

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-E-350-2018 dtd. 31/01/2018

Mr. Shamsh TabrezComplainant

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 A.V. Naik, DECC(E)
2. Smt P.V. Sutar, AAM CC(E)

On behalf of the Complainant : 1. Shri Saquib Khan
2. Shri Shams Tabrez

Date of Hearing : 21/03/2018

Date of Order : 23/03/2018

Judgment by Shri. Vinayak G. Indrale, Chairman

Mr. Shamsh Tabrez, Gala no. 7, 97-J, Mamsa Estate, Morland Road, Mumbai - 400 008 has come before the Forum for dispute regarding high bill amounting to Rs.6,51,890.00 in the month of March 2014 pertaining to a/c no. 546-229-065*0.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 08/12/2017 for dispute regarding high bill amounting to Rs.6,51,890.00 in the month of March 2014 pertaining to a/c no. 546-229-065*0. The complainant has approached to CGRF in schedule 'A' dtd. 22/01/2018 received by CGRF on 30/01/2018 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 Mohd Shams Tabrez came before the forum regarding dispute about high bill amounting to Rs 6,51,890.00 in the month March 2014 pertaining to A/c No 546-229-065*0.
- 2.0 Initially the electric supply was given to the complainant's premises under reference through meter number L931891 from 21/11/1996 for commercial purpose. Later on meter No. L931891 was replaced by meter number M017894 on 05/07/2002. The meter number M0178894 was replaced by meter number M031276 on 02/11/2004 as earlier meter found burnt. Later on the meter number M031276 was replaced by meter number M034577 on 06/09/2006 as earlier meter found burnt.
- 3.0 Inadvertently, meter number M034577 was not updated in the system for billing purpose. The consumer was billed as per the consumption recorded by the meter number M034577 upto July 2011. With the introduction of Meter Reading Instrument (RAMGRAM) from August 2011, the consumer was billed for nil consumption, as meter number M034577 was not updated in the system for billing purpose.
- 4.0 This discrepancy was noticed in November 2013. In the month January 2014 meter M034577 was updated in system for billing purpose. In the month February 2014 the complainant was billed on estimated basis for 419 units. In the month March 2014 the complainant was billed as on the basis the consumption recorded as 129383 units (billed for 40544 units consumed) amounting to Rs 6,51,890/-.

REASONS

- 1.0 We have heard the arguments of Shri Saquib Khan, representative of the complainant and for the Respondent BEST Undertaking Shri A.V. Naik, DECC(E) and Smt. P.V. Sutar, AAM CC(E). Perused the documents filed by either parties to the proceedings. Perused the written submission filed by the Respondent BEST Undertaking along with the documents marked at Exhibit 'A' to 'D'.
- 2.0 The representative of the complainant has vehemently submitted that in the year 2011 the tenant of the complainant has made the complaint of high bill to the Respondent BEST Undertaking, they did nothing. He has further submitted that on 14/07/2011 the tenant of the complainant has filed the complaint with the Respondent BEST Undertaking for wrong electricity bill. He further submitted that on 28/02/2013 the complainant informed the Respondent BEST Undertaking that the meter number appears on bill is not correct and inspite of this, in the month of March 2014 the Respondent BEST Undertaking has sent bill of Rs. 6.5 lacs for 40544 units to the

complainant, which is high bill and therefore on 08/12/2017 he filed the complaint in Annexure 'C' before IGRC.

- 3.0 The representative of the complainant has further submitted that in the month of July 2017 the Respondent BEST Undertaking has given credit of Rs. 2.82 lacs without any calculation. Thus, according to the representative of the complainant even the complainant was agitated before the Respondent BEST Undertaking since 01/04/2011, the Respondent BEST Undertaking did nothing and therefore he has approached the IGRC and filed Annexure 'C' on 08/12/2017. The Respondent BEST Undertaking has submitted that meter no. M034577 was installed on 06/09/2006 but was not updated in the system. However, the complainant was billed as per the reading recorded on this meter till July 2011. According to the Respondent BEST Undertaking due to introduction of meter reading instrument in August 2011, the NIL bills were sent to the complainant as meter number on the record did not match with the meter number at site.
- 4.0 According to the Respondent BEST Undertaking, meter no. M034577 was brought on record on January 2014 and same was replaced on 07/03/2014 as display was defective. Thus, according to the Respondent BEST Undertaking final reading of meter no. M034577 at the time of replacement was 129383 and bill of 40544 units was sent to the complainant in March 2014. The Respondent BEST Undertaking further submitted that the meter no. M034577 was tested in lab on 23/09/2014 and found defective. Thus, they have carried out the amendment for three months prior to the date of meter replacement as per cl. 15.4.1 of MERC Regulation, 2005 and credit of Rs. 2,82,992.42 was given in the bill for the month of July 2017. Thus, according to the Respondent BEST Undertaking they have rightly carried out the amendment and there is no substance in the complaint of the complainant of high bill.
- 5.0 The Respondent BEST Undertaking has further submitted that if we go through the entire consumption of the tenant since installation of the meter till the replacement of the meter no. M034577, it was identical. Having regard to the above said submission we have to see whether the grievance of the complainant is within limitation as per Regulation 6.6 of MERC Regulation 2006. We have gone through the written statement filed by the Respondent BEST Undertaking wherein they have not taken the defense of limitation. However in legal sense, it is for the Forum to see whether grievance / claim is within limitation or not. So we are constrained to look into this legal aspect. We think is just and proper to reproduce the 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.

