

		Date	Month	Year
1	Date of Receipt	23	04	2021
2	Date of Registration	26	04	2021
3	Decided on	28	09	2021
4	Duration of proceeding	155 days		
5	Delay, if any.	95		

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-FS-428-2021 dtd. 26/04/2021

Smt. Narmada Bhimrao NamajiComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Shri S.S. Bansode, Technical Member

On behalf of the Respondent (1) : 1. Shri P.B. Gadankush

On behalf of the Complainant : Absent

On behalf of the Respondent (2) : 1. Shri Datta Namaji

Date of Hearing : 15/09/2021

Date of Order : 28/09/2021

Judgment

- 1.0 The complaint was received on 23/04/2020 and registered on 26/04/2020 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. Now the lock down conditions have been relaxed to some extent. Therefore, the matter was fixed for hearing physically on 15/09/2021. Accordingly, the matter was heard on 15/09/2021 and was reserved for passing judgement. Hence, now the judgment is being given. For these reasons the matter could not be decided within the time prescribed by the MERC Regulations. Therefore, the delay of 95 days has occurred in deciding this complaint.
- 2.0 The complainant Smt. Narmada Bhimrao Namaji has put up her grievance in this complaint-application in respect of change of name of consumer from her name to the name of her brother Shri Dattaji Bhimrao Namaji.
- 3.0 The case of the complainant may be stated as under:
- a) There is a premises situated at 309, 3rd floor, Mohan Naik CHS., V. Y. Dahiwalkar Buwa Marg, Morachi Wadi, Naigaon, Dadar(E), Mumbai - 400 014. Originally, this premises was allotted by the Slum Rehabilitation Authority (SRA) to the complainant's father Shri Bhimrao K. Namaji. The Respondent had given electric connection to this premises in the name of said Shri Bhimrao Namaji and at that time it's consumer a/c no was 587-245-045. As the complainant is legal heir of her deceased father Shri Bhimrao Namaji, she made an application to the Respondent/Distribution Licensee after death of her father and thereby requested to change the name of consumer from her father to her own name. Her said application was filed before the respondent on 25/07/2018 along with required documents. According to the complainant, as she is heir of the deceased father, electric connection account was changed to her name. It appears that after change of consumer name to her name in respect of said account, the a/c no. was changed from 587-245-045 to 587-245-034. She had filed all the relevant documents along with her application and therefore the Respondent had changed name of the consumer to her name.
- b) After the consumer name was changed to the complainant's name, her brother Shri Datta Namaji raised objection and filed complaint to the Customer Care / IGRC of the Respondent / Licensee. He has requested that the consumer name be changed to his name. The complainant raised an objection about that application of her brother. The Respondent passed an order dtd. 22/02/2021 and thereby the Respondent's IGRC has held that if said Datta B. Namaji submits prescribed application for change of

name, the change of name of consumer shall be done in his name. About this order, the complainant has grievance and she has filed present complaint before this Forum and has requested that the meter and electric connection be changed to name of her deceased father.

- c) It is submitted by the complainant that presently she is residing in the premises and her brother Krishna and Datta have defrauded her and have driven her out of the house after getting the electricity bill in their name. Therefore, in this complaint made before the Forum, the complainant has requested to change the name of the consumer from the name of the complainant's brother to the name of the complainant's deceased father.
- d) The complainant has filed documents with the complaint namely (1) copy of order dtd. 22/02/2021 passed by IGRC directing that on application of the brother of the complainant, consumer name shall be changed to his name, (2) Zerox copy of the bill in which name of the complainant's brother Datta Namaji is mentioned and thus the change is effected in the consumer's account record pertaining to the said account, (3) copy of application and Affidavit of complainant's father Bhimrao Namaji for Ration card in which the name of the complainant is also mentioned as daughter and as family member of Bhimrao Namaji, (4) copy of Plaint allegedly filed by complainant in City Civil Court Mumbai to challenge the alleged document of relinquishment allegedly executed by the complainant as relied upon by complainant's brother Datta/opponent to seek the said premises, (5) Copy of Ration card in which name of Bhimrao is mentioned as head of the family and in which complainant's name is mentioned as family member, (6) copy of electricity bill for the period from 14/12/2020 to 13/01/2021 in which the complainant's name is mentioned as consumer pertaining to the said consumer account having changed number as a/c No. 587-245-034. Mentioning all the aforesaid facts and documents, the complainant has requested in the complaint to change the name of consumer from her brother Shri Datta's name to the name of complainant's deceased father Bhimrao Namaji.

