

		Date	Month	Year
1	Date of Receipt	15	01	2021
2	Date of Registration	19	01	2021
3	Decided on	16	03	2121
4	Duration of proceeding	56 days		
5	Delay, if any.	No		

**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 NoN-FN-420-2021dtd. 19/01/2021**

Shri Jigar B. Saiya

.....Complainant

V/S

B.E.S.&T. Undertaking

.....Respondent

**Present**

**Chairman**

Coram :

Shri S.A. Quazi, Chairman

**Member**

1. Shri R.B. Patil, Member

On behalf of the Respondent : 1. Smt. Asha Padmanabhan

On behalf of the Complainant : 1. Shri Davinder Singh Sudan

Date of Hearing : 22/02/2021

Date of Order : 16/03/201

### Judgment

- 1.0 The complainant Shri Jigar Saiya has filed this complaint and has requested to direct the Respondent to refund the amount of Rs.56,883.70 paid by him to the Respondent under protest. The complainant has also requested to grant interest and compensation on the said amount.
- 2.0 The case of the complainant may be stated as under :
- a) The complainant has purchased the premises in question in the auction sale conducted by the lending bank of the earlier occupier. The earlier occupier was Shri Tejal Rupji. He had electric connection under a/c no. 597-128-015 on the said premises. However, that connection was removed already prior to the purchase of the premises by the complainant. Therefore, the complainant applied the Respondent for giving electric supply vide his requisition no. 452517 dtd. 23/10/2020. In this process, the Respondent's department issued the bill of arrears amounting to Rs. 56,883.70 to the complainant and asked him to first pay it. Thus the payment of this amount of outstanding had become condition precedent for giving electric connection to the complainant. The complainant issued protest letter dtd. 03/11/2020 to the Respondent. However, there was no reply from the Respondent to this letter. Because the complainant was in need of the electric supply without delay, he made payment of the aforesaid alleged outstanding amount under protest. Thereafter, the Respondent gave electric connection to the complainant on the said premises vide new a/c no. 597-128-008. First bill on this account was issued in the month of January 2021.
- b) After having the electric connection as above, the complainant persuaded the Respondent that being the purchaser of the premises, he was not liable to pay the arrears of electric supply pertaining to the earlier occupier / owner. In this regard the complainant has referred to the Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply), Regulations 2005. In the instant complaint, he has also referred to the order passed by this Forum in case no. N-FN-166-2012 dtd. 04/09/2012 and N-FN-191-2013 dtd. 15/04/2013. However, copies of these orders have not been produced by the complainant with the complaint nor the same have been produced at the time of hearing the submissions of the parties.
- c) The complainant had approached the IGRC but no remedy has been provided by that cell. Being aggrieved, the complainant has approached to this Forum with the aforesaid complaint and requested to grant the relief.
- 3.0 The Respondent has filed reply to the aforesaid complaint before this Forum. The case put forth by the respondent may be summarised as in the following sub para:-
- a) It is not disputed by the respondent that the earlier occupier Shri Tejal Rupji was being supplied electricity under the account number 579-128-015 on the aforesaid premises namely room number 703, 7th floor, plot number 117, Ashirwad, Hindu

Colony Dadar (E), Mumbai 400014. According to the Respondent, the earlier occupier was in arrears of the electric bills. Last payment made by him was Rs. 3,000.00 against the total outstanding amount of Rs. 75,403.00 on 22/08/2017. On 03/09/2019 the meter, through which the supply was given to the earlier occupier Shri Tejal Rupji, was removed from the premises for non-payment of the electricity bills. Meter Removal ID is placed at Exhibit 'C' with this reply of the Respondent. Prior to the meter removal, the outstanding as on August 2019 was Rs. 56,189.86. This amount was in consequences of credit of Rs. 40,875.19 given to the earlier occupier in the billing month of December 2018 towards the wrong reading in the earlier months. In this regard, the Respondent has relied on copy of billing ledger which is placed at Exhibit 'D' alongwith this reply.

- b) The Respondent has admitted that the present complainant Shri Jigar Saiya purchased the said premises in auction from Bank Of India. After having purchased as above, the complainant applied to the Respondent for electric supply. He paid arrears of bill under protest on 11/02/2020. Resultantly on 23/11/2020, the complainant was allotted new a/c no. 597-128-008 and thus connection was given to the complainant and his first bill in respect of this connection was for January 2021.
- c) However, on 09/11/2020 the complainant requested under Annexure 'C' to IGRC for refunding him the payment of Rs. 56,883.70 made by him under protest as described earlier. This complaint was inadvertently registered as General Complaint and the application was not replied normally under Annexure 'C' by IGRC. However, the fact remains that complainant was asked to clear outstanding of previous consumer in accordance with the Sale Certificate dtd. 12/10/2020. Not being satisfied with the remedy provided by the Respondent in respect of the matter, the complainant has approached this Forum for Redressal of his grievance.
- d) In reply to the grievance raised by the complainant before this Forum, the Respondent has further submitted that period after disconnection of earlier electric supply, pertaining to the a/c no. 597-128-015, to complainant's application for connection, was more than 6 months and the earlier account was closed being without meter. Therefore, the application of the present consumer, Shri Jigar Saiya for reconnection of electric supply dtd. 23/10/2020 was treated as fresh application and not as case of change of name. Monthly bills were continuously being generated in respect of the earlier consumer's account till the generation of final bill on 13/02/2020, hence according to the Respondent it is not the case where erstwhile consumer was billed but subsequently shown as recoverable.
- e) Referring to the references made by the complainant to the earlier CGRF's orders dtd. 04/09/2012 and 15/04/2013 in his complaint, the Respondent has submitted that these orders cannot be referred for the present case as the complainant has taken all the responsibilities of the encumbrance on the premises as per the terms and conditions of the Sale Certificate dtd. 12/10/2020, under which the complainant has purchased the said premises in auction. These encumbrances are related to all Taxes,

