

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 S-B-373-2019 dtd. 09/01/2019

Mrs. Simal Hasan ChawdaComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri K. Pavithran, Member
2. Dr. M.S. Kamath, Member CPO

On behalf of the Complainant : 1. Abubakar A. Balwa

On behalf of the Respondent : 1. Shri M. Javed, Ag.AECC(B)
2. Shri S.R. Lokhande, AECC(B)

Date of Hearing : 27/02/2019

Date of Order : 28/02/2019

Judgment by Shri. Vinayak G. Indrale, Chairman

Mrs. Simal Hasan Chawda, Room no. 9, 1st floor, 1/2 Dargah Bldg., Mavji Rathod Marg,, Mazgoan, Mumbai - 400 010 has come before the Forum for dispute regarding recovery of outstanding of earlier occupier of the premises in the name of Shri Shafi Gafoor Kazi pertaining to A/c 863-157-023*8.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 27/08/2018 dispute regarding recovery of outstanding of earlier occupier of the premises in the name of Shri Shafi Gafoor Kazi pertaining to A/c 863-157-023*8. The complainant has approached to CGRF in schedule 'A' dtd. 31/12/2018 received by CGRF on 04/01/2019 as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee on her grievance.

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

- 1.0 The complainant Smt. Simal Hasan Chawda came before the Forum regarding her dispute about recovery of outstanding amount Rs. 37,920.00 pertaining to earlier occupier of the premises Shri Shafi Gafoor Kazi having a/c no. 863-157-023*8.
- 2.0 Smt. Simal H. Chawda has applied for electric supply to the premises under reference vide application no. 350329 dtd. 12-03/2018. During site investigation it was observed that it is a correct reconnection case of Shafi Gafoor Kazi having A/c no. 863-157-023*8 with outstanding amount Rs. 37,920.00. The complainant was asked to pay the outstanding amount of earlier occupier of the premises.
- 3.0 The complainant has disputed the same saying that outstanding amount pertains to Room no. 4 whereas she has applied for electric supply for Room no. 9. She is not liable to pay outstanding amount of Rs. 37,920.00. As per site investigation and documents available on records, it is observed that, premises for which electric supply is applied and premises for which outstanding amount asked are one and same. The complainant is liable to pay the same.

REASONS

- 1.0 We have heard the arguments of Shri Abubakar A. Balwa representative of the complainant and for the Respondent BEST Undertaking Shri M. Javed, Ag.AECC(B) and Shri S.R. Lokhande, AECC(B). Perused the documents filed by either parties to the proceeding.
- 2.0 The representative of the complainant has vehemently submitted that the premises room no. 9 for which the complainant has applied for new connection is different than that of premises for which the Respondent BEST Undertaking has claimed arrears for electricity bill of previous owners and therefore the action of the Respondent BEST Undertaking claiming arrears of electricity amounting to Rs. 37,920.00 for getting new electricity connection is illegal. Against this, the Respondent BEST Undertaking has submitted that by passage of time the room nos. on 1st floor of the Dargah building, Mavji Rathod Marg,, Mazgoan have been changed and the premises on 1st floor which is marked as room no. 4 is now being marked as room no. 9 and therefore the complainant is liable to pay the charges of electricity dues of earlier occupier.
- 3.0 Having regard to the above said arguments, we have perused the documents and it appears that earlier occupier of the premises was one Shri Shafi Gafoor Kazi in whose

name the electricity connection and meter was given and electricity connection was disconnected for non-payment of electricity dues. It appears that the Respondent BEST Undertaking has claimed all the arrears of dues amounting to Rs. 37,920.00 from the complainant and IGRC held that in case of depositing the said amount, the complainant is entitled to get the reconnection. At the time of argument, both the parties conceded that the earlier occupier Shri Shafi Gafoor Kazi is different and the complainant has purchased the said premises from Shri Mahesh Samir Chavan. It is pertinent to note that nothing has been placed on record regarding purchase of said premises by the complainant. However, the fact that Shri Shafi Gafoor Kazi is not alive and his representative sold the said premises to the complainant is not at all disputed by the complainant.

- 4.0 In view of this aspect, the question arose before us is, as to whether the complainant is liable to pay the whole electricity dues as per Regulation 10.5 of MERC (Electric Supply Code & Other Conditions of Supply), Regulation 2005. We think it just and proper to reproduce the Regulation 10.5 which is in respect of change of name.

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 the premises transmitted to the legal representatives / successors-in-law or 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.

Even though the complainant has asked for new connection, her case is to be governed by Regulation 10.5 which is in respect of change of name.

- 5.0 In view of Regulation 10.5 of MERC (Electric Supply Code & Other Conditions of Supply), Regulation 2005 the complainant being not the legal representative of earlier occupier Shri Gafoor Kazi and therefore her liability to pay her electricity dues shall be restricted to maximum period of six months of the unpaid charges for electricity supply to said premises. In view of this legal aspect the action of the Respondent BEST Undertaking directing the complainant to pay whole electricity dues appears to be not proper and not justified. Thus the liability shall be restricted to maximum period of six months of unpaid charges of electricity supply to such premises.
- 6.0 Having regard to the above said legal aspect the complaint deserves to be partly allowed as under. In result we pass the following order.

ORDER

- 1.0 The complaint no. S-B-373-2019 dtd. 09/01/2019 stands partly allowed.
- 2.0 The Respondent BEST Undertaking is hereby directed to issue revise Demand Notice claiming maximum period of six months of unpaid charges of electric supply to the premises as per Regulation 10.5 of MERC (Electric Supply Code & Other Conditions of Supply), Regulation 2005.
- 3.0 The complainant is directed to pay the amount under revised Demand Notice immediately and the Respondent BEST Undertaking is directed to give the electric supply within 15 days from the date of depositing the amount of arrears under Demand Notice.
- 4.0 The Respondent BEST Undertaking is directed to comply with the order within one month from the date of receipt of this order and report the compliance.
- 5.0 Copies of this order be given to both the parties.

sd/-
(Shri K. Pavithran)
Member

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

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