

**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-GN-294-2016 dtd. 22/04/2016.**

Mr. Mobinuddin Hamiuddin .....Complainant

V/S

B.E.S.&T. Undertaking .....Respondent

**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 Mobinuddin Hamiuddin

On behalf of the Respondent : 1. Shri P.P. Kulkarni, DECC(G/N)  
2. Smt P.S. Kekane, AAMCC(G/N)

Date of Hearing : 20/06/2016

Date of Order : 24/06/2016

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

Mr. Mobinuddin Hamiuddin, Ground floor, 178/A, Shetwadi, Murgan Chawl, 60 ft. Road, Dharavi, Mumbai - 400 017 has come before the Forum for high bill complaint pertaining to A/c no. 764-369-001.

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

The complainant has approached to IGR Cell on 08/04/2011 & 19/11/2014 for high bill complaint pertaining to A/c no. 764-369-001. The complainant has approached to CGRF in schedule 'A' dtd. 04/04/2016 (received by CGRF on 13/04/2016) as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee regarding his grievance.

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

- 2.0 The complainant Shri Mobinuddin Hamiuddin came before the Forum regarding his grievance about high bill for the period 09/03/2009 to 19/04/2012 pertaining to A/C 764-369-001.
- 3.0 Initially electric supply was given to premises under reference through meter number L090709 for commercial purpose having A/C 764-369-001. Meter number L090709 had shown steady progressive reading up to September 2009 i.e. reading recorded as 6391 units as on 03-09-2009. Average monthly consumption recorded during this period was 1042 units.
- 4.0 The meter no. L090709 has stopped recording consumption from 03/09/2009 and consumer was billed on estimated average basis of 1500 units per month. As the meter was found defective (NO Display) the meter no. L090709 was replaced on 06/05/2011 by meter no. B102032.
- 5.0 Newly installed meter no. B102032 was also not recording consumption from the date of installation i.e. 06/05/2011. This meter has stopped recording consumption from December 2011. The consumer was billed on estimated average consumption from December 2011 which was very low. This average consumption was based on consumption from date of installation to December 2011. This meter B102032 was replaced by meter no. C113414 on 19/04/2012.
- 6.0 The complainant has complained about high bill in Annexure 'C' form dtd. 08/04/2014 and requested to reconsider average billing charged for the period September 2009 to May 2011. He further requested to refund delay payment charges and interest levied thereon.
- 7.0 As the complainant consumer did not pay electricity bill from December 2014, his electric supply was disconnected by removing the meter C113414 for arrears billing of Rs. 7,36,888.00.

**REASONS**

- 8.0 We have heard arguments of the complainant in person and for the Respondent BEST Undertaking Shri P.P. Kulkarni, DECC(G/N) & Smt. P.S. Kekane, AAMCC(G/N). Perused plethora of documents placed on record by either party to the proceeding.
- 9.0 The complainant has vehemently submitted that since 09/03/2009 to April 2012 he has received high consumption of units than that of his consumption. He has submitted that the meters installed on his commercial place were defective as there was no

display and therefore the Respondent BEST Undertaking has charged average units of 1500 per month for the period from September 2009 to May 2011. It is his grievance that since 2009 he has made complaint in Annexure 'C' with Customer Care Dept. but they have not taken little pain to resolve the grievance. The complainant has placed on record zerox copy of Annexure 'C' dtd. 08/04/2011 (pg. no.7) and after going through the same, we find substance in the submission of the complainant that on 08/04/2011 he had filed Annexure 'C' with Customer Care 'G/N' of the Respondent BEST Undertaking. In that application he has stated that on 14/05/2010 he had also filed an application bearing no. HBL 226 with Customer Care Dept. and they have not taken any action. It reveals that on 19/11/2014 the complainant has filed Annexure 'C' before IGRC who have entertained the grievance and prepared dr/cr note by showing average bill per month as 572 units and now the said note is pending before Audit Dept. for approval.

- 10.0 Having regard to the above said grievance and the period of grievance, *prima facie* the Forum finds that there is bar of Regulation 6.6 of MERC (CGRF & EO) Regulation, 2006. The said Regulation runs as under.

