

**THE ENERGY AND WATER UTILITIES REGULATORY AUTHORITY
(EWURA)**

COMPLAINT NUMBER EWURA/33/2/186

BETWEEN

ISSAC JIWA LAKHA..... COMPLAINANT

VERSUS

MURTAZA KARIAKOO GAS SUPPLIERS..... RESPONDENT

AWARD

**(Made by the Board's Legal and Corporate Affairs Committee at its 72nd
Meeting held at Dar es Salaam on the 21st November 2016)**

1.0 Background Information

On 24th July 2015, the Energy and Water Utilities Regulatory Authority ("the Authority") received a complaint from Mr. Issac Jiwa Lakha ("the Complainant") against Murtaza Kariakoo Gas Suppliers ("the Respondent") alleging that the LPG business conducted by the Respondent at the shared premises is a threat to health. The Complainant with cardiac related diseases reported that the business operation at the premises is harmful to one's health as it causes noise pollution which endangers his health and the health of others and it violates his rightful enjoyment of the said premises.

The Complainant requested the Authority to order the Respondent to:

- (a) relocate his business to a suitable place;

- (b) pay the Complainant all costs and damages suffered by moving out of the house to avoid further suffering caused by the Respondent;
- (c) pay general damages for psychological stress; and
- (d) pay any other reliefs as shall be determined by the Authority.

Following receipt of the complaint, the Authority ordered the Respondent to submit its defence to the complaint within twenty one (21) days as required by the EWURA (Consumer Complaints Settlement Procedures) Rules, GN No. 10 of 2013. On 25th August 2016, the Authority conducted an inspection at the Respondent's premises and found that the premises was neither suitable nor safe for conducting LPG business and hence recommended that the dealer look for an alternative and suitable premises to undertake LPG business.

On 27th August 2016, the Respondent submitted his statement of defence, and stated the following it will:

- (a) reduce the quantity of LPG cylinders in stock at the premises; and
- (b) put a rubber carpet in the shop floor to reduce the noise caused by movement of LPG cylinders at the premises.

Mediation meeting was scheduled on 22nd September 2015 but the Complainant failed to attend and later claimed to have received the notification letter out of time. Another meeting which was set on 25th November 2015 was postponed by the Complainant alleging that he had travelled to India for treatment.

On 19th December 2015, petroleum inspectors conducted another inspection at Murtaza Kariakoo Gas Suppliers premises to verify compliance to the Authority's Order and noted that the operator had stopped all operations. The report concluded that Murtaza Kariakoo Gas Suppliers was closed because it posed an imminent threat to health and safety and it was recommended that the dealer re-allocate the business to

other premises that meets health and safety requirements. On 10th February 2016, EWURA requested the Complainant to confirm as to whether the matter had been settled. On 18th March 2016, the Complainant reported that the matter had been settled because Murtaza Kariakoo Gas Suppliers had stopped the LPG operations at the said premises.

Surprisingly on 10th June 2016, EWURA received a letter from the Complainant requesting the determination of the matter as the Respondent has resumed LPG business operations at the said premises. This prompted the Authority to re-open the matter and on 15th July 2016, it ordered the Respondent to respond on the allegation that they have resumed with operations contrary to EWURA's Order. On 9th August 2016, the Respondent responded by informing the Authority that the Complainant had made false allegations against them as they have stopped operations at the premises.

On 15th September, 2016, the parties attended a mediation meeting at EWURA's Head Office and it was noted that Murtaza Kariakoo Gas Suppliers had stopped operations at the premises and parties agreed on the following:

- (a) that the Complainant shall withdraw all his demands as contained in his claim form; and
- (b) that the parties shall improve the way they communicate as good neighbours.

The terms of agreement were reduced into writing as required by Rule 13 (4) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN. No 10 of 2013 and contained in the attached Settlement Form.

2.0 **Decision**

The parties have reached an agreement and, pursuant to Rule 13 (4) of the Energy and Water Utilities Regulatory Authority (Complaints Handling Procedure) Rules, GN. No 10 of 2013, the said agreement is registered as an award of the Authority. Each party shall bear its own cost.

GIVEN UNDER SEAL of the Energy and Water Utilities Regulatory Authority (EWURA) in Dar es Salaam this 21st day of November 2016.



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FELIX NGAMLAGOSI
DIRECTOR GENERAL