

O/C
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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/2006/137

Appeal against Order dated 29.09.2006 passed by CGRF – BRPL on Case No.:
CG/255/2006

In the matter of:

Smt. Sundri H. Navani

- Appellant

Versus

M/s BSES Rajdhani Power Ltd

- Respondent

Present:-

Appellant

Shri Mahesh Navani (nephew of the appellant)

Respondent

Shri Sita Ram, Manager (Enforcement)
Col. Rakesh Tandon (Retd.) on behalf of BRPL

Date of Hearing: 09.02.2007

Date of Order : 27.02.2007

ORDER NO. OMBUDSMAN/2007/137

This appeal is filed by Smt. Sundri H Navani, resident of C-47, Mayfair Gardens, Hauz Khas, New Delhi – 110016 against the order of CGRF dated 29.9.2006. Record shows that the appellant is a retired senior public servant aged 73 years and paralytic for the last three years. The other family members living in the same premises are her unmarried elder brother, an unmarried sister and one married brother with his three children. It is stated that after shifting from Government accommodation at Shahjahan Road they moved into the present premises at Mayfair Garden in 1975. There were three electricity meters in the said premises with 2 KW, 2 KW and 9 KW load which were later increased to 11 KW, 11 KW and 9 KW by paying the necessary fees to DESU.

In October 2003, it appears that all the three phase meters were changed by the Licensee, and the meter change report indicated no fault in the said meters. Regular bills were received by her and these were duly paid by her. After three

years i.e on 5th June 2006 at 12.15 pm, an Enforcement team carried out an inspection for more than one hour causing great inconvenience to her elder brother Shri Vasu Ramani aged 75 years who had been operated upon for a major surgery only a few days back. **The complaint of the appellant is that the inspection was carried out in a most high handed manner. Power was switched off by them for more than one hour at the peak of summer. Photographs were taken of different equipments in the bed room by the enforcement team and all the members of the family were treated very rudely. There was no able adult member present at the time of search/ nor was a witness present during the entire action as is required under law. No prior intimation was given to her before entering her premises.**

During the course of Personal Hearing before the Enforcement officer, Shri Mahesh Navani, the appellant 's' nephew presented his case stating that it was not their fault that the meter was found slow from the date of installation. The Inspecting team gave a clean chit stating that the meter is not tampered, glass is not broken, seal is not broken, but meter is running slow because Y phase is not showing consumption since the date of installation. Despite the above observation of the Inspecting team, "the case had been finalized and an order had already been passed before the date of personal hearing to collect the unbilled charges of Rs.1,12,069/- payable in two installments. No details of the calculation of this amount Rs.1,12,069/- payable was given." According to the speaking order the meter is not showing Y phase consumption from the date of installation. From the above conclusion of the Inspecting team this appears to be a case of a manufacturing defect in the meter installed by the Licensee because the inspection team stated that meter was slow from the date of installation.

The grievance of the appellant is that the Speaking Order passed by the enforcement team is for "Dishonest Abstraction of Electricity ".It is this description which has pained and hurt the sentiments of the honest/aged appellant. **She has questioned the Licensee for labeling her with Dishonest Abstraction of Electricity when the meter has been installed by the Discom and has been found slow since its installation.** The seals and the glass of the meter was not found broken/tempered and no material evidence was found to brand her as dishonest for no fault of hers. If there was a manufacturing defect in the meter or defect in the installation, it is not the consumer's fault who is a lay man and most of the family members are respectable senior citizens.

The appellant informed the CEO of the licensee company about the above facts vide her letter date 01.07.06.

She also filed a complaint with the CGRF who after giving a personal hearing passed the order dated 29.9.2006 directing the appellant to make the payment of Rs.1,12,069/- being the assessment bill raised by the Discom for a period of two years on account of slowness of meter to the extent of 47.29%.

The Member (Legal) of the CGRF passed a dissenting order observing that the staff at the time of installation of meter in October 2003 should have been careful while installing the meter and they should have checked the functioning of the meter so as to prevent any defect/deficiency in installation of the meter. The consumer could not be blamed for the defect in the meter. The Legal Member noted that consumer has not disputed the accuracy of the test and that the consumer will pay the difference due to the defect in the meter at normal rate, based on percentage error for a period of not more than six months prior to the date of test.

Finding support in the dissenting opinion of the Legal Member and not agreeing with the majority order of the CGRF, the appellant filed this appeal before the Ombudsman.

After scrutiny of the contents of the case and submissions made by both the parties the case was fixed for hearing on 9.2.2007.

Shri Mahesh Navani the appellant's nephew attended on her behalf .Shri Sita Ram, Manager Enforcement attended along with Colonel Rakesh Tandon (Retd.) on behalf of the Respondent Company.

The appellant complained that the elders in the family were put to a lot of inconvenience and hardship because of the insensitive behavior of the enforcement team which carried out the inspection at peak of summer in the afternoon for over an hour and that too without a witness and without prior intimation as is required under law. It was submitted that the inspecting team did not even wait for an able adult male member to be present when the inspection could have been carried out. Apart from the ill and aged senior citizens there was only a cook and a maid in the house when the inspection was carried out. The appellant submitted that due consideration should be given to the opinion of the dissenting Legal Member of the CGRF.

Colonel Rakesh Tandon tendered an apology for the discourteous and rude behavior of the inspecting team, on behalf of the Respondent Company. The case was discussed .Regulation 19 (i) © of the DERC Regulations provides that

“When the meter is found to be slow beyond permissible limits, as specified in Rule 57 (1) of the Electricity Rules and the consumer does not dispute the accuracy of the test, the licensee/consumer, as the case may be shall replace/rectify the defective meter within 30 days of testing. The consumer shall pay the difference due to the defect in the meter at normal rates, based on percentage error for a period of not more than 6 months prior to date of test with due regard being paid to conditions of working, occupancy etc. of the premises

during this period and upto the date on which defective meter is replaced/rectified”.

In accordance with the above regulation, **the appellant is liable to pay an amount calculated for a period of six months before 5th June 06 i.e. the date of test,** normal rates based on percentage error in the recording of the consumption by the meter. The Discom is directed to revise the bill for the period from 5th December 05 to 4th June 06 and upto the date on which the defective meter is replaced / rectified. The assessment bill of Rs.1,12,069/- is quashed. **The bill raised on the above lines will be paid by the appellant. No LPSC will be charged. The faulty meter is directed to be changed if not already changed.**

The Enforcement officers/officials of the Licensee Company are directed to be more sensitive and cordial in carrying out the inspections specially when there are only senior citizens/ailing persons in the premises.

Even the Speaking order passed by the Enforcement officer should have been appropriately worded. The words “Dishonest Abstraction of Electricity” are totally uncalled for in this case. Such a description on the order should be used only where the dishonesty is established and not otherwise.

There is deficiency of service of the licensee company in not checking the meter at the time of installation. This failure on the part of the Licensee Company has led to avoidable harassment and hardship to innocent and respectable senior citizens in this case.

It is also placed on record that the Enforcement team has carried out the Inspection without following any rules/legal provision. Section 163 of the Electricity Act, 2003 requires the Licensee to enter the premises of a consumer only after informing the latter. In the case under consideration, the Enforcement team violated the above provision. Suitable action needs to be taken against the erring officials by the CEO.

The majority order of the CGRF is set aside and the Dissenting order is upheld.

The Discom is directed to intimate the implementation of this order.

23/12/11 2821
(Asha Mehra)
Ombudsman