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Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
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(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2006/117

Appeal against Order dated 31.07.2006 passed by CGRF – NDPL on CG.No.0784/06/06/MTN.

In the matter of:

M/s Cinturones Alvi India Pvt. Ltd. - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri C.K. Gupta, Director of the Company and
Shri P. Garg authorised representative of the appellant

Respondent Shri Yogesh Luthra, Senior Manager, Distt. Moti Nagar and
Shri Suraj Das Guru, Executive (Legal) on behalf of NDPL

Date of Hearing: 29.11.2006, 05.12.2006
Date of Order : 14.12.2006

ORDER NO. OMBUDSMAN/2006/117

The appellant, M/s Cinturones Alvi India Pvt. Ltd. of 71/6, Rama Road Industrial Area, New Delhi has filed this appeal against CGRF-NDPL order dated 31.7.2006 in CG No. 0784 / 06 / 06 / MTN through its Director Shri C.K. Gupta. The appellant has prayed that directions be given to DISCOM for providing permanent connection as per K. No. allotted. It has also prayed that DISCOM be penalized for delay in energization of connection.

The facts of the case, as stated in the appeal are that the appellant applied for a permanent connection of 16 KW for its industrial premises at 71/6, Rama Road Industrial Area, New Delhi which is an approved Industrial Area and fully electrified. The NDPL after necessary inspection and verifying the technical feasibility issued a demand note against which the appellant deposited Rs.27,000/- on 3.4.2006 and K. No. 33105078086 was allotted.

After two weeks, when the connection was not released by the NDPL, the appellant contacted the office of the NDPL and he was informed verbally that the

connection could not be released as the area is unelectrified. He was also advised by the Senior Manager that temporary connection could be released if he applied for the same.

The appellant accordingly applied for a temporary connection of 16 KW on 8.5.06. The Discom after verification and checking technical feasibility issued a demand note to be paid within 14 days. The appellant deposited Rs.36,000/- on 23.5.2006 and K. No. 3310706449 was allotted. Again the connection was not released on the ground that area lacks development.

When the grievance of the appellant was not resolved by the licensee company, he filed a complaint before the CGRF-NDPL. The CGRF vide its order dated 31.7.06 gave no relief to the appellant and merely observed "that pending electrification of the plot, as requested by Welfare Small Manufacturer Association, individual connection cannot be allowed in the sub divided portion. The Forum, however, keeps it on record that NDPL should have verified the technical feasibility before issuing the demand note". Thus, the CGRF order is merely an observation made by it and has given no order on the complaint filed before it. The appellant accordingly filed the present appeal before the Ombudsman praying for –

- a) Quashing the order of the CGRF;
- b) Direction to the Respondent to provide permanent connection as per K. No. allotted; and
- c) Levy a penalty of Rs.67,000/- and Rs 42,000/- for delay in energizing the permanent /temporary connection.

After study of the contents of the appeal and submissions made by both the parties, the case was fixed for hearing on 29.11.06.

Shri C.K. Gupta, the director attended the hearing along with Shri P. Garg, the authorised representative of the appellant.

Shri Yogesh Luthra, Senior Manager, District Moti Nagar attended along with Shri Suraj Das Guru, Executive (Legal) on behalf of the Respondent.

During the hearing, it was submitted by the appellant that the area is electrified and the demand note for the permanent connection as also temporary connection were raised after study of the technical feasibility of the connection applied for. It is incorrect, therefore, to say that the area is not electrified and not developed. If it was so, the demand note would not have been raised by the Discom. The appellant referred to Regulation 4 (v) of the DERC Regulations 2002 – Performance Standards (Metering and Billing) which provides for the licensee to energise the connection of the consumer through a meter within 7 working days if connection is to be given from existing net-work and within 21 days if an extension is required upto 5 poles and 30 days if extension of more than 5 poles is required. The appellant also relied on the

