

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

Representation No. N-E-358-2018 dtd. 11/06/2018

Shri Anwar Habibulla Khan (2)Complainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.V. Fulpagare, Member
2. Dr M.S. Kamath, Member, CPO

On behalf of the Respondent : 1. Shri S.D. Suryawanshi, A.E.
2. Smt P.V. Sutar, AAM(E)

On behalf of the Complainant : 1. Shri Anwar H. Khan
2. Shri Saqib Khan

Date of Hearing : 02/08/2018

Date of Order : 03/08/2018

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Anwar Habibulla Khan, 1 to 4, grd. Flr., 97/G Mamsa Estate, Morland Road, Mumbai - 400 008 has come before the Forum for dispute regarding notice served for debiting outstanding amount of Rs. 1,38,991 pertaining to a/c no. 546-210-033 and outstanding amount of Rs. 3,98,994 pertaining to a/c no. 546-210-041 into a/c 546-210-035 of Shri Azimulla Tafazulkhan.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 03/04/2018 dispute regarding notice served for debiting outstanding amount of Rs. 1,38,991 pertaining to a/c no. 546-210-033 and outstanding amount of Rs. 3,98,994 pertaining to a/c no. 546-210-041 into a/c 546-210-035. The complainant has approached to CGRF in schedule 'A' dtd. 29/05/2018 received by CGRF on 07/06/2018 as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee on his grievance.

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

- 1.0 Shri Anwar Habibulla Khan came before the Forum regarding his dispute about serving notice for debiting outstanding amount of Rs. 1,38,991 pertaining to Shri Haji Aamir Ali, who was old occupier of the premises pertaining to a/c no. 546-210-033 and outstanding amount of Rs. 3,98,994 pertaining to Limra Enterprises, who was old occupier of the premises pertaining to a/c no. 546-210-041. He further requested to cancel the outstanding bills and not to debit the outstanding amount in his current bill no. 546-210-035.
- 2.0 Electric supply was given to the premises under reference in the name Shri Haji Aamir Ali from 03/01/2002 under a/c no. 546-210-033. This meter was removed for non-payment of electricity dues of Rs. 51,987.05 on 05/09/2008. This outstanding amount has increased to Rs. 1,44,730.00 due to levy of penalty charges and interest on arrears as on July 2018.
- 3.0 Later on electric supply was given to the premises under reference in the name of Limra Enterprises from 02/06/2007 under a/c no. 546-210-041. This meter was removed for non-payment of electricity dues of Rs. 1,60,661.93 on 31/03/2010. This outstanding amount has increased to Rs. 4,17,240.00 due to levy of penalty charges and interest on arrears as on July 2018.
- 4.0 Then, electric supply has given to the premises under reference in the name of the complainant under a/c no. 546-210-035. During site inspection on 10/02/2018, it was observed that gala in this area is reshuffled and new premises was created and electric supply was obtained by the complainant.
- 5.0 As per our record premises of a/c no. 546-210-033, 546-210-041 and 546-210-035 having same address and owned by the complainant, hence the complainant is liable to pay the same.

REASONS

- 1.0 We have heard the argument of Shri Saqib Khan, representative of the complainant Shri Anwar Khan and for the Respondent BEST Undertaking Shri S.D. Suryawanshi, A.E. and Smt P.V. Sutar, AAM(E). Perused the documents filed by either parties to the proceeding. We have perused the written statement filed by the Respondent BEST Undertaking marked as Exhibit 'B'. We have cautiously gone through the said written statement and it is not out of place to say that the written statement is filed in very casual manner without disclosing the facts as well as without taking any objection regarding tenability of the complainant. This approach on the part of Shri A.V. Naik,

DECC(E) who has signed the written statement appears to be very casual. Even written statement does not depict as to how reconnection was given or meter was installed in the name of Shri Azimulla Tafazulkhan. We are saying so because the electric bill for the month of July 2018 is in the name of Shri Azimulla Tafazulkhan likewise notice of demanding outstanding dues is also in the name of Shri Azimulla Tafazulkhan. If this would be the case then certainly it was obligatory on the part of the Respondent BEST Undertaking's officer to see as to how and in what way the so called complainant Shri Anwar H. Khan has right to move the complaint before IGR Cell as well as before the Forum.

2.0 The representative of the complainant has vehemently submitted that the action of the Respondent BEST Undertaking claiming outstanding dues by notice dtd. 13/03/2018 issued to Shri Azimulla Tafazulkhan is illegal as well as barred by limitation. While hearing the argument we requested the representative of the Respondent BEST Undertaking as to when the notice for outstanding has been issued to Shri Azimulla Tafazulkhan then how this complainant Shri Anwar H. Khan has right to file the complaint. He was unable to explain on this point, on the contrary the so called complainant Shri Anwar H. Khan submitted that Shri Azimulla Tafazulkhan is not alive and he is dead in the year 1985. We have gone through the attachment in Schedule 'A' in which the complainant has stated that he is tenant and occupant of the premises using electric supply through meter no. N177642 and paying the bills regularly. The question poses before us is when the said Shri Azimulla Tafazulkhan died in the year 1985 then why steps have not been taken to get the meter transfer in the name of the complainant. It appears that in order to avoid any liability the account is intentionally kept in the name of so called dead person. It appears that still electricity bill is being issued in the name of Shri Azimulla Tafazulkhan.

3.0 We have gone through the definition of the "Consumer" as given in Section 2 (15) of E.A., 2003 which runs as under.

"Consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.

The definition of "Grievance" as given in Regulation 2.1 (c) of MERC (CGRF & EO) Regulation, 2006 runs as under.

"Grievance" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a license, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property, and (b) grievances in respect of non-compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be.

- 4.0 Considering the above said definitions of “Consumer” and “Grievance” in our opinion the complainant has no *locus-standi* to file the complaint. It appears that the Respondent BEST Undertaking has not taken any defense in respect of *Locus-standi* of the complainant. But it is for the Tribunal or Forum to look into the matter and to see the maintainability of the matter as well as point of limitation. The party has not taken any objection does not mean that the Forum has no right to enter into controversy.
- 5.0 For the above said reasons, in our opinion, the complainant has no *locus-standi* to file dispute regarding recovery notice issued to Shri Azimulla Tafazulkhan. It is expected from the complainant that he should have applied to the Respondent BEST Undertaking for change in name and then by recording his name in electricity bill he ought to have approached the IGRC. He has not done so and only on assumption that he is a tenant of the premises he has approached the Forum. Even he has not filed any document to show that he is a tenant of the premises. If he would have filed any document in that regard, certainly it would have clarified the position regarding occupancy of the premises by the earlier occupants and premises occupied by Shri Azimulla Tafazulkhan. We are saying so because the complainant himself is saying that the premises occupied by M/s Limra Enterprises and Shri Haji Amir Ali has no concern with this premises. The electricity bill in the month of July 2018 is still standing in the name of Shri Azimulla Tafazulkhan. This shows that the complainant has no *locus-standi* to file the complaint. Thus the complaint deserves to be dismissed. In result we pass the following order.

ORDER

- 1.0 The complaint no. N-E-358-2018 dtd. 11/06/2018 stands dismissed.
- 2.0 Copies of this order be given to three parties.

sd/-
(Shri S.V. Fulpagare)
Member

sd/-
(Dr. M.S. Kamath)
Member

sd/-
(Shri V.G. Indrale)
Chairman