*"The Forum shall not admit the grievance unless it is filed within two years from the date on which the cause of action has arisen."*

Generally if the complainant had any grievance about the high bill, he ought to have made the complaint in 2009 for high bill. On this aspect the complainant has very politely submitted that from time to time he approached the Customer Care Dept. for resolving his dispute but they did nothing or not taken any steps to test the faulty meters. The Respondent BEST Undertaking also did not dispute the fact that in 2011 the complainant approached them for high bill. As per regulation, if IGR or Customer Care Dept. has not resolved the grievance, the consumer is at liberty to approach the Forum. On this point the complainant has submitted that he had no knowledge about the said fact. In legal sense, negligence of law has no excuse otherwise everybody would plead the same as defense.

- 11.0 The Regulation 2006 prohibit to entertain the grievance beyond the period of two years from the date of cause of action. In this case although the complainant has put his grievance before IGR, they did not resolve it due to their negligence and so the Forum think it just and proper to apply general provision of Limitation Act. Section 5 of Limitation Act deals with extension of prescribed period in certain cases. Section 14 of Limitation Act deals with exclusion of time of proceeding bonafide in court without jurisdiction. Thus we think it just and proper to invoke provision of Section 5 couple with Section 14 of Limitation Act, 1963 and condone the delay in making the grievance before the Forum. We think it just and proper to exclude the time taken by Customer Care Dept. for resolving this grievance. One may say that this Regulation and Electricity Act are special acts and therefore the general provisions of Limitation Act will not attract to such proceedings. On this aspect we rely upon ruling in between A.P. Power Co-ordination Committee & Others v/s Lanco Kondapalli Power Ltd. & Others reported in AIR 2016 S.C. 1925. In this case provisions of section 174,

175, 86(1) (f) of E.A., 2003 have been discussed. It has been held that “Claim, before Commission -- Limitation -- Claim cannot be entertained or allowed if it is barred by limitation prescribed for regular suit before Civil Court, however in appropriate cases specified period may be excluded on account of statutory provision like Ss. 5 to 14 of Limitation Act, 1963”.

- 12.0 In view of ratio laid down in the above said case law, we proceed to decide this case. After perusal of written statement it reveals that meter no. L090709 was installed on 06/03/2009 and it was replaced by meter no. B102032 due to ‘No Display’ to meter no. L090709. It further reveals that on 19/04/2012 meter no. B102032 was replaced by meter no. C113414 because of ‘No Display’.
- 13.0 After perusal of written statement filed by the Respondent BEST Undertaking, it is clear that meter no. L090709 as well as meter no. B102032 have been replaced because of ‘No Display’. Under such circumstances, it was expected from the Respondent BEST Undertaking that they could have got both the meters tested in lab and found out correct reading as recorded in the chip installed in electronic meter, which has not been done by the then concerned employees of the Respondent BEST Undertaking and no such explanation has been given as to why they have not adopted the due procedure as per regulation. This conduct on the part of the employees of the Respondent BEST Undertaking very well goes to show that they were not prompt in dealing with the grievance of the consumer as well as dealing with the regulation framed by MERC. Thus it appears that the consumer disputed the average units of 1500 per month recorded since October 2009 to April 2012. The Respondent BEST Undertaking has submitted that since before October 2009, electricity consumed for the month of September, August, July and June 2009 is taken as average bill as recorded for the period from October 2009 to April 2012. On this point the complainant has submitted that although he has taken electricity connection for commercial purpose there was no more consumption since October 2009 onwards and therefore average units of 1500 units recorded per month is excessive. We find substance in this submission of the complainant because all monthly consumption units through meter no. C113414 installed on 19/04/2012, during this period, recorded is in between 500-600 units. It appears that if there was no display for both the meters, the Respondent BEST Undertaking ought to have opted for testing the meters in lab to see whether the case will be governed by Regulation 15.4 of MERC (Electric Supply Code and Other Conditions of Supply), Regulation 2005.
- 14.0 While arguing the matter, the complainant has fairly submitted that he is ready to pay electricity charges by considering the average monthly bill for recorded units by meter no. C113414 for 49 months. The record goes to show that the Respondent BEST Undertaking has prepared the dr/cr note (pg.no. 71/C to 81/C) by considering the average 572 units for the month of October 2009 to April 2012. It appears that the meter no. L090709 was installed on 06/03/2009 and there was no display, so it was replaced by meter no. B102032 and likewise the case in respect of meter no. B102032. Thus, there is no record to see consumption of units by both the defective meters earlier to 06/03/2009. In view of this aspect even we could not apply Regulation 15.4

