

		Date	Month	Year
1	Date of Receipt	12	04	2021
2	Date of Registration	15	04	2021
3	Decided on	02	09	2021
4	Duration of proceeding	140 days		
5	Delay, if any.	80 days		

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

Grievance No.N-GN-427-2021 dtd. 15/04/2021

Smt. Hamidunnisha A. AliComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Shri S.S. Bansode, Technical Member

On behalf of the Respondent : 1. Shri J.S. Thorve, DECC(G/N)

On behalf of the Complainant : 1. Shri Mohd. Shahid Shah

Date of Hearing : 12/08/2021

Date of Order : 02/09/2021

Judgment

- 1.0 The complaint is received on 09/02/2021 and registered on 11/02/2021 in the office of the Forum. However, due to pandemic of Covid-19, lockdown was declared by the Government from 23/03/2021 onwards and it was extended from time to time and subsequently the guidelines were issued by MERC in that respect. The consumer was not ready for hearing through Video Conferencing. For these reasons, the matter could not be heard for long period. Therefore, the matter was fixed for hearing physically on 12/08/2021. Accordingly, the matter was heard on 12/08/2021 and now the judgment is being given. For these reasons the matter could not be decided within the time prescribed by the Regulations. Therefore, the delay of 80 days has occurred in deciding this complaint.
- 2.0 The complainant has grievance about debiting of an amount of Rs. 15,50,392/- + interest and other charges pertaining to a/c no. 781-005-619 belonging to some other person, to her a/c no. 781-004-033. According to her, the holder of said a/c no. 781-005-619 has concern neither with her nor has any concern with her premises nor with her account no. 781-004-033 and therefore she is not liable to pay the said debited amount. Therefore, the complainant has requested to direct the Respondent to withdraw the said demand and give correct bill only about her own consumer account no. 781-004-033.
- 3.0 The following facts may be said to be not in dispute between the parties:
- a) The complainant is a consumer of electricity supplied to her premises by the Respondent since the year 2007. Her consumer a/c no. is 781-004-033. The premises to which the said electric connection is provided under this consumer account is situated at 1346, Ground floor, Navrang Compound, Dharavi Main Road, Dharavi, Mumbai - 400 017.
- b) On 04/06/2016 the complainant's husband by name Shri Akbar Ali was provided electric connection by the Respondent in some other premises than the aforesaid premises of the complainant. His consumer a/c no. is 781-000-036. In the record of the respondent/Undertaking, pertaining to this consumer a/c no. 781-000-036, the name of consumer of this account is mentioned as Akbar Ali Rojan Ali Shah. The premises of this consumer a/c is mentioned in the application for connection as Ground, Plot 1, Navrang Compound, Patra Shed, Dharavi Main Road, Dharavi, Mumbai - 400 017.
- c) On 15/07/2014, another electric connection was given to the said husband of the complainant under consumer a/c no. 781-005-006. In the application for this connection, name of the applicant is mentioned as Akbar Ali Rojan Ali Shah. The premises to which this connection is given has been described in the said application for connection as, GNM/95/589/MLC-Gr. Flr, Bldg.1, Navrang Compound, Sion-Mahim Link Road, Dharavi, Mumbai - 400 017.

d) The Respondent has served demand / electric bill to the complainant of this case. The said bill is dtd. 15/03/2021 pertaining to the complainant's a/c no. 781-004-033 by showing the amount due as Rs. 16,97,950/-. Copy of this bill is produced by the complainant with the instant complaint before this Forum. In this bill the current bill is mentioned as Rs. 34,376.39 and previous arrears are mentioned as an amount of Rs. 16,73,578/- and thus the complainant was asked by this demand bill to pay an amount of Rs. 16,97,950. In this amount the arrears amounting to Rs. 16,97,950/- of another consumer a/c no. 781-005-619 have been added, as per the case of the Respondent, and this is being disputed by the complainant in the instant case.

