

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-F(S)-253-2015 dtd. 12/03/2015.

Shri Babu Kanchan BoseComplainant
(Late Kanchand Amol Bose)

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.S. Bansode, Member
2. Shri S.M. Mohite , Member

On behalf of the Complainant : 1. Shri Babu Kanchan Bose

On behalf of the
Respondent No. 1 (BEST) : 1. Shri B.K. Shelke, DECC(F/S)

On behalf of the
Respondent No. 2
(Smt. Kalpana Bose) : 1. Shri Kamal Kanchan Bose
2. Smt. Kalpana Kanchan Bose

Date of Hearing : 20/04/2015

Date of Order : 05/05/2015

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Babu Kanchan Bose, Post Box No. 5519, Dadar Post Office, Dadar (E), Mumbai - 400 014 has come before the Forum for objection for transfer of electricity bill from September 2009 in the name Smt. Kalpana K. Bose pertaining to A/c no. 584-347-021*8 having electric supply at Ground floor, Shop No. 1, Rupchand Manilal Bldg., B.J. Deorukhkar Road, Dadar (E), Mumbai 400 014.

Complainant has submitted in brief as under :

- 1.0 The complainant has approached to IGR Cell on 28/03/2014 for his objection against transfer of electricity bill from September 2009 in the name of Smt. Kalpana K. Bose pertaining to A/c no. 584-347-021*8. The complainant has approached to CGRF in schedule 'A' dtd. 10/03/2015 (received by CGRF on 11/03/2015) as he was not satisfied by the remedy provided by the IGR Cell Distribution Licensee regarding his grievance.

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

- 2.0 Prior to Sept 2009, the electric supply was given to the premises under reference in the name 'Kanchand Bose' under the Consumer Account No. 584-347-021. In the month of Sept -2009, Smt. Kalpana Kanchan Bose, applied for change of name, along with xerox copy of Death Certificate of her husband namely 'Kanchankumar Amalendu Bose', copy of ration card, in the name of "Smt. Kalpana Kanchan Bose", copy of "Shop and Establishment Registration License' for the premises in the name M/s. Aden Tailors at Abdul Umar Chawl, Shop -1, B.J.Deorukhar Road, Mumabi' in which, applicant's name is mentioned as an Employer. Based on these documents, the change of name has been effected. As transfer of electricity bill is between spouse and deceased person was husband of the applicant, consent letter for transfer of electricity bill is not asked.
- 3.0 Subsequently in the month of May-2011, the person namely Shri Babu Kanchan Bose (the present complainant) has raised objection for said change of name, claiming that he is son of late Kanchan Amol Bose. He further stated that death certificate of his father submitted by Kalpana Kanchan Bose is fake, it's not relevant to late Kanchan Amol Bose, and hence requested for reversion of change of name.
- 4.0 On receipt of objection letter, as there was difference in name i.e. 'Kanchankumar Amalendu Bose and 'Kanchan Amol Bose' we have asked Smt Kalpana Bose to clarify the same, upon which vide letter dtd 04-10-2011, she clarified that these both the names are of same person namely Kanchan Amol Bose who is her late husband.
- 5.0 As per clause 2.9 of "Condition of supply" approved by MERC i.e. "The Undertaking shall neither be responsible nor liable to ascertain the legality or adequacy of any No Objection Certificate/ Way Leave Permissions/ Permission or consents of statutory authorities which might have been submitted by the applicant / consumer along with his application and shall believe that such certificate / permission to be sufficient and valid unless proved to be contrary. In such case, if documents are found to be fraudulent at later stage, consequences shall be borne by the consumer". Hence we asked the complainant to submit his objection with sufficient documentary evidence.
- 6.0 The Complainant Shri Bose was repeatedly requested through our various letters to submit documentary evidence in support of his contention that the name of his Father is Kanchan Amol Bose and not Kanchan Amalendue Bose and the death certificate produced at the time of change of name is not correct, so as to enable us to take necessary action in this matter. But he failed to submit documentary evidence in support to his contention.

