

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-D-334-2017 dtd. 10/10/2017

Mr. Bipin Ramji ShahComplainant

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 Complainant : 1. Shri Bipin R. Shah

On behalf of the Respondent (1) : 1. Shri D.N. Pawar, DECC(D)
(BEST Undertaking) 2. Smt. S.S. Redkar, AAM, CC(D)

On behalf of the Respondent (2) : 1. Shri Mansukhlal R. Shah

Date of Hearing : 16/11/2017

Date of Order : 21/11/2017

Judgment by Shri. Vinayak G. Indrale, Chairman

Mr. Bipin Ramji Shah, 702, A wing, Pratiksha Tower, R.S. Nimkar Marg, Mumbai - 400 008 has come before the Forum for dispute regarding retransfer of electricity bill in the name of Shri Mansukhlal Ramji Shah pertaining to A/c no.840-552-073.

Complainant has submitted in brief as under :

The electricity bill pertaining to a/c no. 840-552-073 was transferred in the name of Shri Bipin R. Shah in the year 2010. Shri Mansukhlal R. Shah, brother of Shri Bipin R. Shah has approached to the General Manager, BEST Undertaking through letter dtd. 22/06/2017 for dispute regarding transfer of electricity bill in the name of Shri Bipin Ramji Shah. The complaint letter given by Shri Mansukhlal R. Shah was treated as complaint in Annexure 'C' format by IGRC. After following due procedure, IGRC has reverted back electricity bill in the name of Shri Mansukhlal R. Shah. Aggrieved by the order of IGRC, Shri Bipin R. Shah approached to CGRF in schedule 'A' dtd. 29/09/2017 (received by CGRF on 06/10/2017).

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

- 1.0 Shri Bipin Ramji Shah came before the Forum against order given by IGRC regarding retransfer of electricity bill in the name of Mansukhlal Ramji Shah, his elder brother. Shri Mansukhlal Ramji Shah has complained about change of name to Hon'ble GM / Addl. GM vide his complaint letter dtd. 22/06/2017. This complaint letter was treated as complaint in Annexure 'C' by the ward. After hearing, change of name was reverted back to the original consumer's name. i.e Mansukhlal Ramji Shah by the Licensee.
- 2.0 Vide letter dtd. 24/05/2009, Shri Mansukhlal Ramji Shah had requested the Undertaking not to change name of electricity bill pertaining to consumer no. 840-552-073 without his knowledge and NOC.
- 3.0 Shri Bipin Ramji Shah had applied for change of name vide his application dtd. 25/05/2010 for transferring the electric bill in his name by submitting Agreement copy, Will and maintenance bill of the society, NOC from earlier consumer etc. Further he also mentioned that, the flat is purchased by his father and same was gifted to him by his father as stated in the last Will and testament of deceased father. Then meter was transferred in the name of Shri Bipin Ramji Shah.
- 4.0 Shri Mansukhlal Ramji Shah had collected relevant documents under RTI Act, 2005 submitted by his brother Shri Bipin Ramji Shah to the Undertaking during change of name procedure in the year 2010. Then, Shri Mansukhlal Ramji Shah (elder brother of the complainant) had complained to the Hon'ble GM / Addl. GM vide his complaint letter dtd. 22/06/2017 about change of name. In this complaint letter he has stated that he is a owner of the premises under reference and electricity meter was standing in his name since a long period and he is paying electricity bill regularly.
- 5.0 After scrutiny it was observed that, the NOC letter submitted at the time of change of name was signed by Shri Mansukhlal Ramji Shah, which has been refused by Shri Mansukhlal Shah at the time of hearing in IGRC. The signature on alleged NOC letter seems to be of Shri Mansukhlal Ramji Shah. Shri Bipin Ramji Shah has provided Will Agreement copy during the process of change of name in Gujarathi language, which is not a relevant document. At present Shri Bipin Ramji Shah is physical occupant of the premises and Shri Mansukhlal R. Shah is not residing in the premises under reference.
- 6.0 During the hearing in IGRC against the complaint letter on 16/08/2017, Shri. Mansukhlal Ramji Shah told that , he had not given NOC to Shri. Bipin Ramaji Shah for

transfer of electric bill in his name and said NOC letter was not signed by him. Both the complainants told during the hearing that , society's share certificate stands in the name of both brothers, but copy of the same is not given by the society to them as litigations are going in the court.

- 7.0 After scrutinizing the documents submitted during change of name by Bipin Ramji Shah and discussion held during the hearing and both the brothers had failed to submit the copy of share certificate in his name authenticated by the society in given time frame, IGRC has reverted back the electricity bill in original consumer's name. i.e Mansukhlal Ramji Shah.