4.0 The complainant's case, as stated by her in the complaint filed and as per the submissions made by her representative in the course of hearing, before this Forum, may be summarized as under :

a) According to the complainant, in the month of October 2019, the official of the Respondent had visited the area of the complainant for searching whereabouts of a person by name Shri Akbar Ali R. Ali Shaikh. He made enquiry with the complainant and her family and at that time the complainant informed the said officer that her husband's name is Akbar Ali Rojan Ali Shah and not Akbar Ali R. Ali Shaikh and, therefore, the complainant and her family has no concern with any person named as Shri Akbar Ali R. Ali Shaikh. However, the said official was insisting to accept that the said name Shri Akbar Ali R. Ali Shaikh is the name of the complainant's husband and electric bill pertaining to him should be paid by the complainant and her family. But the complainant did not accept and the said official went away.

b) The complainant has paid bills pertaining to her own a/c no. 781-004-033 upto the month of January 2020. It is the case of the complainant that because of the lockdown imposed by the Government due to pandemic of Covid-19, the electric bills were not reaching to the consumers in their area. Therefore, the bills were not available to the complainant for making payment thereof during the lockdown period for a considerable time. Soin the month of October, 2020, the complainant's son visited to the office of the concerned Customer Care Ward of the Respondent situated in Dharavi area. He went there with an intention to know the exact bill amount for the period from February 2020 to October 2020 so that the payment could be made. He got duplicate bills from the said officer. However, he was surprised to know that the bill was for about Rs. 16 lacs. The son of the complainant made enquiry with the concerned officials of the Respondent in the said office about this high amount of bill. The official informed that one Shri Akbar Ali R. Ali Shaikh is a consumer of the Respondent vide a/c no. 781-005-619 and the dues pertaining to his accounthave been added to the complainant's account no. 781-004-033 and, therefore, the said amount is shown in the bill of the complainant.

- c) The complainant's son tried to convince the said official of the Respondent that they have no concern with the said person by name Shri Akbar Ali R. Ali Shaikh and his dues. According to the complainant, her husband Shri Akbar Ali Rojan Ali Shah is suffering from illness of Alzheimer (Dementia) since last 5-6 years. This was also informed by her son to the said official Shri Tupe in the said visit in October 2020. The said official asked to complainant's son to bring the original documents and to meet Supdt. of electricity, ward named Smt. Manisha Dawre. When the complainant showed all the documents pertaining to her and her husband to the said Supdt., Smt. Daware, she found that Shri Akbar Ali R. Ali Shaikh and Shri Akbar Ali R. Ali Shah are different persons and they have no concern with each other. So, the said Supdt. of the ward assured complainant's son that there is similarity in the names and, therefore, there was a confusion and the things would be corrected.
- d) However, in the month of August 2020, the Respondent's officials had added dues pertaining to the said Akbar Ali R. Ali Shaikh to the complainant's bill. Therefore, the complainant's son wrote an application to the DECC(GN) on 26/10/2020, but the said office refused to take the said application, so the complainant's son posted that letter on 29/10/2020 through Speed Post. On 02/11/2020, it was confirmed that the delivery of the letter was made to the said office of DECC(GN).
- e) Thereafter, in the month of January 2021, the complainant got reply regarding the said application made to the DECC(GN). The Respondent's official in their reply mentioned that on 09/05/2020 the Dharavi electricity ward had asked the complainant to visit their office but the complainant failed to visit the office and therefore the officials of the Respondent have added the dues of said Akbar Ali R. Ali Shaikh to the bill of the complainant. Thereafter on 25/01/2021, the complainant submitted the complaint in Annexure 'C'. Then, she got a letter from DECC(GN) on 27/02/2021 calling upon her to attend the enquiry before him. The complainant's son appeared before the official. In the course of hearing of that complaint he denied that any letter was served upon the complainant calling upon her to visit the office of the Respondent on 09/05/2020. In the course of hearing of the said complaint the official of the Respondent asked the complainant's son on 01/03/2020 to sign a paper acknowledging that he represented the complainant in the said hearing. However, the said official had written on that paper, complainant's name as Hamidunnisha Akbar Ali Shaikh instead of Shah. For this, the complainant's son objected. The said official told him that in Annexure 'C' also the complainant's name is mentioned by her as Hamidunnisha Akbar Ali Shaikh. The complainant's son explained to him that his servant was assigned work of filing the said Annexure 'C' and as the format there of was in English language and the servant did not know that language, he got it filled in English from the official of the respondent. The servant could not understand that complainant's name was mentioned incorrectly in the Annexure 'C'. Thereafter, the complainant's son asked his said servant to correct the Annexure 'C' and hence, he filed another form of Annexure-C on 27/01/2021. On 01/03/2021, the hearing had taken place. On 07/04/2021, the Respondent served the complainant with their letter dtd. 01/03/2021. In that letter it was mentioned that in the year 2007, the meter no. G040660 was

