

Mr. Ranbir 153
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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/2006/113

Appeal against Order dated 29.06.2006 passed by CGRF – BYPL on Complaint No. CG-116/03/2006 (K.No. 113037160116)

In the matter of:

Shri R.K. Grover

- Appellant

Versus

M/s BSES - Yamuna Power Ltd.

- Respondent

Present:-

Appellant Shri R.K. Grover

Respondent Shri N. Ray, Business Manager
 Shri Shri K. Srinivasan, Commercial Officer
 Shri Rajeev Ranjan, Sr. Legal Officer and
 Shri Hemant Gupta, Advocate, all on behalf of BYPL

Date of Hearing: 23.11.2006

Date of Order : 04.12.2006

ORDER NO. OMBUDSMAN/2006/113

The appeal is filed by the appellant Shri R.K. Grover against the order dated 29.06.06 passed by the CGRF. In his appeal he has prayed for compensation of Rs.200/- per day for 186 days amounting to Rs.37,200/- for the loss caused to him on account of disconnection of electricity of K. No. 113037160116 installed at Shop No. 2282, G.P. Chuna Mandi, Pahar Ganj, New Delhi-110 055.

The facts of the case are:

- 1) That in the above premises the appellant has been using the electricity connection in the name of his father Late Shri Fateh Chand (wrongly written as Fateer Chand). Even during the period of life time of his father the appellant was using this connection. According to the Respondent

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there were three partnerships firms namely (i) M/s Fateh Chand Rampal (ii) M/s SS Soda Water Factory and (iii) M/s Sun Shine Soda Water having three different connections K no113037160166, K.No. 113037160228 and K.No.113037160218 at its premises shop no.2287, Chuna Mandi, Pahargunj. In all the above firms Shri Fateer Chand (father of present appellant Shri RK Grover) and his brother Shri Ram Lal were partners. K.No. 113037160228 and K.No.113037160218 of the above partnership firms are lying disconnected on account of non payment. The above three partnership firms were closed sometime in the year 1995 after the death of both the erstwhile partners. Their pending dues were not recovered by the DISCOM.

- 2) Sometime in "January 2006, the DISCOM transferred the dues of the above three connections of shop no 2287 to the present connection No. 113037160116 (at Shop No. 2282. Chuna Mandi, Pahar Ganj) which is also in the name of Sh. Fateh Chand (one of the partners) and is being used by his son Shri RK Grover. Since these dues were not paid by Shri Grover the appellant, his supply was disconnected on account of non payment.
- 3) The CGRF ordered for immediate release of connection of supply in the name of Shri Fateer Chand though used by the appellant. It also ordered compensation of Rs.1,000/- for the harassment caused to the appellant.
- 4) The appellant filed an appeal against the orders of the CGRF seeking compensation of Rs.37,200/- (@ Rs.200/- per day) since his shop was closed for 186 days.

After calling for records of CGRF and the submissions made by the Appellant and the Respondent Company in response to queries raised by the Ombudsman, the case was fixed for hearing on 23.11.2006.

Shri R.K. Grover, Appellant attended in person.

S/Shri R Srinivasan, Commercial Officer, N. Roy, Business Manager, Rajeev Ranjan, Sr. Legal Officer attended alongwith Shri Hemant Gupta, Advocate on behalf of Respondent Company.

Shri Hemant Gupta's first contention was that the order of the CGRF is illegal being in the name of a dead man. Accordingly he pleaded that the order of the CGRF should be set aside.

Shri Hemant Gupta produced a copy of death certificate of Shri Fateh Chand and argued that the order in the name of a dead person is liable to be set aside. He further stated that the death certificate shows the date of death of Shri Fateh Chand

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is 14.12.1993 whereas the appellant has been corresponding with the DISCOM in the name of the dead father without disclosing the fact of death of his father. It is his contention that;

- i) The Ld. CGRF failed to appreciate that complainant has no locus standi to file the complaint as he is neither the registered consumer nor has he ever applied for transfer of connection in his name even after 13 years from the death of his father.
- ii) The Ld. CGRF erred in not appreciating that on one hand the appellant was asking for restoration of connection existing in the name of his late father for his personal benefit and on the other hand the appellant alleged that he had not inherited property from his father (was not beneficiary) and was therefore not liable to pay any dues of his late father.
- iii) The Ld. CGRF erred by accepting the contention of the appellant that he has not received any monetary benefit from his father whereas as per the affidavit filed by the appellant (which has been relied upon by the Ld. CGRF) the father of the appellant has not executed any will in his lifetime and therefore he could not get any share on this account.

Apart from the above arguments, Shri Gupta also argued that the claim of the appellant for compensation is not based on any documents to prove his loss of Rs.200/- per day from his shop for lack of electricity. When asked, the appellant could not produce any evidence to substantiate his claim for such quantum of compensation.

There appears to be some substance in the arguments of Shri Hemant Gupta. Though the appellant stated that he has not inherited anything from his father, it is evident that he is using his father's electricity connection even 13 years after the latter's death.

It appears these facts have not been looked into by the CGRF. The case is therefore liable to be set aside. However at the request of both parties and to prevent further delay in resolution of the complaint the hearing was continued.

During the course of hearing, it was stated by Shri Gupta, that since Shri RK Grover, the appellant was using the electricity connection in the name of his father by virtue of being a legal heir; he is obliged to pay the dues owed to the DISCOM by his father during his life time. On the other hand Shri Grover contended that since the dues in the above mentioned connections vide K. No. 113037160228, 113037160166 and 113037160218 pertain to the partnership firm in which his father and uncle were both partners these were liable to be paid by the legal heirs of both Shri Fateer Chand and Shri Ram Lal.

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It was accordingly agreed that Shri R.K. Grover, the legal heir of Shri Fateer Chand will pay 50% of the total dues outstanding against the above three connections and the balance 50% will be recovered from the legal heirs of Late Shri Ramlal. The licensee company was asked to work out the dues as on the date of last reading + MG charges for 6 months, of the 3 connections, so that the appellant's share of liability is determined.

The appellant agreed to assist the DISCOM in providing the addresses/whereabouts of the legal heirs of Shri Ram Lal so that their share of liability /dues of the above three partnership firms can be recovered by the DISCOM. The licensee's representatives submitted the calculation on 2.12.06. According to this calculation the **total dues of all the 3 connections is Rs.7923.24p.** The **appellant is to pay Rs.3962/=being 50% of the above.** The balance will be recovered by the Discom from the legal heirs of Late Shri Ram Lal.

Regarding his claim for compensation, I agree with the CGRF order and uphold the award of compensation of Rs.1000/- for harassment suffered by the appellant. However in absence of any evidence produced by the appellant towards loss of Rs.200/- per day for 186 days and in view of Regulation 9(7) of the DERC regulations 2003, (Guidelines for establishment of forum for redressal of grievance) no compensation is awarded to the appellant on this account.

The order of the CGRF is set aside.

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(Asha Mehra)
Ombudsman