

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. 04/2023

(Against the CGRF-BYPL's order dated 26.08.2022 in Complaint No. 121/2022)

IN THE MATTER OF

Shri Jatinder Singh

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Jatinder Singh

Respondent: Shri S.P. Anand, Commercial Officer, Ms. Shweta Chaudhary, Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 12.04.2023

Date of Order: 13.04.2023

ORDER

1. Appeal No. 04/2023 has been filed by Shri Jatinder Singh, on behalf of his son Shri Amandeep Singh (registered consumer) on 10.02.2023, against the order of CGRF-BYPL dated 26.08.2022 passed in Complaint No. 121/2022. A request for condonation of the delay has also been made.

2. The background, as per the Appellant is that the Respondent had transferred outstanding dues of Rs.33,187.04 of disconnected electricity connection bearing CA No. 100629822 (registered in the name of Ms. Kiran) to CA No. 1513202528 in the name of Shri Amandeep Singh, S/o Shri Jatinder Singh, the Appellant. As per the Appellant, he had purchased a portion of the above mentioned property from Ms. Kiran in the year 2016. He applied for a new electricity connection in November, 2020, the same was energized on 14.12.2020, without a mention of any outstanding dues on the property. The Appellant further submitted that remaining portions of the property are owned by Shri Vikas Sahni, Shri Birender Verma and Shri Yadav.



Earlier, these outstanding dues were reflected in their electricity bills respectively. They filed representations for waiving-off the amount before the BSES-YPL District Patel Nagar Office, which are still pending. However, the Respondent could not recover the same and instead transferred the outstanding dues in the Appellant's bill. When, the Appellant did not receive a favourable response from the Respondent, he filed a complaint before the CGRF-BYPL

3. In rebuttal, the Respondent contended before the Forum that when the connection was in the name of Ms. Kiran, the cheques were issued by Shri Jatinder Singh and Shri Aman Deep Singh towards the payment of outstanding dues in the year 2014 and 2017. Cheques were subsequently dishonoured on presentation and Respondent further claimed that notices under Section 138 of Negotiable Instrument Act were issued for recovery of dues. Later the matter was settled before the Permanent Lok Adalat. The Respondent also placed all the relevant records before the CGRF and stated that it is apparent that the complainant has been the beneficiary/user of disconnected electricity connection. Therefore, the dues were payable by the Appellant. In this regard, a copy of their letter dated 28.02.2022 issued to Shri Aman Deep Singh, has also been relied upon and placed on record before the Forum.

The Respondent further stated that earlier also, the complainant was booked, as user of disconnected connection along with the registered consumer, i.e. Ms. Kiran for misuse of electricity and the matter was settled before the Permanent Lok Adalat.

4. The CGRF in its order observed that property, in question, was in possession of the complainant (Shri Jatinder Singh) prior to the year 2015. Later, in the beginning of the year 2015, he transferred the said property in the name of his son Shri Amandeep Singh (Registered Consumer of CA No. 1513202528) through Notarized Sale Deed and General Power of Attorney. It is also evident from the documents placed on record by the Respondent that Shri Jatinder Singh was the user of the electricity connection which was in the name of Smt.Kiran.

5. The CGRF in its order therefore directed as under:

- (a) The complainant to clear all pending dues of CA No. 100629822 in the name of Smt. Kiran as he was using electricity through this connection.
- (b) The Respondent to waive off LPSC.
- (c) If the complainant wants installments, respondent is directed to allow four equal installments to him.



6. Aggrieved from the order of the Forum, the Appellant preferred this appeal on the grounds that:

- (a) The earlier meter was installed in the name of Ms Kiran and total area of the premises was 160 sq. yards. He had purchased only 80 sq yards and paid bills from time to time. The Respondent billed all the outstanding dues on his premises instead of dividing on the other owners, who actually used the same.
- (b) At the time of applying new connection, it was never conveyed by the Respondent that any previous dues exist against the premises or Smt. Kiran.
- (c) It came to his knowledge about outstanding dues of Rs.33,407/-, when he received electricity bill in the month of November, 2021.
- (d) Demand of old dues are barred by law of limitation. The Respondent raised the demand of old dues after 2014 first time in the bill dated 28.10.2021
- (e) These outstanding dues were included in the bills of the owners of the other portion of the premises. It is also up-dated in the Respondent's record but same could not be recovered and instead transferred in his bill.
- (f) The impugned order is based on surmises and conjectures and has been passed in hasty manner.

And prayed to set-aside the impugned order dated 26.08.2022 passed by CGRF-BYPL and pass any order/relief deems fit and proper.

