

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 59 OF 2022

In the matter of change of Tariff Category

Babu & Parekh Securities Pvt. Ltd..... Appellant

V/s.

Brihanmumbai Electric Supply & Transport Undertaking (F/N Ward) ..... Respondent  
(BEST Undertaking)

Appearances:

Appellant : Davinder Singh Sudan, Representative  
Respondent : 1. R.U. Kasar, Divisional Engineer, Customer Care (F/N ) Ward  
2. Akhila Karbhari, Asst. Adm. Manager


**Coram: Vandana Krishna (Retd. IAS)**

Date of Hearing: 16<sup>th</sup> June 2022

Date of Order : 28<sup>th</sup> June 2022

## ORDER

The Representation is filed on 2<sup>nd</sup> May 2022 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 9<sup>th</sup> February 2022 passed by the Consumer Grievance Redressal Forum, BEST Undertaking (the Forum).

  
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2. The Forum, by its Order dated 09.02.2022 has disposed of the grievance application in Case of FN -001- 2021 dated 3.11.2021 with the following observations.

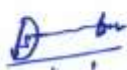
*“1.0 The grievance No. FN -001- 2021 dtd. 03 /11/ 2021 stands dismissed with liberty to the complainant to file /submit a fresh application to the Respondent for change of tariff from commercial to residential and if such application is submitted by the complainant, the Respondent shall process it within one month from submission of such application as per prevailing practice.”*

3. Aggrieved by the order of the Forum, the Appellant filed this representation stating in brief as below: -

- (i) The Appellant (Babu & Parekh Securities Pvt. Ltd.) is a LT Commercial Consumer (No. 202-000-124) having sanctioned load of 29.94 KW at combined Flat No. 1 to 4, 3<sup>rd</sup> floor, Patil Building, Plot No. 38, Sindhi Colony, Sion, Mumbai. The Appellant is the Landlord of the building. But the same was rejected by the Respondent for the reason best known to it.
- (ii) The said premise was used for commercial purpose previously i.e. coaching classes, which is now closed. The premises is being used for residential purpose from March 2021. The Appellant requested the Respondent vide its letter dated 02.03.2021 to change the tariff category from Commercial to Residential. But the Respondent did not take any action such as inspection and official process.
- (iii) Hence, the Appellant filed a grievance application on 05.08.2021 with ‘Annexure C’ to the Respondent. The Respondent, by its letter dated 04.10.2021 has informed that the application for change of tariff could not be processed for following reason:


*“1. Documents related to said premises in the name of registered consumer such as Ration Card/Gas Connection card/Aadhaar Card/ Passport/Voter ID/Driving License, etc., is not attached.*

*2. Also, registration fees for carrying out change of Tariff is required to be paid.”*

  
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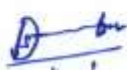
- (iv) The Appellant approached the concerned Officers and conveyed that these documents are not necessary for change of tariff category and offered them rent receipt or maintenance receipt, but they denied to accept the same.
- (v) The Appellant approached the Forum on 01.11.2021. The Forum, by its Order dated 09.02.2022 has disposed of the grievance application with liberty to submit a new fresh application. The Forum failed to understand the basic case. The Respondent did not raise this issue of fresh application, however the Forum itself has raised Suo-moto this issue which is not necessary at the instant stage.
- (vi) The Appellant further stated that its electricity meter is disconnected in Jan.2022 without serving disconnection notice. When the grievance is under process in the Forum, how could the Licensee disconnect the meter?
- (vii) In view of the above, the Appellant prays that the Respondent be directed to issue a revised bill as per residential tariff category from the date of application, i.e., 02.03.2021 by withdrawing interest and delayed payment charges (DPC) levied in the bill.
4. The Respondent has filed its reply dated 16.03.2022 which stated in brief as under: -
- (i) The Appellant (Babu & Parekh Securities Pvt. Ltd.) is a LT Commercial Consumer (No. 202-000-124) having sanctioned load of 29.94 KW at Flat No. 1 to 4, 3<sup>rd</sup> floor, Patil Building, Plot No. 38, Sindhi Colony, Sion, Mumbai.
- (ii) Consumer A/c. No.202-000-124 stands in the name of Babu & Parekh Securities Pvt. Ltd. and has Commercial tariff.
- (iii) Babu Parekh Securities Pvt. Ltd. had made an application under Annexure 'C' on 05.08.2021 and had requested for change of tariff category on Consumer A/c. No.202-000-124 from Commercial to Residential with effect from the date of their

  
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application dated 02.03.2021 to Customer Care F/North Ward. However, he has not been able to prove residential use with necessary documents.