- 6.0 In this Regulation, the word 'shall' has been used, it means that the said provision is mandatory and not discretionary. In view of this Regulation 6.6 we have to see whether the grievance is in limitation. We think it just and proper to reproduce the

wording given by the complainant in attachment with Schedule 'A'. In this attachment it has been mentioned that on 14/07/2011 the complainant has informed the Respondent BEST Undertaking regarding high bill as his tenant complained about wrong electricity bill. Likewise, it has been mentioned that in the March 2014, the Respondent BEST Undertaking sent the electricity bill of 40544 units amounting to Rs. 6.50 lacs to the complainant. If this would be the wording of the complainant himself in the attachment with Schedule 'A', then in any case it cannot be held that his grievance is within limitation as per Regulation 6.6. It appears that the cause of action arose for the complainant to approach the IGRC on 14/07/2011 as well as in the month of March 2014 when the Respondent BEST Undertaking issued bill of Rs. 6.50 lacs, the complainant was expected to raise the grievance within two years either from 14/07/2011 or March 2014. That has not been done by the complainant.

- 7.0 The Representative of the complainant has submitted that the complainant has approached the IGRC and they did nothing and therefore lastly in the month of December 2017 the complainant filed Annexure 'C' with IGRC. We do not find any substance in this submission as even though the IGRC did not entertain the complaint, the complainant was at liberty to approach the Forum after the waiting period of two months as prescribed in Regulation 6.4. We think it just and proper to reproduce MERC (CGRF & EO) Regulation 6.4.

6.4 Unless a shorter period is provided in the act, in the event that a consumer is not satisfied with the remedy provided by the IGR Cell to his grievance within a period of two (2) months from the date of intimation or where no remedy has been provided within such period, the consumer may submit the grievance to the Forum. The Distribution Licensee shall, within the said period of two (2) months, send a written reply to the consumer stating the action it has taken or propose to take for redressing the grievance.

- 8.0 Even as per Regulation 6.5, grievance may be entertained before the expiry of the period specified in Regulation 6.4. If the consumer satisfies the Forum that *prima-facie* Distribution Licensee has threatened or likely to remove or disconnect the electricity connection and has or is likely to contravene any provision of the act or any rules and regulation made there under or any order of the Commission provided that the Forum or Electricity Ombudsman as the case may be has jurisdiction on such matter.

- 9.0 After hearing the argument on 21/03/2018, the complainant has filed written submission on 22/03/2018. We have carefully gone through the said submission and grounds, raised in the submission do not find place in Annexure 'C' therefore could not be considered. In Annexure 'C', it is stated as under.

"It is pertinent to note that in the month of March 2014 shockingly the bill for 40544 units came and since then I am complaining and waiting for redressal".

This shows that cause of action arose for the complainant to raise the dispute within two years from March 2014.

- 10.0 In view of this legal aspect really we cannot entertain the grievance attributed by the complainant before this Forum, as the complainant has agitated grievance for the year 2011 and 2014 in which year cause of action arose for him to raise the complaint of high bill and he filed the high bill complaint on 08/12/2017. The representative of the complainant has submitted that the complainant has no knowledge about the Regulation regarding filing of complaint in Annexure 'C' before IGRC, therefore this Forum can entertain his grievance. In legal sense, no one can plead ignorance of law as a defense otherwise everybody would say that they are not aware of the law and therefore their grievance is required to be looked into by the Forum.
- 11.0 Thus we have arrived at the conclusion that the complaint is barred by Regulation 6.6, therefore we did not think it just and proper to enter into the controversy as agitated by the complainant and discuss all the details on this aspect as same will be futile efforts on our part. In result we pass the following order.

ORDER

1. The complaint no. N-E-350-2018 dtd. 31/01/2018 stands dismissed.
2. Copies of this order be given to both the parties.

sd/-
(Shri S.V. Fulpagare)
Member

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

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