Cess, Municipal Charges etc. payable earlier, present and future on the secured property i.e. present premises.

- f) The Respondent further submits that as per declaration / undertaking given by the applicant while applying for new electricity connection on 23/10/2020 under Annexure-II, the applicant is required to confirm that there are no arrears towards energy or related charges, outstanding on said premises. The applicant has assured therein that in the event of aforesaid declaration / undertaking given by him if found false, he shall pay such amount on demand in respect of the pre-existing liability. In view of these circumstances, the complainant is liable to pay the arrears pertaining to the earlier account of aforesaid premises.
- g) Mentioning all the aforesaid circumstances, the Respondent has submitted that the complaint is liable to be dismissed.

4.0 We have heard the submissions made by the parties before us in support of their respective claims. The complainant's representative Shri Davinder Sudan Singh has relied on the Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply), Regulations 2005 and has also relied on and produced copies of order passed by CGRF Kalyan Zone of Mumbai, of Mahavitaran in complaint no. K/N/158/1888 of 2019-20 dtd. 04/06/2019 and K/E/150/1767 of 2018-19 dtd. 16/01/2019 in support of his contention that in the circumstances of the instant case the complainant is not liable to pay the arrears. He has also submitted that the complainant is entitled to get refund of the aforesaid amount with interest and compensation, as the complainant has paid to his representative to represent him before this Forum. However, subsequently he has submitted that said payment was only in respect of preparation of draft applications and copies etc. and not as fees.

- a) On the other hand the learned representative of the Respondent, Smt. Asha Padmanabhan has submitted that Regulation 6.10 of MERC (Standard of Performance of Distribution Licensees, Period of giving supply and determination of compensation), Regulations 2014 provides that reconnection of supply following disconnection due to non-payment of bills can be only on payment of the entire arrears, and where the period of disconnection exceeds 6 months, the application for reconnection has to be treated as a fresh one for supply of electricity and supply can be given on demand of the amount due and settlement of the disputes. In this regard, the representative of the Respondent has produced copy of order dtd. 25/06/2020 passed by Maharashtra Electricity Ombudsman in the case bearing Representation No. 30 of 2020 in which the aforesaid provision of Regulation 6.10 was relied on to hold that transferee has responsibility of the arrears and dues pertaining to the premises and has to bear and pay the arrears and Section 56(2) of Electricity Act, 2003 does not preclude the recovery of arrears when the dues are continuously demanded till disconnection. Thus it is submitted by the representative of the Respondent that the complaint has no merits and it is liable to be dismissed.

5.0 We have heard the submissions of parties and noted their submissions as above. In view of the above submissions of the parties and case pleaded by them, 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 complainant is liable to pay the arrears pertaining to his predecessor consumer in case of auction purchase of the premises by complainant ?	Yes, to the extent of maximum period of 6 months as provided in Regulation 10.5 of MERC ( Electricity Supply Code and Other Conditions of Supply), Regulations 2005
2	Whether the complainant entitled for refund and if yes, to what relief he is entitled ?	He is entitled for refunds as per the operative order being passed herein below.

6.0 We record reasons for aforesaid findings as under :

- a) Admittedly the premises was earlier occupied by earlier consumer Shri Tejal Rupji. He was provided the electricity under a/c no. 597-128-015. It is not disputed that he was in arrears of electricity bill as per the allegations of the Respondent for non-payment the supply was disconnected. The said Shri Tejal Rupji had lastly paid Rs. 3,000.00 against the total outstanding of Rs. 75,403.00. According to the Respondent, credit of Rs. 40,875.19 was given to him on account of certain wrong readings in the earlier months. After such credit was given, the amount of Rs. 56,189.86 was due pertaining to the said a/c 597-128-015 of the earlier consumer Shri Tejal Rupji. It is also not disputed that on 03/09/2019 the meter was removed pertaining to the said earlier consumer's account number for non-payment of the aforesaid dues of electricity. Thereafter, the complainant purchased the said premises in the auction from Bank Of India. Then he made application to the Respondent for electric supply. The Respondent admittedly demanded him to pay arrears of Rs. 56,883.70. The complainant purchased it but as he was in need of electricity he made the payment of said amount under protest. Thereafter, the electricity connection was given to the complainant on the said premises. Then the complainant started making complaint to the Customer Care Ward and then he applied to IGRC and requested to refund the said amount of Rs. 56,883.70, as according to him, he is not liable to pay the said amount being arrears of earlier consumer.

