

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 No.: 011-26144979)

Appeal No. 13/2021

(Against the CGRF-BRPL's order dated 26.02.2021 in CG. No. 70/2020)

IN THE MATTER OF

Shri Rahul Nath

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Rahul Nath alongwith Shri Mayank Bansal, Advocate

Respondent : Shri Sunil Singh, Asst. Vice President, Shri S. Bhattacharjee, Sr. Manager and Shri Deepak Pathak, Advocate, on behalf of BRPL

Date of Hearing: 23.06.2021

Date of Order: 30.06.2021

ORDER

1. The Appeal No. 13/2021 has been filed by Shri Mayank Bansal, Advocate, as an authorized representative on behalf of the Registered Consumer Shri Rahul Nath against the order of the Forum (CGRF-BRPL) dated 26.02.2021 passed in C.G. No. 70/2020. The basic issue concerned in the Appellant's grievance is regarding the billing dispute wherein it has been alleged that the Discom (Respondent) has charged the Appellant on a higher tariff, disconnection of his electricity connection illegally and non-reduction of his load by the Discom (Respondent), against his electricity connection bearing CA No. 1000138557 installed at D-31, Ansal Villa, Satbari Farms, New Delhi - 110074.

2. The brief background of the appeal arises from the facts that the Appellant obtained an electricity connection bearing CA No. 1000138557 for industrial purpose having a sanctioned load of 101 KW although as per the Appellant the

premises in question where the electricity connection has been installed is residential in nature and the Appellant is not using the premises for any other purpose other than residential. The Appellant submitted that in the year 2007 he applied for a domestic electricity connection but the same was denied by the Discom on the grounds that since no transformer is located near his house and as such the said request cannot be adhered to. Under those circumstances he was asked to apply for a non-domestic electricity connection for a load of 200 KW and since he had no other remedy available with him, as such under the forced and peculiar circumstances he made an application for a non-domestic electricity connection for a load of 200 KW. Consequent upon this application, he was asked by the Discom to deposit an amount of Rs.12,18,896/- for the cost of the transformer and other charges besides a sum of Rs.3,00,000/- as security deposit for processing and installation of the said connection. As per the Appellant the Discom conveyed to him that since he is paying for this transformer as such the same shall exclusively be used for providing electricity to his premises only.

The Appellant further submitted that, thereupon the Discom started to raise bills on the basis of commercial tariff, however, the rate at which the bills were raised were higher than those applicable for a 200 KW sanctioned load. The Appellant submitted that even then he paid all the bills as and when the bills were received by him. Further, in view of the fact that since excessive billing became a normal norm for the Discom, as such he made a representation in the year 2009 to the Discom that since he is not using the electricity for any commercial activity, as such the electricity connection may be converted from commercial to domestic category and the load may also be reduced from 200 KW as he did not require that much load. The Appellant further submitted that despite arduous efforts for redressal of his grievances regarding excess bills being charged and reduction of load etc, since no outcome was forthcoming the Appellant approached the CGRF in the year 2015, upon whose orders he deposited a sum of Rs.2,50,000/- and Rs.3,30,000/- respectively, which fact has also been admitted by the Discom. However, since no indulgence was given by the CGRF as was required and as such his connection was disconnected by the Discom on 15.07.2015.

3. Under the circumstances, the Appellant submitted that he was forced to file a Writ Petition vide No. WP (C) 6821/2015, and on 17.07.2015, the aforesaid writ petition was disposed of with the directions that a post dated cheque of

Rs.9,20,381.63, which the petitioner (Appellant) had agreed to hand over to the Discom against the consumption bill for the month of July, 2015 for payment and in case the cheque is dishonoured, it shall be open for the Discom to disconnect the electricity connection of the petitioner (Appellant). The Appellant further stated that since he could not comply with the directions given by the Hon'ble High Court of Delhi due to non-arrangement of the funds of Rs.9,20,381.63, therefore, his connection was disconnected on 25.07.2015 and ever since he is without electricity till date. The Appellant stated that despite the disconnection on 25.07.2015, the Discom continued to send electricity bills showing therein that he despite there being no supply, has been consuming the electricity and as such the bills for the said alleged consumption were also raised by the Discom. He further stated that bills dated 30.01.2016 and 29.02.2016 were raised by the Discom on the basis of actual consumption amounting to Rs.20,30,530/- after which he filed another Writ Petition bearing No. WP(C) 1727/2016 before the Hon'ble High Court wherein it was admitted by the Discom that the bills for Rs.20,66,880/- were inadvertently sent in the month of February, 2016, and they will issue a new bill and the dispute will be resolved. The Hon'ble High Court vide order dated 08.02.2019 disposed of the writ petition with a direction to the Discom to issue the corrected bill and also granted liberty to the Appellant to approach the CGRF to agitate all the grievances with regard to billing and other issues.

