

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-G(N)-232-2014 dtd. 24/07/2014.

Smt. Ningava ChandruComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman / Member Licensee

Quorum : Shri Sanjay S. Bansode

Member CPO

Shri Suresh M. Mohite

On behalf of the Complainant : 1. Shri Farid Khan
2. Smt. Mahananda Dhadake

On behalf of the Respondent (1) : 1. Shri P.P. Kulkarni DECC(G/N)
2. Shri Manohar AAM CC(G/N)

Date of Hearing : 17/10/2014 & 30/10/2014

Date of Order : 10/11/2014

Judgment by Shri. Sanjay S. Bansode, Chairman

Smt. Ningava Chandru, Ground floor, R. No. DET/7, Plot no. 262, Poonawala Chawl, Dharavi Main Road, Dharavi, Mumbai 400 017 has come before the Forum against debiting of arrears amounting to Rs. 2,19,789 pertaining to A/c no. 781-388-019 of old consumer into complainant's a/c no. 781-389-003 in the billing month of August 2012.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 24/02/2014 for debiting of arrears amounting to Rs. 2,19,789 pertaining to A/c no. 781-388-019 of old consumer into complainant's a/c no. 781-389-003 in the billing month of August 2012. The complainant has approached to CGRF in schedule 'A' dtd. 21/07/2014 (received by CGRF on 22/07/2014) as no remedy is provided by the IGR Cell Distribution Licensee in respect of her grievance.

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

- 2.0 The electric supply was rendered to Smt. Ningava Chandru through meter no. 0908093 on 12/06/1993, a/c no. 781-357-019 for commercial purpose to the premises under reference. The said electric connection is transferred in the name of Shri Mohd. Nafees on 02/08/2006. He has started to accumulate outstanding amount by not paying the bills as upto date till the mishandling of the meter.
- 3.0 In the year 2006, for administrative reason the billing cycles were rearranged. As a part of this process a/c no.781-357-019 was also changed by new a/c no. viz. 781-388-019.
- 4.0 Smt. Ningava Chandru had applied for new electric connection on 08/12/2011 along with Shop & Establishment Certificate as a proof of occupancy. With malafide intention, she had submitted nearest electricity bill of a/c no. 781-389-005 along with this requisition. After process on requisition, new meter no. A111721 was installed on 19/01/2012 and same is replaced by meter no. D143951 on 06/06/2014.
- 5.0 Arrears of Rs. 2,19,789.00 pertaining to a/c no. 781-388-019 has been debited to the complainant's a/c no. 781-389-003 as address of both the accounts are same. The complainant has raised the objection for the same.
- 6.0 During the site investigation, it was confirmed that Room no. DET-7 and Room no. 7 are one and the same. Instead of Room no. 7, new Room no. as DET-7 has been given by concerned authorities.

REASONS

- 7.0 We have heard Shri Farid Khan, representative for the complainant and for the Respondent BEST Undertaking Shri P.P. Kulkarni, DECC(G/N) and Shri Manohar AAM CC(G/N). Perused documents placed before the Forum.
- 8.0 This Forum now turned to the controversy raised before this Forum for redressal. Therein, we find that the complainant has approached this Forum with a prayer that in response to her requisition dtd. 08/12/2011, the Respondent BEST Undertaking has installed meter no. A111721 in complainant's premises on 19/01/2012. Thereafter the complainant for the first time received the electricity bill for two to three months and

in the month of August, 2012 showing huge outstanding amount of Rs. 2,19,789.00 debited towards transfer of arrears from other account.