4.0 The notice of this complaint-application was issued to the opponent/complainant's brother Shri Datta Namaji. He has filed his reply and documents and opposed the aforesaid complaint/application of the complainant. The case of the opponent/ Shri Datta Namaji may be stated as under :

- a) The complainant Smt. Narmada Namaji is sister of the opponent Shri Datta Namaji. The complainant had given application dtd. 25/06/2018 to the respondent/Distribution -licensee and on 16/08/2018 her application was allowed by Distribution Licensee and the consumer's name about said account was changed from Shri Bhimrao to the name of the complainant Smt. Narmada. On 16/08/2018 such change was effected in respect of the a/c no. 587-245-045 and after the change as such, the a/c number was changed to 587-245-034. Therefore, after coming to know about such change, the opponent Shri Datta Namaji sent a complaint through email on 28/10/2018 to the Customer Care Ward of Distribution Licensee and requested to cancel the change of

the name of consumer in the name of complainant. According to opponent/Shri Datta Namaji, the complainant has fabricated various documents to show her address at the address of the premises in question. Such documents are the Ration card, Gas connection card etc. According to the opponent/Shri Datta Namaji, long back and before filing of application by the complainant, he had approached to the Distribution Licensee to submit his application for change of name on the basis of his documents, but it was not received by the officials of the Distribution Licensee, by saying that some further documents were required to be annexed to the application. In his reply, filed before this forum, opponent/Shri Datta Namaji has also submitted that he has filed various documents with this reply including the Registered Declaration cum Relinquishment Deed executed by complainant/Smt. Narmada and her other brothers and sisters etc. The said document of Declaration cum Relinquishment Deed is dtd. 28/04/2017. In view of these documents the opponent Shri Datta Namaji has submitted that the Respondent/Distribution-licensee has rightly changed the name of consumer from name of the complainant to his/opponent's name.

5.0 The Respondent/Distribution-licensee has filed its reply and has opposed the aforesaid complaint-application of the complainant. The case of the Respondent/Distribution-licensee may be stated as under :

- a) On 16/08/2018, the a/c no. 587-245-045 was in the name of original consumer Shri Bhimrao Namaji, on premises having address mentioned above. In the month of September 2018, the electricity bill was changed from Bhimrao Namaji to the name of complainant Smt. Narmada vide her application dtd. 25/07/2018. At that time the complainant had filed documents of death certificates of her father Shri Bhimrao Namaji, her mother Radhabai, and her brothers Sham and Ram. The complainant had also filed Aadhar Card of her name and Member ID of Morachi Wadi CHSL, Ration card in her name etc. She had also filed her affidavit stating that she alone is the surviving heir of her deceased father Shri Bhimrao Namaji and thus, she requested in her application to change name of consumer to her name. Based on these documents, the change of name of a/c no. 587-245-045 was effected from Shri Bhimrao to complainant Smt. Narmada. Thereupon account number was changed from to a/c 587-245-034.
- b) The opponent Shri Datta Namaji had raised objection about change of name of consumer from the name of deceased Shri Bhimrao to the name of complainant Smt. Narmada. His said complaint was treated as complaint under Annexure 'C' as per the provisions of MERC Regulations. Both the parties were called by the Respondent for hearing. They submitted their submissions and also filed documents. The opponent Shri Datta had filed the following documents:
 - i) Membership Certificate in the name of Datta Namaji dtd. 25/04/2017.
 - ii) SRA letter dtd. 14/11/2017
 - iii) Property Tax Receipt no. 1884 dtd. 26/10/2020 of Morach Wadi Mohan Naik Grahanirman Sanstha.
 - iv) Letter from Morachi Wadi to Asst. Registrar