- (iv) Available records show that till 17.04.2021, attempts were made several times by Customer Care F/North Ward to send email to the Appellant, but the emails were not going through.
- (v) Later vide email dated 06.08.2021, the Appellant was informed by Customer Care F/North Ward that their application for Change of Tariff was received at Customer Care F/North Ward, but it could not be processed, as documents related to the said premises allegedly under residential use, in the name of registered consumer such as Ration Card /Gas Connection Card / Aadhaar Card / Passport / Voter ID / Driving License, etc. were not attached. The Appellant was also informed that registration fees for carrying out change of tariff was required to be paid.
- (vi) Accordingly, Babu & Parekh Securities Pvt. Ltd. were also informed in writing on 04.10.2021 vide 'CC(F/N)/AAM/Annex-C-57/420/2021' that their application for change of tariff category could not be processed for want of documents as stated at above.
- (vii) Babu & Parekh Securities Pvt. Ltd. approached the Forum under Schedule 'A' on 01.11.2021.
  - a) Babu & Parekh Securities Pvt. Ltd. in their application to the Forum have requested that the licensee department be directed to re-issue the electric bills as per the residential tariff from the date of their first application on 02.03.2022.
  - b) As per the Order dated 09.02.2022, the Forum has observed that:
    - While making the first application for change of tariff on 02.03.2021 to the Respondent, the Appellant had only mentioned that "*we request you to take necessary action for change of our electrical tariff from commercial to*

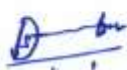
  
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*residential at the earliest, please*” but “No ground has been mentioned as to why the tariff is required to be changed from commercial to residential category. It is also not mentioned who is presently residing in the premises. It is also not mentioned from what date the user has been changed from commercial to residential. These are basic particulars which would be necessary to be mentioned in an application for change of tariff from commercial to residential. Even if no rule or regulation exists to prescribe a format of such application, such particulars would be necessary to be mentioned in an application for change of tariff from commercial to residential,” “In this letter necessary facts and particulars about the aforesaid points could have been easily mentioned by the complainant. Moreover, even in the grievance application filed before this forum, necessary facts about the aforesaid points have not been pleaded by the complainant”, ”In the course of hearing, the complainant’s representative had stated that the premises is used for residence of a driver of the complainant/company. However, no details of the same have been given. In such circumstances we hold that, on the basis of such vague application submitted to the respondent and to this Forum, we cannot direct the Respondent to change the tariff from commercial to residential as requested in the instant complaint.”

- The grievance FN-001-2021 dt. 03.11.2021 was dismissed by the Forum, while giving liberty to the Complainant to file / submit a fresh application to the Respondent for change of tariff from Commercial to Residential, and if such application was submitted, the Respondent Undertaking was directed to process the said application within one month as per the prevailing practice.


(viii) On 08.02.2022 i.e., after the hearing of the Forum on 01.02.2022 and before receipt of the Forum’s Order, Babu & Parekh Securities Pvt. Ltd. under their letter dated

  
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02.02.2022, submitted a copy of rent receipt / Bill No. 021/2021-22 dt. 01.10.2021 issued by 'Babu & Parekh Securities Pvt. Ltd.' in the name of 'Mr. Bakul J. Parekh' towards rent of the Flat No.4, 3<sup>rd</sup> Floor, 38 West, Patil Building, Road No.6, Sion West, Mumbai 400 002, occupied by him as monthly tenant, for the month of 01.10.2021 to 31.03.2022.


