

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-B-344-2017 dtd. 08/12/2017

Smt. Sujata R. KhamkarComplainant

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 B.S. Kamble, AE CC(B)
2. Shri D.S. Bodke, AAM IGR CC(B)

On behalf of the Complainant : 1. Ms. Aarti R. Khamkar

Date of Hearing : 01/02/2018

Date of Order : 07/02/2018

Judgment by Shri. Vinayak G. Indrale, Chairman

Smt. Sujata R. Khamkar, Room no. 2, First floor, Lokhandwala Mala, Mandvi, 34/36, V.V. Chandan Street, Mumbai - 400 101 has come before the Forum for dispute regarding recovery of outstanding claim pertaining to a/c no. 409-555-031*3.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 14/07/2017 for dispute regarding recovery of outstanding claim pertaining to a/c no. 409-555-031*3. The complainant has approached to CGRF in schedule 'A' dtd. 04/12/2017 (received by CGRF on 06/12/2017) 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 Sujata R Khamkar came before the Forum regarding her dispute about debiting claim of Rs 6127.90/- pertaining to A/c 409-555-031*3 in billing month July 2017.
- 2.0 On 28/07/2003 during vigilance raid , it was observed that, “ the complainant is using electric supply for commercial purpose i.e tailoring and garment shop. The electric supply is given for residential purpose and the complaint is electric supply for commercial purpose.” As per section 126 of Electricity Act 2003, claim of Rs 6127.90/- was preferred towards unauthorized use of electricity. Said claim amount is continuously shown from 2004 in ledger of A/C 409-555-031*3. This was informed to the complainant vide letter dated 03/05/2010, 15/02/2011, 17/12/2013 and 30/03/2017. The claim amount is debited in electricity bill of July 2017.
- 3.0 As the claim had raised out of unauthorized use of electricity as per section 126 of Electricity Act 2003 and the Forum has no jurisdiction as per Regulation 6.8 (a) of MERC (CGRF & EO) Regulation 2006.

REASONS

- 1.0 We have heard argument of the complainant in person and for the Respondent BEST Undertaking B.S. Kamble, AE CC(B) and Shri D.S. Bodke, AAM IGR CC(B). Perused the documents filed by either parties to the proceedings. Perused the written submission filed the Respondent BEST Undertaking along with documents Exhibit 'A' to 'E'. The complainant has submitted that without any explanation the Respondent BEST Undertaking has claimed the amount of Rs. 6,127.90 which has been barred by limitation and therefore prayed to allow the complaint.
- 2.0 The Respondent BEST Undertaking has submitted that although the electricity was supplied for residential purpose, the complainant was found using electricity for commercial purpose and therefore they have issued notice u/s 126 of Electricity Act, 2003 and thus as per Regulation 6.8 (a), the Forum cannot entertain the dispute and therefore the complaint itself is not maintainable.
- 3.0 We think it just and proper to reproduce Regulation 6.8 of MERC (CGRF & EO), Regulation 2006.

6.8 *“If the Forum is prima facie of the view that any grievance referred to it falls within the purview of any of the following provisions of the act, the same shall be excluded from the jurisdiction of the Forum.*

(a) Unauthorized use of electricity as provided u/s 126 of the Act.

(b) -----

(c) -----

(d) -----

4.0 Having regard to the above said Regulation we have cautiously gone through the record i.e. Inspection Report for change of tariff cases (Exhibit ‘B’) and it appears that initial report it has been specifically mentioned that the electricity was used for commercial purpose i.e. garment, tailoring shop and total 13 workers were found busy in their work in the said premises. The said premises has been inspected on 28/07/2003. This fact has not been seriously disputed by the complainant. It appears that the complainant was using the electricity for commercial purpose and the said use certainly comes under unauthorized use of electricity as contemplated u/s 126 of E.A., 2003. If this would be the case then certainly this Forum has no jurisdiction to entertain the grievance as per above said Regulation 6.8.

5.0 For the above said legal aspect we do not think it just and proper to enter into the other aspect of the case as no purpose will be served in discussing the submission made by the complainant. The complainant in Schedule ‘A’ has submitted that since the year 1998 onwards, the complainant is using the premises for commercial purpose and tariff is accordingly applied by BEST Authority. This submission of the complainant amounts to unauthorized use of electricity and so case falls certainly u/s 126 of E.A., 2003.

6.0 In view of above said discussion, the complaint itself is not maintainable as per Regulation 6.8 of MERC (CGRF & EO), Regulation 2006. Thus, the complaint deserves to be dismissed. In result we pass the following order.

ORDER

1. The complaint no. S-B-344-2017 dtd. 08/12/2017 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