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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**  
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**Appeal No. F. ELECT/Ombudsman/2006/115**

Appeal against Order dated 16.3.2006 passed by CGRF – BRPL on Complaint No. CG- 07/2006

**In the matter of:**

Ms. Adesh Tyagi - **Appellant**

**Versus**

M/s BSES – Rajdhani Power Ltd. - **Respondent**

**Present:-**

**Appellant**            Shri Avnish Tyagi, Brother of the Appellant

**Respondent**        Shri Dinesh Ranjan, Business Manager  
                             Shri R.S Yadav, Section Officer (Accounts)

Date of Hearing: 28.11.2006

Date of Order : 04.12.2006

**ORDER NO. OMBUDSMAN/2006/115**

An appeal dated 25.04.06 is filed against the CGRF order dated 16.03.06. The appellant failed to deposit 1/3<sup>rd</sup> of the assessed amount as required under Regulation 20(3)(iii) of DERC regulations 2003. The appellant was apprised of this pre-condition before an appeal is allowed to be admitted. Despite reminders to the appellant, this condition was not fulfilled and the case was closed.

Later she again filed the appeal on 08.08.06 fulfilling all conditions. In the appeal, the Appellant stated that the electricity connection No.2520 G423 0044 is in the name of her Grand father- in -law late Shri Parmal Tyagi. The Appellant is the widow of late Shri Rajeshwar Tyagi having two small girl children. Her parents are looking after her ever since her husband's death. She has stated that the said house No. 283, Chattar Pur Village, Delhi remained vacant upto October 2005 as she was living with her parents in Hapur (U.P.).

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When she came to the above said house she received a bill of Rs. 25404/-. After several visits to the BSES office, she complained through E-mail to the Additional Manager, Customer Care, BRPL for resolving her grievance who forwarded her complaint to the concerned officials. Several E-mails were sent to Shri Subhash Sharma, Shri Prashant Nigam and others but her grievance was not resolved. After contacting DERC, she filed her complaint with the CGRF on 8.12.2006 requesting for revising the wrong bill in December'03 amounting to Rs.25404/- for consumption of 9747 units.

The CGRF passed orders directing the DISCOM to send a team of Enforcement officers to check whether there was any theft/ DAE in this case. Thus the CGRF instead of resolving her grievance, compounded the troubles of the appellant by several visits of the Enforcement Officials to check whether there was any DAE/theft in her case.

Before the CGRF Ms. Rajni Gupta, Customer Care Officer, Saket Division represented the DISCOM and stated that the case had been referred to Enforcement Department as the reports after inspection of the premises reveal that the consumer was indulging in theft of energy".

On the other hand the appellant stated that since the meter had already stopped there was no need to resort to theft of energy. Despite this convincing arguments of the Appellant to which the CGRF agreed and despite the statement of the CGRF in its order dated 14.3.2006 (referred to above) that "the reports submitted by Ms. Rajni Gupta were found to be vague" the CGRF ordered the DISCOM to organize inspection of the premises through a joint team of officials from the Enforcement Department to check if there was theft/DAE.. ..

The CGRF further ordered that final assessment of the defective period will be done on the basis of consumption recorded by the previous meter for six months and the new meter for six months. It is against this order of the CGRF that the Appellant has filed the present appeal before the Ombudsman.

After study of the contents of Appeal, CGRF records, submissions made by both the parties consequent to queries made by Ombudsman, the case was fixed for hearing on 28.11.2006.

Shri Avnish Tyagi brother of the Appellant attended. Shri Dinesh Ranjan, Business Manager, Saket and Shri RS Yadav, Section Officer (Accounts) attended on behalf of the Respondent Company.

The facts of the case are that after the death of her husband on 28-8-1999 the Appellant alongwith her two children moved to her parent's place and the house remained vacant (for which an affidavit has been filed by her.)till October 2005. In the appeal the appellant stated that a wrong and inflated bill was raised

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by the Discom in December 2003 amounting to Rs.25,404/- showing consumption of 9747 units .When the DISCOM was asked to show on what basis this bill was raised, no reply was received on this point in the submissions of the DISCOM dated 3.10.2006. This query was again repeated at the time of hearing and Shri Dinesh Ranjan, Business Manager was not able to explain how and on what basis this bill was raised. In fact the meter reading book shows wrong readings because sometimes lesser readings are recorded in subsequent months. When confronted with such meter readings, the officials of DISCOM agreed that this bill is totally faulty and meter readings are wrong. It is also admitted that the meter had been lying stopped for the last four years and no action had been taken to replace the stopped meter and the faulty meter was never tested. **In its submissions dated 3.10.2006, also, the Licensee Company has agreed that the bill raised in December 2003 is not in order as the meter was faulty.** It is also agreed by the Licensee Company that the premises were locked almost all the time and the meter was faulty.