- b) On considering the submission of the parties in the aforesaid facts and circumstances of the case, we find that Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply), Regulations 2005 is applicable. The said Regulation provides as under :

*Regulation :- 10.5*

*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:*

*Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.*

From the aforesaid Regulation it may be noted that the proviso provides that except in the case of transfer of connection to legal heir the liabilities transferred under the Regulation 10.5 shall be restricted to maximum period of 6 months of unpaid charges of electricity supply to such premises. In the instant case admittedly the present complainant has purchased the premises in auction and case of the Respondent is that there are dues pertaining to the electricity bills regarding aforesaid premises. The said amount is Rs. 56,883.70 which has been paid admittedly by the complainant under protest when his application for reconnection to the premises was under consideration by the Respondent. The reply filed by the Respondent before this Forum does not specify month-wise arrears of the dues. The reply of the Respondent shows that the last payment made by the earlier consumer was on 22/08/2017 to the tune of Rs. 3,000.00 against outstanding of Rs. 75,403.00. Then some dispute about wrong reading was raised and it was determined by the Respondent by giving credit of Rs. 40,875.19 and thus in the billing month of December 2018 the credit was given and dues were shown as Rs. 56,189.86. As the said amount was not paid, on 03/09/2019 the meter was removed from the premises pertaining to the earlier a/c no. 597-128-015. Then, by Sale Certificate dtd. 12/10/2020, the complainant purchased the premises under auction from Bank Of India. He then made an application for reconnection on 23/10/2020 and he made the payment of dues under protest on 03/11/2020 and then he was allotted new connection on 23/11/2020.

- c) In such circumstances, if the provisions of aforesaid Regulation 10.5 are to be applied, it will have to be seen that the complainant would be liable to pay the arrears of maximum period of 6 months of the unpaid charges of the electricity supplied to the said premises. If it is so, then we think that the aforesaid provision may be interpreted in a way that for the arrears pertaining to consumption and other charges occurred

during the last 6 months' period prior to the removal of the meter, the new purchaser/transferee of the premises would be liable and to this extent only he is liable. Thus the complainant of the instant case is liable to pay the arrears to this extent only. Considering this conclusion on the interpretation of above provisions of Reg.10.5, it is relevant to examine the documents on record. On perusal of the documents produced by the Respondent, it appears that 6 months preceding the disconnection of the meter starts from billing month March 2019 and ends on 3.9.2019. From the bill for the billing month March 2019 to 03/09/2019 the consumer was charged for '0' units consumption, except in one bill consumption of only 4 units. Therefore, the Respondent is entitled to recover the charges for the said 4 units and fixed charges along with statutory taxes from the billing month of March 2019 to the removal of the meter i.e. 03/09/2019.

- d) The complainant's representative has submitted that the complainant is entitled for interest and compensation on the amount to be refunded to the complainant under this order. The complainant's representative has submitted that the complainant has paid certain amount to the Representative for presenting this case before the Forum. However, immediately thereafter he stated that the said amount was only for the preparation of copies and documents and not as professional fees for his representation. Considering that the Respondent's officer appears to have asked the complainant to pay the arrears of Rs. 56,883.70 under bonafide impression that the Respondent is entitled to recover such arrears under law. Such impression of the officials of the Respondent appears to be based on incorrect interpretation of provision of law and therefore we do not find that complainant is entitled for any interest and compensation as requested by the complainant on the amount to be refunded to the complaint as per directions being given in this order.
- e) In view of the aforesaid discussion, we observe that the reliance placed by the representative of the complainant on the orders in the cases mentioned in para 4 herein above and the reliance placed by the representative of the respondent on the decision of the Electricity Ombudsman in case of no. 30/2020 dtd. 25/06/2020 are not relevant. We also hold that the complainant is liable to pay the arrears to the extent as bills for only six months preceding the removal of earlier meter as Observed here in earlier. However, he is entitled for refund of the amount paid by him under protest after reduction of above described dues. Accordingly, we have recorded our findings on point 1, and 2 and we proceed to pass the following order.

#### **ORDER**

1. The grievance no. N-FN-420-2021 dtd. 19/01/2021 stands allowed in following terms.
2. The Respondent is directed to revise the bills pertaining to the old a/c no. 597-128-015 and charge the complainant for 6 months preceding removal of the meter as observed in this order herein earlier.

3. The said recoverable amount of dues as per clause (2) be deducted from the amount of Rs. 56,883.70 and the remaining amount be refunded to the complainant without interest.
4. The Respondent is directed to comply with these directions within one month from the date of receipt of this order.
5. Copies of this order be given to all the concerned parties.

Sd/-  
(Shri. R. B. Patil)  
**Member**

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