

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-352-2018 dtd. 13/04/2018

Mr. Mohd. Siddiq Mohd. ShArif ShaikhComplainant

V/S

B.E.S.&T. UndertakingRespondent

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 P.P. Kulkarni, DECC(G/N)
2. Smt. P.S. Kekane, AAM, CC(G/N)
3. Shri V.S. Gujar, Supdt. Vig(N)

On behalf of the Complainant : 1. Shri Mohd. Siddiq Mohd. ShArif Shaikh

Date of Hearing : 05/06/2018

Date of Order : 06/06/2018

Judgment by Shri. Vinayak G. Indrale, Chairman

Mr. Mohd. Siddiq Mohd. ShArif Shaikh, 240-7/8, Plot no. 6, Jalil Compound, Mahim Rly. Stn. (E), Dharavi, Mumbai - 400 017 has come before the Forum for dispute regarding estimate billing after the date of theft of meter pertaining to a/c no. 781-074-004.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 26/12/2017 for dispute regarding estimate billing after the date of theft of meter pertaining to a/c no. 781-074-004. The complainant has approached to CGRF in schedule 'A' dtd. 10/08/2017 received by CGRF on 10/04/2018 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 :**

- 1.0 Shri Mohd. Siddiq Mohd Sharif Sheikh came before the Forum regarding his dispute about recovery of estimated billing pertaining to a/c 781-074-004, meter number N120964 after the date of theft of meter and outstanding amount of Rs 34,43,410/- pertaining to Shri Riyaz Ahmed shaikh having a/c 781-080-067 at the time of reconnection of electric supply vide requisition number 329450 dated 01/11/2017.
- 2.0 Shri Mohd. Siddiq Mohd Sharif Sheikh had applied for reconnection of electric supply vide requisition number 329450 dated 01/11/2017 to the premises under reference. After site inspection on 13/11/2017, the complainant was asked to pay outstanding amount of Rs 4,11,550/- of Mohd Arif Abdul Ali pertaining to a/c 781-074-004 and outstanding amount of Rs 34,43,410/- pertaining to Shri Riyaz Ahmed shaikh having a/c 781-080-067.
- 3.0 The complainant had disputed the same stating that, he had given stolen meter (N120964) complaint on 12/11/2014 and also lodged FIR at Shahu Nagar police station on 29/11/2014 and outstanding amount of Rs 34,43,410/- pertaining to Shri Riyaz Ahmed shaikh having a/c 781-080-067 does not belongs to his premises.
- 4.0 After scrutiny, the estimated billing after 12/11/2017 pertaining to a/c 781-074-004 was withdrawn and outstanding of Rs 4,11,550/- was nullified through debit/ credit adjustment .
- 5.0 Meter number N068692, a/c 781-080-067 was removed on 10/12/2008 for unpaid approximate arrears of Rs 13,00,000/- as on Aug 2008. Since the consumer did not pay this arrears, the arrears amount has accumulated to Rs 34,43,41/- by levy of delay payment charges and interest. AS per Amnesty Scheme 2018, the complaint has asked to pay only energy charges amounting to Rs 17,80,000/- and he is liable to pay the same.

REASONS

- 1.0 We have heard the arguments of the complainant in person and for the Respondent BEST Undertaking Shri P.P. Kulkarni, DECC(G/N), Smt. P.S. Kekane, AAM, CC(G/N) and Shri V.S. Gujar, Supdt. Vig(N). Perused the written submission filed by the Respondent BEST Undertaking along with list of documents marked at Exhibit 'A' to 'D'.
- 2.0 The complainant has vehemently submitted that he had applied for reconnection of supply vide requisition no. 32950 on 01/11/2017 for the premises having address 240-