installed under tapping case vide application no. 70805056 in the name of Akbar Ali R. Ali Shaikh under a/c no. 781-005-619. In the year 2008, the same meter was replaced by meter no. M032042 under extension of load case for the same premises in the name of Akbar Ali R. Ali Shaikh and since 15/06/2011 the consumer was not making payment against the said a/c no. 781-005-619 and therefore the meter was removed on 08/01/2017. In respect of this letter dtd. 01/03/2021, the complainant submits that the Respondent removes the meter immediately after default in payment, if the consumer fails to pay the bill. But in the said case of a/c no. 781-005-619 of so called Akbar Ali R. Ali Shaikh meter was removed after years together i.e. six years after the alleged default. There is no reason to explain this by the Respondent. The complainant's Representative pointed out this circumstance to disbelieve the case of respondent about complainant's liability in respect of dues of said person by name Akbar Ali R. Ali Shaikh.

- f) The Respondent has mentioned that on 12/11/2018, site inspection was carried out by their officials and it was found that electric supply was being given to the premises of the said a/c no. 781-005-619 of Akbar Ali R. Ali Shaikh from the complainant's a/c no. 781-004-633 and notice about this was given on 13/11/2008 and the complainant was asked to pay Rs. 12,75,130/- towards outstanding dues. In this regard the complainant has mentioned in the complaint before this Forum that no such site inspection was done as alleged and the complainant has denied the said allegation of supply of electricity to the premises of said a/c no. 781-005-619 of said Akbar Ali R. Ali Shaikh from the complainant's a/c no. 781-004-633 and also denied that any such letter was served on the complainant. The complainant has submitted that the allegations made by the Respondent in their correspondence, in respect of the aforesaid a/c no. 781-005-619, are false. It is further submitted that the Respondent has wrongly rejected the application under Annexure 'C' of the complainant and, therefore, the complainant has approached to this Forum for the redressal.

5.0 The Respondent has filed reply to the said complaint and has opposed the contentions raised by the complainant. The case of the Respondent as stated by them in their reply as well as in the submissions made before this Forum by the representative of the Respondent, may be stated as under :

- a) The consumer a/c no. 781-005-619 is pertaining to Shri Akbar R. Ali Shaikh. The electric connection under this consumer account was given to him on his application on the aforesaid premises and the meter was installed on that premises on 09/02/2008. The meter was removed on 05/12/2016, for non-payment of the bills. The dues pertaining to this a/c no. 781-005-619 were and are amounting to Rs. 15,50,392.48. Site inspection was carried out by the officials of the Respondent on 28/08/2018 when it was found that supply to the premises of this a/c no. 781-005-619 was on through the complainant's premises pertaining to a/c no. 781-004-033. The site inspection report in this regard is produced at pg. 99/c with reply of the Respondent. Therefore, the notice was served on the complainant on 13/11/2018 and this notice is at pg. 101/c with the reply.

