

OFFICE OF THE 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. 07/2021

(Against the CGRF-BYPL's order dated 05.02.2021 in Complaint No. 04/2021)

IN THE MATTER OF

Shri Ajay Dutt Gaur

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Ajay Dutt Gaur

Respondent: Shri K. Jagatheesh, Sr. Manager, Shri Imran Siddiqi,
Manager (Legal) and Ms. Ritu Gupta, Advocate, on behalf
of BYPL

Date of Hearing: 01.07.2021

Date of Order: 15.07.2021

ORDER

1. The appeal No. 7/2021 has been filed by Shri Ajay Dutt Gaur, against the order of the Forum (CGRF-BYPL) dated 05.02.2021 passed in CG No. 04/2021. The basic issue concerned in the Appellant's grievance is regarding the alleged frequent interruptions/breakdowns of the electricity supply in the area of the Appellant and non-attending of the faults, within the time limit prescribed as per regulations, by the Discom (Respondent). The Appellant is residing as a tenant in the House No. B-68/A, Gali No. 5, Shiv Vihar, Phase -I, Delhi-110094, which is owned by Smt. Poonam Devi. The electricity connection bearing CA No. 150472457 is installed in the said premises in the name of the Registered

Consumer, Smt. Poonam Devi. The Appellant also submitted the required proof of authorization, given to him, to plead the case by the landlord of the premises viz; Smt. Poonam Devi, at the time of hearing, which was taken on record.

2. The brief background of the appeal arises from the facts that the electricity supply was affected in the area of the Appellant and as alleged by him the Discom did not give prior information to him. It is also his submission that in the month of July, 2020, there was an electric shut down in his area and the same was not intimated to him by the Discom. Further, similar incidents happened again in the month of August, 2020, viz between 11.08.2020 to 19.08 2020. He also alleged that on 25.08.2020, there was a planned shut down but the duration of the shutdown was much more than as mentioned in the text message. The Appellant also submitted that in his area, the interruptions of the electricity supply in general remains suspended for hours together, for which he has been raising his voice since the year 2015.

The Appellant further submitted that after the issuance of the notification by the DERC (Delhi Electricity Regulatory Commission) in January, 2020, regarding compensation on account of major failures of electricity and non-attending of the faults timely by the Discoms, he approached the Discom for the compensation wherein they simply refused to entertain the same and did not reply to his correspondences. In view of the same, he finally approached the CGRF, where also, as claimed by him, he did not get the required relief on the issues raised by him and hence preferred this appeal. He submitted that the Discom is not following the notification issued by the DERC in this respect. The Appellant also submitted the copies of various correspondences which took place between him and the Discom/CGRF vide which he had raised the issues of various power failures on 11.08.2020 to 19.08.2020, planned shut down on 20.08.2020 and further on 1st and 4th September, 2020, etc.. For some of the incidents of power failures, he has also submitted the Complaint Nos. vide which the same were registered on the system of the Discom. In addition to above, he submitted that there have been so many other incidents of power failures for very long durations, for which he did not register the complaints. In short, the Appellant want to submit that the Discom in general does not bother to attend the faults within the time frame as prescribed under the regulations and hence is liable to pay



compensation as per the guidelines issued by DERC in this respect, in order to render good service to the public/consumers of the area by the Discom.

3. The Discom in its reply submitted that by way of the present appeal, the Appellant claiming himself to be the tenant of registered consumer of CA No. 150472457 has claimed compensation on account of power failure. It is submitted that the Appellant has no locus standi to file the present complaint firstly as he is not a registered consumer of the Discom, secondly, as he has not placed on record any document to suggest that he is tenant of the registered consumer and thirdly, there is no authority letter from the registered consumer whereby the Appellant has been authorized to represent her.

