

**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. S-C-360-2018 dtd. 22/06/2018**

Shri Ashok Biyani & Others .....Complainant

V/S

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

**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.S. Mahesh, Supdt., CC(C)  
2. Shri R.S. Sawdekar, Dy. Engr., CC(C)

On behalf of the Complainant : 1. Shri Kuldeep Shah  
2. Shri Ashok Biyani

Date of Hearing : 13/08/2018

Date of Order : 21/08/2018

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

Shri Ashok Biyani & Others, Esteem Corporation 5/7/9, Old Post Office Lane, Kalbadevi Road, Mumbai - 400 002 has come before the Forum for dispute regarding reconnection of electric supply.

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

The complainant has approached to IGR Cell on 29/05/2018 dispute regarding reconnection of electric supply. The complainant has approached to CGRF in schedule 'A' dtd. NIL received by CGRF on 12/06/2018 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 Ashok Biyani & Others came before the Forum regarding their dispute about reconnection of electric supply to their premises in redeveloped / reconstructed DJ House at Kalbadevi. There was Kolbhat Lane DSS space in DJ House, this space of substation is encroached by the landlord at the time of redevelopment.
- 2.0 MCGM had issued notice to Shri Harish D. Parmar and Shri Hiten D. Parmar, the owners of the building under reference to vacate the existing ground + 5 floor building due to its dangerous for living condition. Then the landlords informed to the Undertaking vide their letter dtd. 09/09/2009 and requested to vacate the existing Kolbhat Lane DSS being a part of building, which is declared dangerous by MCGM and notice was served to vacate the premises within 30 days. Accordingly Kolbhat Lane DSS was vacated on 04/12/2009 for redevelopment of the building by the landlord and transferred load of Kolbhat Lane DSS on network of nearby DSS.
- 3.0 Temporary supply for construction purpose was given from 15/09/2011.
- 4.0 After repairing of building, 9 numbers of consumers had applied for reconnection of electric supply in January 2013 to their premises in reconstructed building. At the time of inspection against these requisitions, it was observed that the landlord has converted BEST's substation premises into a room. Same was informed to senior officers and correspondence was made with the landlord requesting him to handover the space for re-commissioning of Kolbhat Lane DSS. Instead of handing over space for DSS they served the notice to the Undertaking and denied to handover space for DSS stating that, "even though there was correspondence, the Undertaking had voluntarily vacated the said premise long back as not privity of contract was existing between landlord and BEST". He further denied that BEST was fully protected by law.
- 5.0 The landlord and tenants approached to Consumer Dispute Redressal Forum (CDRF) on 05/07/2013 for seeking permanent electric supply which was dismissed on 07/01/2016 with no order as to cost. As per directives of CDRF temporary meter was removed on 11/01/2016 and service cable was disconnected from feeding source. Temporary meter was not removed between the period 05/07/2013 to 11/01/2016 as the matter was in District Consumer Forum.
- 6.0 On 01/11/2017, the complainants have applied for reconnection of supply to their premises. Initially it was decided to give temporary electric supply for the period of

one year to the complainants by taking Indemnity Bond. In further development, it was decided, the power supply cannot be given until reestablishment of Kolbhat Lane DSS. The Undertaking has filed the Rent Act Declaration (RAD) suit no. 905/17 in the Small Cause Court to declare the BEST Undertaking as a tenant in respect of the Kolbhat Lane DSS premises and matter is pending.

- 7.0 Electric supply could not be given to the complainants until re-commissioning of Kolbhat Lane DSS as the substations in surrounding area of earlier Kolbhat Lane DSS have become overloaded due to transferring of load of Kolbhat Lane DSS.

