

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-E-127-2011 dt. 07-09-2011

Mr. Mohammed. H. KachwallaComplainant

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. Mohammed H. Kachwalla
2. Dr. Zainab M. Kachwalla

On behalf of the Respondent : 1. Shri. M.R. Dharaskar, DECC 'E' ward
2. Shri. Madhusudan G. Mhatre, AOIGR E ward

Date of Hearing : 18-10-2011

Date of Order : 03-11-2011

Judgment by Shri. R.U. Ingule, Chairman

Mr. Mohammed. H. Kachwalla, The Timber Market Occupants Society, Galla no.34 B, Reay Road (E), Opp. Hindu Shamshan Bhoomi, Mumbai - 400 010 has come before the Forum for his grievances regarding regularization of load, reconnection of Electric Supply & waiver of fixed charges A/c no. 200-022-053*7; Meter no. P020238.

Complainant has submitted in brief as under :

1. The complainant has approached to IGR Cell of the Respondent on 27.1.2011 for his grievances regarding regularization of load, reconnection of Electric Supply & waiver of fixed charges A/c no. 200-022-053*7; Meter no. P020238.
2. Not satisfied with Respondent's IGR Cell reply dtd.07/03/2011, the complainant approached to CGRF in schedule 'A' on 05-09-2011. He has requested the Forum for waiver of fixed charges from Aug, 2008 till the date of disconnection of his meter, acceptance of energy charges by waiving DP & interest charges with provision of installment facility, regularization of load & reconnection of Electric Supply etc.

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

3. Meter no. P020238 was installed for the above premises of the consumer Shri Mohd Hasanali Kachwala under A/c no. 202-022-053, having connected load of 30 KW.
4. On 25th August-2008, Consumer had applied for Load regularization vide requisition no.50941599 for Reduction of Load from 30 KW to 6.28KW. (Exhibit 'A') Requisition was sanctioned after completing necessary procedure on 19.12.2008 and ESL-4 letter (Exhibit 'B') was sent to him on the same date to comply our requirements. However, consumer had not made compliances till 16.03.2009, hence the said requisition was cancelled.
5. As per the request of consumer, we have revived the requisition by requisition no. 51004089 on 15.03.2010 and he was told personally to comply with our requirement. However, he was insisting us to waive the Fixed Charges and Electricity Duty. Thereafter, he was corresponding with our department from time to time. Finally, ESL-4 dtd. 02.12.2010 (Exhibit 'C') was handed to him personally on 08.12.2010. However, till date we have not received any response from consumer for processing the requisition.
6. Shri Mohd Hasanali Kachwala vide letter dt. 06.04.2010 had complaint about High Bill in his letter. While going through the consumption pattern from August 2008 to April-2010, it is observed that meter no. P020238 shows more or less uniform consumption of 30 units per month. Hence, it was not a high bill. This was informed to Shri Mohd Hasanali Kachwala vide our letter DECCE/HB/5110754/2010 dt.30.12.2010. (Exhibit 'D')
7. Shri Mohd Hasanali Kachwala vide his letter 05.04.10, 17.06.2010, 21.06.2010, 14.07.2010, 04.08.2010 and 21.12.2010 had applied for

waival of Fixed Charges and Electric Duty. In this reference, reply was sent to Shri Mohd Hasanali Kachwala vide our letter DECCE/HB/5110754/2010 dtd. 30.12.2010 stating that Fixed Charges and Electricity Duty is levied as per the tariff schedule approved by the M.E.R.C. Hence request to waive Fixed Charges and Electricity Duty cannot be accepted.