- 9.0 The complainant's contention that the Respondent BEST Undertaking has granted her fresh connection without any demur and now claiming such huge alleged outstanding arrears. The complainant therefore prayed to restrain the Respondent BEST Undertaking from claiming the alleged huge outstanding of Rs. 2,19,789.00 from other accounts from her in the electricity bill served on her in the month of August, 2012. In this connexion, we find that as pleaded by the Respondent BEST Undertaking in the same premises of the complainant in the past Shri Mohd. Nafees has provided with electric connection with a/c no. 781-389-003 which is unpaid and having arrears of Rs. 2,19,789.00. Further, the Respondent BEST Undertaking has submitted in their written statement that for the said premises the electric supply was rendered to Smt. Ningava Chandru through meter no. 0908093 on 12/06/1993 and having a/c 781-357-019 for commercial purpose. The said electric connection is transferred in the name of Shri Mohd. Nafees on 02/08/2006. He has started using electric supply and not paid dues which accumulated as outstanding amount up to date till the mishandling of the meter. Further, the Respondent BEST Undertaking informed that in the year 2006 for administrative reason, the billing cycles were rearranged as part of this process the old a/c no. 781-357-019 was also changed by new a/c no. as 781-388-019.
- 10.0 This Forum thus finds that the Respondent BEST Undertaking has registered the contention raised by the complainant *inter-alia* on the ground that in the premises of the complainant Smt. Ningava Chandru was provided with the electricity with a/c no. 781-357-019. Later on the change of name has been effected on 02/08/2006 in the name of Shri Mohd. Nafees having arrears of Rs. 2,19,789.00. The complainant has been provided with the electricity in the same premises. Besides, the complainant has again applied for the new electric connection in the same premises and while applying for new connection in lieu of occupancy submitted the shop and establishment certificate showing the address of the premises as shop no. DET-7, Aga Estate Poonawala Chawl, Kalyan Wadi, Dharavi, Mumbai - 400 017.
- 11.0 This Forum on perusing the documents relied on by the Respondent BEST Undertaking found that the premises for which the complainant has submitted the shop and establishment license issued under Bombay Shop and Establishment Act, 1948 having Regd. No. 76006567 was not genuine as per the authority vide their letter dtd. 29/10/2014 placed before the Forum. The Forum thus finds this a malafide intention of complainant to hide the real facts while taking the electric connection.
- 12.0 However, in view of this Forum it does not put an end to the controversy raised before this Forum. To reiterate, this Forum has already observed that the present complainant Smt. Ningava Chandru was availing the electric supply from the Respondent BEST Undertaking having a/c no. 781-389-003. This Forum thus finds that the premises wherein the complainant has obtained the supply for the first time in the name of Smt. Ningava Chandru in the year 12/06/1993 then by change of name previously occupied by Shri Mohd. Nafees having a/c no. 781-351-019 whose unpaid

electricity charges has been of Rs. 2,19,789.00 as claimed by the Respondent BEST Undertaking. It is therefore obvious and clear that in the month of December 2011, the present complainant Smt. Ningava Chandru has not applied for fresh connection in the same premises but the same was reconnection of the electric supply. This Forum therefore observes that under such peculiar facts and circumstances, the provision provided under Regulation 10.5 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code & Other Conditions of Supply) Regulation, 2005 would come into play, as held by the Hon'ble Division Bench of Bombay High Court in a case of *M/s Namco Industries Pvt. Ltd. v/s the State of Maharashtra and Others (WP no. 9906/2010) order dtd. 16/10/2011.*

- 13.0 In consider view of this Forum the Hon'ble Division Bench of Bombay High Court in a case of *M/s Namco (supra)* has *inter-alia* observed in para 13 that the deficiency in law which was noticed by the Supreme Court in its decision in *M/s Isha Marble* case has been evidently rectified by providing the Regulation 10.5 expressly recognizes that the unpaid electricity dues would be charged on the property and can be recovered by the Distribution Licensee from the new owner subject to the qualification in regard to the period mentioned in the proviso provided therein. This Forum finds it appropriate to reproduce the Regulation 10.5 at this juncture for ready reference and it runs as under.

Regulation No. 10.5 :

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 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.

- 14.0 This Forum observes that no new connection was sought by the complainant to the premises in the name of Smt. Ningava Chandru but it was the case of reconnection. Therefore, the charges of electricity unpaid by erstwhile occupier i.e. Shri Mohd. Nafees was charged on the premises as envisaged under Regulation 10.5. In respect of the complainant as provided under the proviso, the same has been restricted to the maximum period of 6 months of unpaid charges for electricity supplied to such premises.

- 15.0 Now it falls for consideration of this Forum to ascertain the period of 6 months of the unpaid charges of electricity supplied to the said premises to the erstwhile occupier i.e. Shri Mohd. Nafees, which now needs to be paid by the present complainant as observed above. In this context we may refer to Ledger Folio placed on file by the complainant in respect of the erstwhile occupier Shri Mohd. Nafees.
- 16.0 Before we part with this order, we may place on record that there has been delay in passing order, as both the parties sought an adjournment during the course of hearing of this matter. This Forum granted the same being justified, considering the volume and complexity of the instant matter.
- 17.0 In the aforesaid observation and discussion we proceed to pass the following order.

ORDER

1. The complaint No. N-G(N)-232-2014 dtd. 24/07/2014 stands partly allowed.
2. The Respondent BEST Undertaking directed to issue an electric bill accordingly to the complainant within a period of one month from the date of passing this order.
3. The complainant is liable to pay the electricity bill of her present account as worked out by the Respondent BEST Undertaking along with the unpaid electricity charges in respect of Shri Mohd. Nafees.
4. The Respondent BEST Undertaking has been directed to report the compliances of this order within a period of 2 months, there from.
5. Copies be given to both the parties.

(Shri S.M. Mohite)
Member

(Shri Sanjay S. Bansode)
Chairman / Member Licensee