### **REASONS**

- 1.0 We have heard arguments of Shri Kuldeep Shah representative of all six applicants and for the Respondent BEST Undertaking Shri S.S. Mahesh, Supdt., CC(C) and Shri R.S. Sawdekar, Dy. Engr., CC(C). Perused the documents filed by either parties to the proceeding. Perused the written submission filed by the Respondent BEST Undertaking which is at pg. no. 27/C to 30/C. The Respondent BEST Undertaking has also filed issue-wise comments which are at pg. no. 31/C to 35/C. Likewise, at the time of argument, the Respondent BEST Undertaking has filed additional submission in continuation with submission filed at pg. 27/C to 29/C.
- 2.0 The representative of the complainant has vehemently submitted that all the applicants were old consumers of the Respondent BEST Undertaking and their electricity connection was disconnected only because of repairs of the DJ House in which DSS was established. He has further submitted that the Respondent BEST Undertaking should make arrangement for establishing the DSS and the Respondent BEST Undertaking cannot deny the electric supply on non-availability of space for DSS. He has further submitted that the dispute in between the Respondent BEST Undertaking and owner of the DJ House is pending before Small Cause Court is not at all excuse for the Respondent BEST Undertaking not to give electric supply. The Respondent BEST Undertaking has submitted that if electric supply as prayed by applicants has been given to them then there is every possibility of overloading nearby network which may further cause multiple distributor faults to avoid which re-establishing of Kolbhat Lane is essential. The Respondent BEST Undertaking has further submitted that the load of dismantled Kolbhat Lane DSS is temporarily transferred on already overloaded Bhangwadi DSS and Kolbhat 3<sup>rd</sup> Lane DSS and, in case of failure of transformer of Bhangwadi DSS or Transformer no. 3 of Kolbhat 3<sup>rd</sup> Lane DSS it is not possible to restore the **electric supply without giving load shedding / OFF supply to the existing consumers.**
- 3.0 After hearing above said submissions of both the parties, it appears that the Respondent BEST Undertaking withheld to give electric supply to the applicants only on the ground that there will be interruption of electric supply due to overload. We have asked the Respondent BEST Undertaking as to for how many times there was electric supply interruption as well as faults occurred due to overloading nearby network. Accordingly, the Respondent BEST Undertaking has placed on record all the

details on 16/08/2018, copy of which was given to the complainant. We have cautiously gone through the said report and we think it just and proper to reproduce the summary of the said report which is for the period from 2011 to 2017 given by Shri. S.S. Mahesh, Supdt. CC(C).

**(A) L.T. Supply Interruption**

Sr. No.	Name of DSS	No. of Distributor faults	Period from	Period to	No. of fuse blown	Period from	Period to	Total
1	Kolbhat 3 <sup>rd</sup> lane Tr. No. 3 (1600 KVA)	4	06/07/11	22/02/18	21	25/06/11	18/05/16	25
2	Bhangwadi	3	16/04/11	01/03/18	13	25/05/11	23/06/18	16
3	Popatwadi	3	11/11/13	04/08/16	12	03/11/12	20/04/18	15
	Total	10	16/04/11	01/03/18	46	01/04/11	23/06/18	56

**(B) H.T. Supply Interruption**

Sr. No.	Name of DSS	Affected under 11 KV feeder tripping	OFF supply on	From	To	Duration in minutes	Affected KVA capacity
1	Kolbhat 3 <sup>rd</sup> lane Tr. No. 2 (995 KVA) & 3 (1600 KVA)	ES 2.3 → Manjuba CHS	31/12/14	6:00	6:05	5	2595
2	Bhangwadi	ES 2.3 → Manjuba CHS	18/02/17	12:35	13:20	45	1000
3	Popatwadi	ES 2.3 → Manjuba CHS	19/12/16	--	--	--	1000
			19/05/17	15:25	16:15	50	1000
Total duration in minutes						100	5595

**(C) Peak Loads during 2011 to 2017**

Sr. No.	Name of DSS	Transformer capacity in KVA	Full load capacity in Amp	80% of full load capacity in Amp	2011	2012	2013	2014	2015	2016	2017
1	Kolbhat 3 <sup>rd</sup> lane Tr. No. 3	1600	2240	1792	840	815	940	1010	930	985	980
2	Bhangwadi	1000	1400	1120	850	980	980	1005	1135	755	1025
3	Popatwadi	1000	1400	1120	1210	1080	1170	1115	1035	725	755

4.0 Considering the above said summary and capacity of transformer in Kolbhat 3<sup>rd</sup> Lane DSS, Bhangwadi DSS and Popatwadi DSS it cannot be digested that there will be overload and possibility of interruption in electric supply. We are saying so because in the said summary the electricity consumed by the above said three DSSs for the year

2011 to 2017 is shown by them and it appears that it is below the transformer capacity. If this would be the case, in any case it could not be held that there will be interruption in electric supply to other consumers if electric supply be given to these applicants.