- (ix) In this rent receipt / Bill dt. 01.10.2021, there is no mention of details of usage of the premises i.e. whether Room No. 4 is being used for residential purpose or commercial purpose.
- (x) While scrutinizing the said Rent Receipt / Bill No. 021/2021-22 dt. 01.10.2021 of flat no. 4, it is noticed that at the time of first application for change of tariff by the Appellant on 02.03.2021 for Consumer A/c. No. 202-000-124, the then latest electricity bill of February 2021 showed '0-0' as the Room Number for address of Power Supply and the Billing Address having Commercial usage. Until November 2021, the room number remained unchanged as '0-0', but, on 26.10.2021 the Appellant got the Address of Power Supply and the Billing changed to '0-4'. In the electricity bill of December 2021, the room number was shown as '0-4' for the address of Power Supply as well as Billing of Consumer Account No. 202-000-124.
- (xi) Thus, the Rent Receipt / Bill No. 021/2021-22 dt. 01.10.2021 submitted by Babu & Parekh Securities Pvt. Ltd., which is pertaining to Room No. 4 alone, does not indicate the type of usage of all the rooms numbered '0-4' i.e., whether they are used for Commercial purpose or Residential purpose for Consumer A/c. No. 202-000-124.
- (xii) Vide letter dated 14.02.2022, Babu & Parekh Securities Pvt. Ltd. were informed that (i) For account no. 202-000-124 the registered consumer is 'Babu & Parekh

  
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Securities Pvt. Ltd.’, while the rent receipt is in different name i.e., ‘Mr.Bakul J.Parekh’ and not in the name of registered consumer. Therefore, they were requested to submit documentary evidence in the name of registered consumer for the premises of Consumer A/c. No. 202-000-124 for residential purpose within 7 days or else their request for change of tariff will be treated as cancelled without any further intimation.


- (xiii) Post reply letter dated 14.02.2022, ‘Babu & Parekh Securities Pvt. Ltd. (Bakul Parekh)’ vide letter dated 03.03.2022 submitted copy of Maintenance Receipt / Bill No. 021/2022 issued by ‘Babu & Parekh Securities Pvt. Ltd.’ in the name of ‘Babu & Parekh Securities Pvt. Ltd. (Mr. Bakul J. Parekh)’ towards rent of the Flat No.4, 3<sup>rd</sup> Floor, 38 West, Patil Building, Road, No.6, Sion West, Mumbai 400002, occupied by him as monthly tenant, for the month of 01.10.2021 to 31.03.2022.
- (xiv) It is noticed that the copies of Bill No. 021/2021-22 dt. 01.10.2021 issued ‘Babu & Parekh Securities Pvt. Ltd.’ submitted by ‘Babu & Parekh Securities Pvt. Ltd.’ vide their letter dt. 02.02.2022 & by ‘Babu & Parekh Securities Pvt. Ltd. (Bakul Parekh)’ dt. 03.03.2022 have same Bill No i.e., ‘021/2021-22’, but different tenant names and different signatures of Authorised Signatory for the same Bill No. 021/2021-22.
- (xv) As per the Forum’s Order dt. 09.02.2022, Babu & Parekh Securities Pvt. Ltd. made a fresh application on 04.03.2022 for change of tariff from Commercial to Residential (Case Reference No. 7531408).
- (xvi) During the site visit on 07.03.2022, the applied premises was found locked with shutters. Also, tried to contact the Appellant on contact no. 9022662345 provided by consumer in ID No. 7531408, but the call receiver informed that the number belonged to Mahesh Tutorials. Appellant was informed accordingly vide letter dt.

  
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14.03.2022 & was requested to arrange for showing the premises with prior appointment and to resubmit documents such as Ration Card, NOC from Statutory authorities, Registered deed, License /permission with respect to the purpose of electric supply, Allotment Letter, Proof of ownership of premises within 7 days of receipt of this letter or else will have to close the case.

