

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-GS-371-2018 dtd. 28/12/2018

Smt. Rajani Parab, The ChairpersonComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri K. Pavithran, Member
2. Dr. M.S. Kamath, Member CPO

On behalf of the Respondent (1) : 1. Shri. S.V. Phulpagare, DECC(G/S)
BEST Undertaking 2. Shri Narayan L. Watt, AAMCC(G/S)

On behalf of the Respondent (2) : 1. Shri Sharad Somani
2. Shri S.V. Karwa

On behalf of the Complainant : 1. Smt. Rajni S. Parab

Date of Hearing : 14.02.2019

Date of Order : 27.02.2019

Judgment by Shri. Vinayak G. Indrale, Chairman

Smt. Rajani Parab, The Chairperson, Central Excise Commissionerate Employees Co-op. Cr. Society Ltd., Unit no. 16, Madhu Estate, B-Wing, P.B. Marg, Worli, Mumbai - 400 013 has come before the Forum for dispute regarding serving of notice for disconnection of electric supply after objection raised by landlord.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 29.10.2018 dispute regarding serving of notice for disconnection of electric supply after objection raised by landlord. The complainant has approached to CGRF in schedule 'A' dtd. 24.12.2018 received by CGRF on 26.12.2018 as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee on her grievance.

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

- 1.0 Smt Rajani Parab, The Chairperson, Central Excise Commissionerate Employees Co-op. Credit Society Ltd came before the Forum regarding her dispute about serving notice for disconnection of electric supply by removing the meter of society's office at Madhu estate Worli after raising objection by Shri Satya Narayan Temple Trust . She further stated that the complainant Shri Satayanarayan Temple Trust is unable to produce sales deed in respect of her premises between M/s Shri Madhusudan Mills Ltd (land lord) and Shri Satya Narayan Temple Trust. Thus Thus Shri Satya Narayan Temple Trust have no locus standi.
- 2.0 Electric supply was given to the office of Central Excise in the name of Dy. Commissioner / Assistant Commissioner from 09/05/1975. In August 2016 the office of Central Excise was shifted to new location and Assistant Commissioner, Service Tax Audit has requested to disconnect electric supply to their office premises from 15/08/2016. Electric supply was disconnected from 19/08/2016 for the reason of non payment of electricity dues. The complainant's premises was having electric supply through this meter.
- 3.0 Central Excise Commissionerate Employees Co-op. Credit Society Ltd has applied for separate electric supply vide application No 268409 dated 25/08/2016. After scrutiny it was observed that, the applicant has not submitted required documents pertaining to occupancy of premises / NOC from land lord . They had submitted Indemnity bond along with application form mentioning that, they are unable to obtain permission / NOC for electric supply from the owner of the premises. It was further mentioned that, in event if, land lord or lawful occupant or any statutory authority raises objection regarding authorization of the said premises or evicted by due process of law, the electric supply shall be liable for disconnection without any notice / intimation. Based on this Indemnity Bond and approval from Management the electric supply was given through meter from 31/08/2016.
- 4.0 Shri Satayanarayan Temple Trust has raised objection for giving electric supply vide letter dated 18/09/2018 addressed to General Manager BEST and requested to disconnect the electric supply to the complainant's premises under reference. Accordingly notice for disconnection of electric supply has served The Chief Executive, Central Excise Commissionerate Employees Co-op. Credit Society Ltd and further requested to submit requisite papers to avoid disconnection of electric supply.

REASONS

- 1.0 We have heard the representative of complainant, for the BEST Undertaking Shri Narayan L. Watti and Shri S. Phulpagare and for Shri Satynarayan Temple Trust, Shri Sharad Somani, perused paper filed by either party to the proceeding.

- 2.0 The representative of complainant has vehemently submitted that the action of BEST Undertaking regarding disconnection of electric supply is illegal as the complainant is in settle possession of the premises for which electric supply has been given. Against this the Respondent submitted that initially electric supply given in the name of Central Excise Commissionerate Dept. and they have already vacated the premises and therefore now the complainant i.e. Chair Person, Central Excise Commissionerate Employees Co-op. Credit Society Ltd has no legal right to get electric supply. They have further submitted that electric supply was given to the complainant on filling the Indemnity Bond and thereafter the complainant has got effected electricity connection in their name. Thus, accordingly to the Respondent once the complainant has given the Indemnity Bond contending that if the landlord or lawful owner or any authority raises objection regarding authorization of said premises their electric supply shall be liable for disconnection without any notice / intimation to them.