4. The Appellant further stated that in the meanwhile during the month of February, 2020, the official of the Discom came and tried to remove the meter which was installed in his premises, without installing a new meter. Further on being asked whether is it in pursuance to providing a new connection to which he replied in negative. Aggrieved by this, the Appellant approached the CGRF for redressals of his grievances on 08.09.2020 vide complaint bearing CG No. 70/2020. As per the Appellant, as the Discom did not give an immediate indulgence as such he was constrained to file WP(C) No. 8709/2020 which was disposed of on 16.10.2020 vide which CGRF was asked to look into the matter urgently. The Appellant further submitted that during the hearing in CGRF, the Discom was forced to provide the correct details of alleged outstanding amount pending against him. The Discom submitted an excel sheet of the calculation, which clearly shows the plight being faced by him and due to which he has been fighting for the last six years. The Discom after all these years admitted for the first time that although they have raised the bills on actual basis but the same only have been done on manual basis and the final bill can be revised if actual

reading is made available. The Discom on such basis raised a frivolous demand of approximately Rs.14,00,000/- against him and the said amount clearly showed the malicious approach of the Discom and the fact that for the past six years, they never bothered to take the actual reading from the meter and disconnected the electricity on such pretext and made the Appellant to suffer without electricity for all these years. The matter was reserved for the order on 21.01.2021 by the CGRF but since the order was not forthcoming he was constrained to approach the Hon'ble High Court again vide WP(C) 2482/2021, wherein vide order dated 24.02.2021, the Hon'ble High Court directed the CGRF to pass the order on or before 05.03.2021. The CGRF finally passed the order on dated 26.02.2021 which was communicated to the Appellant on 03.03.2021.

5. The Appellant further submitted that pursuant to the order of the CGRF, the officials of the Discom visited the premises and took the reading on 10.03.2021 only to find out that the actual reading is 15685.5 which is what had already been mentioned by them in the excel sheet submitted supra, thus clearing any doubts that the entire alleged demand billed against him was merely vindictive in nature and no dues existed against him. As the Appellant was not entirely satisfied by the order of the CGRF, he again approached the Hon'ble High Court vide WP(C) 3578/2021 wherein the Hon'ble High Court vide order dated 19.03.2021 directed the Appellant to approach the Ombudsman with the option to deposit a sum of Rs.9,20,831/- for immediate restoration of the supply or in case the same is not deposited then the case is to be dealt by the Ombudsman within 30 days. Accordingly, the Appellant preferred this appeal against the order of the CGRF mainly on the followings grounds:

- a) That the impugned order is arbitrary in nature and is bad in law as the same has been passed by deliberately overlooking the documents on the record and the admissions made by the Discom.
- b) That from the bare perusal of the excel sheet showing the detailed outstanding amount as per Discom, it can be noted that the Discom has claimed a sum of Rs.14,32,220/- as outstanding and as per them the said outstanding amount was on the basis of the actual consumption of the Appellant which is inclusive of the payments made by the Appellant, concessions given and after making the adjustment of security etc. From the above it is quite clear that the CGRF has failed to consider the fact that the Discom just for the

sake of justifying their demands raised arbitrary figures despite being aware that no amount was actually due against him.

- c) That the CGRF did not consider that the alleged fixed charges are also varying from month to month.
- d) That further the CGRF did not understand the true scope of the order of the Hon'ble High Court dated 08.02.2019 and did not consider the admission by the Discom that there was a mistake at the end of the Discom in the bills being raised and was not recorded in their order accordingly.
- e) That the CGRF despite having access to all the documents and the power to summon all documents from the Discom deemed it apt to state that they will not go into each and every details of the dispute and hence the order is liable to be set-aside.
- f) That the CGRF failed to appreciate that there was never any requirement by the Appellant for sanctioning of such a heavy load with a non-domestic connection instead of domestic connection which he was forced to do so at the behest of the Discom. The CGRF further failed to consider that his MDI never crossed 100 KVA. In addition to above, the Discom deliberately did not file the load sheet which is mandatory for sanctioning of load, which was completely overlooked by the CGRF.
- g) That the CGRF also did not direct the Discom to reduce the load as per actual requirement and convert the connection to a domestic connection.
- h) That the CGRF also failed to appreciate that the transformer was installed exclusively for the purpose of providing electricity to the Appellant and he has paid for the same. Further, the Discom in grave violation of the said understanding granted connections from the said transformer to other people without permission of the Appellant. The Discom on the other hand asserted that the transformer was not exclusive and the payment was taken from the Appellant on pro-rata basis and that the Appellant was duly

informed about the said scheme and an NOC was also taken from him. The CGRF did not take into consideration that the Discom could not produce even a single document to substantiate the same.

- i) The CGRF also did not consider that the scheme of payment was 50:50 whereby the contribution of the appellant and the Discom was to be equal. However, on a bare perusal of the payments taken from the Appellant it can be seen that the payment of around 65% was taken from him instead of 50%.

Finally, in view of the aforesaid facts and circumstances, the Appellant submitted that the factum of the Discom raising frivolous demands and admittedly no amount being due against him, rather the money is liable to be refunded to him apart from compensating for the illegal disconnection. The Appellant therefore requested to take the cognizance of the matter and prayed as under:

- i. Set-aside the order dated 26.02.2021 passed by the CGRF.
- ii. Hold that the disconnection of the electricity from the premises D-31, Ansal Villas, Satbari, New Delhi, of the Appellant was illegal.
- iii. Direct the Discom to provide a new domestic 21 KVA load connection at D-31, Ansal Villas, Satbari, New Delhi.
- iv. Hold that the Appellant is entitled for compensation for being illegally kept bereft of electricity since July, 2015.
- v. Decide the issue relating to the transformer in favour of the Appellant.
- vi. Pass such other and further order deemed fit and proper in the facts and circumstances of the case.

