

**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-G(N)-128-2011 dt . 03-10-2011**

Mrs. Shahjahan Ashrafi .....Complainant

V/S

B.E.S.&T. Undertaking .....Respondent

**Present**

Quorum :  
1. Shri R U Ingule, Chairman  
2. Shri S P Goswami, Member  
3. Smt Varsha V Raut, Member

On behalf of the Complainant : Shri. Shafique Ahmed Ashrafi

On behalf of the Respondent :  
On 16-11-2011  
1. Shri. N. Somarajan, DECC 'G/N'  
2. Shri. P.S. Deshpande, AOCC 'G/N'

On behalf of the Respondent :  
On 23-11-2011  
1. Shri. S.N. Bhosle, L.A  
2. Shri. P.S. Deshpande, AOCC 'G/N'

Date of Hearing : 16-11-2011 & 23-11-2011

Date of Order : 29-11-2011

**Judgment by Shri. R.U. Ingule, Chairman**

Mrs. Shahjahan Ashrafi, Khatiza Apartment, Flat No 313, G-1, Bazar Road, Bandra (W), Mumbai - 400 050 has come before the Forum for her grievances regarding outstanding arrears and reconnection of electric supply of A/c no. 797-308-529.

**Complainant has submitted in brief as under :**

- 1.0 The complainant has approached to IGR Cell of the Respondent on 21.04.2011 for his grievances regarding outstanding arrears and reconnection of electric supply A/c no. 797-308-529.
- 2.0 Not satisfied with Respondent's IGR Cell reply dtd.28/04/2011, the complainant approached to CGRF in schedule 'A' on 29-09-2011. He has requested the Forum to waive the outstanding amount pertaining to the earlier consumer and provide electricity connection at the earliest.

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

- 3.0 The meter no. L870756 was installed on 29.07.2000 at power supply address 28 Grd., Shivanandan Chawl, M. G. Road, Dharavi, Mumbai- 400 017. The meter no. L870756 was found defective & was replaced by new meter no.M020583 on 29.02.2002. Again M020583 was found defective and was replaced by N025547 on 11.01.2003. This meter was removed on 18.08.2003 for non payment of arrears of Rs. 69,610.15.
- 4.0 Mrs. Shahjahan Ashrafi had purchased above said premises on 28.03.2007. She had enquired for Electrical supply in our office at that time the Outstanding bill amounting Rs. 69,610.15 was handed over to her.
- 5.0 After receipt of her application for waiver of delayed payment charges & interest levied (D. P. of Rs. 9,021.10 & Interest charges of Rs.10,689.00) in the bills; her bill was amended for Rs. 49,000/-. She had paid the same on 18.11.2009.
- 6.0 On scrutiny of the case it was observed that, there were two unsettled claims. The claims were for the period 28.08.2001 to 29.02.2002 and 30.07.2002 to 11.01.2003 total amounting to Rs. 80,620.38.
- 7.0 When Mrs. Shahjahan Ashrafi approached again for electricity supply, the proclaim bill of Rs. 80,620.38 was handed over to her. She has refused to pay & applied under Annexure 'C' and thereafter aggrieved with the decision under Annexure 'C', She has now approached to the CGRF.
- 8.0 These claim amounts were revised as per A.O. 349 dated 06.01.2011 for a period of 6 months Rs. 21,342.22 & Rs. 22,415.62; total amounting to Rs. 43,757.84. The consumer was asked to pay the above amounts vide our letter no. DECC(G/N)/AOCC(G/N)/Annexure 'C'/7/112 /2011 dated 28.04.2011.
- 9.0 As per Regulation 7.2 of Standard of performance of Distribution Licensees, where the Distribution Licensee has disconnected supply to a consumer for a period more than six months it should be treated as a

fresh application for supply of Electricity, if such a consumer pays all amount due & payable to the satisfaction of the Distribution Licensee the Distribution Licensee should reconnect the supply.

- 10.0 In view of the above, consumer may be directed to pay Rs.43,757.84 as a legitimate outstanding amount, to the BEST Undertaking.

**REASONS** :

- 11.0 We have heard, the representative Shri Shafique Ahmed Ashrafi for the complainant and for Respondent BEST Undertaking, Shri P.S. Deshpande, AOCC G/N and Legal Advisor Shri Bhosale, at length.
- 12.0 Mrs. Shahjahan Ashrafi, the complainant, has purchased a shop in the month of March, 2007 and in the year 2009 applied for reconnection of electricity. Thereupon the Respondent BEST Undertaking directed the complainant to pay the arrears of electricity of Rs. 69,610.00, which was subsequently reduced to Rs. 49,900.00.
- 13.0 The Complainant being in dire need of electricity paid the said amount. However, despite it, instead of providing the electricity supply, the Respondent BEST Undertaking again directed the complainant to pay another arrears of electricity of Rs. 80,620.38, subsequently reducing the same to Rs. 43,757.84. The Complainant found herself unable to pay the second arrears of electricity claimed by the Respondent BEST Undertaking and disputing the same now approached this Forum for redressal of her said grievance.
- 14.0 We found that, as observed above, the Respondent BEST Undertaking has been resorting to claim the electricity charges in arrears of the erstwhile occupier / owner from the later occupier / owner i.e. Complainant. In such case to resolve the controversy one is required to refer to a well settled law holding the field, which has been currently reiterated by Their Lordship of the Supreme Court in a Case of *"Haryana State Electricity Board v/s M/s Hanuman Rice Mills, Dhanauri (A.I.R. 2010 SC 3835)."*
- 15.0 For our benefit their lordship have summarized the principles of law applicable to the cases like the one on our hand, in para 9 in the above mentioned judgment and it runs as under;