- b) It is the further case of the Respondent that electric connection was given to the complainant under a/c no. 781-004-033 on 28/03/2007 and electric connection to the consumer by name Shri Akbar R. Ali Shaikh under a/c no. 781-005-619 on 14/10/2008. It is further case of the Respondent that the said Shri Akbar R. Ali Shaikh (the consumer of a/c no.781-005-619) is none other, than the husband of the complainant. But in his application for this connection the name is mentioned by himself as Akbar Ali Rojan Ali Shaikh. Therefore, in the record maintained by the respondent and in the bills of this account No. 781-005-619 his name is appearing as Shri Akbar R. Ali Shaikh. It is further case of the Respondent that the complainant's husband has got other two connections under the a/c no. 781-005-006 and 781-000-036. In these two accounts, the name of the consumer is mentioned as Shah Akbar Ali Rojan Ali. This name is appearing in the record of respondent as per description of name applicant/consumer, given in the applications made by the husband of the complainant for connections. The electric connection was given to the a/c no. 781-005-006 on 15/04/2014 and to the a/c no. 781-000-036 it was given on 04/05/2016. Thus, by adopting a trick of mentioning different sur-names in different applications for connection, the said husband of the complainant got all the aforesaid three connections including the disputed connection bearing consumer a/c No. 781-005-619. The Respondent has further submitted that apart from the aforesaid connections, the connection in the name of complainant under a/c No.781-004-033 and another connection vide a/c no. 781-000-040 in the name of complainant's daughter Rukaiya Khatoon (which is given on 16/08/2016) have been obtained by the family by giving slightly different addresses of the premises, which in fact are the same or attached to each other. This is done by the family of complainant by showing division in the premises, to which initially connection was given in the name of the complainant. In respect of a/c no. 781-005-619 in the name of Shri Akbar R. Ali Shaikh, it is further case of the Respondent that after giving of connection on 09/02/2008, the said consumer of this account had made an application for extension of load and there upon the extension was given on 14/10/2008. It is further case of the Respondent that in all the aforesaid three accounts 781-005-619, 781-000-040 and 781-000-036 the premises is situated in Dharavi Navrang Compound where the complainant's premises is also situated. In fact, the Respondent submits that all the aforesaid five accounts have the same address with slight differences. Therefore, according to the Respondent, the consumer of a/c no. 781-005-619 is the same person who is husband of the present complainant and who is also having admittedly other two accounts bearing No.781-005-006 and 781-000-036.
- c) It is the case of the Respondent that the applications for connection of a/c no. 781-000-040 and 781-000-036, which are admittedly of the husband of the complainant, have the photographs similar to the photograph on the application for connection pertaining to the disputed a/c no. 781-005-619. Therefore, all the three connections are pertaining to the husband of the complainant. It is further case of the Respondent that the address of the a/c no. 781-005-619 belongs to Akbar Rojan Ali

Shaikh having address of the premises of the complainant and therefore premises of both the consumers is one and the same. In view of this, the representative of the Respondent has submitted that under clause 12.5 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (herein after referred to as MERC Supply Code, 2021), the complainant's premises is having charge of the dues pertaining to the a/c no. 781-005-619. The representative of the Respondent has relied on the record of the applications for connection in respect of all the aforesaid a/c nos. 781-004-033 of the complainant, 781-005-619 of Akbar Rojan Ali Shaikh, 781-005-006 of Akbar Ali Rojan Ali Shah, 781-000-036 of Shah Akbar Ali Rojan Ali and also 781-000-040 of Rukaiya Khatoon, who is daughter of the complainant admittedly.

- d) In the aforesaid circumstances mentioned by the Respondent in its reply, the Respondent has submitted that the complainant is liable to pay the arrears of a/c no. 781-005-619 and therefore the Respondent has rightly added the dues pertaining to this account to the account and bill of the complainant under a/c no. 781-004-033. In view of this, the Respondent has submitted that the complaint is liable to be dismissed by this Forum.

6.0 We have heard the submissions of parties. The submissions of the representative of the parties have been already noted while noting the facts pleaded by the parties. The following points arise for determination, on which we record our findings as under, for the reasons to follow.

Sr. No.	Points for determination	Findings
1	Whether the Respondent/Undertaking is entitled to recover the dues pertaining to the consumer a/c no. 781-005-619 of <u>Akbar R. Ali Shaikh</u> , from the complainant?	Negative
2	What order should be passed?	The Respondent is directed to revise the bills given to the complainant so as to withdraw its demand in respect of arrears pertaining to the a/c 781-005-619 of Akbar R. Ali Shaikh and to give the revised bill to the complainant to the extent of arrears pertaining to her own a/c no. 781-004-033 only and in these terms the complaint is disposed off.

