

156

Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057
(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2006/100

Appeal against Order dated 13.04.2006 passed by CGRF – BYPL on Complaint No. CG-06/01/2006 (K.No. New Connection)

In the matter of:

Shri Jaswant Singh - Appellant

Versus

M/s BSES - Yamuna Power Ltd. - Respondent

Present:-

Appellant Shri G.S. Anand, Advocate for appellant

Respondent Shri R.R. Duggal, Business Manager
Shri Hemant Gupta, Advocate on behalf of BYPL

Date of Hearing: 31.08.2006

Date of Order : 11.09.2006

ORDER NO. OMBUDSMAN/2006/100

The Appellant Shri Jaswant Singh has filed appeal dated 27.5.2006 against the CGRF's order dated 13.4.2006. In the appeal, it is stated that the CGRF's order directing the Respondent Company to release the new connection has not been implemented. Before taking up the appeal, the Respondent Company was asked why the order of the CGRF was not implemented. BYPL informed vide its letter dated 22.7.2006 that the CGRF order has been complied with –a demand note dated 21.07.06 has been raised by the licensee which has been paid by the Appellant on 22.7.2006. It is further intimated that the new meter has been installed at the premises of the Appellant on 22.7.2006.

153

The only ground that now remains in the appeal is the compensation claimed by the Appellant on account of rental loss of Rs.5,55,000/- for an office flat of 227sq.ft. in the above premises. The Appellant has also sought compensation amounting to Rs.14,400/- on account of ; (i) cost of 4 legal notices served; (ii) mental agony Rs.5,000/- and (iii) harassment Rs.5,000/-.

After calling for the CGRF records of the appellant, scrutiny of the contents of the appeal and additional information / clarifications sought from the Respondent Company, the case was fixed for hearing on 31.8.2006.

Shri R.R. Duggal, Business Manager, BYPL attended alongwith
Shri Hemant Gupta, Advocate for BYPL.
Shri G.S. Anand, Advocate attended on behalf of the Appellant.

The only question which is for consideration is the delay in granting connection sought for by the Appellant. It is stated by Shri Duggal that the Appellant applied for a domestic connection in May 2003 and the licensee commenced processing of the case immediately which is evident from a letter dated 29.5.2003 addressed to A.E. Zone for a site visit and report. He referred to another letter dated 15.10.2003 written to the Appellant asking him to apply for a commercial connection since domestic connection was not permissible in a commercial building. This was followed by a reminder dated 10.12.2003 both of which were not replied to by the Appellant.

Shri G.S. Anand, Advocate of the Appellant denied having received any letter from the Respondent Company as mentioned above. Shri Duggal then pointed to another letter dated 8.10.2003 written by the Respondent Company to the Appellant regarding the "**pro rata dues**" which had been replied to by the Appellant. It also bears the signature of the Appellant / his representative. Shri Anand however stated that he did not receive this latter letter also. Shri Anand's denial of having received a letter which has in fact been received and replied by the Appellant has to be taken note of and considered while considering his claim that he did not receive the licensee's letters of 15.10.2003 and 10.12.2003 asking the Appellant to file a fresh application for a commercial connection as a domestic connection could not be given in commercial building. The Respondent's despatch register was produced on 5.9.2006 which shows the despatch of such a letter dated 10.12.2003.

It may, therefore, be said that the Respondent did write to the Appellant to submit a fresh application for a commercial connection as no domestic connection was permissible in the premises of the Appellant being a commercial building. The Respondent Company also produced photographs taken by it on 18.7.2006 to show that the connection sought for was in a commercial building.

132

In the complaint dated 06.01.06 before the CGRF the appellant has also mentioned **"complaint for not providing the new connection at my office flat no 207, 2nd floor, Karol Bagh, New Delhi"**.

Shri Anand, Advocate of the Appellant referred to Section 43 of the Electricity Act, 2003 according to which every distribution licensee, on the application by the owner of any premises, is required to give supply of electricity to such premises within one month after receipt of the application requiring such supply. He also referred to Chapter II, para 4 (iii) of the DERC Regulation (Performance standards Metering and Billing) which provides that within 7 days from the date of acceptance of the application, the licensee shall raise a demand note etc.

Shri Hemant Gupta, Advocate of the Respondent Company referred to a decision of the Hon'ble High Court of Delhi in the case of Om Flex Pack Ltd. vs New Delhi Municipal Committee regarding misuse of premises. In his letter dated 31.8.2006 he stressed that the conduct of the Appellant is important because the latter has applied for a domestic connection for an office. He argued that the connection granted is being misused. He stated that since the connection is knowingly and deliberately being misused, the Appellant is not entitled to any relief and / or compensation. He further stated that the compensation claimed by the Appellant needs to be proved beyond reasonable doubt whereas the Appellant has not filed a single document in support of his allegation.

Om Flex Pack Ltd. was a case where the user of the premises was disputed and the writ petition was dismissed by the Hon'ble High Court on the ground that such disputed question of fact could not be determined in the exercise of writ jurisdiction. The facts of the case under consideration are different from that cited above, therefore, the case cited by the licensee does not help.

In the case presently under consideration, domestic connection has not been given to the Appellant because it is asked for in a commercial building. The licensee company informed the Appellant vide its letter dated 15.10.2003, and another letter dated 10.12.2003 that a domestic connection is not permitted in a commercial building however it did not cancel the application. It failed to follow up as per procedure laid down in Regulations 4 (iii) of the DERC Regulations in its Notification dated 19.8.2002 when no reply was received from the appellant to its letter dated 10.12.2003.

The Appellant is also not free from fault because it did not reply to the above letters of the licensee company, nor did it make a fresh application as advised by the licensee. It appears that both the Appellant and the licensee

157

company were engrossed in the issue of payment on pro rata basis of some arrears which was ultimately held by CGRF as not payable (as the appellant was not a beneficiary). It also appears that both the Appellant and the licensee company kept aside the issue of domestic connection in a commercial building after letter of 10.12.2003 by the Licensee asking the Appellant to file a fresh application for a commercial connection. The Appellant is also not free from fault as it neither replied to the letters of licensee nor did it make a fresh application for a commercial connection as advised by the licensee. Therefore, no compensation can be given to him on account of harassment. However in regard to the legal notices served by the Appellant a compensation of Rs.2000/- is allowed to him.

The Appellant has made a claim for damages of Rs.5,55,000/- on account of alleged rental loss during the period when the connection applied for by him was not given. In this connection apart from what is stated by the licensee company that no document has been filed, the Ombudsman cannot evaluate / assess the notional loss claimed by the Appellant. Therefore no award is granted for the notional loss claimed by the appellant.

In the result the appellant gets only partial relief.

अशा मेहरा
(Asha Mehra)
Ombudsman