7. Shri S.P. Anand, C.O. (D) on behalf of the Respondent (BYPL) has submitted that dues of Rs.33,187.04 from CA No. 100629822, disconnected and registered in the name of Smt. Kiran were transferred to CA No. 153202528 registered in the name of Shri Aman Deep Singh. On the basis of the GPA executed by Shri Jatinder Singh, in favour of his son Aman Deep Singh on 11.02.2015, in respect of property No CN-1031, measuring 50 yards at Gali No. 10, Taliwan basti, Anand Parbat Industrial Area, Delhi, it is averred that the property was purchased prior to the year 2015. Electricity was disconnected during 2017, on account of outstanding dues of Rs. 33,187/-. The son of the Appellant sought a new connection in December, 2020, and the same was energized on 14.12.2020 through CA No. 153202528. The contention of the Appellant is that he purchased only a part of the premises from Smt. Kiran Devi, and hence liable to pay outstanding dues on pro-rata basis only.



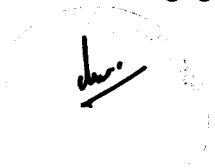
It has also been submitted that K. No. files of all the electricity connections revealed that all the four registered consumers of the divided property had separate connections and hence not consuming electricity through the connection of Smt. Kiran.

The Respondent has also submitted that when the son of the Appellant applied for the new connection, outstanding dues in respect of the disconnected connection were already transferred to the three other connections and hence the outstanding dues at that time were NIL. Later, on the basis of representation by the affected consumers and taking into account the facts, the dues of disconnected connection were reverted to the live connection in the name of the son of the Appellant. Prior to the transfer of dues, site was visited on 14.06.2021 and 04.08.2021. A notice was also issued on 05.07.2021 to the son of the Appellant.

8. The appeal was admitted and taken up for the hearing on 12.04.2023. During the hearing, both the parties were present. An opportunity was given to both to plead their case at length.

9. During the hearing, the Appellant contended that in the year 2016, he had applied for a new electricity connection which was denied on account of non-completion of commercial formalities. However, the three connections to Shri Vikas Sahani, Shri Birender Verma and Shri yadav were released without insisting for completion of commercial formalities and clearance from agencies. He was thus discriminated. The Appellant further conveyed that when the connection was energized in the year 2020, there was no mention of any outstanding against premises, in question, and subsequently in the year 2021, suddenly the Respondent slapped an outstanding of Rs.33,187/-. He conveyed that as per instant regulation connection could not be released in case there is an outstanding due against the premises but in this case the connection was granted.


10. In rebuttal, the Counsel of the Respondent while referring to the three separate connections as mentioned by the Appellant stated that erroneously the outstanding amount of Rs.33,187/- was transferred to their accounts as outstanding dues and after considering their representations, the amount was again reflected as outstanding due in the bill raised during 2022, after a due notice on 05.07.2021 to the Appellant. Accordingly, on the date of application and release of connection during November/December, 2020, the outstanding amount was mentioned as 'NIL'. The Counsel admitted negligence by the Respondent in this regard.



11. The matter has been considered at length. The factum of purchase of property prior to February, 2015, by Shri Jatinder Singh from Smt. Kiran Devi and its transfer to the son during February, 2015, by notarized General Power Attorney and Agreement to Sell cannot be disputed. The part of the order dated 26.08.2022 of the CGRF, holding the liability of the Appellant to make payment of dues of Rs.33,431/- for the period 27.03.2021 till 06.12.2017, standing in the name of Smt. Kiran Devi, therefore holds good. This also holds good, in the light of settled law. While taking into account the circumstances and terms of events in totality. This Court directs the following:

- (i) The negligence by the Respondent caused mental and physical harassment to the Appellant. The concerned officials must be made answerable for the lapses after an in-depth inquiry. The erring officer(s) as identified should be asked to pay the Respondent an amount of Rs.10,000/- . As regards remaining amount after deducting Rs.14,020/- (amount already paid) and Rs.10,000/- (to be paid by the erring officer), the Appellant shall pay within 15 days of the receipt of this order.
- (ii) Regarding the liability of the three other registered consumers, it is apparent from the record that the three consumers have separate connections with CA Nos. and for their portions of the plots and therefore not liable to pay.
- (iii) For the delay that occurred in adjudication of the liability for payment of arrears after the same was raised in the bill for the period November to December, 2017 in the name of Smt. Kiran, no plausible explanation is available on record. What was happening during the period from 2018 to 2021 is not clear. Chief Executive Officer of the Respondent (BYPL) is directed to order an in-depth probe to fix responsibility on the erring officers/staff.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
13.04.2023