7.0 We have examined the documents relied upon by the parties along with their pleadings. We have also examined their submissions. The submissions of the representative of the complainant is that the aforesaid a/c no. 781-005-619 and its consumer by name Akbar Ali R. Ali Shaikh have no concern either with the complainant or with her family members or with her husband, whose name is Akbar Ali Rojan Ali Shah and not Akbar Ali Rojan Ali Shaikh. The representative of the Respondent has submitted that as the names of holders of all the three consumer account Nos. 781-005-619, 781-005-006 and 781-000-036 are mostly similar, they belong to one and the same person and that person is none other than the complainant Hamidunnisha's husband who is also known as Shah Akbar Ali Rojan Ali or Akbar Ali Rojan Ali Shah. The representative of the Respondent has extensively relied upon the applications for connection made in the aforesaid three accounts 781-005-619, 781-005-006 and 781-000-036. No doubt in all these applications the first name of the applicant is Akbar Ali but in the case of a/c No. 781-005-006 and 781-000-036 these second names and surnames are mentioned as Rojan Ali Shah whereas in the case of 781-005-619 the surname and second name is mentioned as R. Ali Shaikh which appears similar to the earlier two names except surname. Moreover, all these three accounts have address of Dharavi area, where complainant's premises is situated. Dharavi area is said to be a hutment area. The representative of the Respondent has submitted that people in that area live in such a way that all family members actually live in one and same premises but from time to time by making certain changes they show a division of the premises with a view to get separate electric connections. He has submitted that in the instant case, same thing has happened and it is done as such by the family of the complainant with a view to avoid payment of the dues.

- a) It is submitted by the representative of the Respondent that the complainant's husband is the consumer of all the aforesaid three accounts Nos. 781-005-619, 781-005-006 and 781-000-036 and therefore these accounts belong to the premises of the complainant and the complainant is liable to pay arrears pertaining to a/c no. 781-005-619. The complainant is liable because the consumer of a/c no. 781-005-619 is the complainant's husband and is family member of the complainant. It is also submitted that, in the inspection of the premises made by the Respondent's official, he found that the electricity is provided from the premises of the complainant to the premises pertaining to a/c no. 781-005-619 as the premises are adjacent to each other and therefore the complainant is liable to pay the arrears of the said a/c no. 781-005-619. In this regard the representative of the Respondent has referred to the provision of clause 12.5 of MERC Supply Code, 2021.
- b) Considering the aforesaid facts and submissions of the parties, what appears to us is that it is necessary to note the provisions laid down in clause 12.5 of MERC Supply Code, 2021. It provides as under :

Clause 12.5

Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased Consumer or the erstwhile owner / occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives / successors-in-law or transferred to the new owner / occupier of the premises, as the case may be, and the same shall be recoverable by the Distribution Licensee as due from such legal representatives or successors-in-law or new owner / occupier of the premises, as the case may be.