- 5.0 We have carefully and cautiously gone through the submission filed by the Respondent BEST Undertaking and it appears that they thus in submission at para 7 point 1 has stated that as per CLA's opinion the Undertaking being Distribution Licensee is duty bound to provide the electric supply to the applicants from the nearest DSS and cannot deny the same for want of substation space. However, if it is apprehended that nearest DSS would be overloaded by providing electricity to the tenants which may result into frequent power failure, the department may deny for permanent supply to the tenants of the building. As we have discussed above, that by giving electric supply of near about 3.58 kw to these applicants for their use and on going through summary filed by the Respondent BEST Undertaking there will be no question of overloading nearby network as the Respondent BEST Undertaking has already given the electricity connection to other consumers through nearby DSS and their electric supply was disconnected due to repairing of DJ House in which Kolbhat Lane DSS was established.
- 6.0 We have gone through Section 43 of E.A., 2003 which deals with "duty to supply on request". As per Section 43 (1) of E.A., 2003 every Distribution Licensee shall on application by the owner or occupier of any premises give supply of electricity to such premises within one month after the receipt of application requiring such supply. The word "shall" has been used in Section 43(1) of E.A., 2003 indicates that the provisions are mandatory and not discretionary. The Section 43 (3) of E.A., 2003 imposes the penalty on Distribution Licensee if they fail to provide electric supply within specified period. Likewise as per MERC (Standard of Performance of Distribution Licensees, Period of giving Supply and Determination of Compensation) is incorporated in Regulation, 2005, even if where commissioning of substation is required, the Distribution Licensee must give supply to the consumer within one year. In this case the record goes to show that the consumers have applied for connection on 01/11/2017 and thus it appears that till today more than nine months have been passed. Considering this period in our opinion, the Respondent BEST Undertaking could not make any excuse of non-availability of DSS and deny electric supply to the applicants.
- 7.0 After going through the record it appears that the Respondent BEST Undertaking's higher authorities have earlier sanctioned the electric supply to be released to the applicants on temporary basis but afterwards it was not got implemented due to receipt of anonymous complaint. This approach of the Respondent BEST Undertaking to some what extent strengthen the case of the complainant that the Respondent BEST Undertaking is under obligation to give electric supply to the consumer.
- 8.0 We have cautiously gone through the record and it appears that the Respondent BEST Undertaking has filed small cause suit bearing no. RAD/905/2017 against the landlord for declaration of tenancy and possession of the premises of the DSS space and same is

pending before the Small Cause Court Bombay. Considering this aspect one may say that the dispute is pending between the parties in Civil Court and there is obstacle of clause (d) of Regulation 6.7 of MERC (CGRF & EO), Regulation 2006. On this point we observe that dispute regarding DSS space is pending in between owner of DJ House and the Respondent BEST Undertaking and not these applicants. Thus there is no bar of clause (d) of Regulation 6.7 of MERC (CGRF & EO), Regulation 2006.

9.0 In present days, it is needless to say about need of electricity for human being, keeping in view of this need, provision of Section 43 of E.A., 2003 has been enacted. It appears that applicants are praying for restoration of electric supply.

10.0 Dissenting views of S.V. Fulpagare, Member, Distribution Licensee :

In the instant case the tenants of DJ House bldg. premises have submitted their grievance before CGR Forum and requested us to provide electric supply as they were BEST's ex-consumers. In this regard, I have to state as follows.

The MCGM had issued a notice to the owner / landlord of DJ House bldg. that, the entire structure of DJ House building was dangerous. Against which, vide their letter dtd. 09/09/2009 Landlord requested the Respondent BEST Undertaking to vacate the premises for necessary repairs as the Kolbhat Lane DSS was a part of DJ House building. As per the load sheet of year 2008, the DSS was installed with 1000 KVA Transformer and load on DSS was about 390 Amp. As there was urgent need to vacate the premises for repair of DJ House building, load of Kolbhat Lane DSS was transferred on nearby network i.e. on Bhangwadi DSS and Kolbhat 3<sup>rd</sup> Lane DSS by preparing the scheme. Against the scheme, ADP 1500, Transformer, its LV cables, along with switchgears / breakers were disconnected and removed. After complete execution of scheme, the premises was completely vacated and after obtaining legal advice from Legal Dept. the premises was handed over to landlord for necessary repair on 04/12/2009.

