

OFFICE OF ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone-cum-Fax No.: 011-41009285)

Appeal No. 03/2023

(Against the CGRF-TPDDL's order dated 16.01.2023 in C.G No. 109/2022)

IN THE MATTER OF

Shri Om Parkash

Vs.

Tata Power Delhi Distribution Limited

Present:

Appellant: Shri Om Parkash along with Shri Kishan Kumar

Respondent No.1: Shri Ajay Joshi, Sr. Manager (Legal), on behalf of the
TPDDL

Respondent No.2: Shri Ganesh Pathak, Shri Pankaj Pathak and Smt. Manju

Date of Hearing: 10.05.2023

Date of Order: 11.05.2023

ORDER

1. Appeal No. 03/2023 has been filed by Shri Om Parkash, against the order of the Forum (CGRF-TPDDL) dated 16.01.2023 passed in C.G. No. 109/2022.

2. The instant case is that Shri Om Parkash, Secretary of Bhagwan Maharishi Valmiki Mandir Sewa Ashram Samiti situated at 159, Malikpur, Delhi - 110009, filed a complaint before the CGRF-TPDDL to disconnect the electricity connection bearing CA No. 60025601968 installed in the above-mentioned premises in the name of Balmiki Mandir Sewa Ashram Samiti, C/o Shri Ganesh Pathak, mentioning address as Khasra No. 225, Malikpur, Chawani, Delhi -110009 on the basis of forged and fabricated documents.



3. The Appellant appeared before CGRF-TPDDL with the following contentions/documents:

- (a) The Appellant placed all the documents, viz; Registration Certificate, Bye-laws, Pan No., Bank Account related to the samiti viz, Bhagwan Maharishi Valmiki Mandir Sewa Ashram Samiti.
- (b) A letter dated 07.01.2023 from the President of Bhagwan Maharishi Valmiki Mandir Sewa Ashram Samiti stating that he had not issued any 'NOC' on behalf of the Samiti to grant electricity connection to Balmiki Mandir Sewa Ashram Samiti, C/o Shri Ganesh Pathak.
- (c) The Appellant also submitted relevant documents regarding the exact Khasra No. of Balmiki Mandir Sewa Ashram Samiti, i.e. 600/588, whereas on the electricity bill bearing CA No. 60025601968, it is Khasra No. 225. He also submitted a copy of letters written by Director-cum- MS and Chief Medical Officer, of Rajan Babu Institute for Pulmonary Medicine & Tuberculosis (RBIPMT) on 04.03.2022 and 01.10.2022 in respect of encroachment of land of the hospital.
- (d) The Appellant further submitted that their Samiti's Registration No. as ROS/North 188, whereas, Shri Balmiki Mandir Sewa Ashram Samiti is having registration No. S/10715. In this regard, the Appellant produced a letter dated 18.08.2018 issued by the Office of the Registrar of Societies (RoS), District East, mentioned therein that society namely "Farooq Educational Society" located at H-151, New Seelampur, Delhi, is available against registration no. S-10715 of 1980. On the other hand, in para '2' of the same letter it has been mentioned that *"due to non-availability of the file of the society namely, Maharishi Balmiki Mandir Sewa Ashram, which has also the same registration no. i.e. S-10715/1980, this office has not been in a position to transfer it to the concerned district."*
- (e) The Respondent released the new connection without clearance of pending dues on old disconnected connection (CA No. 60001732746).
- (e) The Respondent over-looked the letter forwarded by the Samiti on 04.09.2017 (Dak No. 170046) requesting not to release any electricity connection without a 'NOC' from the Samiti.



4. In rebuttal, the Respondent submitted before the CGRF that the said connection had been released on 24.09.2019, whereas the Appellant has disputed its release only in October, 2022. The Respondent also stated before the CGRF that the said connection was released on completion of all commercial formalities as per Regulations and, in case the Appellant gets his name changed or wants to apply new electricity connection, then he too has to complete all the commercial formalities as per DERC guidelines. Further, the Respondent also submitted that the matter involves several legal complexities and installation of electricity meter, is being made instrument to settle their legal issues.

5. In view of the deliberations and facts of the case, the Forum concluded that the documents submitted by Shri Ganesh Pathak at the time of seeking an electricity connection were sufficient as per regulations. The allegation of documents being forged and fabricated cannot be decided in a summary trial and the complainant is at liberty to take up the matter before the appropriate authority. Also, release of electricity connection does not confer any proprietary rights. The Forum came to the conclusion that the said connection was rightly released by the Respondent and, therefore, its disconnection and other reliefs claimed by the complainant cannot be granted. However, it is the duty of the Respondent to ascertain that the consumer is utilizing the electricity for the purpose the consumer got the connection for, and in case there is any violation, the Respondent is at liberty to take appropriate action as per the Regulations.

