

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-FN-191-2013 dtd. 15/04/2013

Mr. Abdulla H. PataniComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Quorum : Chairman
Shri R U Ingule, Chairman

Member
1. Shri M P Thakkar, Member
2. Shri S M Mohite, Member

On behalf of the Complainant : 1. Shri Davinder Singh Sudan

On behalf of the Respondent 1. Shri. D.K. Lambhate (AAM)
2. Shri M.J. Dhage (Sr. A.O., CC(F/N))

Date of Hearing : 04/06/2013

Date of Order : 12/06/2013

Judgment by Shri. R.U. Ingule, Chairman

Mr. Abdulla H. Patni, Room No. 409, 4th Floor, Plot No. 8-B, Transit Camp, Shaikh Misree Road, Antop Hill, Mumbai - 400 037 has come before the Forum for grievance regarding refund of outstanding amount of Rs.24,841/- pertaining to A/c.No.704-250-101*9 of earlier occupier of the premises, which is paid by the complainant at the time of reconnection of electric supply vide requisition No.91301617.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 18/10/2012 for grievance regarding refund of outstanding amount of Rs.24,841/- pertaining to A/c.No.704-250-101*9 of earlier occupier of the premises, which is paid by the complainant at the time of reconnection of electric supply vide requisition No.91301617. The complainant has approached to CGRF in schedule 'A' dtd. Nil received in CGRF on 10.04.2013 as no remedy is provided by the Distribution Licensee regarding his grievance. The complainant has requested the Forum to refund the said amount with interest.

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

- 2.0 Mr. Abdulla H. Patni, Room No. 409, 4th Floor, Plot No. 8-B, Transit Camp, Shaikh Misree Road, Antop Hill, Mumbai - 400 037 has come before the Forum for grievance regarding refund of outstanding amount of Rs.24,841/- pertaining to A/c.No.704-250-101*9 of earlier occupier of the premises. The complainant had been issued the said premises by MHADA on 30.06.2008 for residential purpose. The complainant had approached the Undertaking for reconnection of electric supply vide requisition No.91301617(KLG No.104327) on 11.09.2012.
- 3.0 The electric supply of earlier occupier of the premises (A/c.No.704-250-101*9) was disconnected by the Undertaking for non payment of electricity charges on 30.06.2008. The complainant had paid the outstanding amount of Rs.24,841/- on 01.10.2012 under protest at the time of reconnection of electric supply.
- 4.0 In his complaint letter, the complainant said that, he had issued the said premises by the MHADA on 30.06.2008 hence as per Consumers' Protection Act, he has no liability to bear any outstanding of previous occupier. The complainant has requested to the Undertaking to refund the paid amount.
- 5.0 The Undertaking has recovered the outstanding amount of the earlier occupier of the premises as per Terms and Conditions of Supply (approved by MERC) Point 13.4. Therefore, there is no need to refund the same.

REASONS

- 6.0 We have heard Shri Davinder Singh Sudan for the complainant and for the Respondent BEST Undertaking Shri D.K. Lambhate (AAM) and Shri. M.J. Dhage (Sr. A.O., CC(F/N)).
- 7.0 The controversy to be redressed with by this Forum, has been found to be an open and shut case. The complainant has been allotted a premises by MHADA on 30/06/2008. As there was no supply to the said premises, the complainant applied for the electric meter vide his requisition dtd. 11/09/2012. The Respondent BEST Undertaking contends that the erstwhile consumer had made a last payment of electricity charges of Rs. 464/- on 17/02/2006. The accumulated electricity charges amount has been Rs. 24,841/-. The Respondent BEST Undertaking for non payment of the electricity

charges has removed the meter on 30/06/2008. Therefore as the complainant demanding a new meter connection, he is liable to pay the arrears of the erstwhile occupier of Rs. 24,841/- as provided under **terms and conditions of supply** of the Respondent BEST Undertaking under point no. 13.4. In short the Respondent BEST Undertaking has been treating the complainant being seeking a new connection and therefore liable to pay the entire arrears of Rs. 24,841/- in order to avail new electric connection to his premises.

- 8.0 This Forum does not find any iota of merit in the said contention raised by the Respondent for a simple reason that such controversy has already been resolved by Hon'ble Division Bench of the Bombay High Court in a case of *M/s Namco Industries Pvt. Ltd. v/s State of Maharashtra (W.P. 9906/2010 decided on 16/03/2011)*. In this judgment Their Lordship has held that once the electric connection has been provided to any premises and later on removed then any connection given thereafter to such premises would be necessarily a **reconnection** and not a **new connection**. Their Lordship further held that such cases should squarely fall under regulation 10.5 provided under the MERC (Electricity Supply Code and Other Conditions of Supply) Regulation, 2005.
- 9.0 This Forum observes that the aforesaid regulation 10.5 *inter-alia* provides that except in case of transfer of connection to a legal heir, the liabilities to pay the electricity charges due, would be restricted to a maximum period of 6 months of the unpaid charges for electricity supplied to the premises. To reiterate, the premises now occupied by the complainant was provided with electricity in the past. Therefore the case of the complainant seeking an electric connection would be a reconnection and would fall under regulation 10.5. Therefore he would be liable to pay the electricity charges for a maximum period of 6 months of the unpaid charges for electricity supplied to the said premises. It is therefore evident that the Respondent BEST Undertaking can not claim an entire charges of Rs. 24,841/- which were liable to be paid by the erstwhile occupier.
10. We may further proceed to observe that even the point no. 13.4 of the **terms and conditions of supply** relied on by the Respondent BEST Undertaking also concludes stating that the charges of electricity to be recovered as per the **regulation**. Obviously therefore such regulation would be 10.5 referred to above. We may hasten to add that the further point no. 13.5 clear the position stating that except in case of transfer of connection in legal heir, the liabilities transfer under regulation 10.5 shall be restricted to a maximum period of 6 months of the unpaid charges for electricity supplied to such premises.
- 11.0 We thus find that the Respondent BEST Undertaking giving a Nelson's eye to point no. 13.5 has been placing improper reliance on point no. 13.4 of its **terms and conditions of supply**. Obviously therefore there is no merit into any contention raised by the Respondent BEST Undertaking in resisting the complaint under consideration.
- 11.0 In the aforesaid observation and discussion the complaint should succeed, accordingly we proceed to pass the following order.

ORDER

1. The complaint no. N-FN-191-2013 stands allowed.
2. It is hereby declared that the Respondent BEST Undertaking has been entitled to claim electricity charges for a maximum period of 6 months of the unpaid charges for the electricity supplied to the premises, now occupied by the complainant.
3. The Respondent BEST Undertaking therefore accordingly directed to prepare a revise bill and serve on the complainant.
4. The Respondent BEST Undertaking is hereby directed to refund the excess electricity charges, if any, collected from the complainant in view of direction given herein above.
5. The compliance of this order be informed to this Forum within a period of one month therefrom.
6. Copies be given to both the parties.

(Shri S M Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman