

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. N-E-308-2016 dtd. 04/11/2016.

The Partner
Commercial DevelopersComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.Y. Gaikwad, Member
2. Shri S.M. Mohite, Member, CPO

On behalf of the Complainant : 1. Shri Abbas K. Kanorwala

On behalf of the Respondent : 1. Shri A.V. Naik, DECC(E)
2. Smt. P.V. Sutar, AAM CC(E)

Date of Hearing : 14/12/2016

Date of Order : 30/12/2016

Judgment by Shri. Vinayak G. Indrale, Chairman

The Partner, Commercial Developers, 51, Dockyard Road, Qamar Castle, Shop no. 3, ground floor, Mazgaon, Mumbai - 400 010 has come before the Forum for dispute regarding debiting of arrears amounting to Rs. 1,82,350.00 pertaining to a/c 563-627-001 in to bill of a/c no. 563-581-001*2 in billing month June 2016.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 02/09/2016 for dispute regarding debiting of arrears amounting to Rs. 1,82,350.00 pertaining to a/c 563-627-001 in to bill of a/c no. 563-581-001*2 in billing month June 2016. The complainant has approached to CGRF in schedule 'A' dtd. 19/10/2016 (received by CGRF on 02/11/2016) 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 :**

- 2.0 The complainant, the Partner , Commercial Developers came before the Forum regarding his dispute about debiting arrears amounting to Rs 1,82,350/- pertaining to A/c No 563-627-001 into bill of A/c No 563-581-001*2 in billing month June 2016.
- 3.0 Electric Supply was given to temple premises under reference in the name Shroff Chawl Resi. Association through meter number F146985, a/c No 563-627-001. This meter had recorded high consumption of 9797 units in the billing month Oct 2015. On 19-10-2015 meter number F146985 tested on site and found ok. This meter F146985 was removed on 11/03/2016. The unpaid arrears as on April 2016 was accumulated to Rs 1,80,340/-
- 4.0 During site inspection on 26/04/2016 it was observed that electric supply to temple premises having A/c 563-627-001 was provided from meter number M118642 , a/c 563-581-001 transits camp standing in the name Commercial Developers . The total plot is being redeveloped by Commercial Developers. Temporary electric supply is given for construction purpose through meter number M116006, A/c 110-050-104.
- 5.0 The consumer was informed vide letter ref No. CCE/AE(R&D)/OS/117/2016 dated 28/04/2016 to make payment of outstanding amount of Rs 1,80,340/- within 15 days from the receipt of this letter. He was also informed to register his grievances if any with documentary evidence, failing of which the outstanding amount will be debited in any one of his accounts i.e. 563-581-001 or 110-050-104. This letter was accepted by site supervisor on 28/04/2016. The consumer had neither approached to the Undertaking nor paid the dues. The final notice for the same was served on 18/05/2016. The arrears amount of Rs 1,82,350/- due at the time was debited in the account 563-581-001 in billing month June 2016.
- 6.0 On 16/08/2016, the Undertaking had received letter from the complainant stating that , "there is a temple meter No F146895 having consumer number 563-627-001*3 , which got a bill amounting to Rs 1,77,764/- which is the sole responsibility of the temple trust. But the BEST have put all the dues of the said meter in our bill of meter number M118642 having consumer number 563-581-001*2 without any letter addressing to us. When a person from BEST came to remove the meter, we came to know about the same." They further requested to waive the incorrect amount levied on their electricity bill.
- 7.0 The complainant was informed twice and requested to register their grievances or pay the full amount but they did neither pay the outstanding nor approached to the Undertaking with documents. In spite of several reminders to pay the outstanding amount , they are paying part payment due to this the arrears in the bill

accumulating and will amount is increasing. Hence the complainant is liable to pay the entire amount.

