

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-A-87-09 dt . 3/12/2009

Shri. Shatrughan Jairam GuptaComplainant

V/S

B.E.S. & T. UndertakingRespondent

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 1. Shri. S.J. Gupta
2. Shri. Jairam Gupta

On behalf of the Respondent 1. Shri. S.B. Doifode, Supdt. C.C. 'A' ward
2. Shri. A.K. Mone, O.A.C.C 'A' ward
3. Shri. V.K. Kulkarni, Charge Engineer
4. Shri. S.M. Jaunjal, A.O. I.G.R. 'A' ward

Date of Hearing 31/12/2009 at 12.00 hrs

Date of Order 06/01/2010

Judgment by Shri. R.U. Ingule, Chairman

Shri. Shatrughan Jairam Gupta, Room no. 160, Shiv Mandir Gulli, Shree Ganesh Murti Nagar II, Cuffe Parade, Colaba, Mumbai – 400 005 has come before Forum for grievances regarding not giving electricity connection even after 10 months of valid application.

Complainant's contention in Brief are as under

1. Complainant Shri. Shatrughan Jairam Gupta stated that he wish to bring notice to the Forum that business practice followed by respondent is arbitrary and illegal. He further stated that respondent is defining their own laws acting on it. To prove their point, respondent is pointing out section 43 of Electricity Act 2003.
2. Complainant would like to put before the Forum that his step-brother was in physical possession of room no. 160. The photopass for the room was in the name of his uncle Shri. Asaram Gupta and his step-brother is staying there under a family arrangement between their families and complainant is having an irrevocable power of attorney made by his uncle in his name regarding same room.
3. Complainant stated that it is important that he had made an application for an electric meter with the respondent on 17/12/2008 alongwith proper documents, fees, Power of Attorney, with the express and implied consent of the room owner that is his uncle Shri. Asaram Gupta. Respondent maintained a stoic silence in case of his application for a long period. Meanwhile his step-brother had taken stolen electricity connection after a later date, with the help of a local electrician. He brought these things to the notice of the respondent.
4. Complainant stated that this clearly means that the interpretation of law made by the company and its officers is nothing but mis-interpretation of law and it is used as per the whims and fancies of the respondent.
5. The complainant has raised few un-answered questions which needs their answers from the respondent :-
 What prevented respondent to sanction electric meter against his application which was duly filled and properly submitted ?
 Why no reasons were given to him and he was forced to visit their sections for the new connection for months ?
 What lies behind the fact that an electric meter can be obtained easily and promptly, with the help of a person who also helped in electrical theft ?
6. Unsatisfied by the reply of respondents IGR Cell, complainant approached CGR Forum in Schedule `A' format on 03/12/2009.
7. Complainant requested to Forum to look into the matter and quash the order of the respondent to provide supply to the occupant, when same demand by the legal representative who had made an earlier application for the same, was not at all considered for a long period of time and turned down at a later stage.

In counter Respondent, BEST Undertaking has submitted its contention inter alia as under

8. Respondent stated that complainant had applied for electric supply for Room no. 160, Shiv Mandir Gulli, Shree Ganesh Murti Nagar II, Captain Prakash Pethe Marg, Cuffe Parade, Colaba, Mumbai – 400 005. After the inspection of above said premises, it was noticed that premises has been occupied by Shri. Vrindavan Jairam Gupta, not by complainant.
9. Respondent received an application No.1097079 dtd. 13th March, 2009 from Shri. Vrindavan Jairam Gupta for said premises with valid documents & electric supply was given to Room no. 160, Ganesh Murti Nagar, after verifying all the documents submitted and confirming the occupancy of Shri. Vrindavan Jairam for Room no. 160.
10. Respondent stated that as per their inspection, Room no. 160 was occupied by Shri. Vrindavan Jairam. He had also submitted all necessary occupancy proofs such as, photo copies of Ration Card, Election Voters card, Electro role election list and NOC from Shri. Asaram Jairam Gupta. Electricity Act provides that the owner or occupier of the premises is eligible for electric supply. We deny that the electric supply sanctioned to Shri. V.J. Gupta is illegal, unlawful or arbitrary.
11. Respondent stated that the Vigilance Department of BEST had conducted a raid in the premises of Shri. Vrindavan J. Gupta and a penalty of Rs.6,351/- was preferred against the said occupant. Shri. V.J. Gupta had also paid the penalty amount of Rs.6,351/-. This also proves that Shri. Vrindavan J. Gupta was physical occupant of the premises at that time.
12. Respondent wish to state that the requisition submitted by Shri. Shatrughan Gupta has not been sanctioned since he does not comply with the requirements as per the Regulations prescribed by the Maharashtra Electricity Regulatory Commission. Shri. Shatrughan Gupta is also not in physical occupation of the said premises. Respondent deny that there is any unfair trade practice. We also deny that there is breach of any standard of performance as prescribed by the Regulations.

Reasons

13. We have heard the complainant in person and the representatives of the respondent distribution licensee. Perused papers.
14. At the outset we find no merit in the complaint under consideration. The complainant has raised a grievance that despite his application

dated 17/12/2008 for supply of electric connection to the premises bearing Room No.160, Shiv Mandir Gully, Shree Ganesh Murti Narar II, Cuffe Parade, Colaba, Mumbai – 400 005, no electric supply was provided as envisaged u/s 43 of the Electric Act, 2003. On the contrary an electric supply came to be provided to the said premises to his step-brother Shri. Vrindavan Gupta illegally, entertaining his application of a later date. The complainant has placed on file various documents in support of his case.