The Discom further submitted that without prejudice to the above, the issue involved is whether Discom is liable to pay compensation on account of power failure. The Discom further added that before going into the details of the case, the relevant provisions of Regulation 70 and 83 of the DERC (Supply Code & Performance Standards) Regulations, 2017, in this respect are reproduced herein under for perusal:

"Regulation 70 - Procedure for redressal of complaint on no current/failure of power supply:-

- (1) In case the Centralized Call Centre is aware about the reason of power failure of the complainant, the complainant shall be informed about the reason and the approximate time required for restoration of power supply.*
- (2) However, such complaint shall be registered and a unique complaint number shall be issued.*
- (3) The Centralized Call Centre shall forward the complaint to the concerned Complaint Centre.*
- (4) The Complaint shall be resolved within the timelines as specified under these Regulations.*
- (5) The details of scheduled Power Outages shall be informed to the consumers in the manner notified in the Commission's orders.*

(6) The Licensee shall keep a record of all scheduled power outages and unscheduled power outages separately and the extent of consumers affected by each power outage.

(7) If the licensee fails to restore the supply within the specified timelines, compensation shall be paid to the affected consumers as specified in Schedule-I of the Regulations."

Regulation 83 - Exemption:-

(1) The standards of performance specified in this Regulation shall remain suspended during Force Majeure conditions, such as war, mutiny, civil commotion, riot, flood, cyclone, lightening, earthquake, lockout, fire, sabotage, blockade etc., affecting the Licensee's installations and activities.

(2) Non-compliance of a standard contained in this Regulation shall not be treated as a violation, and the distribution licensee shall not be required to pay any compensation to affected consumer(s), if such violation is caused due to State Transmission Utility and/or Central Transmission Utility, grid failure, a fault on the Transmission Licensee's network or on account of instructions given by State Load Dispatch Centre, or any other reason, over which the distribution licensee has no reasonable control."

In addition to above, the Discom also reproduced the portion of the SI. No. 14 regarding Power Supply Failure with regards to the compensation as required to be paid by the Discoms under Schedule I of the Guaranteed Standards of Performance & Compensations to consumers in case of Default.

"SCHEDULE - I

"14. Power Supply Failure

(a) Compensation for power supply failure, standard for restoration and compensation payable for a consumer of sanctioned load or contract demand upto 20 KW:

Sl. No.	Service Area	Standard for restoration of power supply for the Zone/Sub-division having AT&C losses			Computation of period of default	Compensation payable to the consumer for the period of default in case of violation of standard
		Up to 10%	More than 10% and up to 20%	More than 20%		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(i)	Continuous power failure affecting individual consumer and group of consumer upto 100 connected at Low voltage supply, excluding the failure where distribution transformer requires replacement.	Within three hours	Within four hours	Within six hours	After lapse of period as specified in Column (3), (4), (5) as the case may be from the time 1 st consumer has made the complaint.	Rs.10 per kW per hour of sanctioned load or contract demand, as the case may be, subject to maximum of Rs.200 per hour per consumer.
(ii)	Continuous power failure affecting more than 100	Within two hours	Within three hours	Within four hours	After lapse of period as specified in Column (3), (4),	Rs.10 per kW per hour of sanctioned load or contract

	consumers connected at Low voltage supply excluding the failure where distribution transformer requires replacement.				(5) as the case may be from the time 1 st consumer has made the complaint	demand, as the case may be, subject to maximum of Rs.200 per hour per consumer.
(iii)	Continuous power supply failure requiring replacement of distribution transformer	Within six hours			After lapse of 6 hours from the time consumer had made the complaint	Rs.10 per kW per hour of sanctioned load or contract demand, as the case may be, subject to maximum of Rs.200 per hour per consumer
(iv)	Consumer power failure affecting consumers connected through High Voltage Distribution System (HVDS) and not covered under (i) & (ii) above	Within three hours			After lapse of 3 hours from the time consumer has made the complaint.	Rs.10 per kW per hour of sanctioned load or contract demand, as the case may be, subject to maximum of Rs.200 per hour per consumer
(v)	Continuous scheduled power outages	Within 12 hours or restoration of power supply by 6 PM			From the lapse of 12 hours from the scheduled start of maintenance or after 6 PM of the day whichever is earlier.	Rs.10 per kW per hour of sanctioned load or contract demand, as the case may be, subject to maximum of Rs.200 per hour per consumer

(vi)	Replacement of burnt meter or stolen meter	Restoration of supply within three hours either by bypassing the burnt meter or by installing temporary meter.	After lapse of 3 hours from the time consumer has made the complaint.	Rs.10 per kW per hour of sanctioned load or contract demand, as the case may be, subject to maximum of Rs.200 per hour per consumer
(vii)		Meter to be replaced within three days	After lapse of 3 days from the time consumer has made the complaint.	Rs.50 for each day of default.

