Hon'ble court has suggested that the petitioner will deposit Rs. 9,06,194.85 and furnish security of Rs. 1,50,335.46 and for that the electricity will be reconnected.
- 13.0 Writ Petition no. 663 of 2012 was disposed by Hon'ble High Court, Mumbai on 29/07/2013 and directed the petitioner to avail the remedy under Section 42 of the Electricity Act - 2003 and also opined that it is not possible to consider the disputed questions regarding the amount payable for the electricity consumed.
- 14.0 Instead of availing the remedy under Sec. 42 of the Electricity Act-2003 the complainant had approached to MLA Hon.ble Shri Pratap Sarnaik and Hon. BEST Committee Member Shri Suhas Samant for redressal of his grievance. Accordingly, the meeting was convened in the chamber of Chairman BEST Committee on 11<sup>th</sup> March 2015, it was attended by Shri Sarnaik, Shri Samant AGM(ES), AECCA-I and compliant.

The case was explained by BEST officers in this meeting and a the complainant was explained about the circumstances and facts in the case vide letter dtd. 24<sup>th</sup> March 2015. He was requested to pay Rs. 12,87,774.46/- which includes penalty charge of Rs. 1,50,335.46 as per section 126 of Electricity Act 2003 for unauthorized use of electricity during the period from 1<sup>st</sup> July 2010 to 3<sup>rd</sup> Feb. 2012.

- 15.0 The complainant did not pay this amount and approached Hon. Energy Minister, Govt. of Maharashtra for redressal of his grievance. On 30/03/2015, a meeting was held at Mantralaya with Hon'ble Energy Ministry Shri Bavankule and Hon.ble MLA Shri Pratap Sarnaik, the complainant and representative of the BEST. On the behalf of BEST meeting was attended by CECC, DCECC(S) & DECC(A). As decided in the meeting electric supply was given to the complainant's premises through prepaid meter on 10<sup>th</sup> April 2015 after the approval of GM BEST and completion of the necessary procedure for installation of prepaid electricity meter at the residence till the disposal of his grievance.
- 16.0 The complainant did not approach BEST's grievance redressal mechanism under Sec. 42 of Electricity Act 2003, as directed by Hon. High Court in its order dtd. 23<sup>rd</sup> June 2013 as decided in the meeting. Letters were sent on dtd 04\06\2015, 30\07\2015 & 05\07\2016 to Mr. Salvi to approach BEST's grievance redressal mechanism under Sec. 42 of Electricity Act 2003, as directed by Hon. High Court in its order dtd. 29.07.2013. However, consumer did not approach.
- 17.0 After installation of prepaid meter on 10/04/2015 and lapse of two years, the consumer finally approached IGR Cell BEST in Annexure `C` form on dtd. 07/04/2017 and was replied vide our letter dtd. 06/06/2017. Hence, consumer approached Consumer Grievance Redressal Forum on 23.08.2017 to redress his grievance.

### REASONS

- 18.0 We have heard the arguments of Shri Vaibhav S. Salvi representative of the complainant and for the Respondent BEST Undertaking Shri N.V Bhandari, DECC(A), Shri V.S. Khole, AECCA-1 and Shri M.A. Bhosale, Sup (P). Perused the documents filed by the complainant along with Schedule 'A' and written statement filed by the Respondent BEST Undertaking along with documents at Exhibit 'A' to 'W'.
- 19.0 After going through the documents filed by the complainant along with Schedule 'A, i.e. documents, more particularly copy of judgment in the complaint no. SMF/MUM/200/2003, as well as copy of the judgment in first appeal no. A/10/416 and copy of order passed by Hon'ble High Court in W.P. no. 663 of 2012. It is crystal clear that the complainant has already approached the consumer court who has dismissed the complaint on 05/03/2010 against this order, the complainant preferred first appeal no. A/10/416 which has been partly allowed and there after he again approached the Hon'ble High Court in W.P. 663 of 2012 and Hon'ble High Court has directed the complainant to avail the remedy u/s 42 of Electricity Act, 2003, accordingly the Writ has been disposed off on 29/07/2013. While disposing of the Writ, the Hon'ble High Court had observed that it is not possible in the Writ Petition to consider the disputed question regarding the amount payable for the electricity

consumed. The demands have been made for three periods starting from 15/07/1997 and ending with 23/06/2010.