REASONS

- 1.0 We have heard the arguments of the complainant in person and for the Respondent No. (1) BEST Undertaking, Shri D.N. Pawar, DECC(D) and Smt. S.S. Redkar, AAM, CC(D) and the Respondent No. (2) Shri Mansukhlal R. Shah. Perused the documents filed by the Respondent BEST Undertaking annexed with documents marked at Exhibit 'A' to 'E'.
- 2.0 The complainant has vehemently submitted that the premises to which electric supply given is in his possession and therefore he has rightly applied for change of name on 11/05/2010 along with documents i.e. No Objection of his brother Shri Mansukhlal R. Shah and therefore the Respondent BEST Undertaking has changed his name on the electricity bill rightly. He has further submitted that his brother Shri Mansukhlala R. Shah after approximately 10 years has filed Annexure 'C' and prayed to set aside the order passed by IGRC changing the name of the complainant on the electricity bill. Thus according to the complainant there is delay of 10 years for filing the grievance before IGRC for change of name and this fact ought to have looked into by the Forum. Shri Mansukhlal R. Shah has submitted that his name was already recorded on the electricity bill of said premises and in the year 2009 he has filed application before Customer Care Dept. requesting them not to change his name on the electricity bill on the application filed by his brother Shri Mansukhlal R. Shah. He has further submitted that the consent letter which does not depict the date is bogus and forged one and therefore no reliance would have been placed by the concerned authorities.
- 3.0 The officers of the Respondent BEST Undertaking have submitted that they have relied upon the NOC given by Shri Mansukhlal R. Shah to Shri Bipin R. Shah and therefore rightly effected the change in name in the name of Shri Bipin R. Shah, the complainant. They have further submitted that after receipt of Annexure 'C' from Shri Mansukhlal R. Shah, they have passed the order and thereafter set aside the earlier order of change of name in the name of Shri Bipin R. Shah and restored the name of Shri Mansukhlal R. Shah on electricity bill of the consumer no. 840-552-073*3. They have further submitted that there was no signature of staff on receipt having no. 4146 dtd. 12/04/2010 for verifying with the original as well as the alleged NOC submitted by Shri Bipin R. Shah of earlier owner Shri Mansukhlal R. Shah is not duly signed by the applicant as per prevailing Terms and Conditions of Supply approved by

MERC Regulation 13.2.5 and as per Procedure Order 84 dtd. 22/02/1996 clause 15. Thus the Respondent BEST Undertaking has supported the order passed by IGRC on 13/09/2017.

- 4.0 Having regard to the arguments advanced by both the brothers, Shri Bipin R. Shah and Shri Mansukhlal R. Shah as well as officers of the Respondent BEST Undertaking, the question poses before the Forum is whether IGRC is justifying in reverting back the name of original consumer Shri Mansukhlal R. Shah by deleting the name of Shri Bipin R. Shah. At present that there is dispute between the two brothers i.e. Shri Bipin R. Shah and Shri Mansukhlal R. Shah regarding properties. However, it is not the case of either party that the dispute pertaining to the change of name in electricity bill is pending before the Civil Court. No documentary evidence is placed on record by either party, thus this Forum has every right to deal with the dispute of change of name. It appears that there is ego between two brothers which has given rise to this dispute of change of name.
- 5.0 It is admitted fact that premises to which electric supply was given is in possession of the complainant Shri Bipin R. Shah and previously the name of Shri Mansukhlal R. Shah was recorded in the electricity bill. This fact has not been seriously challenged by Shri Mansukhlal R. Shah. Considering all these aspects we have to see as to when cause of action arose for Shri Mansukhlal R. Shah to raise the dispute for filing Annexure 'C' before IGRC. Admittedly the record goes to show that change of name has been effected in the name of Shri Bipin R. Shah in the month of June 2010 and on 27/06/2017 Shri Mansukhlal R. Shah raised the grievance before IGRC. In routine course Shri Mansukhlal R. Shah ought to have knowledge about the change of name of his brother Shri Bipin R. Shah on electricity bill in the month of June / July 2010. Thus Shri Mansukhlal R. Shah ought to have approached IGRC within two years from June / July 2010. There is no reasonable explanation given by Shri Mansukhlal R. Shah for delay in filing the Annexure 'C' before IGRC. In the absence of any such explanation this Forum naturally could not entertain the dispute as per Regulation 6.6 of MERC (CGRF & EO) Regulation, 2006.
- 6.0 Having regard to the above said legal aspect and provisions of MERC Regulation 6.6 in which the word "**shall**" has been used which indicates that the said provision is mandatory and not discretionary. If viewed from this angle we have least hesitation to hold that the grievance raised by Shri Mansukhlal R. Shah ought to have not entertained by IGRC as it is barred by Regulation 6.6. Thus it appears that IGRC has only given reference of Terms and Conditions of Supply of MERC Regulation 13.2.5 and P.O. 84 and set aside the earlier order on technical ground which appears to be not proper.
- 7.0 The main question in this case is whether NOC of Shri Mansukhlal R. Shah submitted by Shri Bipin R. Shah is bogus or forged one. If Shri Mansukhlal R. Shah had any grievance that NOC letter does not bear his signature, then he has remedy to approach the proper court and to get declaration that the said document is forged one and also take criminal action against his brother Shri Bipin R. Shah as burden shifts upon Shri

Mansukhlal R. Shah to prove the forgery of the NOC or if there is any civil dispute pending between two brothers regarding title of the premises, then after conclusion of the said dispute either party has every right to approach the Respondent BEST Undertaking regarding change of name. Generally and normally the person in possession / occupier of the property, his / her name ought to have been recorded in electricity bill for recovery of electricity dues.

- 8.0 Having regard to the above said reason we have arrived at the conclusion that the IGRC has only on technical ground set aside the order of change of name made in the name of Shri Bipin R. Shah in the month of June 2010. On the contrary, IGRC ought to have not entertained the grievance as per Regulation 6.6 of MERC (CGRF & EO), Regulation, 2006. Thus the complaint deserves to be allowed. In result we pass the following order.

ORDER

1. The complaint no. S-D-334-2017 dtd. 10/10/2017 stands allowed as under.
2. The Order no. CC(D)/AAM/(IGR)-H-3/PO-236/Adm-63/793/2017 dtd. 13/09/2017 issued by IGRC is hereby set aside and earlier order effecting the change of name in the name of Shri Bipin R. Shah is restored.
3. 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