- c) On perusal of the aforesaid provisions, it would appear that the charge of arrears of electric bill pertaining to the supply given to a particular premises shall be on that particular premises only and the occupier, who is occupying that premises after the original consumer is dead or has transferred the said premises, is liable to pay the dues of the said charge. We are not convinced with the submissions of the representative of the Respondent that even a relative of such consumer, irrespective of fact that he is not a successor or transferee of such premises, is liable to pay the dues pertaining to that premises.
- d) The aforesaid provisions of clause 12.5 of MERC Supply Code, 2021 do not support the aforesaid submissions of the representative of the Respondent. The said provision is only in respect of the concerned premises and not in respect of the person who ceases to be consumer of that particular premises or the consumer of any other premises. Therefore, we will have to see whether clause 12.5 entitles the Respondent to recover the arrears of electricity bills pertaining to the premises of the a/c no.781-005-619 from the complainant who has denied to be a consumer of that account. What we will have to see is whether the premises of consumer a/c 781-005-619 and complainant's a/c no. 781-005-033 is one and the same. In search of answer to this question, we have examined the submissions of the parties and their documents. As far as the documents are concerned, the premises of all the aforesaid accounts have somewhat similar and nearby address. Therefore, on the basis of addresses mentioned in the record, it is difficult to find out whether they are separate from each other or they are one and the same. The representative of the complainant has submitted that the premises are different and separate from each other as far as a/c no. 781-004-033 and 781-005-619 are concerned. He has submitted that the complainant does not know even the consumer and premises of this disputed a/c no. 781-005-619.
- e) On the other hand, the representative of the Respondent has filed a sketch map and also relied on the sketch map allegedly prepared at the time of giving all these connections i.e. a/c no. 781-004-033 and 781-005-619. In this sketch, it appears that rooms are nearby to each other. The Respondent's representative, however, has submitted that the connection of a/c no. 781-004-033 of the complainant Hamidunnisha Ali was given on 28/03/2007 and this account is still alive. He has submitted that the complainant's husband by mentioning his name as Akbar Ali R. Ali Shah in application for connection has shown part of the premises to which the complainant's account pertains and in this way to that part the connection has been given under disputed a/c

no. 781-005-619 in the name of Akbar Ali R. Ali Shaikh and this connection to the said Akbar Ali R. Ali Shaikh was given on 14/10/2008 and it was disconnected on 05/02/2016 for non-payment of the dues. In view of these facts, it may be noted that when for a/c no. 781-005-619 connection was given, the complainant's connection was already in existence to that premises. Even if aforesaid submission of the Respondent is accepted, in the light of it, the inference that can be drawn is that the connection of a/c no. 781-005-619 was given after separating some part of the premises of the complainant having a/c no. 781-004-033 and the premises of said Akbar R. Ali Shaikh of a/c no. 781-005-619, was treated separately from the premises of the complainant. If the premises of a/c no. 781-005-619 of Akbar Ali R. Ali Shaikh was separated from the premises of the complainant in the aforesaid manner, in the light of the submissions of the representative of Respondent, both the accounts and premises thereof would be treated as separate from each other and charge of the premises of a/c no. 781-005-619 cannot be kept on the charge of the premises of the complainant pertaining to 781-004-033. This view gets support from the aforesaid provision of clause 12.5, on which the representative of the Respondent has heavily relied. Therefore, the case of the Respondent that the complainant is liable to pay the arrears pertaining to a/c no. 781-005-619 of Akbar Ali R. Ali Shaikh, gets collapsed.

- f) **In the light of the aforesaid observations and reasons we need not to go any further into details of the other documents and submissions of the parties, as we have held that the Respondent is not entitled to recover the dues pertaining to a/c no. 781-005-619 for the above reasons. In view of the above reasons, we have recorded negative findings on point no. 1.**
- g) As far as point no. 2 is concerned, it will have to be observed that the complaint deserves to be allowed to direct the Respondent to revise the bills so as to withdraw its demand asking the complainant to pay the arrears about a/c no. 781-005-619 and to deduct it from the complainant's account and consequently the Respondent will have to be directed to give the revised bill to the complainant by deducting the arrears of a/c no. 781-005-619 from the bill and a/c no. 781-004-033 of the complainant. Accordingly, we have answered point no. 2.
- h) In view of the above findings recorded by us on point 1 and 2, we proceed to pass the following order:

ORDER

- 1.0 The grievance no. N-GN-427-2021 dtd. 15/04/2021 stands allowed in terms as is being indicated herein below.
- 2.0 The Respondent is directed to revise the bills given to the complainant and her a/c No.781-004-033 and deduct the arrears pertaining to a/c no. 781-005-619 from the account and bills of the complainant and give fresh bills to the complainant only in respect of her own a/c no. 781-004-033.

- 3.0 The Respondent shall comply the aforesaid directions within one month from the date of receipt of the order.
- 4.0 In these terms the complaint stands disposed off.
- 5.0 Copies of this order be given to all the concerned parties.

sd/-
(Shri. S.S. Bansode)
Member

sd/-
(Shri S.A. Quazi)
Chairman