

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. S-D-249-2015 dtd. 27/02/2015.

Mr. Prithviraj P. BhatiaComplainant
(M/s M.K. Engineering)

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.S. Bansode, Member
2. Shri S.M. Mohite , Member

On behalf of the Complainant : 1. Mr. Prithviraj Bhatia
2. Mr. Riyaz I. Dimtimkar

On behalf of the Respondent : 1. Shri H.N. Vagal, DECC(D)
2. Smt. S.S. Redkar, AAM CC(D)
3. Smt. A. S. Kanse, AAO CC(D)

Date of Hearing : 07/04/2015

Date of Order : 21/04/2015

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Prithviraj P. Bhatia, (M/s M.K. Engineering), 150, Ground flr., Cooper Compound, Trimbak Parshuram street, Durgadevi Udyan, 6th Kumbharwada, Girgaon, Mumbai - 400 004 has come before the Forum for high bill of Rs. 9,34,846.03 arising out of under charged unit for the period 21/01/2011 to 13/08/2012 through meter no. M110180 pertaining to A/c no.845-333-025*3.

Complainant has submitted in brief as under :

- 1.0 The complainant has approached to IGR Cell on 27/11/2014 for high Bill complaint pertaining to A/c no. 845-333-025*3. The complainant has approached to CGRF in schedule 'A' dtd. 23/02/2015 (received by CGRF on 25/02/2015) as he was not satisfied by the remedy provided by the IGR Cell Distribution Licensee regarding his grievance.

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

- 2.0 Shri Prithviraj P. Bhatia has come before the Forum for high bill of Rs. 9,34,846.03 arising out of under charged unit for the period 21/01/2011 to 13/08/2012 of meter no. M115632 & M 110180 pertaining to A/c no.845-333-025*3.
- 3.0 The complainant was having electric supply through meter no. M036883. This meter was replaced by meter no. Q930235. Inadvertently meter no. Q930235 was wrongly updated in the system as G930235 for billing purpose. Later on
- i) Meter No. Q 930235 (G930235) was replaced with meter no.M092670 on 09.10.2009 for the reason Tampered Meter.
 - ii) Meter no.M092670 was replaced with meter no.N093403 on 20.04.2010 for the reason Vigilance case.
 - iii) Meter no.N093403 was replaced with meter no.N096823 on 22.07.2010 for the reason 'other reason'.
 - iv) Meter no.N096823 was replaced with meter no.M110180 on 17.02.2011 for the reason 'Burnt'.
- 4.0 Old meter no.Q930235 was wrongly updated as meter no.G930235 and posted on bill, with the result subsequent replaced four (4) meters mentioned above had never appeared on consumer bill. Because of the wrongly posted meter no.G930235 on bill, consumer was billed Minimum Charges from March 2011 to August 2013 ('N' Code). Though the meter no.M110180 was not billed, but its readings were being regularly recorded/obtained by Meter Reader under new meter list (extra meter).
- 5.0 According to consumption pattern, in the bill of October and November 2013, total 2344 units were billed respectively under estimated reading on old meter no.M110180. In the bill of January 2014, new meter no.N115632 appeared and total 7020 units were billed in one month slab.
- 6.0 Amount of Rs. 8,91,044.48 was debited in the bill of September 2014 after carrying out necessary debit / credit pertaining to meter no. N115632 and M110180. The debited amount is not time barred or purported claim as account is live and continued till removal of meter for non-payment of electricity bill.

REASONS

- 7.0 We have heard the Mr. Riyaz Ismail Dimtimkar representative of the complainant and for the Respondent BEST Undertaking Shri H.N. Vagal, DECC(D), Smt. S.S. Redkar, AAM CC(D) and Smt. A. S. Kanse, AAO CC(D) at length. We have cautiously gone through the documents filed by the Respondent BEST Undertaking and the complainant annexed at Exhibit A to L.
- 8.0 The instant complaint on our hand has been a classic case as to how and in what way the complainant has approached the Forum by suppressing the true facts. It is cardinal principle of law that one who knocks the door of the Forum for justice, he has to come with clean hands. Apart from this aspect of the case, the Forum is required to see the grievance of the complainant without giving much importance to the conduct of the complainant, suppressing of facts.
- 10.0 The grievance of the complainant is in respect of debit note of Rs. 9,34,846.03 dtd. 25/09/2014 for under charged units for the period 21/01/2011 to 13/02/2013. The said debit note at Exhibit 'A' is in respect of units recorded in old meter no. M110180 which was replaced by meter no. N115632 on 06/11/2013. After going through the documents at Exhibit 'E' filed by the complainant himself, reveals that in all for six occasions his meter was replaced. We think it just and proper to give in detail about the meter nos. and date of replacement.
- 10.1 Meter no. Q930235 (G930235) was replaced with meter no. M092670 on 09/10/2009 for the reason tampered meter.
- 10.2 Meter no. M092670 was replaced with meter no. N093403 on 24/04/2010 for the reason Vigilance case.
- 10.3 Meter no. N093403 was replaced with meter no. N096823 on 22/07/2010 for the reason 'other reason'.
- 10.4 Meter no. N096823 was replaced with meter no. M110180 on 17/02/2011 for the reason burnt.
- 10.5 Meter no. M110180 was replaced with the meter no. N124946 on 06/11/2013.
- 11.0 According to the Respondent BEST Undertaking old meter no. Q930235 was wrongly updated as meter no. G930235 and posted on bill. Due to this error the replaced 4 meters mentioned above never appeared on consumer's bill by carrying the wrongly posted meter no. G930235, which resulted into charging minimum bill. This error resulted into amendment in bill as per units recorded in the meter no. M110180.