- (xvii) Vide its next letter dt. 14.03.2022, Appellant was informed to pay the electricity bill of Rs.112100/-, hence their request for change of tariff from Commercial to Residential cannot be considered.
- (xviii) Vide letter dt. 21.03.2022, Babu & Parekh Securities Pvt. Ltd. were again informed that during the site visit of 07.03.2022, their premises was found locked, and the contact number provided by the consumer was of Mahesh Tutorials as per the call receiver. Babu & Parekh Securities Pvt. Ltd. were requested again vide this letter to arrange for showing the premises with prior appointment and was requested to resubmit any one of the following mentioned documents such as Ration card / Gas Connection Card of the said premises, Tax Assessment copy of the said premises, Leave License Registered deed. In case of using as quarter, allotment letter of employee /or letter of company for using as residence for its employee.
- (xix) Vide case Reference No.7563526 dated 29.03.2022, a work order for site investigation was generated, and joint investigation of the premises was carried out in presence of Shri. Pradeep Mhatre, representative of consumer (mobile no. 9987682745) on 29.03.2022. It was observed that the premise was locked, and it was opened by Shri. Pradeep Mhatre. The premises has a collapsible vertical shutter at its entrance and is divided into four rooms. At the entrance, there is a “Mahesh Tutorials” sign board embossed. The room wise detailed site investigation report is placed on record. During the site investigation, consumer’s representative, Shri. Pradeep Mhatre was asked to submit documentary proof that

  
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the premises are used for residential purpose, and he assured of submitting the same. Non-refundable Registration fee of Rs.75 for processing the change of tariff application for the said matter was paid by the applicant on 29.03.2022.

- (xx) Vide letter dt. 01.04.2022, Babu & Parekh Securities Pvt. Ltd. were informed that, based on the site investigation and supporting documents, your request for change of tariff from Commercial to Residential cannot be considered.
- (xxi) The case is not closed fully till date, and the request of Babu & Parekh Securities Pvt. Ltd. for change of tariff from Commercial to Residential can still be considered if they produce documentary proof of the resident as specified by letter dated 21.03.2022.

5. The hearing was held on 16.06.2022. The Appellant's representative was physically present whereas the Respondent attended the e-hearing through video conferencing. The Appellant argued in line with his written submission. After probing, the Appellant informed that there are four flats on the top floor of the building which were combined and rented for coaching classes. Three of the meters were surrendered, and a common connection was being used in the name of Flat 4, having only one meter by "Mahesh Coaching Classes" who was on rent for commercial purpose on the third floor, with commercial shops at the ground floor. The said coaching classes were closed due to Covid-19 pandemic, and currently the premises are vacant. The Appellant's driver / servants are informally using the premises for sleeping, etc. Since the Commercial use has stopped, the use of premises should be allowed to change to residential, as the monthly bill is quite high due to Commercial category.

When the representative went to submit the application dated 02.03.2021 for change of tariff category, the Respondent's concerned official refused to accept it and informed to change in individual name instead of Company name. He argued that residential use cannot be shown in a Company's name. The Application was only accepted when the Appellant gave them

  
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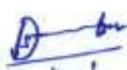


several examples of other premises where it is in a Company's name, but the use is residential. He approached the Higher Authority. There is no such provision in regulations of the Maharashtra Electricity Regulatory Commission (the Commission) that residential premises cannot be in a Company's name.

There is currently less consumption, as per monthly consumption data which is kept on record. The Respondent does not have any right to ask for documents pertaining to residential use. The Appellant stated that separate residential connections will be applied for in each flat in due course of time. Currently, there is only one common connection.

6. The Respondent argued in line with its written submission. The Respondent argued that there is no record prima facie to show that the use of the Appellant is residential. The Respondent inspected the premises on 29.03.2022. During inspection, it was observed that the old sign board of "Mahesh Tutorials" is still there at the entrance of the premises. There is also a shutter at the entrance, which is typically installed in commercial premises and not residential premises. Four residential rooms are clubbed together for the purpose of commercial activity. The load was enhanced to 29.94 KW for the clubbed commercial premises. Actually, the load for residential use is much lesser, in the range of 4 to 8 KW. The Appellant has not surrendered or reduced this load, though he claims that he wants to use it for residential purpose. There was no residential use in the premises as per the internal condition which itself indicates that the premises were not used at all for residential purpose. The lock of the premises was opened when it was coordinated for inspection.