(b) Any consumer having sanctioned load or contract demand above 20 kW, affected continuously by the power supply failure as above, may approach the Commission for determination of the compensation.

(c) The Licensee shall upload on its website the AT&C losses for the zone/sub-division for the preceding financial year by 15th of April of the year.

(d) Any claim arising on account of power failure shall not be admissible for those consumers who have outstanding dues upto preceding billing cycle, or have been during last two years, convicted for theft of electricity or finally assessed for Unauthorized Use of Electricity."

4. The Discom further submitted that there has been an amendment by way of the third amendment i.e. DERC (Supply Code and Performance Standards) (Third Amendment) Regulations, 2018, whereby the power failure standard schedule as given above was modified. In this regard, it is stated that Hon'ble High Court of Delhi vide its order dated 12.04.2019 has held as under:

" In view of these contentions, and given the nature and the short time limit as opposed to the earlier regulations, the Court is of the opinion that the respondents should not take any coercive action under the amendment Regulations during the pendency of

the proceedings. Likewise, in complaints contemplated by the amendment Regulations, no final decision shall be taken.

In the meanwhile, the claims made may be processed in accordance with the pre-existing regulations which would operate. The complaints received from consumers shall be processed and appropriate orders made but enforced only having regard to the earlier regulations. However, in the event the amendment Regulations are upheld, the additional compensation, if any, shall be paid to the concerned consumers by the concerned Discoms subject to the final outcome of the present proceeding."

The Discom further submitted that it is necessary to bring to the knowledge that the writ as filed by BSES was tagged with W"P. (C) 1717 of 2019 filed by TPDDL. In the said petition the Hon'ble Delhi High Court vide order dated 19.02.2019 had directed DERC not to take any coercive action on the basis of said amended regulation during the pendency of the proceedings in High court. The matters are now listed before the Hon'ble High Court of Delhi for hearing on 22.03 .2021.

Thus in view of the above said order all complaints are to be processed as per earlier Regulations, i.e. DERC (Supply Code and Performance Standards) Regulations, 2017 as duly quoted herein above.

5. With regards to the instant case, the Discom submitted that there were seven complaints lodged by the Appellant regarding power failures etc. out of which in one of the complaints, the complainant number has not been provided, whereas, for rest of the six complaints, the complaint number has been intimated by the Appellant. These complaints pertain to the months starting from July, 2020 to September, 2020 and the detailed status of attending of these complaints have been fetched/taken out from their IOMS (Intelligent Outage Management System) which are given as under:

	CA NO.	150472457		Address	B-68/A, G/F KH NO-14/7, GALI NO-5 PH-1, SHIV VIHAR KARAWAL NAGAR, NEAR SHIV MANDIR GALI, DELHI	
S.NO	DATE AS PER COMPLAINANT	COMPLAINT NO.	OPEN TIME	CLOSE TIME	DURATION	REMARKS
1	11.07.2020	20071100178	11/7/2020 1:14	11/7/2020 3:32	02 HRS 18 MINS	DP FUSE BLOWN AT Main HVDS DP Kamal Vihar WITH ESD NO. E11072000011 DELAYED DUE TO RAIN
2	11.08.2020	20081100139	11/08/2020 02:08:22	11/08/2020 02:56:00	00 H:47 M	HVDS TR FUSE BLOWN
3	19.08.2020	not provided				
4	25.08.2020	20082501061	25/8/2020 15:08	25/8/2020 16:07	59 MINS	Civil work at s/stn (RMU plinth made) done with Planned shutdown P18082000060.
5	01.09.2020	20090100193	1/9/2020 10:03	1/9/2020 11:47	01 HRS 44 MINS	6.6 KV HVDS Lead Faulty at Pole No - XF31 B , Blk Gali No -8 Ph. -1 Shiv Vihar with ESD E01092000005
6	04.09.2020	20090400502	4/9/2020 11:02	4/9/2020 12:36	01 HRS 35 MINS	6.6 KV HVDS Lead Faulty at Pole No- XF64 A-Blk Gali No-6 Phase-1 Shiv Vihar with ESD E04092000008
7	04.09.2020	20090400981	4/9/2020 15:04	4/9/2020 15:56	52 MINS	Supply was disturbed due to power supply failure from Power Grid.