6. The Discom in its reply submitted that at the outset, it is intimated that the Appellant had earlier approached the CGRF in the year 2015 vide CG No. 01/2015/F1/03 and also the Hon'ble High Court in the year 2016 vide Writ

Petition W.P.(C) 1727/2016 & CM 7415/2016 and further in the year 2020 vide Writ Petition No. W.P.(C) 8079/2020, CM APPL 26260/2020 & CM APPL 26261/2020 respectively, raising most of the issues included in the present appeal. The Discom further submitted that the brief facts and the judgements/directions issued by the CGRF and the Hon'ble High Court respectively in the past are reproduced for ready reference as under:

- a) On consumer's request, a 200 KW electricity connection under Non-Domestic (LT) category bearing CA No. 100013857 was sanctioned in the name of Shri Rahul Nath at D-31, Ansal Villa, Satbari Farm, Shahoorpur, New Delhi - 110074. The said connection was energized on 24.10.2008. As regards to the sanctioned category, it is clarified that as per rules load sanctioned for farm houses upto 21 KW only are categorized in domestic tariff. As such, the above electricity connection having the sanctioned load as 200 KW could not be categorized under domestic category as claimed by the Appellant. Also, the bills have always been raised in the category applicable for a 200 KW connection in the Farm House.
- b) As regards transformer related issues, it is submitted that there is one dedicated 300 Amp LT feeder exclusively for the Appellant and presently it is lying disconnected at site. Further, it is submitted that the sub-station was installed under the scheme wherein the total cost was to be shared between the consumer and the Discom. The cost sharing details are enclosed for reference please.
- c) With regards to the alleged excessive billing related issues, it is submitted that on consumer's request the meter was got tested on 01.04.2011 and 31.03.2014 respectively and was found O.K. The same is also recorded in the order dated 03.11.2015 passed by the CGRF under Reference No. CG-01/2015/F1/077. Further, on the direction of the CGRF, a Check Meter was also installed to check the accuracy of the consumer's meter. The observations recorded in the above order of the CGRF dated 03.11.2015 are reproduced for the ready reference as under:

"We have perused the file and documents filed by the parties before us. Complainant's grievance regarding faulty meter was resolved by fixing check meter and his meter, on all occasions,

whenever it was checked, was found to be O.K. and recording readings accurately.

We have perused the recorded consumption of the check meter and the meter of the complainant. Both showing similar readings and the meter of the complainant is not running fast. Therefore, contention of the complainant regarding meter stands resolved."

Meter was also got tested on 12.05.2015 and the same was found O.K. Further, meter testing by third party, if so desired, is to be arranged by the consumer only, however, the Appellant has not availed the same and therefore the Appellant cannot raise the issue at this stage.

d) Taking up the load reduction related issue, it is submitted that as per the DERC, Electricity Supply Code and Performance Standard Regulations, load reduction shall be limited to a maximum of 50% of the load at the time of original energization. Only one load reduction request (File No. MS-5232) was received from the consumer in March, 2015 and the same was processed in system in March, 2015 itself. No other load reduction request has been found to be registered in ISU before this.

e) As regards disconnection of supply on 15.07.2015 related issue, the CGRF vide order dated 03.11.2015 quoted as under:

"As per the Respondent(Discom), a 'check meter' was installed on the orders of the Forum and accuracy is found to be within the permissible limits and the consumer was required to pay current amount which is also not being paid by the consumer apart from the previous remaining dues. Consumer is a regular defaulter and does not deserve any leniency. Let him firstly make the payment of Rs.6.00 lakhs and then electricity will be re-energized within 24 hours after receipt of the same amount till then no restoration of electricity supply as it has been disconnected as per law."

f) However, instead of complying with the order the CGRF, the Appellant approached the Hon'ble High Court against the disconnection. The Hon'ble High Court disposed of the Writ Petition on 17.07.2015 with direction to the consumer to deposit Rs.9,20,381.63. Some relevant part

of the Hon'ble High Court Order dated 17.07.2015 in W.P.(C) No. 6821/2015 dated 17.07.2015 is reproduced for ready reference as under:

"Present mater has been listed today in pursuance to the urgent mentioning being allowed by the Division Bench. After some arguments, learned counsel for petitioner has agreed to handover to the Respondent a post-dated cheque dated 24th July, 2015 for Rs.9,20,381.63/- today itself in lieu of the actual consumption bill for the month of July, 2015. She assures this Court that the aforesaid post dated cheque that is to be handed over by the petitioner is good for payment. Learned Counsel for petitioner also undertakes to this Court that the petitioner shall pay the current consumption charges in future. The statements and undertakings given by the learned Counsel for petitioner are accepted by this Court and petitioner is held bound by the same. In view of the aforesaid, the Respondent is directed to restore the electricity connection to the petitioner within twenty four hours. It is clarified that in the event, the post-dated cheque is dishonoured, it shall be open to the Respondent to disconnect the electricity connection of petitioner forthwith.