7. The Respondent further argued that the Appellant is in arrears and a defaulter in payment. Hence the supply of the Appellant was disconnected for non-payment of outstanding dues. The Respondent argued that the motive of the Appellant for change of tariff category to residential is totally untrustworthy, and the application has been done only to avoid payment of minimum charges of commercial tariff category. The Appellant has unilaterally started to pay less amount, as if its tariff category has already been changed from the date of application. There is no such

  
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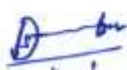
provision to extend services for defaulter consumer who is in arrears, and there is no option but to disconnect the consumer as per Section 56(1) of the Electricity Act, 2003.

8. When the representative of the Appellant was questioned whether he had personally visited this premises for inspection purpose, he said that he has never visited this place till date. The Appellant also gave some further information that he intends to put the entire building under redevelopment. He also said that currently the premises are vacant, and at the same time, he argued that the premises are being used informally by some drivers / staff. This was found to be a contradiction. The Appellant argued that the premises are vacant, but he was forced to show rental agreement because the Respondent is insisting on documents to prove residential use. He also argued that the landlord does not want to remove the shutters as he is getting them free.

### **Analysis & Ruling**

9. Heard the parties and perused the documents on record. There is no dispute that the premises is in a residential building on third floor known as “Patil Building.” The Appellant is a Company and Landlord of the said building. The said premises was given on rent to “Mahesh Tutorials,” and they vacated the premise in Covid-19 pandemic. The exact date of vacation is not clear. There is no disagreement that the Appellant requested the Respondent vide its letter dated 02.03.2021 for change of tariff category from Commercial to Residential. The Respondent argued that in a situation where currently, the premises is vacant, it cannot be changed to residential lower tariff category. What if, in future, the premises are again rented out for commercial use or for tutorial classes, now that the lockdown and pandemic is over? The shutters and board of “Mahesh Tutorials” is still in place, and the load also continues to be 29.94 KW, so the intention of the Appellant is questionable and doubtful. It seems possible that he may again use it for commercial purposes. In any case, presently, there is no actual residential use.

10. Commission’s applicable Tariff Order is dated 30.03.2020 in Case No. 324 of 2019. Relevant portion of the same as applicable in the instant representation is as below: -

  
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*“ LTI (B): LT – Residential*

*This Tariff category is applicable for electricity used at Low/Medium Voltage for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/leisure, water pumping in the following premises:*

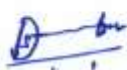
- a. Private residential premises, Government/semi-Government residential quarters;*
- b. ....*

As admitted by the Respondent, there is no bar in having a residential connection with residential tariff, even though it may be in the name of a company, but not used for commercial activity. However, there must be actually some resident living there in order to get the benefit of “Residential Tariff Category.” In the instant case, there is no resident living there, which is admitted by the Appellant in the hearing. The Appellant argued that there are other examples where the premises are owned by a company, yet the connection is residential. However, these premises must be actually used for residential purposes, and not be vacant, in order to be eligible for residential tariff category.

11. The inspection report of the Respondent dated 29.03.2022 specify the details of premises which is taken as

- i **First Room:** One Room Kitchen with one W. C. and Kitchen platform; premises is vacant.
- ii **Second Room:** One BHK with one W. C. and Kitchen platform; premises is vacant.
- iii **Third Room:** One BHK with one W. C. and Kitchen platform; premises is vacant.
- iv **Fourth Room:** One BHK with one W. C. and Kitchen platform; premises is vacant.

The inspection Report did not find that any residential activity is going on in the Appellant’s premises, as claimed by the Appellant. During the hearing, the

  
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Appellant was advised to remove the board and shutter so that the premises cannot easily be used as a commercial one, and he should actually start using the premises for residential purpose if he wants change of tariff category to residential. Accordingly, the Appellant has the opportunity in future to approach the Respondent for change of tariff category from Commercial to Residential.

12. After considering all the above facts, the Forum has rightly analysed the case in general. However, the Forum's order is modified to the extent below.

- a. The Appellant's prayer for grant of residential tariff is disallowed.
- b. The Appellant has to clear outstanding dues. The Appellant may be granted suitable equal instalments, not more than five, if the Appellant so desires, without DPC and interest on the component of instalments.

13. Respondent to report compliance within two months from the date of this order.

Sd/-  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)

  
(Dilip Dumbre)  
Secretary  
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