- 20.0 Having regard to the above said documents we think it just and proper to refer Schedule 'A' filed by the complainant before us. In Schedule 'A' it has been mentioned that his complaint is for faulty meters, wrong billing, illegal disconnection, hiding / sealing / destroying evidence, theft of meter by forcefully opening meter room, tampering of meters and compensation for making them to sit in dark. In Schedule 'A' it has been also mentioned that during the period 1996-99 the complainant had verbally made the complaint. The complainant along with Schedule 'A' has filed detailed complaint and thereby objected the action of the Respondent BEST Undertaking demanding an amount of Rs. 86,174.00 as electricity charges for the period from 1996 to 1999. In the said complaint there is reference of order passed by State Consumer Forum in appeal. In the said complaint it has been specifically mentioned that in the year 2013, the Hon'ble High Court directed them to avail the remedy as per Section 42 of Electricity Act, 2003. It is further submitted in the complaint that the complainant had meeting with the Hon'ble Energy Minister on 30/05/2015 and thereby temporary prepaid meter has been affixed to the premises of the complainant. In the complaint it has been stated that on 09/01/2017, the Respondent BEST Undertaking issued disconnection letter. After going through the complaint, it appears that the complainant has grievances about the meters affixed in his premises and action of the Respondent BEST Undertaking for removing the faulty meter and assessing the electricity charges on the basis of average meter reading. All these things had been accrued in between the period of 1999-2013. It is pertinent to note here that, in the complaint there is no whisper as to why the complainant has not approached the IGRC / CGRF as per the directions given by the Hon'ble High Court in W.P. no. 663 of 2012 which has been disposed off on 29/07/2013.
- 21.0 It appears that the complainant from time to time on 28/04/2001 filed the complaint before the Consumer Dept. about the faulty meters and removal of meters from the premises. It appears that after removing the meter by the Respondent BEST Undertaking the complainant had obtained the electricity connection from the general meter of the society and thereby action u/s 126 of Electricity Act, 2003 has been taken against him. The complainant did not make any grievance in that regard. Considering the dispute raised by the complainant since the year 1999, it appears that at that time Electricity Act, 1910 was in force. The Electricity Act has been came into force in 2003 and in view of section 42 of Electricity Act, 2003, the CGRF has been established and under the provisions of sub-section (r) & (s) of section 181 read with sub-section 5 to 7 of section 42 of Electricity Act, 2003, the MERC formed regulations which came into force as MERC (CGRF & EO) Regulations, 2003 on 10/12/2003 and same has been replaced by MERC (CGRF & EO), Regulation, 2006. These regulations are having binding force of law as per section 181 of Electricity Act, 2003. Generally and normally, if any act has came into force, it has been given effect from the date of publication of the said act. In Electricity Act, 2003 there is no clause / provision in respect of giving effect of the provision of the said act retrospectively. In the absence of such specific provision, the Electricity Act, 2003 is required to be applied

prospectively i.e. from the date on which the Central Government published the gazette. The date of publication of gazette is 02/06/2003 so Electricity Act came into effect since 02/06/2003. On this point we rely upon ruling in between **BEST v/s Rahath Silk Mills & Othrs in W.P. no. 2421/2006** of the Hon'ble High Court decided on 14/09/2007, it has been observed that provisions of Electricity Act are having prospective effect.

- 22.0 We think it just and proper to reproduce Regulation 6.6 of MERC (CGRF & EO) Regulation, 2006. *“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 this regulation the word *“shall”* has been used and therefore it is mandatory and not discretionary. Considering this regulation, it is for the complainant to move the grievance before the Forum within two years from the date of cause of action arisen. In the instant case, the cause of action arisen for the complainant in the year 2001 when the demand notice of Rs. 86,174.00 for the disputed period 1996-99 was issued to the complainant. At that time there was no regulation as Electricity Act has come into force on 02/06/2003. As we have already observed that the provisions of Electricity Act and MERC Regulation are not having retrospective effect and they are having prospective effect therefore at least it was expected from the complainant to raise the grievance within two years from 02/06/2003 when Electricity Act came into force. That has not been done by the complainant. Even if we presume that the Hon'ble High Court has directed the complainant to avail the remedy under section 42 of Electricity Act, 2003 on 29/07/2013, we observe that the complainant was expected to approach the Forum within a period of two years when MERC (CGRF & EO), Regulation 2003 came into force on 10/12/2003 and thereafter amended on 20/04/2006.
- 23.0 In view of the directions of the Hon'ble High Court, the period of limitation can be extended and it will commence from 29/07/2013. Thus it was expected from the complainant to approach the IGRC / CGRF within a period of two years from 29/07/2013, that has not done by the complainant. It is pertinent to note that for the first time the complainant approached IGRC in Annexure 'C' on 07/04/2017 and then approached the CGRF on 23/08/2017. Best reason known to the complainant as to why he has dragged the matter and tried to approach the higher authorities of BEST Undertaking instead of approaching for the remedy as provided under MERC Regulation.
- 24.0 We wish to observe that Regulation 6.6 has been framed with an object that the grievance of the complainant must be disposed off speedily on the basis of availability of the documents. The period of limitation extinguishes rights of the parties to approach for the remedy. If there is no period of limitation then there will be no end to the litigation. Considering this aspect, we do not wish to enter into the controversy as agitated by the complainant in the instant case which is for the period from 1999 to 2010 as the grievance which has been filed by the complainant is beyond the period of two years from the date on which cause of action has been arisen or from the date 29/07/2013 or when the Hon'ble High Court directed the complainant to avail remedy

under section 42 of Electricity Act, 2003. The Regulation 6.6 of MERC (CGRF & EO) Regulation, 2006 restrain us from entering into the grievance raised by the complainant.

- 25.0 Before parting to pass the final order, we wish to observe that in present electricity bill, the Respondent BEST Undertaking has not debited the amount of Rs. 86,174.00 as demand bill issued in the year 2001 as well as not debited the amount which has been levied as penalty under section 126 of Electricity Act, 2003. It reveals that the Respondent BEST Undertaking has shown readiness to exempt the DPC and interest to the extent of near about Rs. 90,602.47, thus considering the nature of dispute, it is for the complainant to pay the electricity dues as it reveals that he has only paid the electricity charges of Rs. 2,000.00 per month although he has consumed electricity charges more than Rs. 2,000.00. This is the reason for increasing the bill by charging DPC and interest. It appears that at present the total electricity bill is of Rs. 13,17,980.00 was due towards the complainant as on August 2017.
- 26.0 Having regard to the above said reason we arrive at the conclusion that the grievance raised by the complainant is beyond the period of two years as per Regulation 6.6 of MERC (CGRF & EO), 2006, therefore the complaint deserves to be dismissed. In result we pass the following order.

**ORDER**

1. The complaint no. S-A-330-2017 dtd. 28/08/2017 stands dismissed.
2. Copies of this order be given to both the parties.

Sd/-  
(Shri S.V. Fulpagare)  
**Member**

Sd/-  
(Shri V.G. Indrale)  
**Chairman**