This removal of equipments of Kolbhat Lane DSS was a temporary arrangement so as to get the premises of DSS repaired within short period of time. Due to this removal of DSS not only the installed capacity of 1000 KVA was lost but also the nearby network of Kolbhat Lane DSS got **overloaded**.

During hearing, Forum's Chairman and Members informed the Respondent BEST Undertaking to submit the data from year 2010 onwards to till date about the OFF supply messages reported and attended by the Undertaking due to overload of nearby network.

The requisite data was submitted by the Respondent BEST Undertaking on 16/08/2018. While going through the submission, it is observed that from the date of removal of DSS to till date total 10 nos. of distributor faults, 46 nos. of fuse blown and 3 nos. of 11 KV feeder faults were occurred and attended.

It is further to note here that due to removal of 1000 KVA installed capacity of Kolbhat Lane DSS, it is very difficult to carry out load transfer for preventive maintenance of the Bhangwadi and Kolbhat 3<sup>rd</sup> Lane DSS due to non-availability of **sufficient reserved capacity** in the nearby network. Due to which in case of occurrence of breakdown of any of these DSSs there is no other alternative to give load shedding to the consumers of Kolbhat Lane DSS, Kolbhat 3<sup>rd</sup> Lane DSS and Bhangwadi DSS which further reflects in revenue loss to the Undertaking. It is observed from the applications filled in by the applicants for obtaining electric supply that, the initial load requirement is quite minimum i.e. of 0.5 / 1 kw for commercial purpose, however, there are chances of increase in load demand after availing the electric supply.

Being a technical member from utility appointed as Forum's Member, I am totally disagree with the views of Hon'ble Chairman mentioned in para 4.0 above, that

“it cannot be digested that there will be overload and possibility of interruption in electric supply”

In this regard, it can be clearly seen from the data submitted by the Respondent BEST Undertaking that due to removal of Kolbhat Lane DSS, total 10 nos. of distributor faults were occurred along with 46 nos. of fuse blown and 3 nos. of 11 KV high voltage feeder faults. To maintain the reliability / uninterrupted electric supply to the consumers, it is necessary to carry out preventive maintenance of the equipments installed in the DSS network, but due to non-availability of sufficient spare capacity in the network and removal of Kolbhat Lane DSS, it is not possible for BEST Undertaking to carry out preventive maintenance of these DSSs which play very important role to provide uninterrupted electric supply to its consumers. Normally, the maximum efficiency of Distribution Transformer is designed for 80% of load. In the instant case the Transformers of nearby network are loaded more than 80%. As per prevailing practice in the BEST Undertaking, the transformers which are carrying more than 80% load are considered as overloaded transformer and against which Planning Department is preparing suitable scheme to give load relief to the overloaded transformer / DSS. However, in the instant case the situation is different. The nearby network of Kolbhat Lane DSS is overloaded due to the removal of Kolbhat Lane DSS and due to shortage / non-availability of space to establish new DSS, there is no other alternative to re-establish the Kolbhat Lane DSS to relieve overload of Kolbhat 3<sup>rd</sup> Lane DSS and Bhangwadi DSS.

In view of the above and being a Member of Distribution Licensee, I am firm on my views that, the applicants' supply may only be released after commissioning of the Kolbhat Lane DSS which will not only relieve overload of nearby network but also improve reliability of electric supply to the consumers.

- 11.0 Having regard to the above said discussion and reasons and considering the provisions of Section 43 of E.A., 2003 coupled with the SOP and the fact that there will be no overloading on other DSSs, if electric supply be given to the applicants, the complaint deserves to be allowed. Thus we proceed to pass the following order.

12.0 In the aforesaid facts and circumstances by majority view i.e. of Chairman & Member CPO, we proceed to pass the following order.

**ORDER**

- 1.0 The complaint no. S-C-360-2018 dtd. 22/06/2018 stands allowed.
- 2.0 The Respondent BEST Undertaking is hereby directed to give electric supply to all six applicants within 15 days from the date of receipt of the order after due formalities.
- 3.0 The Respondent BEST Undertaking is hereby directed to comply with the order within 15 days from the receipt of the order and report the compliance within 15 days therefrom.
- 4.0 Copies of this order be given to both the parties.

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

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

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