- v) The form of application for membership Form no. 17
 - vi) Indemnity Bond Form No. 19
 - vii) The Form of Undertaking to be furnished by the legal heir member to use the room for the purpose for which it is allotted.
 - viii) Affidavit
 - ix) Deed of Release.
- c) According to the Respondent/licensee, the present complainant/Smt. Narmada Namaji had filed the following documents:
- i) SRA letter dtd. 05/10/2020
 - ii) Letter to Sr. Police Inspector Bhoiwada Police Station dtd. 12/11/2020.
 - iii) Maintenance Receipts in the name of Bhimrao Namaji dtd. 07/03/2016, 11/03/2016, 21/11/2018, 21/08/2018 & 22/04/2019
 - iv) Election Card.
- d) According to the Respondent/licensee, the present complainant Smt. Narmada Namaji had submitted Indemnity Bond dtd. 26/07/2018 along with her prescribed format of application for change of consumer-name. In that Indemnity Bond, she had mentioned that she was the only surviving legal heir of her deceased father, Bhimrao Namaji. In the bond, she had mentioned only about her two brothers by name Ram and Sham and had also stated that those two brothers had already died on 20/03/2010 and 14/11/2015 respectively. The Respondent/licensee submits that the complainant had failed to mention name of Shri Datta and Shri Harish being her surviving brothers and heirs of her father. In the Undertaking of the complainant Smt. Narmada Namaji, given in the said bond, it is mentioned by her that in case of any other dispute or any objection being raised by any landlord or any statutory authority / any other person, on account of the change in the consumer-name of the above electric connection etc., the BEST shall have right to retransfer the connection-account to the name of the original registered consumer i.e. deceased Bhimrao Namaji.
- e) According to the Respondent, as per the terms and conditions of supply of electricity approved by MERC in clause 13.6 of its regulations, it is provided that in case the distribution-licensee/ respondent-Undertaking finds that false or forged documents are given for change in the consumer-name, the meter will be retransferred to the original consumer-name and charges paid will be forfeited. It is further case of the Respondent that on the basis of the above facts and the available documentary evidence, the Respondent/licensee passed the impugned order that Shri Datta Namaji could proceed with change of consumer-name application along with his occupancy proof and requirement as per P.O. 326. The Respondent/licensee has requested in their reply filed before this forum that Distribution Licensee has done change of consumer-name from the name of complainant Smt. Narmada to the name of opponent Shri Datta Namaji in the year 2021 on the basis of his application and all documentary evidences submitted by him. Hence it is submitted that the present complaint of Smt. Narmada be dismissed.

6.0 On 15/09/2021 this matter was fixed for hearing before this forum and accordingly notices were served in advance on the parties. The opponent/Shri Datta Namaji and the Respondent were present. However, the complainant was absent on the above date of hearing. The office had placed before us an email dtd. 14/09/2021 sent by the complainant in which it was stated that due to her health problem she was unable to attend the hearing and she requested for adjournment. The Forum had examined her said application and found that there was no sufficient evidence or documents in support of the said ground of adjournment and, therefore, the adjournment application was rejected and the Forum proceeded to hear the matter ex-parte i.e. in the absence of the complainant and to decide it under clause no. 8.14 of MERC (CGRF & EO), Regulations, 2020. Accordingly, the Forum heard Shri Datta Namaji and the representative of the Respondent/Distribution Licensee on 15/09/2021. They have submitted and pointed out the documents respectively filed by them and they have contended that the complaint is liable to be dismissed on the fact that Shri Datta Namaji has filed registered Relinquish Deed executed in his favour by the complainant Smt. Narmada Namaji and also by other heirs of deceased Bhimrao Namaji.

7.0 In view of the submissions of the opponent/Shri Datta Namaji and the representative of the Respondent/distribution licensee and considering the pleadings and documents filed by the parties on record, 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 change of name of the consumer about the above said electric connection, effected by the Respondent/distribution licensee, from the name of the complainant/Smt. Narmada to the name of the opponent/Shri Datta Namaji, is legal valid and correct ?	In affirmative
2	What order should be passed?	The Complaint is dismissed