*With the aforesaid observations, present writ petition and applications stand disposed off.
Order dasti."*

The Discom submitted that the said cheque submitted by the Appellant got bounced. As such, the Appellant could not comply with the directions of the Hon'ble High Court.

g) Finally, the CGRF concluded its order with the following comments:

"Ample opportunities and directions were given to the complainant for making the payment of the due amount which he is liable to pay, however, for one reason or other complainant has avoided from making any payment and unnecessarily dragged the matter. Further, its mention worthy shows that complainant is not serious in pursuing the matter and it is nothing more than a luxury litigation for him. Complainant is given to get his electricity connection restored

after depositing the due amount with the Respondent, who shall restore the electricity connection within four days thereafter. Accordingly, case is disposed of in above terms."

h) Another Writ Petition W.P(C) 8079/2020 filed by the Appellant in the Hon'ble High Court was also disposed of by the Court on 16.10.2020. Hence, in view of above, it is clear that the CGRF and the Hon'ble High Court have already directed the Appellant to make the payment of the due amount. However, the Appellant did not comply with the directions issued and avoided the payment of the amount which he is liable to pay.

7. The Discom further submitted that in terms of the Order dated 31.05.2021 passed by the Hon'ble High Court in W.P. (C) No. 3578/2021, the Appellant has deposited a sum of Rs.1,00,000/- and the supply was restored on 02.06.2021. The instant appeal has been preferred by Shri Rahul Nath, the Appellant, against the latest Final Order dated 26.02.2021 passed by the CGRF in CG No. 70/2020 whereby the CGRF was pleased to dismiss the complaint as gross abuse of process of law.

The Discom also stated that the basic premise for filing of appeal is the infirmities with the order passed by the CGRF and the infirmities have to be pleaded and demonstrated in the light of the attending facts and documents. The contents and averment of the Appellant nowhere shows as to how the CGRF erred. Thus, the question arise, as to how can the impugned order suffer from infirmity when all contentions of the Appellant raised in the complaint regarding billing issue, meter fastness have been discussed and finding has been returned thereon vide the reasoned order and as such there is no infirmities in the impugned order.

The Discom further submitted that as per the final order of the CGRF dated 26.02.2021 with detailed explanation submitted as above, the revised final bill has been generated after taking the latest reading from the meter which comes out to be Rs.15,72,370/-. This amount is due and payable by the Appellant. The detailed bill has also been enclosed for reference by the Discom with their written statement. The Discom also submitted that in the final bill the LPSC on outstanding dues as on July, 2015 bill has been charged in the final calculation. Secondly the interest on Security Deposit till date has been credited in the final bill. The arrears up till July, 2015 up to the reading 15429.1 as on

30.06.2015 were Rs. 9,20,381.63 which are included in the bill and the fixed charges have been charged for a period of six months from the date of disconnection i.e. for the period 01.07.2015 to 28.01.2016 as per the Regulations.

In view of the submissions made hereinabove, the Discom submitted that they crave to refer and reply on the impugned orders, various orders passed in the matter, replies and documents filed by them before the CGRF and in view of the above stated objections, submissions and documents annexed, the Appellant has no case on merit and the same deserves dismissal.

8. After hearing both the parties at length and considering the material on record, it is observed that the electricity connection of the Appellant bearing C.A. No. 1000138557 is lying disconnected since 15/29.07.2015 due to non-payment of dues against the electricity consumed by the Appellant.

The appeal has been filed by the Appellant against the order of the CGRF dated 26.02.2021 in CG No. 70/2020. As per the order of the CGRF, the Appellant was directed to deposit the revised bill to be issued by the Discom after taking the actual reading and the Discom was directed to release the connection of the Appellant after the Appellant makes the payment as per the revised bill and completes all the commercial formalities regarding the release of new connection.

The Appellant was asked to deposit one-third of the outstanding amount of the final revised bill, which is mandatory for the admission of the appeal by the Ombudsman under the Regulation 29(3)(vi) of DERC (Forum of Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018, but instead of depositing the same, the Appellant preferred a Writ Petition vide WP(C) No.3578/2021 in the Hon'ble High Court of Delhi. The Hon'ble High Court vide order dated 31.05.2021 passed the following directions:

"Accordingly, in order to ensure that the Ombudsman is independently able to look into the matter on merits, in a timely manner, after hearing the counsels for BSES and the Petitioner, the following directions are issued:

(1) Considering that a sum of Rs. 3 lakhs is lying as Security Deposit with BSES, a further sum of Rs. 1 lakh shall be

deposited by the Petitioner with the Registrar General of this Court within a period of two weeks. The said shall be done by bank transfer to the following Account Number:

**A/C No. - 15530110030226
UCO Bank, Delhi High Court PDC Account
IFSC Code - UCB A0001553**

Ld Senior counsel for the Petitioner undertakes to make the said deposit with the Registrar General. The Petitioner is directed to intimate the counsel for BSES in writing once the said deposit is made.

