

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

Representation No. N-FN-364-2018 dtd. 13/07/2018

Shri Prakash B. KamatComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Dr M.S. Kamath, Member, CPO

On behalf of the Respondent : 1. Shri Pravin K. Prabhu, Asst. Engr. CC(F/N)

On behalf of the Complainant : 1. Shri Prakash B. Kamat

Date of Hearing : 29/08/2018

Date of Order : 05/09/2018

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Prakash B. Kamat, Ground floor, Shanta Prasad Bldg., D.V. Pradhan Road, Hindu Colony, Dadar, Mumbai - 400 014 has come before the Forum for dispute serving of notice for recovery of outstanding amount of Rs. 6,02,230.00 pertaining to a/c no. 596-516-016.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 21/02/2018 dispute regarding serving of notice for recovery of outstanding amount of Rs. 6,02,230.00 pertaining to a/c no. 596-516-016. The complainant has approached to CGRF in schedule 'A' dtd. 05/06/2018 received by CGRF on 12/07/2018 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 The complainant Shri Prakash B. Kamat came before the Forum regarding his dispute about serving notice having reference no. Pre-Litigation Case No. BEST /CCFN/ARR/OS/3/40/2018 dtd. 01/02/2018 for recovery of Rs. 6,02,230.00 by National Lok Adalat conducted by Mumbai District / Suburban District Services Authority, Bandra, Mumbai on 10/02/2018.
- 2.0 The electric supply was given to Shri Prakash B. Kamat through meter no. D904853 and O171658 for residential purpose under the a/c no. 596-516-016. During site inspection on 15/07/2006, it was observed that the complainant is using electric supply for commercial purpose through both the meters. Accordingly advice for change of tariff for both the meters was sent on 17/08/2006. Inadvertently change in tariff was effected only for meter no. D904853 from September 2006. The corrective action was taken for change of tariff for meter no. O171658 was effected from September 2008.
- 3.0 Penalty of Rs. 1,81,386.56 was calculated for unauthorized use of electric supply as per section 126 of E.A., 2003. This amount was debited in electricity bill of November 2010. The complainant had approached IGRC vide Annexure 'C' application dtd. 22/10/2015. His grievance was not entertained by IGRC as per MERC Regulation 6.6 and 6.8 (a). Accordingly the reply was given to the complainant vide letter dtd. 18/12/2015.
- 4.0 In the month of February 2018, a notice was served by National Lok Adalat conducted by Mumbai District / Suburban District Services Authority, Bandra, Mumbai. As directed by Lok Adalat, the complainant again approached to IGRC and then CGRF for his grievances. The complainant's grievance cannot be entertained as per MERC Regulation 6.6 as he approached to CGRF after around eight years from the cause of action and Regulation 6.8 (a) as claim is preferred under section 126 of E.A., 2003.

REASONS

- 1.0 We have heard the arguments of Shri Prakash B. Kamat, the complainant in person and for the Respondent BEST Undertaking Shri Pravin K. Prabhu, AE, CC(F/N). Perused the documents filed by either parties to the proceeding. Perused the written

statement filed by the Respondent BEST Undertaking along with the documents marked at Exhibit 'A' to 'I'.

- 2.0 The complainant has submitted that as per notice issued on 01/02/2018 by National Lok Adalat conducted by Mumbai District on 10/02/2018, he has approached the Forum for his grievance of high bill for two electric meters installed in the building, one for residential purpose and other for fetching water from reservoir. He has further submitted that since last 10-15 years he is disputing the electricity bill of Rs. 6,02,230 and the Respondent BEST Undertaking is not resolving his grievance therefore he approached this Forum.
- 3.0 The Respondent BEST Undertaking in its reply has contended that the complainant has disputed the penalty bill amounting to Rs. 1,81,386.56 debited in the electricity bill for November 2010. It is their further contention that as per MERC Regulation one can raise the dispute only within a period of two years from the date of cause of action. According to the Respondent BEST Undertaking, the complainant had come after more than five years raising the dispute of penalty amount of Rs. 1,81,386.56 and so it cannot be looked into by IGR. It appears from the electricity bill that the above said penalty amount was levied for unauthorized use of electricity. If this would be the case then certainly the case comes u/s 126 of E.A., 2003 and this tribunal has no jurisdiction to entertain the dispute regarding penalty imposed for unauthorized use of electricity.
- 4.0 It appears that two electric meters have provided to the premises owned by the complainant. The complainant was using one electric meter for fetching water from reservoir. When the meter fetching water from reservoir was removed, the complainant had utilized the electricity from another meter which was for residential purpose, thus the Respondent BEST Undertaking had charged tariff difference to the complainant and thereby the amount is increased near about Rs. 6 lacs by adding DPC and interest. Considering the period of dispute which the complainant has agitated in this matter, it appears that the complainant ought to have raised the dispute before IGR since he received a bill for claiming amount of tariff difference. But he has not raised such dispute and therefore now after the period of two years the complainant has no right to raise the dispute. We think it just and proper to reproduce Regulation 6.6 of MERC (CGRF & EO) Regulation, 2006.

6.6 The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.

- 5.0 In view of the above said legal position, we cannot look into the grievance of the complainant as per MERC Regulation, 2006. We do not think it just and proper to make futile efforts on discussing merits of the case. At the time of argument, the complainant has tried to emphasis that he has no knowledge about approaching IGRC and CGRF. It is pertinent to note that after enquiry, he disclosed that he is Electrical Engineer and Consultant by profession. Considering the educational qualification as

well as legal position that ignorance of law is not an excuse as it is presumed that everybody should have knowledge of law.

- 6.0 Having regard to the above said discussion, we arrived at the conclusion that the complainant had raised the dispute for the year 2010 and same cannot be looked into by the Forum as per MERC Regulation 6.6. Thus the complaint deserves to be dismissed. Hence we proceed to pass the following order.

ORDER

- 1.0 The complaint no. N-FN-364-2018 dtd. 13/07/2018 stands dismissed.
- 2.0 Copies of this order be given to both the parties.

sd/-
(Dr. M.S. Kamath)
Member

sd/-
(Shri V.G. Indrale)
Chairman