

**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)-101-2010 dt . 21/7/2010**

Smt. Vibha M. Prabhu .....Complainant

V/S

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

**Present**

Quorum 1. Shri. R.U.Ingule, Chairman  
2. Shri. S. P. Goswami, Member

On behalf of the Complainant Shri. P.S.Shanbhag

On behalf of the Respondent Shri. P.S.Deshpande, AOCC 'G/N'

Date of Hearing: 11/08/2010

Date of Order : 13/08/2010

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

Smt. Vibha M. Prabhu, Aarey Sarita 16, D'Silva Road Dadar, Mumbai – 400 028, approached the CGR Forum for her Grievance regarding dispute against outstanding amount of A/c No. 906-403-300\*4 & compensation for delay in giving electric supply. She has requested for getting compensation of Rs.25,000/- per month from the date of application for meter. She has requested for early electric supply.

**Complainant's contention in brief are as under**

1. Smt. Vibha M. Prabhu, has approached the Internal Grievance Redressal Cell of respondent BEST on 17/5/2010 for her Grievance regarding dispute against outstanding amount of A/c No. 906-403-300\*4 & compensation for delay in giving electric supply.
2. Complainant approached CGR Forum in Schedule 'A' format on 21/7/2010 for her grievance regarding outstanding bill of A/c No. 906-403-300\*4 & compensation for delay in giving electric supply as she has not received any reply from IGRC within a stipulated time frame of 2 months. She has requested for early electric supply & compensation of Rs.25,000/- per month from the date of application for meter

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

3. Respondent submits that meter no. D969905 & 0701519 were installed in the name of Dy. Engineer Electric Aarey Milk Colony on 1.4.1970. Both the meters were removed for nonpayment of bills on 25.9.2002, with the outstanding amount of Rs.1,05,552/-.
4. At the time of removal of meters, the reading of meter Nos.D969905 & 0701519 was 08420 & 38716 respectively. On scrutiny of the case it is observed that the consumer was over billed during the period June 2002 & December 2002 for 557 units & 2 units respectively. The same is being adjusted against final outstanding.
5. The bills were forwarded at Mistry Bhavan, 6<sup>th</sup> floor, Dinshaw Vachha Road, Mumbai 400020 and last bill was paid on 20.11.97 for Rs.22,119/-.However, all further bills were forwarded to this address remained unpaid resulting in accumulation of bill amount to Rs.1,59,369/-.The amount includes delayed payment charges of Rs.58,185/- approx. & interest of Rs.35,007/-approx.This was informed to the General Manager, Worli Dairy vide our letters dated 3.11.2009 & 22.4.2010.
6. As per the Amnesty Scheme the consumer or the applicant can avail the facility of procedure order No.164 dated 17.3.2009. Under this scheme the consumer could have got credit of Rs.58,185/- towards waiver of interest charges. Same has been informed to the representative of Smt. Vibha M.Prabhu orally, but he had not agreed to pay the balance amount stating that he had not used the electricity.
7. As per para 4 of the agreement "Being Milk centre (center or Dairy Centre) Aarey Sarita & Energy Centre are Govt.

properties, hence ownership of these still remain with Dairy Manager (incharge) Aarey / worli / Kurla i.e. General Manager, Greater Mumbai Milk Scheme "Government of Maharashtra".

8. As there is no change in ownership of premises, though the user is different, the instant case does not fall in the purview of Regulation 10.5 of Electric Supply Code & other Conditions of supply, 2005.
9. Generally any person who purchases the premises from Govt. authority or from any other authority the purchaser has to confirm the dues such as electricity bill, telephone bills etc. are cleared by the previous consumer/owner/occupier. However, in the instant case this is not done by the applicant.
10. The consumer was informed regarding arrears, however, she refrained from paying the bills. The outdoor staff of undertaking had also approached twice to Aarey Sarita Authorities to recover the outstanding amount of bills. Also, we might have written letters to the Authority to recover the outstanding amount but as the case is very old records are not traceable.
11. After adjusting credit of over billed units of 557 & 2 & giving the benefit of delayed payment charges of Rs.58,185 & Rs.35,007/- of interest amount the balance payable amount works out to RS.3,036.00.
12. In view of above, consumer may be directed to settle the outstanding bill of A/c No.906-403-300 of Rs.63,141/- which is legitimate dues.

