

**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-D-355-2018 dtd. 22/05/2018**

Smt. Femida Anees Ujjainwala & 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 M.R.Sayani, Supdt. CC(D)  
2. Shri A.D. Waghmode, AAO

On behalf of the Complainant : 1. Shri Taheer A. Khan  
2. Shri Subhan Khan

Date of Hearing : 19/07/2018

Date of Order : 20/07/2018

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

Smt. Femida Anees Ujjainwala & Others, 6<sup>th</sup> floor, Giyani Court Bldg., Maulana Azad Road, Mumbai - 400 004 has come before the Forum for dispute regarding new connection on 6<sup>th</sup> floor, Giyani Court Bldg., Maulana Azad Road, Mumbai - 400 004 vide requisition no. 321117 & others.

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

The complainant has approached to IGR Cell on 07/02/2018 dispute regarding new connection on 6<sup>th</sup> floor, Giyani Court Bldg., Maulana Azad Road, Mumbai - 400 004 vide requisition no. 321117 & others. The complainant has approached to CGRF in schedule 'A' dtd. 19/05/2018 received by CGRF on 21/05/2018 as the complainants were not satisfied by the remedy provided by the IGR Cell of Distribution Licensee on their grievance.

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

- 1.0 Smt. Femida Anees Ujjainwala & Others came before Forum regarding their grievance about new connection to the premises on 6<sup>th</sup> floor of Giyani Court Bldg.
- 2.0 Smt. Femida Anees Ujjainwala & Others were applied for new connection for 6 rooms on the 6<sup>th</sup> floor and lift vide requisition no. 321117, 321123, 335750, 0335762, 335764, 335766, along with documents.
  - a) Latest Rent Receipt
  - b) Indemnity Bond
  - c) Photo ID
  - d) Test Report
- 3.0 As per site investigation, it was observed that no electric supply is given to any premises on the 6<sup>th</sup> floor. The 6<sup>th</sup> floor might be newly constructed hence the complainants were asked to submit Municipal Tax Assessment slip to verify authentication of the 6<sup>th</sup> floor. The complainants have not yet submitted the same.
- 4.0 It was further observed that there is no signature or stamp of plan approving authority. Instead of submitting Municipal Tax Assessment slip of the premises for 6<sup>th</sup> floor they have moved to IGRC and then Forum for giving electric supply and compensation as per SOP.

**REASONS**

- 1.0 We have heard the representative Shri Taheer Khan for the complainant and for the Respondent BEST Undertaking Shri M.R.Sayani, Supdt. CC(D), Shri A.D. Waghmode, AAO. Perused the documents filed by either parties to the proceeding.
- 2.0 We have cautiously gone through the Schedule 'A' in which name of the consumer is shown as Smt. Femida Anees Ujjainwala & Others. Schedule 'A' does not disclose the names of other consumers. Likewise Schedule 'A' only bears signature of Smt. Femida Anees Ujjainwala. It is not the case of the complainant that other consumers have authorized the complainant Smt. Femida Anees Ujjainwala to file the compliant on behalf of them. Likewise the representative Shri Taheer Khan has only represented the complainant and not other consumers. Considering all these lacunas in Schedule 'A', the question poses before the Forum is whether the complaint on behalf of others

is maintainable. According to us the complaint on behalf of Smt. Femida Anees Ujjainwala is only maintainable and looked into by the Forum.

3.0 The representative of the complainant has vehemently submitted that they have filed the plan showing the construction of Giyani Court Bldg. has ground + 6 floors and therefore the Respondent BEST Undertaking has no right to ask the complainant to file revise or fresh EEBP plan of Giyani Court Bldg. He has further submitted that it is not a look out of the Respondent BEST Undertaking to see legality of the construction for which electric supply is asked for. The Respondent BEST Undertaking has submitted that EEBP plan filed by the complainant is dtd. 02/06/1957 and therefore they insisted the complainant to file the fresh EEBP plan. The Respondent BEST Undertaking has therefore submitted that they have sanctioned the application bearing no. 32117 subject to filing valid occupancy proof; NOC of landlord, if any; Indemnity Bond and Undertaking. The Respondent BEST Undertaking has submitted that the complainant has submitted Rent Receipt, Indemnity Bond and Undertaking and the Respondent BEST Undertaking has no suspicion about the Rent Receipt issued by the landlord to the complainant. If, this would be the case then certainly there is no need to have NOC of landlord. Even if they had suspicion about Rent Receipt they ought to have issued a letter to landlord and ought to have made enquiry with him. They did nothing in that regard and therefore the Respondent BEST Undertaking ought to have relied upon Rent Receipt as proof of occupier.