- (2) *The Ombudsman shall not insist for any other pre-deposit, in view of the facts of this case. The representation and case of the Petitioner shall be heard on merits, and an order shall be passed on or before 30th June, 2021. The excel sheet and the surrejoinder relied upon by the Petitioner shall also be placed before the Ombudsman, which shall consider the same.*
- (3) *Upon the proof of deposit of Rs.1 lakh with the Registrar General being given by the Petitioner to Mr. Sunil Fernandes, Ld. Counsel for the BSES, electricity shall be restored within 24 hours.*
- (4) *The Ombudsman shall hear the matter on merits."*

Accordingly, the one-third of the outstanding amount as per the order of the Hon'ble High Court was not insisted and the appeal was admitted.

9. The hearing was held on 23.06.2021 and both the parties put forth their arguments at length.

During the hearing the Discom submitted that the Appellant has deposited a sum of Rs. 1 Lakh as per the directions of the Hon'ble High Court and the connection of the Appellant has been restored. The Appellant also admitted to the fact that the supply to his connection has been restored on 02.06.2021. During the hearing, the Discom submitted some more relevant documents like copies of the demand note, papers regarding the issue of transformer, inspection

report containing load requirements at the premises in question at the time of release of connection, tariff orders of the year 2013-14 and 2014-15, copy of the revised final bill, letter written by the Appellant dated 04.07.2007 to the Discom etc., in support of their case, to which the Appellant objected to and submitted that these documents should have been submitted by the Discom in advance. In view of the objection raised by the Appellant and in the interest of justice, another hearing was proposed for the next day in order to provide ample opportunity to the Appellant to put forth his point of view on the fresh documents submitted by the Discom. But the Appellant refused for the same and submitted that he has argued the case well and will like to submit the written arguments instead. In view of the same, both the parties were directed to submit their written arguments latest by 25.06.2021. The written arguments of both the parties were received and were taken on record.

10. As the Appellant has submitted that the impugned order is liable to be set-aside since the CGRF despite having access to all documents and the power to summon all documents from the Discom deemed it apt to state that they will not go into each and every detail of the dispute, therefore, all the issues of the case have again been analyzed threadbare and are being discussed ab initio as under:

(a) The first issue raised by the Appellant is regarding the request made by him to the Discom to sanction a domestic connection but he was forced to apply for a non-domestic LT connection that too for a very high load of 200 KW. In this regards, it is observed that the new electricity connection application form clearly specifies and states that the load for farm houses upto 21 KW are categorized under domestic category and above 21 KW the connection will be categorized under the non-domestic category. In the instant case the perusal of the application form duly filled and signed by the Appellant and submitted at the time of applying for new connection clearly states the load applied for as 200 KW. In addition to this the test certificate submitted by the Appellant clearly shows the connected load on the premises as 198 KW and the complete details of the connected load have also been given by him. In view of the above, the contention of the Appellant that he was forced to apply for such a high load by the Discom is not tenable since the load on the premises at that point of time was 198 KW as per the records and the Appellant had accordingly applied for an electricity connection of 200 KW. Secondly,



since the electricity connection of the Appellant was for a sanctioned load of 200 KW, the same could not have been categorized under domestic category tariff and the tariff levied under non-domestic category by the Discom is correct. As such, the bills raised by the Discom are as per the tariff category applicable for a 200 KW non-domestic connection in the farm houses as per the relevant tariff orders issued from time to time and as such the contentions of the Appellant in this regards are not sustainable.

(b) The second issue raised by the Appellant is regarding the installation of a new transformer on the grounds that no transformer is located near the house of the Appellant and as such he was compelled under the forced circumstances to deposit an exorbitant amount of Rs.12,18,896.00 for the cost of transformer and other charges besides a sum of Security Deposit of Rs.3,00,000/- for the said connection. In this regards, the Regulation No. 30 of DERC, Supply Code and Performance Standards Regulations, 2007, needs to be perused which is reproduced as under:

"30. Service line cum Development (SLD) Charges

- (i) *For area developed and sponsored by development agencies like Delhi Development Authority, Municipal Corporation of Delhi, Public Works Department or private developers, the electrification shall be carried out by Licensee after charging 50% of cost towards HT feeders, sub-station including civil works, LT feeders and 100% cost towards service line and street lights.*
- (ii) *In case of private development agency, land for sub-station duly approved by the civic body or built up space for sub-station shall be provided to the Licensee by the Developers. In case development is carried out by a Government Agency, the land for sub-station shall be provided through the Government of National Capital Territory of Delhi. The same procedure for acquisition of land and levy of cost shall be applicable in case the grid substation is required for electrification of the area.*
- (iii) *In case the area/colony is electrified by the Licensee, the SLD charges shall be payable by all consumers irrespective of whether it is electrified or unelectrified area. SLD charges, as given in Table-4, shall be leviable.*

Table 4

Service Line cum Development Charge

S.N	Sanctioned Load (KW)	Amount (Rs.)
1.	Upto 5	3000
2.	More than 5 upto 10	7000
3.	More than 10 upto 20	11000
4.	More than 20 upto 50	16000
5.	More than 50 upto 100	31000
6.	More than 100 KW (at 11Kv)	50% of the cost of HT cables/ line / switchgear

From the perusal of the Regulation 30, it is quite clear that the Service line-cum-Development (SLD) charges shall be payable by the consumer, whether it is an electrified or un-electrified area. In the instant case since the load applied for is more than 100 KW, therefore 50% of the cost towards HT cables, line and switchgear has to be paid by the Appellant in addition to 100% cost of LT feeders etc. The perusal of the copy of the estimate alongwith detailed break-up of various costs submitted by the Discom in the instant case are self explanatory and accordingly the amount charged by the Discom from the Appellant is as per applicable Regulations.

