

**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-cum-Fax No.: 011-41009285)

**Appeal No. 15/2021**

(Against the CGRF-BYPL's order dated 05.03.2021 in Complaint No. 13/2021)

**IN THE MATTER OF**

**Shri Puneet Bindal**

**Vs.**

**BSES Yamuna Power Limited**

**Present:**

Appellant: Shri Puneet Bindal along with Shri Gaurav Bindal,  
Authorized Representative

Respondent No. 1: Shri K. Jagatheesh, Sr. Manager, Ms. Shweta Bist, Sr.  
Manager, Shri Imran Siddiqi, Manager (Legal) and Ms. Ritu  
Gupta, Advocate, on behalf of BYPL

Respondent No. 2: Ms. Neeraj Gupta and Shri Pawan Gupta, Advocates  
on behalf of Smt. Anita Devi


Date of Hearing: 09.09.2021

Date of Order: 22.09.2021

**ORDER**

1. The appeal No. 15/2021 has been filed by Shri Puneet Bindal, against the order of the Forum (CGRF-BYPL) dated 05.03.2021 passed in Complaint No. 13/2021. The issue concerned in the Appellant's grievance is regarding the non-release of new electricity connection by the Discom (Respondent) at his first floor portion of 4725-27, Gali No.47, Raigar Pura, Delhi - 110005.

2. The Appellant submitted that he is physically handicapped person (PWD) and had applied for the release of new connection for the portion, of which he is the sole owner and possession holder. He had also supplied the copy of the



Registered Sale Deed to the Discom alongwith the application for new connection as a proof of ownership, but his application was rejected by the Discom on the basis of false, fabricated and manufactured deficiencies. The main objection raised by the Discom for rejecting his application as mentioned by them was that a commercial meter is already running in the said portion against CA No. 100561690 and further no separate dwelling unit exists at site. He filed a complaint against this harassment at the hands of the Discom in the State Commission. In addition to above, he also filed a corruption complaint against the Discom which has still not been resolved. Finally, after exhausting these remedies and aggrieved by the conduct of the Discom, he approached the CGRF on 02.07.2020. He further submitted that since the CGRF did not take any cognizance of his complaint, he mentioned about the unlawful conduct of the CGRF to the PWD (Persons with Disabilities) State Commission and prayed to get the connection provided/released. Further on the same illegal and unethical conduct of the CGRF, he also complained about the same to Bijli PGR (Public Grievance Redressal) on 01.10.2020.

The Appellant further submitted that the Discom took a plea that the portion where the connection is to be installed is in a very dilapidated condition and the non-domestic connection installed there has been disconnected on account of pending dues of Rs.90,175/- and therefore, he needs to deposit the same before any further action is taken by them. In view of the above, the CGRF ordered for a joint inspection of the same in order to bring out the clear picture. The joint inspection was carried out on 09.02.2021 and as per the 'joint inspection report' it was observed that maintenance is required as the same is in a very dilapidated condition and also there exists no separate unit, which is essential for providing the new electricity connection. The Discom also raised an issue during the hearing in the CGRF regarding some property dispute for the portion where the electricity connection is to be installed. The allegation of alleged dispute regarding the property was however denied by the Appellant.

3. In the mean while the Appellant was intimated by the PWD State Commission to join the hearing on his PWD complaint before them but he could not join the hearing on his complaint on account of health issues. However, on the next date of hearing in PWD, they specifically ordered that as the matter is already pending before the CGRF, they will await the final outcome of the same and the copy of the order be submitted by the parties and after that if necessary this Court will take a call subsequently. The case was taken up by the CGRF wherein the Discom submitted that the matter is pending before Hon'ble State

Commission and was filed in the month of June, 2020, which was registered in July, 2020 having Case No.1871/1141/2020/07/2977-78 dated 17.02.2021 and the matter of new connection is being looked into by the Commission and also the Appellant cannot pursue the same matter in two Forums simultaneously. The Appellant at the time of filing the complaint in the CGRF gave an undertaking that no such case is pending before any Court. The Discom further submitted that it is a well settled principal of law - that if the matter is pending in two courts between the same parties and has same cause of action, then the complaint filed by the Appellant later on/second one cannot be entertained by later court and it should be attached with the previous one.