8. Further, Shri Mohd Hasanali Kachwala had complaint under Annexure 'C' on 27.01.2011. In reply to this, we had once again requested him vide letter CCNE/IGR-E/ANNEX-C/3494/2011 dt.07.03.2011 (**Exhibit 'E'**) to comply with our requirements mentioned in ESL-4 letter immediately in order to connect the meter.
9. As per the payment history it is observed that the last payment made by Shri Mohd Hasanali Kachwala is of Rs.9,709.00/- on 20.12.2008 and thereafter he has not made any payment of Electricity bill. Therefore, meter was removed for Non-payment of bill on 04.05.2010.
10. For refund of Additional Security Deposit, complainant is requested to make application to O.A. 'Security Deposit Section,' 6th flr, New Ancillary Bldg, Wadala Bus Depot, Tilak Road, Wadala, Mumbai-400 031.
11. As the consumer had not complied with the Requisition no.50941599 till 16.03.2009, the requisition was cancelled. As regards waival of Fixed Charges from August-2008, the Fixed Charges are levied as per the tariff schedule approved by the M.E.R.C. Hence request to waive Fixed Charges cannot be accepted.
12. As the consumer had not complied with the Requisition no.50941599 till 16.03.2009, the requisition was cancelled. As regards waival of Energy Charges from August-2008, the Energy Charges are levied as per the tariff schedule approved by the M.E.R.C. Hence request to waive Energy Charges cannot be accepted.
13. It is evident from above that the consumer has not complied with our requirements of ESL-4 letter. The regularization of load could not be effected, therefore the question of any compensation or penalty from staff doesn't arise.
14. The complainant Shri Mohd Hasanali Kachwala had applied for Load regularization vide requisition no.50941599 for Reduction of Load from 30 KW to 6.28KW. Requisition was sanctioned after completing necessary procedure on 19.12.2008 and ESL-4 letter was sent to consumer on the same date to comply our requirements.
15. As the consumer did not comply with the our requirements till 16.03.2009, the requisition was cancelled.

16. Thereafter, consumer approached to us after 1 year. On his request, requisition was revived by requisition no. 51004089 dtd. 15.03.2010. Again ESL-4 letter dt.02.12.2010 was handed personally to Shri Mohd Hasanali Kachwala on 08.12.2010. However, till date we have not received any response for processing of requisition.
17. As the consumer has not complied with our requirement, Fixed Charges and Electricity Duty is being charged. Therefore, Shri. Mohd Hasanali Kachwala is requested to comply with our requirements.
18. The Hon'ble Forum may scrutinize this case of waiver of Fixed Charges and Electricity Duty in purview of the provisions of Electricity Act 2003 and MERC Regulation and consumer may be directed to pay the outstanding actual charges and proceed in the Requisition. The Fixed Charges, Electricity Duty and Delayed Payment levied after removal of meter will be credited in the consumers electricity bill, after scrutiny of Audit Department.

REASONS :

19. Heard complainant Shri. Mohammed H. Kachwalla & Dr. Zainab M. Kachwalla in person and for Respondent BEST Undertaking Shri. M.R. Dharaskar & Shri. Madhusudan G. Mhatre. Perused documents placed before us.
20. We observe that admittedly the complainant had submitted an application for load requisition vide requisition no. 50941599 on 25th Aug 2008, for a reduction of load from 30 KW to 6.28 KW. As per case of the Respondent BEST Undertaking, the complainant's said requisition was sanctioned after completing necessary procedure on 19-12-2008 and ESL-4 letter was sent to him requesting to comply the requirements. The BEST Undertaking further contends that the complainant failed to comply with the requirement till 16th March, 2009. Therefore the said requisition was cancelled.
21. As per the case of the complainant, the premises under consideration, was used by the complainant as a godown, wherein occasional goods were loaded and unloaded. In the rest of the time the said premises used to be closed. Therefore the complainant required only 8 Tube Lights & 3 Fans occasionally in the said godown premises. Therefore the complainant applied for the reduction in the load on 25th Aug, 2008 from 30 KW to 6.28 KW.
22. The BEST Undertaking was under the statutory obligation to complete the required necessary procedure within a period of one month and ought to have informed the complainant vide the ESL-4 letter. However, after a lapse of 4 months allegedly the BEST Undertaking has informed the complainant vide the ESL-4 letter dtd. 19-12-2008 about the sanctioning of the requisition.