In addition to above, it will be worthwhile to peruse the copy of the request letter from the Appellant seeking 200 KW load for new connection dated 04.07.2007, as submitted by the Discom during the course of hearing, written by the Appellant to the Discom before sanctioning and installation of the connection which states as under:

Quote

" Dear Sir,

With regard to your above referred letter, I would like to state that the 200 KW connection that has been applied for, is extremely essential for us, as we have no other source of power to meet our requirements.

We would also like to commit that we will follow the necessary procedures and formalities required for you to process the connection.

We are also attaching herewith a NOC from the Ansal Villas Residents Association for location of a transformer, on common land of the area, outside our premises, to meet the requirements.

Looking forward to the early provision of the connection.

*- Sd -
(RAHUL NATH)"*

Unquote

From the perusal of the above letter, it is quite evident that the Appellant himself admitted to the fact that 200 KW connection applied for by him is extremely essential for him and he has also committed that he will follow the necessary procedures and formalities required to process the connection. The Appellant had also given the NOC from the Ansal Villas Residents Association for location of the transformer on common land of the area outside his premises. Further, on the perusal of the copy of the scheme put forth by the Discom it is quite clear that the total cost of the work regarding transformer and other equipments was Rs.19,56,348/ out of which the Appellant's share was Rs.12,28,896/- and the Discom's share was Rs.7,27,452/-. Since the transformer was installed on cost sharing basis, it was not to be used exclusively for the Appellant, however, the Discom has clearly mentioned that one dedicated LT feeder is exclusively kept for the Appellant.

In view of the above, the contention of the Appellant that he was forced to pay the cost of the transformer etc. and the same was supposed to be used exclusively for him is not tenable.

(c) Taking up the next issue of the Appellant that the scheme of the payment was 50:50, whereby the contribution of the Appellant and Discom should have been equal, but in the present case he was charged a sum of around 65% of the estimated cost instead of 50%, which is wrong and unjustified. In this regards, the Discom has submitted the copy of the provisional demand-note along with cost estimation for providing new load of 200 KW under MLHT (Maximum Load High Tension) category of LT system of supply for reference and records. The perusal of the same reveals that the estimate has been prepared as per the applicable procedure only. There are certain costs related to LT system etc. which have to be borne only by the Appellant whereas rest of the cost like HT Feed and RMU charges are to be shared on 50:50 basis and the cost of the transformer is to be charged on pro-rata basis. The submission of the Discom in this regards is quite right that a 400 KVA transformer can be utilized for only upto 80% of the capacity i.e. 320 KVA and the load of the appellant as converted into KVA comes out to 235 KVA, thereby leaving 85 KVA for the share of the Discom. Accordingly, the cost was shared between the consumer and the Discom on pro-rata basis. The Appellant was thus handed over the demand-note of Rs.12,28,896/-. Further, since the Appellant had deposited the amount of demand-note issued in terms of the scheme therefore this issue raised by the Appellant at this juncture after a gap of 12 years is neither justified nor logical. In addition to above, it is also noted that no complaint was filed and no issue was raised in this regards by the Appellant when he approached the CGRF initially in the year 2015.

In view of above, it is held that the Discom has charged the same in accordance with the relevant procedure and as such the contention of the Appellant in this regards is not sustainable.

(d) As regards the issue of load reduction is concerned, the Appellant has stated that he applied for reduction of load and change of category with the Discom on number of occasions viz; in 2009, 2011 and 2015 but neither his load was reduced nor the category was changed from Non-domestic to Domestic. The Discom on the other hand states that the Appellant only applied for reduction of load in the year 2015 as per the records maintained in their system and the same was carried out from 200 KW to 101 KW instantly. The Appellant however could not produce any

document to prove that he had ever applied for load reduction prior to 2015. It is noteworthy that in the written submissions made by the Discom, a letter dated 02.05.2011 relating to reduction of load was found enclosed by them vide which it came to the light that they had asked the Appellant to submit various documents as listed in that letter in order to process the case of load reduction from 200 KW to 101 KW. From the above, it seems that the Appellant might have applied for reduction of load in the year 2011 but there is no documentary evidence to prove that whether the Appellant submitted those documents to the Discom required for processing of his case for reduction of load.

In view of the above, it is held that the Appellant made only one request for load reduction duly complying with all the required formalities as per the procedure in March, 2015 only and the same was processed by the Discom and his load was accordingly reduced from 200 KW to 101 KW in March, 2015 itself.