REASONS

- 7.0 We have heard the complainant Shri Babu Kanchan Bose, Smt. Kalpana K. Bose for the Respondent No. 2 in person and for the Respondent BEST Undertaking Shri B.K.Shelke, DECC(F/S). Perused the documents placed on file before us.
- 8.0 After hearing the arguments advanced by the complainant and the Respondent BEST Undertaking it appears that this case is best example how the legal heir of deceased consumer has raised the dispute in grudge of property going to be developed in SRA scheme.
- 9.0 After going through the record it appears that electricity connection was given in the name of Late Kanchand Bose who died on 01/03/1986 and after his death his wife Smt. Kalpana Bose approached the Respondent BEST Undertaking for change of name and after due compliance and perusal of documents more particularly license issued under The Bombay Shop Act in respect of business in the premises, the Respondent BEST Undertaking has caused change of name of Late Kanchand Bose as per Regulation 10.5. The documents filed by the Respondent BEST Undertaking goes to show that on 03/09/2009, Smt. Kalpana Bose filed an application in prescribed proforma for change of name and after going through the documents i.e. death certificate of Late Kanchand Bose, ration card and license issued under Bombay Shop Act, the Respondent BEST Undertaking has effected change of name in Smt. Kalpana K. Bose. It is affected in the year 2009 and thereafter the complainant has raised the dispute in the year 2011 before the Customer Care dept. of the Respondent BEST Undertaking. The Customer Care Dept., by letter, has informed the complainant that, they have caused change of name as per Regulation 10.5 as well as Regulation 13 of MERC (Electricity Supply Code and Other Conditions of Supply), Regulation, 2005.
- 10.0 In spite of receipt of the communication in 2011, the complainant did not approach the IGR for his grievance. The only grievance of the complainant is that the name of Smt. Kalpana Bose be struck off and previous name of Late Kanchand Bose be restored. According to the complainant the death certificate of deceased consumer filed by Smt. Kanchan Bose is false and fabricated as the name of deceased consumer shown in death certificate and on electricity bill is different. We have gone through the death certificate in which the name of the consumer appears to be Kanchankumar Amlendu Bose and in electricity bill the name is shown as Kanchand Bose. The record goes to show that the Respondent BEST Undertaking made enquiry that Smt. Kalpana Bose and she has given explanation that Late Kanchand Amlendu Bose and Kanchankumar Amlendu Bose are names of a same person. In view of this explanation given by Smt. Kalpana Bose, it cannot be held that the said death certificate is false and bogus. It is not, case of the complainant that Smt. Kalpana Bose is not a widow of deceased consumer. Even if he asserts that the said death certificate is false and bogus, he has every right to file appropriate proceeding before the court of law and sought declaration in respect of alleged forged or fabricated death certificate. We are saying

so because of clause 2.9 of Terms and Conditions of Supply 2005, we think it just and proper to reproduce clause 2.9 of Supply Code.

Clause 2.9 : The undertaking shall neither be responsible nor liable to ascertain the legality or adequacy of any No been submitted by the Applicant / consumer along with objection Certificates / Way leave permissions / Permission of Consents of Statutory Authorities which might have his application and shall believe that such certificates / permissions to be sufficient and valid, unless proved to be contrary. In such cases, if documents are found to be fraudulent at later stage, consequences shall be borne by the consumer.

- 11.0 Considering the provision of Clause 2.9 of Supply Code, we do not find any grievance in the contention of the complainant as it appears that the complainant came with a stale grievance. Considering the grievance of the complainant it is for the Forum to see whether the complainant can be termed as a **consumer** within section 2(15) of Electricity act, 2003 as well as whether the dispute raised by the complainant really comes within the purview of definition of “**Grievance**” as contemplated under Regulation 2(C) of MERC (CGRF & EO) Regulation, 2006. Considering the definition of “**Consumer**” as well as “**Grievance**”, this Forum comes to the conclusion that really the dispute raised by the complainant does not come under purview of grievance. Had it been the fact that, the complainant after three years of attaining the age of majority filed an application for change of name with the Respondent BEST Undertaking and if the Respondent BEST Undertaking had not proceeded with the said application in that case the complainant ought to have right to raise his grievance. It is pertinent to note that by raising the dispute, the complainant never prayed to record his name in place of deceased consumer but he has only prayed to strike out the name of Smt. Kalpana Bose and to restore it in the name of deceased consumer. Having regard to this aspect of the case, this Forum does not find any substance in the grievance raised by the complainant.
- 12.0 For the above stated reasons, the Forum comes to the conclusion that the complainant approached the Forum with a stale case without ascertaining his legal right by filing application in prescribed proforma for change of name. If the complainant asserts that the death certificate filed by Smt. Kanchan Bose is bogus and fabricated, he has every right to file the suit for declaration that the certificate is forged and after giving such declaration by court he has every right to approach the Respondent BEST Undertaking for striking off the name of Smt. Kalpana Bose. It appears that the electricity connection given to the premises is going to be developed in SRA scheme and therefore the complainant has taken objection for recording the name of Smt. Kalpana Bose in electricity bill. It appears that Smt. Kalpana Bose might have got recorded her name with a view to assert rights in the developed property under SRA scheme. We are saying so because after the death of Kanchand Bose in the year 1986, Smt. Kalpana Bose approached for change in name. However, this conduct on the part

of Smt. Kalpana Bose itself is not benefited to the case of the complainant as after ascertaining the documents and the name of Smt. Kalpana Bose in Shop and License as employee, the Respondent BEST Undertaking has duly recorded her name by affecting change of name.

- 13.0 Having regard to the above said reasons, this Forum does not find any substance in the complaint which is liable to be dismissed. Accordingly, we proceed to pass the following order.

ORDER

1. The complaint No. N-F(S)-253-2015 dtd. 12/03/2015 stands dismissed.
2. Copies of this order be given to all the parties.

(Shri S.M. Mohite)
Member

(Shri S.S. Bansode)
Member

(Shri V.G. Indrale)
Chairman