REASONS

- 8.0 We have heard arguments of the complainant in person and for the Respondent BEST Undertaking Shri A.V. Naik, DECC(E) and Smt. P.V. Sutar, AAM CC(E). We have perused the documents annexed by the complainant along with Schedule 'A' and written statement filed by the Respondent BEST Undertaking along with list of documents marked as Exhibit 'A' to 'D'.
- 9.0 The complainant has vehemently submitted that he has obtained temporary connection to provide temporary accommodation to the occupant and developing property under SRA scheme. He has further submitted that in the said premises there is a temple for which electricity was provided through meter no. M118642 bearing consumer no. 563-581-001*2. The meter of said temple was disconnected due to non-payment of electricity bills and there after the Respondent BEST Undertaking has debited an amount of Rs. 1,80,388.00 as arrears of electricity bill of temple in the bill of his temporary connection bearing consumer no. 563-581-001*2. Thus the complainant submitted that action of the Respondent BEST Undertaking debiting electricity charges of temple in the bill of the complainant is arbitrary and not legal and therefore prayed to direct the Respondent BEST Undertaking to deduct the said amount from his electricity bill. The Respondent BEST Undertaking has submitted that the meter provided to the temple was removed on 11/03/2016 for non-payment. They have further submitted that as per site inspection on 26/04/2016 they found that electricity supply was provided to the temple through the meter no. M118642 of the complainant and therefore they have issued notice to the complainant requesting to give explanation. Although the complainant received the said notice, he has not given any reply and therefore they have debited electricity charges of Rs. 1,80,388.00 in the electricity bill of the complainant.
- 10.0 After hearing arguments of both the sides, it appears that the complainant is developing whole premises under SRA scheme. Both the connections are given in the property developed by the complainant. Under circumstances knowledge is to be attributed to the complainant about the removal of the meter provided to temple for non-payment of electricity dues. If viewed from this angle, it appears that the complainant and Shroff Chawl Association in collusion with each other unauthorizedly given / taken connection to temple premises. So we have to see whether the action of the complainant of unauthorized connection to temple premises falls within section 126 of E.A., 2003.
- 11.0 Having regard to the above said nature of dispute regarding unauthorized supply /use of electricity we have to see whether this case squarely comes u/s 126 of E.A., 2003 or not. We have cautiously gone through the provision of the E.A. 2003 and we think it just and proper to reproduce the relevant provision of section 126 of E.A., 2003.

1) *If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.*

2) xxx xxx xxx
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3) xxx xxx xxx
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4) xxx xxx xxx
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5) xxx xxx xxx
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6) xxx xxx xxx
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12.0 After going through the provision of section 126(1) of E.A., 2003, it appears that this case squarely comes under unauthorized supply /use of electricity. If this would be the case, then the question poses before us is to whether this Forum has jurisdiction to entertain the dispute. On this point we have gone through the rules and regulations of CGRF & EO Regulation, 2006 clause 6.8 which runs as under.

If the Forum is prima-facie of the view that any grievance referred to it falls within the purview of any of the following provisions of the Act the same shall be excluded from the jurisdiction of the Forum.

a) *Unauthorized use of electricity as provided under section 126 of the E.A., 2003.*

b) xxx xxx xxx

c) xxx xxx xxx

d) xxx xxx xxx

- 13.0 In view of this legal position and word “shall” has been used in Regulation 6.8, we have least hesitation to hold that this Forum has no jurisdiction to entertain the complaint.
- 14.0 Having regard to the above said discussion we do not think it just and proper to discuss about the action of the Respondent BEST Undertaking charging electricity bill of temple in the bill of the complainant. It will be futile effort on our part to discuss on the above points. It appears that the Respondent BEST Undertaking ought to have taken action u/s 126 of the E.A., 2003 and charged penalty provided therein.
- 15.0 For the above said reasons we come to the conclusion that as per Regulation 6.8 of CGRF & EO Regulation, 2006 this Forum has no jurisdiction to entertain the complaint, consequently the complaint deserves to be dismissed.

ORDER

1. The complaint no. N-E-308-2016 dtd. 04/11/2016 stands dismissed.
2. Copies of this order be given to both the parties.

(Shri S.Y. Gaikwad)
Member

(Shri S.M. Mohite)
Member

(Shri V.G. Indrale)
Chairman