The Discom stated that it is evident from the details given above that all the power failures were restored within the time limit as duly provided in the Schedule - I of original regulations. In any case power failure as mentioned at serial no.1 is covered under Regulation 83. In view of above, the Appellant is not entitled to any compensation as there is no failure on the part of the Discom to maintain the desired standards. Therefore, the present appeal is liable to be dismissed.

6. After hearing both the parties at length and considering the material on record, it is observed that the Appellant Shri Ajay Dutt Gaur is living as a tenant in the said premises bearing H. No. B-68/A, Gali No. 5, Shiv Vihar, Phase - I, Delhi. The said electricity connection is installed in the name of Smt. Poonam Devi, the Registered Consumer (RC). It is observed that during the hearing in the CGRF, the Appellant could not produce any document or authority letter from the RC to plead the instant case on behalf of her. The Discom have also raised this objection in their written submission and submitted that since he is not an authorized representative of the RC, therefore, he has no locus standi to file the present appeal and his appeal should be dismissed forthright.

Accordingly, the Appellant was asked to submit the relevant documents to prove his identity as a tenant/authorized representative of RC. On the date of hearing, the Appellant submitted the copy of his Aadhaar Card, an authority letter from Smt. Poonam Devi confirming that Shri Ajay Dutt Gaur, the Appellant, has been authorized to plead the electricity related issues. In addition to the above, the copy of the Aadhaar Card of Smt. Poonam Devi was also submitted by the Appellant. The copies of these documents were also handed over to the Discom in order to clear the doubts and the objections as raised by them in this regards. Hence, nothing survives in the said objection as raised by the Discom.

Further, in the instant case the Appellant has filed the case for compensation on account of Power Failure, in accordance with the Third Amendment of Schedule - I as notified on 28.12.2018 whereby the power failure standards schedule was modified. It is pertinent to note here that the said amendment was challenged by the Discoms in the Hon'ble High Court of Delhi. The Hon'ble High Court vide its order dated 12.04.20219 had directed DERC, to not to take any coercive actions on the basis of the said amended regulations during the pendency of the proceedings. Further, the Hon'ble High Court had also

directed to process the complaints of the consumers as per the pre-existing Regulations, 2017. In view of above, the complaint/appeal of the Appellant will be processed as per Point No. 14 relating to 'Power Supply Failure' of Schedule - I, as issued vide DERC Regulations, 2017.

7. Now, taking up the main issue of the seven complaints of Power Failure as raised by the Appellant for the period from July to September, 2020, it is observed that the Discom has submitted a detailed analysis and status of attending of all these complaints, as fetched out from their IOMS, wherein, the opening time and closing time of the complaints along with the duration of attending the fault has also been mentioned. From the perusal of the same, it is observed that out of seven complaints the duration of attending of five complaints ranges from 47 minutes to 1 hour 44 minutes, whereas in one of the complaint dated 19.08.2020, the Appellant has not provided the complaint number. From the details of the duration of five complaints, it is noted that all these five complaints have been attended within a period of two hours and are as per the permissible limit as given in Point No. 14 of Schedule - I of the DERC, Regulation, 2017. The complaint dated 19.08.2020 cannot be considered since no details are available for the same. Hence, it is concluded that the Discom has attended these five complaints within the time frame as prescribed under the Schedule- I of the Regulations.