6. Aggrieved by the CGRF's order dated 16.01.2023, the Appellant filed an appeal before this Forum on the following grounds:

(i) Instead of two Samities, there is only one, i.e Bhagwan Maharishi Balmiki Mandir Sewa Asharam Samiti with Registration No. ROS/North/188. This Samiti was registered in 2018 by Sub-Divisional Magistrate, Model Town.

(ii) The electricity connection bearing CA No. 60025601968 had been released without clearing pending dues against old disconnected connection (CA No. 6001732746) in collusion with Shri Ganesh Pathak (Respondent No.-2) by changing the name of Samiti on the basis of forged and fabricated documents. Moreover, the letter dated 04.03.2022 from the Director of RBIPMT addressed to the District Manager, regarding encroachment of Government Land had been ignored. A reminder dated 01.10.2022 from the CMO, RBIPMT was also not acted upon.



(iii) Khasra No. 225 mentioned in the billing address is not reflected in any document submitted by Shri Ganesh Pathak (Respondent No.- 2), whereas, the actual Khasra No. of the Mandir is 600/588. The Forum has not considered this fact.

(iv) The electricity connection is being misused by Shri Ganesh Pathak (Respondent No.-2), for illegal milk dairy and other purposes also, hence, action be taken against him.

It was, therefore, prayed (a) to direct the Respondent to disconnect the electricity connection (CA No. 60025601968) and (b) copies of all the documents on which basis the said connection was released, be provided to him.

7. The stand of the Respondent (TPDDL) before the CGRF as well as the Ombudsmen vide its communication dated 28.02.2023 is that the claim of fabrication of documents is a matter outside the jurisdiction of the Ombudsman. The guidelines laid down by the DERC were duly followed and dispute over the right to the Society was to be decided by a competent court. Since the connection was released upon completion of commercial formalities, there was no ground for disconnection. A further communication dated 10.04.2023 submitted also mentioned that the letter dated 04.03.2022 from the Director of RBIPMT was not received by the District Manager.

8. Shri Ganesh Pathak, who had obtained the connection for the Mandir has submitted a copy of the Award dated 08.02.2021 towards settlement of the bill towards consumption of electricity of Rs. 2,00,110/- u/s 126 of the Electricity Act 2003 - on account of misuse and payment of Rs. 1,10,000.00. He has also stated that the original Samiti was got registered on 29.12.1979 and Shri Om Prakash got registered a Samiti on 07.12.2018.

9. The appeal was admitted and taken up for the hearing on 10.05.2023. During the hearing, all the parties were present along with their Counsel/Authorized Representative. An opportunity was given to all to plead their case at length.

10. During the hearing, the Appellant reiterated his stand as asserted before the Forum and in the appeal. The Appellant also stated that a 'Samiti' was formed by five members in the name of "Bhagwan Maharishi Balmiki Mandir Sewa Ashram" in 2017 with Registration No. ROS/188, in which Shri Ashok Kumar was President and he is General Secretary. While, as per the document submitted by the appellant, it was registered on 07.12.2018. The Appellant further stated that the



billing address of the electricity connection is mentioned as Khasra No. 225, whereas the Mandir is actually located at Khasra No. 600/588.

When asked what is the reason for registration of new Samiti (ROS/North/188). The Appellant submitted that the earlier Samiti was in the name of 'Maharishi Balmiki Mandir Sewa Ashram Samiti (S/10715) registered in 1979. When, it was found that Samiti was inactive due to the death of majority of its members. To activate a Samiti, open a bank account, a new Samiti in the name of Bhagwan 'Maharishi Balmiki Mandir Sewa Ashram Samiti was registered. The Appellant also stated that his main objection is that the Respondent No. 2 (Shri Ganesh Pathak) got the electricity connection on forged GPA and NOC. On finding out about his forged signature on NOC, Shri Ashok Kumar, President, also filed a police complaint and Appellant further stated that the complaint is being enquired by Mukherji Nagar, Police Station.

11. However, the representative for the Respondent (TPDDL) submitted that the connection, in question, was released in 2019 on the basis of requisite documents, i.e. GPA, NOC and Aadhar Card, submitted by Respondent No. 2 (Shri Ganesh Pathak). The outstanding dues on Mandir could not be recovered at that time due to mismatch of address in documents. The earlier connection was installed in the Mandir in 2006 and disconnected in 2008 due to non-payment of dues. The meter was removed in 2013. When asked about disconnected meter, the Respondent submitted that there were no traces of the meter from 2008 to 2013. After a period of six years, the existing connection (CA No. 60025601968) was installed in 2019 for the use of Mandir. When the Enforcement Team of the Respondent inspected the premises and found unauthorized use of electricity, a misuse case was booked against the Respondent No. 2. Later, the matter was settled in Permanent Lok Adalat and settled amount was paid by him. As on date, no dues are pending on premises. Further, the Respondent also referred Regulation 10(1) (vii) of DERC's Supply Code, 2017.