It is further stated that the faulty meter was replaced by a new meter No. 1337 1276 on 13.4.2006. The Appellant has referred to Delhi High Court decision in the case of Shri H.D. Shourie wherein it is held that assessment can be made for only six months and not more in case of a faulty meter. For the remaining period only minimum charges can be charged. The representative of the Licensee Company of course submitted that assessment will be done for the entire defective period. Following the Delhi High Court decision in the case of Shri H.D. Shourie, the DISCOM is directed to make assessment for six months only as per the provisions of section 26 of the Electricity Act 1910. The Delhi High Court in HD Shourie's case held "that the maximum period for which a bill can be raised in respect of defective meter is six months and not more. Therefore, even if a meter has been defective for, say a period of five years, the revised charge can be for a period not exceeding six months. The reason for this is obvious. It is the duty and obligation of the licensee to maintain and check the meter. If there is a default committed in this behalf by the licensee and the defective meter is not replaced, then it is obvious that the consumer should not be unduly penalized at a later point of time and a large bill raised. The provision for a bill not to exceed six months would possibly ensure better checking and maintenance by the licensee".

**Following the Delhi High Court judgment as stated above, the DISCOM is directed to make the assessment for six months only prior to 13.4.2006 when the meter was replaced. For the remaining period, minimum charges or fixed charges may be recovered as per Rule.**

**The bill raised in December 2003 for Rs.25404/-for 9747 units is quashed as the DISCOM itself has admitted that the bill is not in order.**

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Reference is made to Regulations 20 (ii) (b) of the DERC Regulations 2002 (Performance, standards – Billing and Metering) wherein it is provided that if the meter is not recording/stuck, the Licensee Company shall notify the consumer, he shall check the meter and if found stuck, the meter will be replaced within 30 days.

**Since the DISCOM has replaced the meter after more than 36 months, DERC Regulation has been violated and there is deficiency in service. The DISCOM in its letter dated 3.10.2006 has admitted the meter to be faulty since July 2002.**

Records also show that provisional bills were sent to the Appellant w.e.f. 1.7.2002 till June 2006. Regulation 42 provides that penalty @ Rs. 500/- per bill is to be paid by the Licensee Company to be deposited with DERC in case provisional billing continues for more than two billing cycles.

Shri Dinesh Ranjan, Business Manager argued that the premises were locked and readings could not be taken hence provisional billing was resorted to. This factor may be considered while levying the penalty under Regulation 42.

Provisional Bills were given from 1.7.02 to 1.06.06. however since the premises were locked till October, 05 penalty will be levied from November 05 to June 06, i.e. 4 provisional bills of 2 months each were issued by the DISCOM attracting penalty. **Thus Rs.2000/- will be deposited by the DISCOM with the DERC on account of this penalty.**

In the appeal it is stated that "4 BSES officials came to his house on 29.3.06. They checked the entire premises, meter, service cable etc., enquired from neighborhood and found nothing; but threatened that you will definitely be booked for a case of theft of energy. They also threatened that a new team of BSES officials will visit your house soon". The appellant pointed out that at least 4 times groups of officers visited her premises to verify whether there was any theft/DAE. Since, large number of officers of the Licensee Company have been visiting the Appellant's premises, this has terrorized the Appellant for no fault of her's and this must be stopped. It was further stated that "instead of revising the wrong bill they were trying to book a theft case against the already distressed appellant. And the CGRF also favoured the Company in its illegal activity."

Both the Business Manager and Shri Yadav, Accounts Officer admitted that no adverse report has been received by them in regard to DAE / theft and, therefore, no officer of Enforcement Directorate will visit the appellant's premises in future. It was submitted that it is possible that recovery officers of the DISCOM may be visiting the premises for recovery of arrears. The officers of Licensee Company were directed to ensure that no recovery action is taken while the case is pending with the CGRF / Electricity Ombudsman. Even in the above case, the

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Licensee Company itself had admitted that the December 2003 bill of Rs.25,404/- is faulty and therefore not payable. Therefore, no recovery officer should visit the premises of the Appellant for this purpose.

This order can not be complete without making an observation on the functioning of the CGRF. This case has been handled very badly by the CGRF. While stating on the one hand that the reports of Ms. Rajni Gupta, Customer Care Officer are vague, the CGRF ordered for a joint inspection by the Enforcement Officials to check for theft/DAE. It must be noted that a visit by Enforcement officials for this purpose can never be based on vague reports/suspicion. It is a draconian measure and must be resorted to only when there is sufficient reason to believe that there is a case of theft/DAE. The CGRF only made the appellant's position worse than it was prior to its complaint with the CGRF. The record of e-mails sent by the appellant and the responses received by it from the officers of the DISCOM is itself painful. Instead of revising the bill which was admittedly wrong, the appellant is threatened with disconnection of supply and visits by several officers of the DISCOM frequently. **The above action would show that the DERC Regulations are being flouted by the DISCOM/CGRF. DERC may like to consider levy of penalty in this case.** The consumers are treated according to whims of the officers of DISCOM. This is a sad state of affairs as demonstrated in this case.

**The CGRF order is set aside.**

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(Asha Mehra)  
Ombudsman