as there was no period of 12 months. Under such contingency, the Respondent BEST Undertaking has logically taken the subsequent period for arriving average bill recorded by the accurate meter for which the complainant did not dispute. The complainant has also shown readiness to pay the average bill as carved out by considering the units recorded by accurate meter for the disputed period from October 2009 to April 2012.

- 15.0 While arguing the matter, the Respondent BEST Undertaking has again submitted the chart of carving the average unit as 455 units per month for the period from October 2009 to April 2012. The said chart is marked as Exhibit 'H' for the purpose of identification. For the above stated reason the complainant is liable to pay electricity charges of 455 units per month for the period October 2009 to April 2012 and not average unit of 1500 per month as shown in the electricity bills. It appears that during the period of March 2009 to May 2013 the complainant has made payment for five times and thereby DPC & IOA were charged in monthly bill. The complainant has requested to waive DPC and IOA. However, considering the conduct of the complainant that he was most irregular in payment of electricity charges and was using electricity for commercial purpose we do not think it just and proper to waive DPC & IOA.
- 16.0 Having regard to the above said discussion we find substance in the grievance of the complainant as action of the Respondent BEST Undertaking charging unit 1500 per month since October 2009 to April 2012 appears to be not legal and proper. We are saying so because the Respondent BEST Undertaking's employees did not get tested the meter in lab as well as did not take any pain to see whether any units have been recorded in the chip installed in electronic meter. The complainant has submitted that after filing the grievance before CGRF, the Respondent BEST Undertaking has cut off the electric supply. On this point, the Respondent BEST Undertaking has submitted that they had no knowledge of filing the complaint before CGRF and after giving the notice to the complainant they have disconnected the electric supply as arrears were running in Rs. 6-7 lacs. In view of this aspect we think it just and proper to give directions to the Respondent BEST Undertaking to supply electricity as soon as the complainant deposit the amount as carved out by revised bill on the basis of 455 units per month for the period from October 2009 to April 2012.
- 17.0 The Respondent BEST Undertaking is liable to deduct the payment if any made during the above period and prepare revise bill. Before parting to pass the final order, we wish to observe that the complainant has knocked the doors of IGRC for high bill complaint but they did not take any pain to resolve the dispute. Lastly in 2014, the complainant again approach the IGR and there by the Respondent BEST Undertaking prepared dr/cr note which is waiting for approval by Audit dept. This conduct on the part of the Respondent BEST Undertaking very well goes to show that they are not giving proper attention while dealing with the grievances of the consumers. Considering all these circumstances we condone the delay as per Section 5 of Limitation Act as well as exclusion of time as per Section 14 of Limitation Act, 1963.

Having regard to the above said circumstances the complaint deserves to be allowed as under.

**ORDER**

1. The complaint no. N-GN-294-2016 dtd. 22/04/2016 stands allowed as under.
2. The Respondent BEST Undertaking is hereby directed to prepare revise bill as per statement at Exhibit 'H' i.e. for the period from October 2009 to April 2012, claiming average units 455 per month and issue the electricity bill to the complainant within 15 days from the date of receipt of the order.
3. The electricity charges paid by the complainant in between October 2009 to April 2012 be adjusted towards electricity charges.
4. After depositing the amount under revised bill, the Respondent BEST Undertaking is directed to give electric supply to the premises of the complainant immediately.
5. The Respondent BEST Undertaking is directed to comply with the order within one month from the date of receipt of the order and report the compliance within 15 days there from.
6. 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**