### **REASONS**

13. We have heard the representative of complainant Shri. P.S.Shanbhag and Shri. P.S.Deshpande, AOCC 'G/N' appearing for the respondent BEST Undertaking, at length.
14. It is blatantly manifest and crystal clear on the very face of record that the respondent BEST Undertaking's claim of arrears of Rs.63,141 made against the complainant, has been highly unsustainable and untenable in law.
15. Admittedly it has been the owner of the premises under consideration viz. "Milk Centre (Centre or Dairy) Aarey Sarita", was in arrears of electricity charges amount of Rs.1,59,369. The respondent BEST Undertaking under its Amnesty scheme waived the DP charges and interest there upon, and brought down the said arrears to Rs.63,141. We find that admittedly the said State Government Undertaking, has been under obligation to pay the said electricity arrears of amount of Rs.63,141 as the concerned meters no D969905 and 0701519 were standing in

the name of the said Government Undertaking. We therefore failed to understand as to how the respondent BEST Undertaking has been claiming the said arrears amount from the occupant i.e. the present complainant, who has occupied the premises, after removal of the meters therefrom.

16. In this connexion we observe that in regard to the aforesaid 2 meters the last payment has been made in the month of November 1997 and thereafter the meters have been removed on 25/9/2009 for the non payments of the bills. To our surprise the respondent BEST Undertaking found to have merely informing the General Manager, Worli Dairy, vide its letter dtd. 3/11/2009 and 22/4/2010 to clear the said charges in arrears of Rs.63,141. At this juncture we observe that as the premises under consideration where the present complainant has applied for electric connection, being owned by the Greater Mumbai Milk Scheme Centre, respondent BEST Undertaking has been demanding the arrears from the present complainant. A bare perusal of section 43 of the Electricity Act, 2003 blatantly manifest that it is not only the owner of a premises but it's occupier is also legally entitled to get a supply of electricity from the distribution licensee like the respondent. At the same time we proceed to observe that it is highly unsustainable on the part of the respondent BEST Undertaking to claim the arrears of the owner of the premises viz. General Manager, Greater Mumbai Milk Scheme Centre, from the present complainant occupier.
17. In this context we find it appropriate to advert to a law laid down by the Hon'ble Full Bench of Supreme Court in the case of **Isha Marbles V/s. Bihar State Electricity Board & Anrs ((1995) (2) SC Cases 648)**. Their Lordship have *inter alia* observed that there cannot be a charge over the property. Where a premises comes to be owned or occupied by the auction purchaser, when such purchaser seeks supply of electricity energy, he cannot be called upon to clear the past arrears as a condition precedent to supply. The board cannot seek the enforcement of contractual liability against the third party.
18. We therefore observe that in regard to the arrears of electricity amount of Rs.63,141 it is the General Manager, Greater Mumbai Milk Scheme Centre who should be held liable to pay the same under a contractual liability to the respondent. The Complainant under consideration being a third party to such contract to clear the arrears amount of Rs.63141, cannot be considered to be responsible for the same. The complainant therefore can not be denied electric supply on submission of his application.
19. To conclude the controversy under consideration, we hold that the present complainant is entitled u/s 43 of Electricity Act, 2003 to get electricity supply to the premises occupied by him & it is for the respondent BEST Undertaking to proceed to recover the

amount in arrears from the erstwhile owner / occupier of the said premises. Accordingly, we proceed to pass the following order.

**ORDER**

1. The complaint no. N-G(N)-101-2010 dt. 21/7/2010 stands allowed.
2. The respondent BEST Undertaking has been directed to provide an electricity supply to the premises occupied by the complainant as envisaged u/s 43 of the Electricity Act, 2003 at its earliest and to inform this Forum the compliances within a period of fortnight there from.
3. Copies be given to both the parties.

(Shri.S.P.Goswami)  
**Member**

(Shri. R.U. Ingule)  
**Chairman**