" The position therefore may be summarized thus :

- (i) *Electricity arrears do not constitute a charge over the property. Therefore in general law, a transferee of a premises cannot be made liable for the dues of the previous owner/occupier.*

*(ii) Where the statutory rules or terms and conditions of supply which are statutory in character, authorize the supplier of electricity, to demand from the purchases of property claiming re-connection or fresh connection of electricity, the arrears due by the previous owner/occupier in regard to supply of electricity to such premises, the supplier can recover the arrears from a purchaser."*

- 16.0 We thus find that to foist the liability of electricity charges in arrears in respect of erstwhile occupier that on the later occupier like the complainant, the Respondent BEST Undertaking should be in a position to point out either any statutory rules, or terms and conditions of supply, authorizing it to demand such electricity charges in arrears.
- 17.0 In this regard, a bare perusal of a written statement submitted by the Respondent BEST Undertaking before this Forum, we find that it rely on Regulation no. 7.2 provided under the MERC (SOP of Distribution Licensee, period for giving supply and determination of compensation) Regulation, 2005. In this connexion, we observe that the Regulation 7.2 pressed into services by Respondent BEST Undertaking contemplate the reconnection of electricity being sought by the existing "Consumer".
- 18.0 In our consider view, the present complainant who has not been supplied with any electric supply, therefore cannot be called as a "Consumer" as per the provisions made under said Regulation 7.2. Besides it, significant to note that the Regulation provided under "SOP", have been exclusively devoted casting an obligation on the Distribution Licensee to discharge their functions within a time period specified therein and for determination of compensation in case of their failure. On this count it is also highly unsustainable on the part of the Respondent BEST Undertaking to place any reliance on the Regulation 7.2, for imposing any liability of paying charges in arrears on the later occupier like the complainant under consideration. We thus find that the reliance placed on 7.2 by the Respondent BEST Undertaking, has been totally misplaced and miscomprehended one.
- 19.0 In the argument advanced before this Forum, in alternate, representative Shri P.S. Deshpande also placed a reliance on Regulation 10.5 provided under MERC (Electricity Supply Code and other conditions of supply) Regulation, 2005.
- 20.0 On perusing Regulation 10.5 especially proviso provided there under, we find that except in a case of transfer of electricity connection to a legal heirs, the liability transferred in this Regulation 10.5, has been restricted to a maximum period of 6 months of the unpaid charges for

electricity supplied to such premises. We therefore, of a view that as provided under said Regulation 10.5, the electricity charges in arrears, has been made as a "charge" on the premises and would be transmitted to the new owner or occupier of the premises and the said liability, to reiterate has been restricted to the maximum period of 6 months of the unpaid charges for electricity supplied to such premises.

- 21.0 We therefore, of a consider view that the electricity was provided to the premises purchased and occupied by the complainant from the March 2007. As the electricity charges were in arrears, therefore the supply to the said premises was disconnected by the BEST Undertaking on 18/08/2003. Now the complainant, by approaching Respondent BEST Undertaking has applied for reconnection of electricity to the said premises. Therefore, in our considered view, the instance case falls under the said Regulation 10.5.
- 22.0 In the net result therefore, it would be a statutory liability on the part of the complainant to pay the electricity charges in arrears for a period of "six *months*" of the unpaid charges for electricity supplied to such premises, in view of the proviso provided under Regulation no. 10.5.
- 23.0 For the reasons stated above, we proceed to pass the following order.

#### ORDER

1. Complaint no. N-G(N)-128-2011 dtd. 03-10-2011 stands allowed.
2. The Respondent BEST Undertaking hereby directed to recover electricity charges in arrears from the complainant only for a period of six months of unpaid charges preceding the month in which disconnection of electricity to the said premises took place. The complainant has already paid the part arrears. The said amount be adjusted accordingly i.e. excess amount be credited and short payment be recovered, as the case may be.
3. On aforesaid compliances in respect of electricity charges, electricity supply be provided to the complainant' premises in accordance with law.
4. The compliance of this order be reported to this Forum, within a period of fortnight there from.
5. Copies be given to both the parties.

(Smt Varsha V Raut)  
Member

(Shri S P Goswami)  
Member

(Shri R U Ingule)  
Chairman

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