(e) Further, as regards the grievance of the Appellant regarding reduction of load and change of category to domestic from non-domestic is concerned, the Regulation 21 of the DERC, Supply Code and Performance Standards Regulations, 2007, needs to be perused which clearly stipulates that the application for load reduction shall be accepted only after one year from original energization for connections upto 100 KW and two years from original energization for connections above 100 KW and load reduction shall be limited to a maximum of 50% of the load at the time of original energization. In view of above, his load could only be reduced from 200 KW to 101 KW, being 50% of the load at the time of original energization of the connection, which was duly carried out by the Discom accordingly. As regards to the sanctioned category, it is observed that as per the rules load sanctioned for farm houses upto 21 KW only are categorized under domestic category and since the load of the Appellant after reduction of load remained more than 21 KW, hence, his category could not be changed to domestic by the Discom, which is as per the instant rules and regulations.

Hence, there is no infirmity on the part of the Discom in non categorizing the connection of the Appellant under domestic category and

therefore the contention of the Appellant in this regards is misconceived and not tenable.

(f) Taking up the next issue of the Appellant regarding some inflated bills received during the months of May, June and September etc., in the year 2014 and his grievance regarding the meter allegedly running fast, it is observed that since his grievances were not redressed by the Discom, he approached the CGRF in the year 2015, for redressal of his grievances. It is also observed that the meter of the Appellant was got tested on 01.04.2011 and 31.03.2014 and the working of meter was found to be O.K. In addition to above, the accuracy of the meter was also got checked on the directions of the then CGRF in the year 2015, by installing a check meter and his meter was found to be working normal. It is also noted that the meter was also got tested on 12.05.2015 and was found to be working normal. In view of the above and after perusing the files & documents filed by the parties, the grievance of the Appellant regarding faulty meter/meter running fast was resolved and his meter on all occasions whenever it was checked was found to be working O.K. and recording accurate readings.

Hence the contention of the Appellant regarding meter being faulty/fast stands resolved. As far as the contention of the Appellant regarding testing of the meter by the third party is concerned, the Appellant had the opportunity to get it tested and it could have been demanded by the Appellant only, which he did not avail at that point of time and hence the issue raised by the Appellant at this stage has no significance.

As far as the issue of variable fixed charges is concerned it is noted that the fixed charges are being levied based on the number of days covered in that particular billing period and may vary accordingly. However, the total fixed charges levied would remain constant in a particular calendar year. In view of the above, the objection raised by the Appellant is not in order.

(g) From the records, it is observed that all the issues regarding meter being fast and pending bills on the part of the Appellant were deliberated and decided by the then CGRF vide its order dated 14.08.2015, but still for

the satisfaction of the Appellant the details of the bill raised in July, 2015 upto the date of actual reading as on 30.06.2015, when the connection of the Appellant was disconnected, has been analyzed again. From the details it is observed that the Appellant has not been paying the current bills since November, 2014 onwards even after the meter was got tested and found to be working normal. The Appellant paid only a sum of Rs.2,50,000/- and Rs.3,30,000/- on 03.02.215 and 15.05.20215 respectively as per the directions of the CGRF. The final bill including arrears etc. was prepared by the Discom in July, 2015, after adjusting the amount paid supra and the interest on security deposit etc., which comes out to be Rs.9,20,38.63 and is in order. The tariff charged by the Discom is also as per the tariff orders issued from time to time and as per the tariff applicable for the non-domestic category under which the said connection of the Appellant was operating. The said bill has been prepared up to the actual reading taken on 30.06.2015 which is 15429.1. Hence, there is no dispute as regards the bill for the amount of Rs.9,20,381.63 is concerned and the same stands settled.

It is pertinent to note here that the Hon'ble High Court in their order dated 17.07.2015 had also directed the Appellant to make the payment of Rs.9,20,381.63 which was in lieu of the actual consumption bill for the month of July, 2015. It will not be out of place to mention here that the counsel for the Appellant had agreed to make the payment of the said amount and handed over a post-dated cheque in this regards which got dishonoured. As regards the bill for the month of July, 2015 for the actual reading upto 30.06.2015, which is 15429.1, for the amount of Rs.9,20,381.63 is concerned there is no dispute as the same has been agreed upon by the Appellant before the Hon'ble High Court and the same is payable by the Appellant as per the directions of the Hon'ble High Court also.

(h) The submission of the Appellant regarding wrong bill raised by the Discom for Rs.20,66,880/- also does not hold ground in view of the fact that the bill of Rs.20,66,880/- raised by the Discom was withdrawn as issued inadvertently and the same has been recorded in the final order passed in W.P.(C) No. 1727/2016 dated 08.02.219 and therefore there is no point in revisiting the issue.

(i) As far as the contention of the Appellant regarding issue of illegal disconnection of the connection on 15.07.2015 is concerned, it is held that the supply to the connection was rightly disconnected by the Discom on account of non-payment of the outstanding dues/amount even after his issues regarding meter running fast had been resolved. It is also observed that the Appellant had not been paying his current bills regularly since November, 2014 onwards. The Appellant also did not comply with the directions passed by the Hon'ble High Court in this regards, wherein he was given an opportunity by the Hon'ble High Court to deposit the said amount of Rs.9,20,381.63, which was also not availed by him and thereafter the Discom finally disconnected the supply to the connection of the Appellant on 29.07.2015. In addition to above, prior to the directions of the Hon'ble High Court, the CGRF in January, 2015 directed the Appellant to make a payment of Rs.6 lakhs so as to avoid disconnection of the electricity supply but even that order of the CGRF was not complied with by the Appellant.