4.0 On this point we have gone through the provisions of MERC (Electricity Supply Code & Other Conditions of Supply) Regulation, 2005 wherein Regulation 2.1 (s) 'Occupier' is defined. 'Occupier' means the person in occupation of the premises where energy is used or is proposed to be used. Considering the definition of occupier given in the above said Regulation it appears that it was not incumbent on the part of the Respondent BEST Undertaking to ask the complainant to file fresh EEBP plan or insist for assessment for the Property Tax Receipt of the premises for which connection is asked for. We think it just and proper to reproduce Regulation 4 of the above said MERC Regulation 2005 which deals with application for supply.

#### 4. Application for Supply

4.1 xxx xxx xxx  
xxx xxx xxx  
xxx xxx xxx

(i) xxx xxx xxx  
(ii) xxx xxx xxx  
(iii) xxx xxx xxx  
(iv) xxx xxx xxx  
(v) xxx xxx xxx  
(vi) xxx xxx xxx  
(vii) xxx xxx xxx

xxx    xxx    xxx  
xxx    xxx    xxx  
xxx    xxx    xxx

Provided further that for consumers falling under the domestic tariff category, a copy of any one of the following documents namely, (i) Ration Card; (ii) Photo-pass; (iii) Voter's Card; (iv) Passport; (v) documents pertaining to occupation of the premises may be required at the time of processing of the application.

(viii)    xxx    xxx    xxx  
(ix)    xxx    xxx    xxx

xxx    xxx    xxx  
xxx    xxx    xxx  
xxx    xxx    xxx

The Rent Receipt can be certainly held as document pertaining to occupation of the premises. So it appears from the record that the complainant has done all the compliances by giving Rent Receipt, Undertaking and Indemnity Bond and there should not be any hitch for the Respondent BEST Undertaking to give electric supply.

5.0 It appears from the record that EEBP plan is dtd. 02/06/1957 and therefore the Respondent BEST Undertaking ought to have insisted to file fresh EEBP plan or extract of Property Tax Assessment under bonafide belief. So considering the facts and circumstances of the case it cannot be inferred that the Respondent BEST Undertaking withheld to give electricity connection to the complainant intentionally. If viewed from this angle, in our opinion this is not a case in which the complainant entitled for compensation under SOP.

6.0 The complainant in support of her case has relied upon ruling reported in *AIR 2011 Calcutta 64, Abhimanyu Mujumdar v/s Supdt. Engineer and Anr.* In this case law it has been held that the phrase lawful occupier appearing in rules for implementation of the object of the E.A., 2003 to construe the same as person in "settled possession" whose possession can be defended against the threat of dispossession otherwise than due process of law even by the lawful owner. Therefore, a person in settled possession of a property be it unauthorized occupiers, encroachers of any premises and squatter of any premises, he is free to apply for supply of electricity without consent of the owner of the same and he is entitle to get electricity and enjoy the same until he is evicted by due process of law. The ratio laid down in this case law is applicable to the instant case before us.

7.0 In the above said observation and discussion the complaint is liable to be allowed and accordingly we do so.

**ORDER**

- 1.0 The complaint no. S-D-355-2018 dtd. 22/05/2018 stands allowed.
- 2.0 The Respondent BEST Undertaking has been directed to provide electricity to the complainant Smt. Femida Anees Ujjainwala as requested by her vide requisition no. 321117 dtd. 14/09/2017 and to report the compliance within a period of two weeks there from.
- 3.0 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**