The Discom during the hearing in the CGRF also submitted the copy of the order of the State Commission dated 17.02.2021, and the same is reproduced below:

“Representative of the Respondent showed some photographs in the mobile phone showing that the building in which the complainant has sought the electricity connection is not conducive to grant the same as it is in a dilapidated condition. It is an old building, broken, unfinished and unsafe for permanent electricity connection. It was further submitted that a connection already existed at the site and the complainant has already filed a complaint in Consumer Grievance Redressal Forum, (CGRF).”

In view of the same the CGRF decided that they have a limitation to entertain the complaint as defined in Regulation 13(1) of DERC, Forum, for Redressal of Grievances of the Consumers and Ombudsman, Regulation, 2018, and the same is reproduced below:

“13. Limitation of Jurisdiction of the Forum

- (1) The Forum shall not entertain a grievance if it pertains to the same subject matter for which any proceedings before any court, authority or any other Forum is pending or a decree, award or a final order has already been passed by any competent court, authority of forum”

In view of above, the CGRF concluded that they are of the considered opinion that this Forum has no jurisdiction to entertain the present complaint, as the case of same parties for the same cause of action is lying pending before the

State Commission and hence subjudice. Therefore, as per the above referred CGRF Regulations, 2018, the case is rejected.

The Appellant being not satisfied with the order of the CGRF has preferred this appeal with the prayer to set-aside the order of the CGRF and taking all the facts into account direct the Discom to release the electricity connection.

4. It is pertinent to mention here that a letter dated 16.06.2021 was received from Smt. Neeraj Gupta, D/o Late Shri Ram Chander Aggarwal, Resident of 4725-27, Raigar Pura, Karol Bagh, New Delhi - 110005, through her advocate Shri Pawan Kumar Gupta, Chamber No. 114, Tis Hazari Courts, Delhi, regarding the issue of case titled Puneet Bindal V/s BSES listed on 25.06.2021. Vide the above letter Smt. Neeraj Gupta submitted that she is daughter of Smt. Anita Devi W/o Late Ramchander Aggarwal, R/o 4725-27, Raigar Pura, Karol Bagh, New Delhi - 110005 and Smt. Anita Devi is the absolute and lawful owner of the said property and she has in possession all the documents in her favour of the said property. Further, Shri Puneet Bindal is the son of the brother-in-law of Smt. Anita Devi and he is not the owner in any manner of the property bearing No. 4725-27, Raigar Pura, Karol Bagh, New Delhi - 110005. Her mother Smt. Anita Devi has already filed a suit for the possession and eviction of the said property on Shri Kishan Bindal, who is the father of Shri Puneet Bindal, which is pending in the Court of Shri Rajinder Singh, ADJ (Central), Tis Hazari Courts, Delhi, having Case No. 273/2021 which was fixed for 18.06.2021, and in this case the notice was issued to them and they have sought time to file their reply. In view of the same, it is prayed that her mother, Smt. Anita Devi, be also made a party in the present case or even otherwise the prayer of Shri Puneet Bindal before this Forum/Court may kindly be dismissed in the interest of justice.

The above letter was taken on record and the copy of the same was forwarded to the Appellant as well as the Discom. As the subject matter of this letter pertained to the case under process therefore accordingly Mrs. Neeraj Gupta was also impleaded as a party in the matter as Respondent No.-2.

5. The Discom in its reply submitted that since the matter is pending before Hon'ble State Commission and filed in the month of June, 2020, which was registered in July, 2020, having case No. 1871/1141/2020/07/2977-78 dated 17.02.2021 and the matter of new connection is being looked into by the Commission and hence the Appellant cannot pursue the same matter in two Forums simultaneously. The Appellant at the time of filing the complaint in this

Forum gave an undertaking that no such case is pending before any Court. Therefore, in view of Regulation 13(1) of DERC, Forum for Redressal of Grievances of the Consumers and Ombudsman, Regulations, 2018, this Court has no jurisdiction to entertain the present appeal as the same parties having same cause of action is subjudice before the State Commission, as per above referred Regulation, 2018.

Further, admittedly as per the Appellant himself, the case before Hon'ble State Commission for Person with Disability is still pending. As such admittedly as the matter is already pending for judicial adjudication wherein the relief for fresh electricity connection for the first floor of property bearing No. 4725-4727, Gali No. 47, Raigar Pura, New Delhi - 110005 is also sought, as such there is no discrepancy in the order passed by the CGRF and as such the present appeal is not maintainable. Without prejudice to the above, it is submitted that the present appeal is also not maintainable as the Appellant has approached the Ombudsman with unclean hands and by concealing material facts. As apparent from the appeal itself the Appellant has indulged in judicial adventurism and as such the present appeal is not maintainable. As per the Appellant himself, for the grant of fresh electricity connection on the first floor of property in issue, since he has already approached the Hon'ble State Commission (PWD), Public Grievance Cell - Bijli Adalat and CGRF, hence the present appeal is not maintainable.