12. The Respondent No. 2 (Shri Ganesh Pathak) rebutted that the original Samiti, namely "Maharishi Balmiki Mandir Sewa Ashram", near Police Line, Mall Road, Kingsway Camp, situated at the land of T.B.Hospital, was registered in 1979. He and his father (Shri Gauri Shankar Pathak) are the priests there. When asked about GPA and signature on documents, he submitted that one of his devotees, namely Shri Ramesh (now deceased) helped him for installation of the meter and he merely signed the documents.



13. The matter has been considered in the light of the material on record. The Appellant had referred to a complaint dated 13.09.2020 submitted to Chief Executive Officer of TPDDL, mentioning about the release of connection bearing CA No. 60025601968, without obtaining 'NOC' from the Mandir Samiti and without clearance of the outstanding dues of Rs.1,28,000/- on an earlier connection bearing CA No. 60001732746. A request was made for disconnection and an independent enquiry. Separate complaints were also sent to the District Manager, TPDDL on 26.09.2020 and to the Customer Complaint Analyzing Group of TPDDL on 19.10.2022, also mentioning that Khasra No. 225 did not exist in Jamabandi record. The Respondent in their reply, did not controvert the above mentioned complaints of 2020. The Respondent took a stand that while the electricity connection was released on 24.09.2019, dispute in relation thereto was only raised in the year 2022.

14. The Appellant alongwith the appeal dated 02.03.2023 submitted copies of communication dated 04.03.2022 from the Director-cum-MS, RBIPMT, addressed to District Manager, and a communication dated 01.10.202 addressed by the CMO of the Hospital to the District Manager, TPDDL. The communication stated that the temple in RBIPMT Hospital, Kingsway Camp, is an encroachment on government land. It was mentioned that a complaint received by the Hospital also stated that the connection had been obtained on fake GPA.

15. The Respondent (Discom) in its response dated 28.02.2023, did not deal with these complaints and the allegations so levelled in the complaint. The Respondent however admitted receipt of complaint in the year 2020. This negates their stand before CGRF that the issue had been raised for the first time in 2022. How new connection was released at the premises, when there were outstanding dues, had also not been dealt with. There was no reference to any site inspection to ascertain, whether the Mandir Complex was an encroachment on the land of the hospital, even though the two communications to the District Manager, TPDDL from the Director/CMO of the hospital were a part of the record relied upon in the appeal. A communication dated 10.04.2023 sent by the General Manager, TPDDL, to the Secretary, Office of Electricity Ombudsman, also makes reference to the representations raising dispute on the validity of the connection during the year 2021 and the reply sent by the Respondent. The basis for the Pujari to have issued a GPA in favour of his son without any authorization by the hospital authorities or the temple management Samiti is not borne from the record.

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16. After having gone through the documents on record and the contentions put forth by the Appellant, this Court is of the view that the Appellant doesn't fall under the definition of consumer (2{15} of Electricity Act) and hence should not have been entertained by the Forum in the first place as a complainant. However, now that the Forum has adjudicated on the matter and the complainant has approached this court as Appellant, this Court is looking into the case purely on merits.

17. In view of the above discussion, this Court is of considered view that the matter raised by the Appellant cannot be and should not be decided by this court. This court cannot decide the matter related to the factum of GPA, false document etc. The Appellant should approach the relevant court or police station for action. However, after going through the documents, contention of the Appellant, and written submission this court directs as under:-

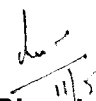
(i) CEO, in consultation with the Management of the hospital and the MCD, may take appropriate action in respect of the connection released on the encroached land which falls in the realm of unauthorised construction (demolition action has been undertaken by authorities in the past). It has been decided by High Court in Parivarthan case, 2017, that no connection be given to buildings/structures which are unauthorized.

(ii) An enquiry may be conducted under the direct supervision of Chief Vigilance Officer for identification of officers responsible for release of new connection in 2019 at the premises, when dues were outstanding on the old connection and there was a clear violation of Regulation 42. The enquiry should also fix the role/responsibility of the field staff, who submitted a report after field visit/inspection and the circumstances under which the officer did not mention the premises as encroached.

(iii) The Respondent may also submit an action taken report on the misuse the connection, and subsequent action taken thereon.

(iv) The action taken report on the above points may be shared with this office by 15.06.2023.

The case is disposed off accordingly.


(P. K. Bhardwaj)
Electricity Ombudsman
11.05.2023