- 12.0 It appears that the complainant by filing application under RTI has obtained the documents which he has placed on record as Exhibit E to I to know how and in what way the Respondent BEST Undertaking carved out the debit note. The Respondent BEST Undertaking has also placed on record the same set of documents which are at pg. 41/C to 44/C, 47/C, 49/C, 51/C, 53/C and 65/C. It is not the case of the complainant that all these documents which he has received from the Respondent BEST Undertaking through RTI are bogus and fabricated one. On the contrary the said documents are the record maintained by the BEST during day to day transaction and presumed to be maintained correctly.
- 13.0 After perusal of Exhibit 'E' which is the letter of under charged units amendment and slab benefit, it reveals that the Respondent BEST Undertaking issued a debit note for 1,19,334 units recorded through meter no.M110180 for the period 21/01/2011 to 13/08/2012. The Respondent BEST Undertaking has given credit of Rs. 14,267.15 for 1583 units to the complainant. Likewise the Respondent BEST Undertaking by giving slab benefit for new meter no. N115632 has given credit of 9364 units for the period 12//09/2013 to 20/01/2014 and given debit of 7020 units for the period 21/01/2011 to 13/08/2012. Thus the complainant has received actual credit of Rs. 43,801.56 which has been reflected in the electricity bill.
- 14.0 After going through the record of Meter Reading Folio i.e. exhibit F,G,H & I, the meter consumption ledger received from EDP Dept., it appears that the complainant utilized the electricity through meter no. M110180 from January 2011 to 06/11/2013 i.e. new meter no. N115632 was installed due to alleged report of damaged / theft of meter no. M110180 on 01/11/2013. After perusal of Exhibit E to I, it appears that this debit note was given for the period from 21/01/2011 to 13/08/2012 i.e. for 18 months and for 15 months units, the Respondent BEST Undertaking did not charge bill since September 2012 to November 2013 as display of meter no. M110180 was not visible, so as per the Regulation 15.4 only average of three month's bill i.e. July 2012 to September 2012 has been charged. Thus it reveals from the record which complainant has received through RTI from the Respondent BEST Undertaking that he has been benefited by not charging the electricity bill for 12 months in view of Regulation 15.4. This is clear from Exhibit F & G as well as from meter reading ledger at pg. 29/C. It appears that in view of new method of posting of record the meter since February 2011 there was remark on meter reading folio that Meter Not On Board and units shown as Zero. In view of this documentary evidence which has been placed on record by the complainant as well as the Respondent BEST Undertaking it is crystal clear that as per units recorded in the meter and by giving slab benefit, the Respondent BEST Undertaking has correctly carved out the debit note and also given credit of slab benefit to the complainant. Considering the purpose for which the complainant has obtained the electricity connection i.e. for industrial purpose in any

case it could not be held that the debit note is excessive. The action of the Respondent BEST Undertaking of issuing debit note is posted on meter reading folio placed at 43/C in which units have been recorded by the concerned employee of the Respondent BEST Undertaking appears to be as per record. Thus there is no reason of disbelieve the documents produced by the Respondent BEST Undertaking in which there is record regarding recording of units consumed by the meter.