15. We observe that u/s 43 of the Electric Act, 2003 the respondent distribution licensee has been under an obligation to provide a supply of electricity to the premises, on an application submitted by the **owner** or **occupier** of such premises, within one month after receipt of the application requiring such supply. This relevant provision provided under the Electric Act, 2003, thus blatantly manifest that for availing supply of electricity to the premises, an application is required to be preferred by **owner** or **occupier**.
16. In counter the respondent has empathetically submitted that as it found the complainant being not in 'possession or occupying' the said premises therefore refused to provide the electric supply entertaining his application. On the contrary the respondent found step-brother of the complainant viz. Shri. Vrindavan Gupta being in possession of Room no. 160 therefore proceeded to supply electric connection to him and not to the complainant.
17. We find in a bare perusal of a written submission dated 25/11/2009 submitted before this Forum under his signature by the complainant, in paragraph no. 2 the complainant has candidly admitted that his step brother viz. Shri. Vrindavan Gupta being in 'physical possession' of Room no. 160. The complainant further submits that his said step-brother has been staying in the Room no. 160 alongwith his uncle under a family arrangement. We further observe that in a penultimate paragraph of said written submission the complainant has further candidly admitted that the electric supply has been provided to the occupant by the respondent when the same has been demanded by the legal representative i.e. the complainant. On perusal of said written submission we find that the complainant has been claiming the electric supply to room no. 160 in his name, on the ground he being a 'legal representative', of the alleged **owner** of the said Room no. 160 i.e. Shri. Asaram Gupta.
18. We further observe that a copy of the Ration card in respect Room no. 160 placed before us manifest that the same has been issued to Shri. Asaram Gupta being head of the family. The said Ration card contains the name of Shri. Vrindavan Gupta the step-brother to whom electricity supply has been provided, at serial no. 2 therein. Significant to observe that the name of the complainant has been entered in the said Ration card on 11/7/2008.

19. At this juncture we find it expedient to advert to another copy of the Ration card placed on file by the respondent licensee. Therein we observe that the same has been issued in respect of Room no. 160 showing the name of the step-brother of his complaint Shri. Vrindavan Gupta being head of the family. In this Ration card we neither find the name of the uncle of the complainant Shri. Asaram Gupta, nor the name of the complainant. This Ration card has been issued on 29/7/2009. We also find placed on file by the respondent a letter dated 30/6/2009 addressed to Shri. Vrindavan Gupta under the signature of Rationing officer. Vide this letter the Rationing officer has informed Shri. Vrindavan Gupta about suspension of earlier Ration card no. 0729780 containing the name of the complainant therein and later on cancellation of the said Ration card. The respondent has also placed on file an inspection report of its enquiry inspector dated 6th January, 2009 showing the Room no. 160 being occupied by Shri. Vrindavan Gupta and the complainant residing in an adjacent Room no. 159 for which electric supply is existing in the name of his father Shri. Jairam Gupta.
20. The complainant has placed on file a Power of Attorney dated 10th March 2008 under signature of Shri. Asaram Gupta the uncle of the complainant. On going through this Power of Attorney placed on file by the complainant we find the complainant's residence shown therein as Room no. 159.
21. We thus find that the submission made by the complainant himself and the various documents placed on file by either party to the litigation, blatantly manifest that Shri. Vrindavan Gupta a step-brother of complainant, has been occupying the Room no. 160 to which an electric supply has been sought. At this juncture we observe that the Room no. 160 has been a zopdi. A copy of identity issued to Shri. Asaram Gupta under the signature of a Dy. Collector, placed on file by the complainant manifest that Shri. Asaram Gupta the resident of the said zopdi cannot claim ownership of the said zopadi. We thus find that as envisaged u/s 43 of the Electricity Act, 2003 it is the '**occupier**' who would be entitled for supply of electricity from the respondent licensee and has observed above, we find Shri. Vrindavan Gupta in 'occupation' of the said premises and not the complainant.
22. We therefore find no illegal act on part of respondent licensee in denying electric supply to the complainant. Much hue and cry has been made by the complainant that despite his application envisaged u/s 43 of the electricity supply Act, 2003 was dated 17/12/2008 and thereafter such application was preferred by his step-brother Shri. Vrindavan Gupta. Therefore electricity supply should have been provided to the complainant and not his step-brother Shri. Vrindavan Gupta. At the cost of repetition we observe that it is '**occupier**', who would be entitled for the electric supply and the respondent licensee found Shri. Vrindavan Gupta being in occupation of the premises and not the complainant. True that the respondent licensee has not promptly replied the application of the complainant dated 17/12/2008 communicating him the reasons for denial of electric supply. Such reply has been given to the complainant by the official of the

respondent licensee on 17th November, 2009. However, in our considered view such a delay if any on part of respondent licensee would not confer any right on the complainant to get the electric supply to Room no. 160 as prayed by him, for a simple reason that he has not 'occupying' the said premises.

23. For the reasons stated above we find the instant complaint being devoid of any merit and the same therefore liable to be dismissed. Accordingly we do so.

ORDER

1. Complaint no. S-A-87-09 dated 3/12/2009 stand dismissed.
2. Copies to be provided to both the parties.

(Shri. R.U. Ingule)
Chairman

(Shri.S.P.Goswami)
Member