

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 161 OF 2019

In the matter of billing

Mr. Hazrat Ali Mohd. Shami..... Appellant

V/s.

Brihanmumbai Electricity Supply & Transport Undertaking

(BEST Undertaking) Respondent

Appearances

For Appellant : 1. Mr. Hazrat Ali Mohd. Shami
2. Sunil H. Pawar, Representative

For Respondent : 1. P. P. Kulkarni, Divisional Engineer, G/N Ward
2. M. K. Daware, Superintendant
3. P. S. Kekane, AAM IGR

Coram: Deepak Lad

Date of Order: 22nd October 2019

ORDER

This Representation is filed on 5th September 2019 under Regulation 17.2 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (CGRF Regulations) against the Order dated 5th July 2019 passed by the Consumer Grievance Redressal Forum, BEST Undertaking (the Forum).

2. The Forum, by its order dated 5th July 2019 has dismissed the grievance application in Case No. 382-2019.

3. Not satisfied with the order of the Forum, the Appellant filed this representation stating as under: -

- (a) The Appellant, in the year 2017, purchased the premises GN/MA-117, Ground Floor, Dabbawala Compound, Dharavi Main Road, Dharavi, Mumbai. The Appellant has submitted application for reconnection of electricity supply on 08.02.2019.
- (b) The Respondent has asked the Appellant to pay the total arrears bill of A/c No. 781-200-035 standing in the name of Khan Sabrunnisa M. Salim.
- (c) The Appellant filed an application in Internal Grievance Redressal Cell (IGRC) for reconnection of supply. In reply, the Respondent has stated that the meter of A/c no. 781-200-003 standing in the name of Jamil Salim Khan was removed on 01.07.2009 for non-payment of arrears and the same are debited to new A/c No. 781-200-035 in July 2012. It means that the Respondent admitted that there are two meters in two different names at the same premises which is against the rule.
- (d) While going through the consumption pattern of both the meters, it was observed that the consumption of A/c. No. 781-200-003 was 8000 to 10000 units per month, however, consumption of A/c. No. 781-200-035 was 800 to 1500 units per month which is controversial.
- (e) The Appellant prayed that the Respondent be directed to correct the bill by cancelling wrong debit along with waiver of delayed payment charges (DPC) and interest in bill as per the Electricity Act, 2003 and as per guidelines of the Maharashtra Electricity Regulatory Commission (the Commission).

4. The Respondent, by its letter dated 30.09.2019 states as under:-

- (i) The Appellant is so-called new owner of the premises GN/MA-117, Ground Floor, Dabbawala Compound, Dharavi Main Road, Dharavi, Mumbai. The Appellant applied for reconnection of supply on 08.02.2019. The same has been

sanctioned subject to payment of arrears of Rs. 1404526.91 pertaining to A/c. No. 781-200-035 of same premises under Amnesty Scheme 2019 and same was informed to the Appellant vide letter dated 07.03.2019 to be paid prior to 31.03.2019. The Appellant did not pay the said arrears.

- (ii) This is a case of outstanding arrears of Rs.1365000/- pertaining to the connection standing in the name of Jamil Salim Khan having A/c. No. 781-200-003 which was disconnected by removing the meter in 2009. Another connection in the part of same premises was in the name of Khan Mohd. Salim having A/c. No. 781-200-035, who is the father of defaulter consumer, Jamil Salim Khan (A/c. No. 781-200-003) There were two connections in same premises which were sanctioned on the basis of partition of the same property.
- (iii) Due to levy of DPC and interest, the arrears of A/c. No. 781-200-035 accumulated to Rs.2444490/- as on June-2015. The consumer, Khan Mohd Salim had disputed the transferred arrears from A/c. No. 781-200-003 to 781-200-035. He approached the Forum on 23.07.2015. The Forum, by its order dated 07.09.2015 directed the consumer to pay 50% of total arrears of Rs.2444490/- i.e. Rs.1222245/- within one month and the balance to be paid in 5 equal monthly installments. The consumer Khan Mohd Salim neither followed the directives of the Forum nor registered the case with Electricity Ombudsman, Mumbai within stipulated period. The Forum in its order dated 07.09.2015 at point 8 has clearly mentioned that the consumer had used the supply from installation having A/c No 781-200-003 and is liable to pay the arrears. The Forum has also not waived DPC and interest in its order. The consumer was disconnected against the outstanding arrears in 2015.
- (iv) The Appellant, Hazrat Ali Mohd. Shami now approached IGRC for reconnection of supply to the said premises vide his letter dated 20.2.2019 after 4 years.
- (v) The Appellant by his letter addressed to the Respondent had stated that he had purchased the premises in 2017 and disputed the arrears under Regulation 10.5 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations) claiming liability to pay 6 months arrears only.