- 3.0 Have regard to the above said submission we have cautiously gone through the record and it appear that initially electric supply was given to the Central Excise Dept. on the basis of entering in to the lease agreement by Shri Satyanaryan Temple Trust with The President of India i.e. Govt. of India or Lessee. The said lease agreement has been placed on record by concern person of Shri Satyanaryan Temple Trust. We have gone through the record and it is crystal clear that Central Excise Dept. has already vacated the premises and Asst. Commissioner (L&B) GST and Central Excise, Mumbai East by letter dated 09.05.2018 to Shri Satyanaryan Temple Trust, has informed that the Central Excise Commissionerate Employees Co-op. Cr. Soc. Ltd. Mumbai is not the part of the Dept. of Central Excise. They also informed that Dept. has already removed all its belongings before 14.08.2016 and any board or thing in the premises does not belongs to the Dept. Likewise by letter dated 14.09.2016 to Shri Satyanaryan Temple Trust, the Asst. Commissioner Service Tax Mumbai has informed that they had actually vacated the premises on 14.08.2016 and as regards the small area occupied by the Central Excise Commissionerate Employees Co-op. Credit Society Ltd. Mumbai, they informed them to vacate the premises latest by 14.08.2016 and any occupation by them subsequent to 14.08.2016 is not authorized. In this correspondence it appear that, Central Excise Dept. has given some portion of leased premises taken from Shri Satyanarayn Temple Trust to the complainant of their Credit Society activity and once the Central Excise Dept. has vacated the premises, now the complainant cannot get legal right to retain the part of premises and say that their possession is legal.

4.0 After going through the order passed by IGR it appear that they had given ample opportunity to the complainant to submit document showing their occupation and they failed to show any document and therefore they have rejected their claim.

5.0 We have gone through the Indemnity Bond given by complainant while obtaining the electricity connection in their name. The said Indemnity Bond is at page no. 39 of the proceeding. We think it just in proper to reproduce the following portion of the Indemnity Bond.

“The premises for which above mentioned requisition is registered for electricity meter is in my settled possession and physically occupied by me. In the event if landlord or lawful occupant or any authority raises objection regarding authorization of said premises or evicted by due process of law, my electric supply shall be liable for disconnection without any notice / intimation to me.”

Have regard to the above said contents of the Indemnity Bond, now the complainant cannot claim any legal right regarding supply of electricity connection as it is hit by doctrine of estoppels, as Central Excise Dept. has initially entered into lease agreement with Shri Satyanarayan Temple Trust on 14.03.2012 and they have terminated the said lease and vacated the premises on 14.08.2016. It appear that on 30.11.2018 the complainant submitted a application for change of name for existing Central Excise Commissioner Employees Co-op. Soc. Ltd. to Central GST and Allied Dept. Employees Co-op. Cr. Soc. and accordingly they got change the name and consumer A/C no. It appear that the Respondent ought to have verified all the document while effecting the change of name but Respondent did not verify the record and occupancy and routine course effected the change of name.

6.0 Before parting to pass final order we wish to observe that the Respondent ought to have not given electricity connection in the name of complainant directing them to file Indemnity Bond as the Respondent generally used to insist for Indemnity Bond in case, if there is doubt about the landlord of the premises and the person who has applied for electricity connection has no documents for occupancy. In the instant case already lease agreement was with Central Excise Dept. who had already vacated the premises and electric supply was disconnected. Therefore there was no need for asking the complainant to file the Indemnity Bond and to give the electricity connection.

- 7.0 Having regard to the above said discussion we arrived at conclusion that the complainant has no legal right to protect from disconnection of electricity supply as already their main office i.e. the Central Excise Dept. had already vacated the premises. It is for the complainant to request the Central Excise Dept. to provide another occupation for their Credit Society but they have no legal right to get electric supply to the premises.
- 8.0 To conclude, there is no merit in the complaint and therefore deserves to be dismissed. Accordingly we do so.

ORDER

- 1.0 The complaint no. N-GS-371-2018 dtd. 28/12/2018 stands dismissed.
- 2.0 Copies of this order be given to both the parties.

sd/-

(Shri K. Pavithran)
Member

sd/-

(Dr. M.S. Kamath)
Member

sd/-

(Shri V.G. Indrale)
Chairman