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provisions of Regulation 6 of the above DERC Regulations for supply of temporary connection wherein the licensee is obliged to raise a demand note after examining the technical feasibility of the connections and in case it is found not technically feasible, the licensee is required to intimate to the appellant in writing within 7 days giving reasons for the same. As per regulation 6(v) of the DERC Regulations referred to above, the Licensee is required to energise the connection within 7 days after payment of applicable charges and completion of all other commercial formalities by the consumer. In this case, the above provisions of Regulation 4(iii) and 6(iii) the DERC Regulations 2002 – Performance Standards (Metering and Billing) have been violated as the connection was not energized and no intimation was given to the appellant in writing as is required by such regulations. The amounts paid by the appellant were only kept with the licensee without discharging its obligation in respect of the moneys paid.

In fact, the appellant contended that the licensee company misinformed the CGRF and the Forum accepted the statement of the licensee company without any verification in as much as the Forum held that NDPL informed the appellant about the electrification scheme vide its letters dated 2.6.06 and 15.6.06 whereas no such letters were received by the appellant.

The NDPL on the other hand continued to take the plea that the area is unelectrified and the DERC Regulation 38 of Chapter IX relied upon by the appellant deals with electrified approved colonies whereas in the appellant's case, the area is un-electrified. Accordingly, it was argued that the penalties prayed for by the appellant are not leviable in the present case. Shri Suraj Das Guru, Executive (Legal) NDPL further submitted that the Ombudsman has no power to impose penalty as a case is pending before the Hon'ble High Court of Delhi in the case "NDPL vs V K Handa". In this connection, it may be noted that the reliance of Shri Suraj Das Guru is totally misplaced and baseless as the Hon'ble High Court has not yet heard the case on merit and has pronounced no ruling of law on the point of competency of the Ombudsman for levy of penalty.

After considering the submissions of both the parties, and the DERC Regulations referred to above, it is held that the DISCOM is obliged to give the temporary connection to the appellant specially when the Senior Manager of the licensee company himself advised the appellant to apply for a temporary connection. The appellant deposited the amount required in the demand note raised by the licensee company, after checking the technical feasibility for the new connection.

Shri Yogesh Luthra, the Senior Manager sought some time to discuss the matter with the Senior Officers / Management of the licensee company. The case was adjourned to 5.12.06 as requested by Shri Luthra.

On 5.12.06 Shri Yogesh Luthra attended alongwith Shri Suraj Das Guru and submitted a written submission regarding release of temporary connection. Shri C.K.Gupta, the appellant also attended alongwith Shri P. Garg. In the written

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submissions filed by Shri Luthra, the licensee company has agreed to give temporary connection to the appellant on the following conditions:

1. that the temporary connection will be issued for a maximum period of 6 months;
2. in the meanwhile, the appellant will take up this issue with Industrial Welfare Association for electrifying the area; and
3. this case should not be taken as a precedent for other cases.

After due consideration of the Discom's above submission the DISCOM is directed:

- (i) to grant a temporary connection to the appellant immediately;
- (ii) Since a temporary connection includes levy of an additional surcharge, it is for the licensee company to give a permanent connection to the appellant as early as possible. The payment asked for by the licensee for the permanent connection has already been made by the appellant. The six month condition applied by the Discom is not based on any regulation of the DERC or any Electricity Law and therefore it is not upheld.
- (iii) While the appellant may assist the licensee company in taking up the issue with the Industrial Welfare Association towards electrification of the area, the licensee company cannot make it a condition for continuance of the temporary connection. It is for the DISCOM to deal with the Industrial Welfare Association and carry on its function for necessary electrification for the area if the Association so demands;
- (iv) The Electricity Ombudsman decides each case on merit depending upon the facts of each case. Therefore, order passed in this case may not be a source of anxiety to the licensee company.
- (v) Regulation 38 of the DERC Regulation 2002 provides for a penalty of Rs.500/- to be paid by the licensee for delay in providing a new connection under regulations 4&5. The appellant's case falls under regulation 6 (Temporary supply). Hence no penalty is leviable on the Discom.

The CGRF order is set aside.

अशा मेहरा
(Asha Mehra)
Ombudsman