23. The complainant has emphatically submitted that the BEST Undertaking as per its say sent ESL-4 letter belatedly after the lapse of 4 months. Besides it, the same has not been at all served on complainant. Therefore the BEST Undertaking could not place on file any acknowledgment from the complainant in token of receipt of such ESL-4 letter. The complainant further elaborated that, due to such lapse and lethargy on the part of BEST Undertaking the complainant has been illegally made to pay the fix charges and electricity duty on the load of 30 KW when he applied for 6.28 KW. Beside it, the Respondent BEST Undertaking has failed to comply the statutory obligation cast on it to act on requisition form, within a period of one month.
24. The complainant to reinforce his argument, has further brought to the notice of the Forum that the complainant has submitted a second requisition no. 51004089 dtd. 15th March, 2010 and admittedly the same has been replied by the Respondent BEST Undertaking on 2nd Dec, 2010 i.e. after a lapse of about 9 months, when it ought have replied it within a period of one month.
25. This Forum on perusing the documents placed on file find merit and force in the arguments advanced by the complainant. A bare perusal of a written submission submitted before this Forum by the Respondent BEST Undertaking, manifest that admittedly the first requisition no. 50941599 for reduction of load from 30 KW to 6.28 KW was submitted by the complainant on 25th Aug, 2008. Admittedly the Respondent BEST Undertaking has replied the same vide the ESL-4 letter dtd. 19-12-2008, i.e. after a lapse of 3 months, that to without having any acknowledgement from the complainant.
26. In this context the Forum observe that Appendix-A provided under the MERC (SOP of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 provides a time period of one month for provision of supply from date of receipt of completed application and payment of charges in case of connection is to be given from existing network.
27. We thus find that the SOP laid down by the MERC has not been squarely complied with by the Respondent BEST Undertaking. In consequences thereto, the complainant was required to pay the fix charges and electricity duty there upon on the supply of load of 30 KW, when he has requested for lowering down the same to 6.28 KW.
28. We therefore uphold the contention raised by the complainant that the Respondent BEST Undertaking has failed to bring on record any evidence before this Forum that ESL-4 letter dtd. 19-12-2008 has been served on the complainant especially when it has been a consistent stand of the complainant that the alleged ESL-4 letter dtd. 19-12-2008 was never served on him. Therefore no question arises for non compliance of any

requirements from the side of the complainant and cancellation of the said requisition for want of the same.

29. We therefore uphold the contention raised by the complainant that as per requisition no. 50941599 dtd. 25th Aug, 2008 Respondent BEST Undertaking has failed to reduce the load from 30 KW to 6.28 KW and no warrant and justification was available to the Respondent BEST Undertaking to levy the fix charges and electricity duty on the complainant considering supply of electricity load as 30 KWs from date of completion of a calendar month commencing from 25th Aug, 2008.
30. This Forum further observe that admittedly a second requisition no. 51004089 was submitted by complainant on 15th March, 2010. To our surprise instead of serving a written ESL-4 letter, the BEST Undertaking allegedly was informing the complainant personally to comply with the requirements. Admittedly it is on 2nd Dec, 2010 the Respondent BEST Undertaking has served ESL-4 letter personally on the complainant on 8th Dec, 2010. It is thus explicit & evident that on the second occasion also after a lapse of about 9 months ESL-4 letter came to be served on the complainant when it ought have been served within a period of one month as observed above.
31. We thus find that there has been consistent lapse and lethargy on the part of Respondent BEST Undertaking in taking a due action in the requisition submitted by the complainant. Had the Respondent BEST Undertaking taken a prompt action on the first requisition no. 50941599 dtd. 25th Aug 2008, the complainant would have not been saddled with an unwarranted liability to pay fix charges and electricity duty on the electricity load of 30 KW when he was opting for 6.28 KW. Ultimately this unfortunate episode has been ended in cutting of the electricity supply of the premises of the complainant. We thus find an injustice being met out to the complainant, at the hands of the Respondent BEST Undertaking, for no fault of the complainant.
32. In the aforesaid observation while allowing the complaint, we proceed to pass the following order.

ORDER :

1. The complaint no. N-E-127-2011 dtd. 07-09-2011 stands allowed.
2. The Respondent BEST Undertaking has been directed to levy the electricity charges on the complainant, for a period of one month, commencing from 25th Aug, 2008, for an electricity load of 30 KW and on actual units consumed by him. Thereafter to levy the electricity charges on the complainant for the rest of the period therefrom, considering the electricity load being 6.28 KW as requisitioned by the complainant and on actual units consumed by him, till the date of removal of meter,

waiving DP & interest charges on the arrears payable by the complainant.

3. The Respondent BEST Undertaking has been directed to calculate the electricity charges to be paid by the complainant as directed above, within a period of fortnight from the date of receipt of this order and to serve the bill on the complainant forthwith.
4. The Respondent BEST Undertaking further directed to provide reconnection of electricity supply to the premises of the complainant forthwith on his remittance of electricity charges in arrears & test report.
5. The Respondent BEST Undertaking has been further directed to report the compliance of this order within a period of a fortnight therefrom.
6. Copies be given to both the parties.

(Smt. Varsha V Raut)
Member

(Shri. S P Goswami)
Member

(Shri. R U Ingule)
Chairman