- 15.0 Having regard to the above said reasons, it appears that the Respondent BEST Undertaking has correctly ascertained the debit note by giving credit of slab benefit. It is the case of the Respondent BEST Undertaking that they have not received the letters dtd. 12/05/2011 at pg. 21/C, 16/03/2011 at pg. 23/C and 06/06/2012 at pg. 19/C, which the complainant alleged to have been issued to authorities of the Respondent BEST Undertaking. The Respondent BEST Undertaking has come up with specific case that when the meter no. N115632 was replaced on 06/11/2013 then how the said meter number has been shown on the above said letters. We thus find truth in the contention of the Respondent BEST Undertaking, as admittedly the meter was replaced on 06/11/2013. After going through the rubber stamps on the above said three letters, it appears to be fabricated one. The fact that the complainant did not utter a single word in his complaint regarding change of meters certainly goes to show that he has falsely got prepared those letters to serve his purpose. We have asked the complainant and his representative as to how the meter no. N115632 is appeared on letter issued on 12/05/2011, 16/03/2011 and 06/06/2012 and they both are unable to explain.
- 16.0 Considering this conduct of the complainant certainly case comes under Regulation 6.9 of MERC (CGRF & EO) Regulation, 2006 by which the Forum may reject the grievance if it appears to it that the grievance is frivolous, vexatious and malafide. The Forum is to observe that the complainant has dared to place on record fabricated above said letters with a view to show that he has made the complain of low consumption.
- 17.0 The Respondent BEST Undertaking has placed on record documents at Exhibit 'L' to show that the complainant has obtained in all nine connections out of which fours are in his name and five are in the name of his relatives. The consumer nos. mentioned in Exhibit 'L' are under surveillance of Vigilance (S) Dept. The record goes to show that the earlier meters were found tampered and vigilance case has been filed. All these circumstances go to show that the complainant ought to have tampered the meter no. M 110180 and thereafter filed false report to the police on 01/11/2013 that it is damaged and at one place it is mentioned as stolen. This conduct of the complainant himself disentitles from filing this complaint. As there was no display of reading in meter no. M110180 for about 15 months, benefit of Regulation 15.4 was given to the complainant. It is not out of place to observe that in the instant case the complainant has mischievously played the fraud and received the benefit. However, in view of Regulation 15.4 the Respondent BEST Undertaking has rightly given the benefit of said regulation to the complainant. Considering the conduct of the

complainant and the way in which the complainant has received the benefit, there was no need for the complainant to make the grievance.

- 18.0 It is a grievance of the complainant that when the debit note of Rs. 9,34,846.13 was issued on 25/09/2014 then how it is increased upto Rs. 12,84,458.69 on 11/12/2014 at Exhibit 'B'. On this point, the Forum has gone through the record and it reveals that the debit note of Rs. 9,34,846.13 is only in respect of under charged units for the period 21/01/2011 to 13/08/2013. The Ledger Folio goes to show that the complainant has only paid last payment of Rs. 13,700.00 in the month of January 2014. Thus by adding the subsequent bill since February 2014 to December 2014 it has increased and thereby the total amount comes to Rs. 12,84,458.69. Considering this aspect, the Forum does not find any grievance in the contention of the complainant regarding increase in due amount.
- 19.0 It is the grievance of the complainant that the Respondent BEST Undertaking has illegally disconnected the electric supply since before the expiry of 15 days. We do not find any grievance in this contention as the record goes to show that earlier to Exhibit 'B', the Respondent has issued notice to the complainant who has refused to accept it and therefore it is deemed to be proper service. The said notice and acknowledgment received is at Exhibit 'I'.
- 20.0 It is the contention of the complainant that the Respondent BEST Undertaking has no right to issue the amount under debit note as it is barred by section 56(2) of Electricity Act, 2003. This Forum does not find any substance in his contention as from the record it appears that inadvertently there was wrong posting of meter number and so after having come to the notice, the said fact, the Respondent BEST Undertaking has issued the debit note and notice to the complainant therefore in any case it could not be held that notice issued by the Respondent BEST Undertaking is barred by limitation. If any ruling is required on this point, this Forum rely upon ruling in between *M/s Rototex Polyester v/s Administrator, Administration of Dadra & Nagar Haveli, Silvassa in W.P. 7015 of 2008 dtd. 20/08/2009* of Division Bench of Hon'ble Bombay High Court in which it has been held that if the consumer is under billed due to clerical mistake or human error or such like mistake, the limitations shall run from the date when a valid bill has been sent to the consumer.
- 21.0 Having regard to the above said reasons, this Forum comes to the conclusion that there is no substance in the complaint, as the complainant has approached the Forum by suppressing true facts and on the basis of false documents. Considering all these documentary evidence, which the Respondent BEST Undertaking as well as the complainant relied it appears that the Respondent BEST Undertaking has correctly passed the debit note as well as correctly given the benefit of Regulation 15.4 to the complainant in view of display of meter not visible. In fact, it appears that there was

no sufficient cause for the complainant to make the grievance as already he has been benefited by the credit note as well as by giving benefit of Regulation 15.4. In result we pass the following order.

ORDER

1. The complaint No. S-D-249-2015 dtd. 27/02/2012 stands dismissed.
2. Copies of this order be given to both the parties.

(Shri S.M. Mohite)
Member

(Shri S.S. Bansode)
Member

(Shri V.G. Indrale)
Chairman