8.0 We record reasons for aforesaid findings as under :

a) From the pleadings and documents produced on records by the parties, it can be observed that it is not disputed that the premises situated at 309, 3rd floor, Mohan Naik CHS., V. Y. Dahiwalkar Buwa Marg, Morachi Wadi, Naigaon, Dadar(E), Mumbai - 400 014 was allotted by SRA to deceased Bhimrao Namaji. Thereafter, the Respondent had given electric connection to the said premises in the name of deceased Bhirmrao Namaji. It appears from the documents that deceased Bhimrao Namaji has died on 24/04/2010 leaving behind him six sons, two daughters and one widow. His widow by name Smt. Radhabai died on 20/07/2015, son Sham died on 14/11/2015, his another

son Ram died on 20/03/2010. Now the surviving heirs of deceased Bhimrao Namaji are opponent Shri Datta, Shri Kishor, Shri Harish and Shri Krishna as his sons and Smt. Narmada (complainant) and Smt. Anusaya being his daughters. It is also not disputed that after death of Bhimrao Namaji, the complainant had filed an application for change of name of the consumer about the aforesaid electric connection on 25/07/2018. This application was allowed by the Respondent and connection was changed to her name. It is also not disputed that change of name was effected as such. Then, the opponent Shri Datta Namaji had filed the complaint to the distribution licensee opposing the said change in the consumer-name pertaining to the aforesaid electric connection and the consumer account and he requested to change the name of consumer account to his name.

- b) Opponent/Shri Datta Namaji as well as the representative of the Respondent/Distribution licensee have submitted that the complaint of opponent/Shri Datta Namaji was heard by the Respondent/licensee after giving opportunity of hearing to both the parties and ultimately the Respondent found that the complainant Smt. Narmada Namaji had given false statement about heirs of the deceased Bhimrao Namaji and the Respondent found that the opponent Shri Datta Namaji had submitted documents of transfer of premises in his name executed by the other heirs of deceased Bhimrao Namaji including the complainant Smt. Narmada Namaji. Considering all these documents, the Respondent has changed the name of the consumer to the name opponent/Shri Datta Namaji and removed the name of the complainant from consumer account.
- c) Number of documents have been filed by the opponent Shri Datta Namaji but very important document among them is the registered Release Deed dtd. 28/04/2017. This document is executed by all the surviving heirs of deceased Bhimrao Namaji including the complainant Smt. Narmada Namaji in favour of the opponent/ Shri Datta Namaji. By this document, all the aforesaid heirs have relinquished their rights in the premises in favour of opponent/Shri Datta Namaji. In view of this document dtd. 28/04/2017, the opponent Shri Datta Namaji submits that he had submitted the application to the Respondent in the year 2017 itself for change of consumer-name in his favour but the officials of the Respondent/licensee had returned the same saying that some more documents should be enclosed. Therefore, Shri Datta Namaji could not file application as per Release Deed at that time in the year 2017, but in the meanwhile in the year 2018, the complainant filed an application for change of consumer-name in her favour by making false statement about her ownership and by suppressing rights of the opponent shri Datta. That application of complainant Smt. Narmada was wrongly allowed by the Respondent. After knowing about change of name as such in the name of the complainant, the opponent Shri Datta Namaji filed an application with aforesaid documents and accordingly the Respondent has held that the opponent Shri Datta Namaji is entitled to be named as consumer, in view of the registered document of relinquishment deed executed by all surviving heirs of deceased registered consumer shri Bhimrao including the complainant Smt. Narmada in favour of the opponent Shri Datta Namaji. Accordingly, on his separate application for change of name, the

Respondent has rightly removed the name of the complainant/Smt Narmda from the above said electricity-consumer-account and changed the name of the consumer to the name of opponent/Shri Datta Namaji. Considering the aforesaid documents, we find that the said action taken by the Respondent is correct and as per law and hence the present complaint has no merits.

- d) In view of above, we have recorded our findings on point (1) in affirmative and in respect of point (2), we hold that the complaint is liable to be dismissed. Hence, we pass the following order:

ORDER

- 1.0 The grievance no. N-FS-428-2021 dtd. 26/04/2021 stands dismissed.
- 2.0 Copies of this order be given to all the concerned parties.

Sd/-
(Shri. S.S. Bansode)
Technical Member

Sd/-
(Smt. Anagha A. Acharekar)
Independent Member

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