7/8, Plot no. 6, Jalil Compound, Mahim Rly. Stn. (E), Dharavi, Mumbai - 400 017. He has further submitted that he has purchased the above said premises from Shri Mohd. Arif Abdul Ali who was earlier occupier and to whom a/c no. 781-074-004 was given. He has submitted that the meter of above said a/c number has been stolen and therefore the Shri Mohd. Arif Abdul Ali reported the matter to the police and in spite of this he has been wrongly billed for the amount of Rs. 4,11,550.00. Against this the Respondent BEST Undertaking has submitted that the bill amounting to Rs. 4,11,550.00 was withdrawn and consumer's arrears of said account was nullified by dr/cr adjustment (Exhibit 'B'). The Respondent BEST Undertaking has further submitted that the premises of a/c no. 781-080-067 and premises of a/c no. 781-074-004 is the same and therefore while asking for reconnection, the complainant is liable to pay the arrears of Rs. 34,43,410.00 as per Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply), Regulation, 2005.

- 3.0 Thus the controversy in this case is as to whether the premises for the above said two accounts is the same or different. We have cautiously gone through the record and it appears that the premises shown for a/c no. 781-074-004 is shown as 240-7/8, Plot no. 6, Jalil Compound, Mahim Rly. Stn. (E), Dharavi, Mumbai - 400 017 and premises for a/c no. 781-080-067 is shown as C-271-2/2 0 Jalil Compound, Dharavi Main Road, Dharavi - 400 017. It appears from the record that Shri Riyaz Ahmed Shaikh was in occupation of the premises of the address shown as C-271-2/2 0 Jalil Compound, Dharavi Main Road, Dharavi - 400 017 who has applied for electricity connection and the Respondent BEST Undertaking had given electricity connection to the said premises and without paying a single paise he utilized the electricity for about 10-13 months and thereafter in 2008 his meter was removed. It appears from the record that the Respondent BEST Undertaking was most negligent in taking steps for recovery of said amount from Shri Riyaz Ahmed Shaikh and in 2017 that too when Shri Mohd. Arif Abdul Ali had applied for reconnection, the Respondent BEST Undertaking ought to have claimed the said arrears from Shri Mohd. Arif Abdul Ali. Here we have to state that in Dharavi area most of the occupants occupy the government's premises and on the basis of occupation photo-passes are issued by the concerned authorities and thereby they are claiming the rights over the premises owned by the government.
- 4.0 In the instant case Shri Riyaz Ahmed Shaikh had applied for the connection in the year 2007 showing address as C-271-2/2 0 Jalil Compound, Dharavi Main Road, Dharavi - 400 017. It is pertinent to note that the location as Plot no. 6, Jalil Compound is the same for both the accounts. In view of this aspect, it can be said that the premises for a/c no. 781-074-004 and the premises for a/c no. 781-080-067 is the same.
- 5.0 We have cautiously gone through the inspection report of site visit filed by the Respondent BEST Undertaking in which they have shown the premises of above said two accounts as the same. The copy of inspection report has been placed on record by the Respondent BEST Undertaking at the time of argument and the copy of the same has been given to the complainant. The record filed by the Respondent BEST Undertaking at pg. 53/C as well as 73/C goes to show that the premises of above said two accounts is the same. It appears that the complainant as well as Shri Mohd. Abdul

Arif Ali who were earlier occupier of the said premises very wisely shown ignorance about the said Shri Riyaz Ahmed Shaikh who was earlier occupier of the said premises in the year 2007 with a view to escape from the payment of electricity dues as consumed by Shri Riyaz Ahmed Shaikh. It is not the case of the complainant that no such person Shri Riyaz Ahmed Shaikh is in existence and the Respondent BEST Undertaking has prepared false record. The Respondent BEST Undertaking being the Undertaking it could be presumed that they had prepared the record of giving connection to the consumer as per the site inspection and such record is having presumptive value.

6.0 After going through the written statement filed by the Respondent BEST Undertaking, in para 3 & 4, it appears that Vigilance case on the premises was already in process as per letter dtd. 18/09/2017 and Vigilance Dept. was informed about the reconnection requisition vide note no. CCGN/717/1099B/2017 on 21/09/2017. If this would be the case then certainly this Forum has no jurisdiction to entertain the complaint. But, at the time of argument Shri Kulkarni has fairly considered that no such vigilance case on the premises has been initiated and the Vigilance Dept. has only instructed to recover the dues of earlier occupier from the present consumer. In view of this submission we have proceeded with the case.