- (vi) The Appellant was fully aware of the outstanding electricity arrears on the premises and also knew the order of the Forum issued in 2015. Hence, Regulation 10.5 of the Supply Code Regulations in this case is not applicable at this stage.
- (vii) The Respondent submitted that to avail the benefit of Regulation 10.5 of the Supply Code Regulations, this is the routine modus operandi adapted by the consumers of this area. The premises are often transferred through notarized documents only which are not recognized under the Transfer of Property Act. These transactions are mere paper transactions to befool the authorities.
- (viii) The Appellant's current bill for the month of September 2019 is accumulated to Rs.4177510/-.
- (ix) Mr. Khan Mohd. Salim was fully aware of the pending arrears and had already registered case in the Forum in 2015 whereby he was granted instalment for payment of arrears but was not given any benefit of reduction in total arrears amount which was payable in 2015.
- (x) The Respondent prayed that the representation of the Appellant be rejected as the claim raised by Respondent is in order. Hence, the Appellant is liable to make payment of same.

Analysis and Ruling

5. I heard both the parties during hearing on 09.10.2019. Both the parties argued in line as per their written submission. The Appellant argued that he is the absolute owner of the property as the premises was purchased in the year 2017. Hence, the action of the Respondent directing him to pay the arrears of earlier occupier is illegal as the Appellant is not legal heir of the previous owner. The earlier correspondence made by then owner is not binding to the Appellant and hence the Appellant has nothing to do with earlier order of the Forum dated 07.09.2015. As per document noting of the Respondent dated 15.04.2009, the meter No. M088859 was creeping forward on off load, and the meter to be replaced. It clearly established that the claim of the bill of the Respondent is fictitious and need to be withdrawn. The Appellant produced the Reading Folio of A/c. No. 781-200-003 which was received in RTI application the noting in Folio is reproduced as under:-

“Rpt. dt. 15/4/19, MTR No. M088859 found creeping forward on off load MTR to be replace”

Therefore, the Appellant prayed that the Respondent be directed to withdraw the fictitious portion of previous arrears and to issue arrears bill only of last six months as per provision of the Regulation 10.5 of the Supply Code Regulations without interest and DPC. The balance arrears be waived in toto.

6. The Respondent argued that the Appellant has not submitted the official registered property documents. The documents submitted is questionable. Hence the Respondent questioned for ownership of the property. This is part of the modus operandi of the consumer just to avail the benefit under Regulation 10.5, the premises are often sold on paper like this case and not through registered Sale Deed as per law. The bill of the Appellant is being issued till date. Considering all these aspects, the Appellant's case is not covered under Regulation 10.5. The Respondent strongly contested the claim of the Appellant that its noting on the document 'reading folio' bears the alleged remark. The alleged remark quoted above is a forged one and does not exist on the original document available with the Respondent which was shown in the hearing.

7. I perused the documents on record and the Forum's order dated 05.07.2019. On perusing the document known as 'Reading Folio', I observed that the remark which was shown by the Appellant in its copy is surprisingly missing in the original document produced during the hearing by the Respondent. However, the Appellant, by his letter dated 10.10.2019 informed that the alleged remark is very much on the original document available with the Respondent. This letter of the Appellant was sent to the Respondent for its comments. The Respondent orally informed the Secretary of this office on 18.10.2019 that the alleged remark about the meter was not present on the original document. However, as of now, the said document bears this remark which created a suspicion in the mind of the management and therefore, the management has decided to conduct internal inquiry as to the complicity of its official with the Appellant. The Respondent further confirmed this through its email dated 18.10.2019 of 4.54 p.m. It is crystal clear that the document when it was submitted in 2015, when the case was being heard by the Forum, the said alleged remark was not on the document.

On close scrutiny of the said document, I observed that there is one noting “*N Code Memo issued on 03.07.2009*” on date 03.07.2009. If some official has to put his noting about the alleged remark which quotes the report dated 15.04.2009, it would have definitely appeared before the remark dated 03.07.2009. Moreover, it is surprising to note that when the matter was in the Forum in 2015, the issue regarding forward creeping of the meter in 2009 was not taken up by the parties to the grievance.


Thus, the allegation of the Appellant about the meter being forward creeping does not invoke any confidence as these allegations are not at all on sound footing. Therefore, the question of application of Regulation 10.5 of the Supply Code Regulations does not arise.

The case has already been dealt by the Forum in 2015 itself and order has been passed. The Forum again dismissed the case in 2019.

8. In view of the above, I am convinced that the case does not fall under the regulatory provision of Regulation 10.5 of the Supply Code Regulations. The Appellant needs to pay the electricity arrears on the premises. Therefore, the representation is rejected. However, if the Appellant agrees to avail the Amnesty Scheme floated by the Respondent, suitable instalments may be granted to pay the arrears.

9. No order as to cost.

Sd/-
(Deepak Lad)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