In view of the aforesaid, ample opportunities were given to the Appellant for making the payment of the due amount which he was liable to pay, however, for one reason or the other the Appellant avoided from making the payment and therefore the Discom was well within its rights to disconnect the supply to the connection as per the regulations and the contention of the Appellant regarding illegal disconnection is not sustainable.

(j) The CGRF vide its order dated 26.02.2021 directed the Discom to visit the premises of the Appellant for taking the reading, which they were unable to take earlier on account of the alleged hindrances on the part of the Appellant and issue a revised bill as per the actual reading and all the estimated provisional bills be withdrawn. In addition to above, the security amount lying with the Discom should also be adjusted while issuing the revised bill. It is observed that the Discom has raised the final revised bill accordingly for an amount of Rs.15,72,370/- and the same has been sent to the Appellant on 17.03.2021. The revised bill and the calculation thereof has been placed on records by the Discom. On perusal of the final bill it is observed that starting from the last figure of Rs.9,20,381.63 which stood as arrears upto July, 2015, up to the reading of 15429.1, the following charges have been levied by the Discom:

- i) Energy charges as per final reading of 15685.5
- ii) LPSC on outstanding dues as on July, 2015
- iii) Fixed charges for six months, from the date of final disconnection on 29.07.2015, i.e. for the period 01.08.2015 to 28.01.2016.
- iv) Fixed charges for 28 days from 01.07.2015 to 28.07.2015
- v) Other mandatory surcharges and taxes as applicable.
- vi) In addition to above, a credit has been given to the Appellant against the security deposit of Rs.3,00,000/- lying with the Discom.

After analyzing the final bill as aforesaid, it is observed that the same has been raised as per the law and the applicable tariff order and is therefore liable to be paid by the Appellant. The revised bill read with computation is self-explanatory to this fact and clarifies the entire contention and submissions made by the Appellant on the issue of provisional billing etc. Since all the provisional bills have been withdrawn by the Discom while issuing the final bill, therefore there remains no issue with the so called excel sheet submitted earlier in view of the fact that the bill has been revised as per the actual reading at present.

In view of the above, the Appellant is liable to pay the final revised bill after adjusting Rs. 1Lakh already paid by him in terms of the direction of the Hon'ble High Court issued vide order dated 31.05.2021. The Discom shall also revise the security deposit of the Appellant as per the reduced load from 200 KW to 101 KW in accordance with the relevant regulations and tariff order and credit/debit the difference in security deposit as the case may be in future bills.

(k) The Appellant has prayed in his written submission that he wants a new domestic connection of 21 KW at his premises. During the course of hearing the Discom submitted that they shall consider the request of the Appellant as and when the application for new connection of 21 KW is made in accordance with the law and the DERC Regulations. Accordingly, the Appellant is directed to apply for the same as and when he requires the new connection, which will be dealt by the Discom as per the regulations.


(l) The contention of the Appellant raised during the course of the hearing that the Discom is bound to disclose the names of the consumers who are being supplied from the said transformer is frivolous and vexatious in nature, since the Discom can utilize its share of load from the transformer towards power supply in the manner it wants. By utilizing its share by the Discom, they will have to ensure that the Appellant is not deprived of his share of load due to overdrawing by the Discom in any case. However, the Appellant at no point of time has pointed out that he has experienced any difficulty in drawing power for his load share of 200 KW and therefore the contention of the Appellant is superfluous, misconceived and without any basis, hence not tenable.

(m) As regards the issue of compensation raised by the Appellant for being illegally kept bereft of electricity since July, 2015, is concerned, it is observed that the Appellant did not deposit the amount due to him for all these years, which would have made him eligible for restoration of his connection, despite being given so many opportunities to deposit the same. Ample opportunities and directions were given to the Appellant for making the payment of the due amount which he was liable to pay, however, for one reason or the other the Appellant avoided from making the payment and hence unnecessarily dragged the matter for so long. Hence the request of the appellant is not worth consideration and has no case on merit and is therefore rejected.

11. In view of the above background, the Appellant is directed to make the payment as per the revised bill raised by the Discom in accordance with the direction of the CGRF, after adjusting the payment of Rs.1,00,000/- (Rs. One Lakh) already paid by him in terms of the direction of the Hon'ble High Court issued vide order dated 31.05.2021. Since the entire security deposit of Rs. 3 Lakhs have been credited in the final revised bill, therefore, the Discom shall be liable to claim the security deposit from the Appellant as per the reduced load of 101 KW, as per applicable rates under the regulations in the future bills. In addition to above, since the connection of the Appellant has been restored he is directed to pay the current bills regularly. The Appellant can apply for a fresh domestic connection of 21 KW, if he so wishes, and the Discom will process the case for new connection after the completion of all commercial formalities by the Appellant, as per the regulations.

In view of the facts and circumstances viz-z-viz the scrutiny of the available documents and against the background of above/aforesaid analysis, it is prudently decided that there is no need to interfere with the verdict of the CGRF.

With the above order and direction, the case is disposed of on merit.


(S.C.Vashishta)
Electricity Ombudsman
30.06.2021