The Discom further submitted that the Appellant has deliberately concealed the fact that there is a family dispute between the occupants of property in issue. The different portions of the property in issue are apparently in occupation of members of the same family through Smt. Shanti Devi. Further, Smt. Shanti Devi had two sons namely Shri Ram Chander Aggarwal and Shri Kishan Bindal. Shri Ram Chander Aggarwal expired and as such his legal heirs and the Appellant who is son of Shri Kishan Bindal are fighting among themselves over the issue of ownership right in property in issue.

6. The Discom reiterated that in view of above, it is quite evident that the Appellant is not the owner of the entire property and there is a property dispute between the parties which is pending adjudication. The Discom further stated that as on date the first floor of the premises is also not habitable and is incomplete with old wiring and broken windows and as such require extensive repairs. In addition to above, the bathroom is also not constructed and there is no plastering on the walls and so on. In view of the relevant provision of DERC, Regulation, 2017, regarding safety of electrical installations and wiring in the premises of the



consumers, the said premises cannot be granted fresh electricity connection till it is made habitable and safe for grant of new electricity connection. It is important to mention here that in spite of orders of Hon'ble State Commission (PWD), the Appellant has failed to give the completion certificate nor has he carried out any repairs so as to make the first floor habitable and as such safe for electrification. Hence, in view of above, the plea of the Appellant needs to be set-aside


7 After hearing all the parties at length and considering the material on record, it is pertinent to mention here that it is basically a matter of property dispute between the Appellant and Smt. Anita Devi, wherein the later has already filed a suit in Tis Hazari Courts for the portion of the property where the connection is required to be installed. In the instant case, it is observed that the matter is also pending before the Hon'ble State Commission (PWD). The Appellant during the hearing conveyed that the appeal before the State Commission has been withdrawn, but during the hearing the Discom submitted a copy of the letter dated 12.07.2021 from the Hon'ble State Commission for Persons with Disabilities addressed to the Discom (BSES-BYPL) vide which the Discom was directed to examine the matter and take appropriate action as per the extent rules. The Discom was also directed to submit the action taken report to the Commission within 30 days. In view of above said letter dated 12.07.2021 from the Hon'ble State Commission (PWD), it is quite evident that the case is still pending in the said court.

In addition to above admittedly, the Appellant has also filed a complaint against the harassment at the hands of the Discom in the State Commission, Public Grievance Cell (Biji Adalat) and further has also filed a corruption complaint against the Discom which has also still not been resolved. In this regards, it is important to mention here that it is a well settled principal of law that if the matter is pending in two courts between the same parties and has the same cause of action, then the complaint filed by the complainant later, cannot be entertained by the later court/forum.

In the above background, it is held that this court has no jurisdiction to entertain the present appeal as the matter is subjudice before the Hon'ble State Commission for the same subject matter. The same is also in accordance with the Regulation 13 (i) viz; "Limitation of Jurisdiction of the Forum" of DERC Forum of Redressal of Grievances of the Consumers and Ombudsman, Regulation, 2018, which clearly stipulates that the Forum shall not entertain a grievance if it pertains to the same subject matter for which any proceedings before any court,

authority or any other forum are pending. In addition to above, the Regulation 29(3)(v) of DERC, Forum of Redressal of Grievances of the Consumers & Ombudsman, Regulations, 2018, also stipulates that the Ombudsman shall not entertain the representation where the representation by the complainant, in respect of the same grievance, is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority. Hence, in view of aforesaid facts and circumstances of the case, it is concluded that since the case is already subjudice in the Hon'ble State Commission (PWD), in view of the letter dated 12.07.2021 submitted by the Discom during the hearing, it is prudent not to entertain the appeal of the Appellant in accordance with the Regulation 13(1) and 29 (3) (v) of DERC, Regulations, 2018.

In view of above, it is decided that there is no need to interfere with the verdict of the CGRF. The appeal is disposed of accordingly.

  
(S.C.Vashishta)  
Electricity Ombudsman  
22.09.2021