7.0 Having regard to the above said discussion, we have arrived at the conclusion that the premises shown for the above said both the accounts being the same and the complainant has applied for reconnection for the said premises and therefore he is liable to pay the electricity dues as per Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply), 2005. Regulation 10 of MERC (Electricity Supply Code and Other Conditions of Supply), 2005 is regarding change of name. Alternately, it will amount to the case of reconnection, thus as per Regulation 10.5,

any charge for electricity or any some other than a charge for electricity due to the Distribution Licensee which remains unpaid by 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 :

Provided that, except in the case of transfer of connection to a legal heir, the liabilities transferred under this Regulation 10.5 shall be restricted to a maximum period of six months of the unpaid charges for electricity supplied to such premises.

8.0 In view of above regulation, the complainant being the subsequent occupier, he is liable to pay the arrears of electricity dues of earlier occupier as per Regulation 10.5. In the instant case, it is not the case of the Respondent BEST Undertaking that the complainant is the legal heir of Shri Riyaz Ahmed Shaikh. It appears that the complainant is the subsequent occupier after the premises has been left by Shri Riyaz Ahmed Shaikh, so as per Regulation 10.5 the complainant is liable to pay the

electricity dues of Shri Riyaz Ahmed Shaikh and his liability shall be restricted to maximum period of six months of the unpaid charges for electricity supplied to such premises.

- 9.0 Having regard to the above said reasons we have arrived at the conclusion that the responsibility of payment of electricity dues by the complainant is not as claimed by the Respondent BEST Undertaking but it is only restricted to six months of the unpaid charges for electricity supplied for such premises.
- 10.0 Before parting to pass the final order we wish to observe that when the premises is owned by the government and in possession of the persons having photo-pass the Respondent BEST Undertaking must be diligent in obtaining the photograph showing the details about the area, with a view to prompt recovery of electricity dues. In the instant case, it appears that although Shri Riyaz Ahmed Shaikh was in possession of the premises he had escaped from paying electricity dues and as per Regulation 10.5, the complainant is liable to pay the electricity dues. It is not out of place to mention that when the meter given to Shri Riyaz Ahmed Shaikh was removed in the year 2008, it was obligatory on the part of the Respondent BEST Undertaking to take prompt action to recover the electricity dues from Shri Riyaz Ahmed Shaikh likewise when Shri Mohd. Arif Abdul Ali had applied for reconnection for the said premises. The Respondent BEST Undertaking ought to have recovered the electricity dues from Shri Mohd. Arif Abdul Ali which has not been done and record goes to show that the Respondent BEST Undertaking's higher authority issued a letter dtd. 18/09/2017 to report the name of officers who had given electricity connection to the a/c no. 784-074-004 as well as to a/c no. 784-080-067.
- 11.0 Having regard to the above said discussion, we have arrived at the conclusion that the complaint deserves to be partly allowed and the complainant is liable to pay electricity dues as per Regulation 10.5 and his liability is restricted to maximum period of six months of unpaid charges for electricity supplied to such premises. In result we pass the following order. The complaint deserves to be partly allowed as under.

ORDER

- 1.0 The complaint no. N-GN-352-2018 dtd. 13/04/2018 stands partly allowed.
- 2.0 The Respondent BEST Undertaking is hereby directed to issue revise bill or revise demand notice to the complainant as per Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply), 2005 as his liability is restricted to maximum period of six months of unpaid charges for electricity supplied to such premises.
- 3.0 The complainant is directed to pay the amount under the revise bill within one month from the date of receipt of the demand notice.

- 4.0 After depositing the amount under demand notice, the Respondent BEST Undertaking is directed to give electricity connection to the premises immediately as per Conditions of Supply.
- 5.0 The Respondent BEST Undertaking is directed to comply with the order within two months from the date of receipt of the order and report the compliance within 15 days there from.
- 6.0 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