As far as the complaint dated 11.07.2020 is concerned, the outage duration was shown to be 2 hours 18 minutes as per the IOMS details. The details of the complaint dated 11.07.2020 as per the IOMS is "DP Fuse Blown at Main HVDS DP Kamal Vihar", and the delay has been attributed to rain by the Discom. On the other hand, according to the trailing mails dated 15.10.2020 as submitted by the Appellant, he has categorically denied that there was any heavy rain in the area on 11.07.2020. The perusal of the mail dated 15.10.2020 sent by the Discom to the Appellant claims that the subject power supply interruption was mainly due to the unforeseen nature made disturbance viz; heavy rain and consequent water logging. Further, the Network equipments such as fuse or breaker tend to get damaged due to such heavy downpour and restoration of supply therefore gets delayed on account of safety concerns of the maintenance personnel involved therein. In view of such circumstances, the DERC regulations have made provision under Regulation 83, which calls for suspension of standards of performance during such nature induced disturbances. Hence, this delay falls

under force majeure situation and therefore the claim of compensation by the Appellant cannot be considered.


In view of the above claims and counter claims by the Appellant and Discom, with regards to the complaint dated 11.07.2020, it is not possible to conclude at this stage as to if there was heavy rain on that particular day in the year 2020 or not and consequent to which there was water logging on the roads which could delay in attending the fault. However, it is pertinent to mention here that during such conditions on account of heavy rains and water logged roads, it becomes quite difficult to attend the faults instantly and the electricity remains cut off for longer durations. It is for this purpose only the Regulation 83 regarding 'Exemption' as detailed supra has been provided in the DERC Regulation. It is also observed that this complaint pertains to the month of July, when monsoon season had already set in and the heavy downpours is a matter of routine. During the hearing the Appellant was categorically asked as to if he accepts the IOMS details given by the Discom or not, to which he denied and rejected the claims made by the Discom through their IOMS details. Under the circumstances, as it is not possible to conclude at this stage as to whether the claims made by the Discom through their IOMS details are right or wrong, the Discom was asked to submit an affidavit in this regards, to which they agreed to submit the same within one week. The Discom was also asked to send the copy of the affidavit to the Appellant also for his reference and record.

8. The Discom submitted the affidavit on 08.07.2021, which was taken on record. Through the said affidavit the Discom has confirmed that the details of power failure and their restoration are fetched from IOMS in respect of the aforementioned complaints. The detail of the time taken for attending the each complaint has also been confirmed by the Discom by way of this affidavit. The Discom has also reiterated through this affidavit that it is evident that all the power failures were restored within the time limit as duly provided in Schedule I of the original regulation i.e. DERC Supply Code of 2017. Further, they have also confirmed that in any case the power failure as mentioned at Sl. No. 1 viz; dated 11.07.2020 is covered under Regulation - 83. Through the said affidavit they have also conveyed that the case regarding the Third Amendment issued by DERC, is still in operation in the Hon'ble High Court of Delhi and the same is adjourned to 29.07.2021 for further hearing.

It has also been certified by the Discom vide the said affidavit that the details as fetched from IOMS and enclosed herewith has been produced from the Computer System, using printer, available in the office of the Discom. The contents of the same are true reproduction of the original, to the best of their knowledge and belief. It has been further certified that the conditions as laid down in Section 65-B(2)(a) to 65-B(2)(d) of Evidence Act, 1872, regarding the admissibility of computer output in relation to the information and the computer in question, are fully satisfied in all respects and the contents of the same are not tempered.

9. In view of the above background and under the circumstances of the case wherein the Discom has confirmed the details of attending the various power failures by way of an affidavit, the claims of compensation as made by the Appellant cannot be considered, as Five of the complaints have been attended by the Discom within the time period as prescribed under the Schedule I of the Regulation, 2017 and the sixth complaint dated 11.07.2020 is covered under the Force Majeure clause as per Regulation 83 of the DERC Supply Code, 2017. In view of the facts and circumstances viz-a-viz; the scrutiny of the available documents and against the above background, the compensation being sought by the Appellant cannot be granted to him.

With the above order and directions, the case is disposed of on merit.


(S.C.Vashishta)
Electricity Ombudsman
15.07.2021