

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. 08/2021

(Against the CGRF-BYPL's order dated 03.02.2021 in Complaint No. 65/2020)

IN THE MATTER OF

Shri Golak Giri

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Golak Giri along with her spouse Smt. Nisha

Respondent: Shri K. Jagatheesh, Sr. Manager, Shri Imran Siddiqi, Manager (Legal) and Shri Deepak Singh, Manager on behalf of BYPL

Date of Hearing: 19.07.2021 & 06.08.2021

Date of Order: 13.08.2021

ORDER

1. The brief background of the case is that aggrieved with the order of the CGRF, an appeal No. 8/2021 has been filed by Shri Golak Giri against the order of the Forum (CGRF-BYPL) dated 03.02.2021 passed in Complaint No. 65/2020. The issue concerned in the Appellant's grievance is regarding non-release of the new electricity connection by the Discom (Respondent) in respect of his property bearing No.: T 235/12/1A, Second Floor, Baljeet Nagar, Near Helmain Gurudwara, Delhi-110008, mainly on account of the fact that the height of the building is more than 15 meters.



2. The Appellant states that he had purchased the above-said flat having existing connection bearing CA No.152170499 which existed since 2017 in the name of Shri Krishan Gopal. He had approached the Discom for name change of the said existing connection vide application no.8002835100 dated 23.05.2017. Instead of carrying out name change of the existing connection, the Discom officials advised him to surrender the existing connection and apply for a new electricity connection at his premises. Accordingly, the Appellant applied for the new connection vide application no.8003040103 on 23.10.2017 but even then the Discom neither released the new connection nor changed the name of earlier existing connection. Thereafter, he again approached the Discom on 21.08.2020 vide application no.8004503480 for name change and restoration of the electricity connection but they did not take any action on that also.

The Appellant stated that he had been applying for new electricity connection since 2017 but his applications were rejected on every occasion by the Discom on the pretext that the building height is more than 15 meters.

3. As per the Appellant that after running from pillar to post he approached the CGRF and prayed for release of new connection or restoration of his old connection. The prayer of the Appellant for release of the new connection, however, was rejected by the CGRF on the basis that the height of the building is more than 15 meters. The CGRF disposed of the case with the following order:

"The Forum directs the Discom to release the new connection to the Complainant once the Complainant produces the Fire Safety Clearance Certificate and fulfils all the required conditions as laid out in the DERC Guidelines."

4. Aggrieved with the order of the CGRF, the Appellant has preferred the present appeal before the Ombudsman against the said order on the ground that the CGRF has failed to consider the fact that the height of the said building is less than 15 meters.

5. On perusal of the appeal of the Appellant viz-a-viz the order of the CGRF alongwith the other documents/papers, the initial hearing was fixed on 19.07.2021. During the hearing on 19.07.2021, only the Discom was present but the Appellant did not attend the same. The Discom, however, during the hearing



submitted copies of an FIR dated 24.01.2018 related to the premises of the Appellant and the petition filed by the Appellant in the Hon'ble High Court of Delhi vide writ petition dated 05.07.2021. In the said petition the Appellant has raised the same issues as raised by him in the present appeal viz; regarding the installation of new connection or the restoration of the old electricity connection at his premises. After this, the next date of hearing was fixed on 06.08.2021.

6. On 06.08.2021, the date of hearing, both the parties i.e. the Appellant and the Discom appeared in the Court. The Appellant stated his arguments with the contention that he had applied for a new electricity connection during the year 2017 but the Discom did not take any action on the ground that the height of the building for which connection has been sought is more than 15 meters. He further submitted that the Discom has neither released the new connection nor changed the name of his earlier connection. He further admitted that alongwith filing an appeal with the Ombudsman earlier against the order of the CGRF, he has also subsequently filed a writ petition with the Hon'ble High court of Delhi for the same cause/grievance. The Appellant also submitted that though he has filed the case in the Hon'ble High Court of Delhi, he will not withdraw his appeal filed before the Ombudsman.

7. The Discom contended that since a civil suit in the form of writ petition has also been filed by the Appellant in the Hon'ble High Court of Delhi, the case need not be pursued by the court of the Ombudsman for the same cause and the subject matter. The Discom has also submitted a copy of the order of the Hon'ble High Court dated 19.07.2021 vide which the case has been listed on 28.09.2021. The Appellant also agreed to the contention of the Discom.

8. In the background of the above/aforesaid facts and circumstances of the case, it is concluded that the case is already subjudice in the higher court i.e. the Hon'ble High Court of Delhi. In view of this, it is thought prudent not to entertain the representation/appeal of the Appellant in accordance with the Regulation 29(3)(v) of Delhi Electricity Regulatory Commission (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018, which clearly stipulates as under:



"29(3) - The Ombudsman shall not entertain a representation:

(v) Where the representation by the complainant, in respect of the same grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority."

Thus, the Hon'ble High Court of Delhi being the higher court than the court of the Ombudsman, there is no reason to entertain the appeal of the Appellant in this case as the same is subjudice.

The appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
13.08.2021