

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. 19/2020

(Against the CGRF-BYPL's order dated 16.10.2020 in Complaint No. 15/2020)

IN THE MATTER OF

SMT. NITA RANI

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Smt. Nita Rani along with her husband Shri Bhagavati Prasad

Respondent: Shri K. Jagatheesh, Sr. Manager, Shri Imran Siddiqi,
Manager (Legal) and Ms. Ritu Gupta, Advocate, on behalf
of BYPL

Date of Hearing: 01.02.2021

Date of Order: 22.02.2021

ORDER

1. The appeal No. 19/2020 has been filed by Smt. Nita Rani, through her authorized representative, against the order of the Forum (CGRF-BYPL) dated 16.10.2020 passed in Complaint No. 15/2020. The issue concerned in the Appellant's grievance is regarding non-release of new electricity connection by the Discom (Respondent) in respect of her property bearing No. A-499, 4th Floor, Gharoli Dairy Colony, Mayur Vihar, Phase -3, Delhi - 110096, mainly on account of the fact that the height of the building is more than 15 meters.

2. In the instant appeal, the Appellant has stated that she had purchased the flat in July, 2015 to live with her family but as the Discom did not release the electricity connection applied by her since the year 2015 onwards, on one pretext



or the other, she had been forced to live on rent. In the first instance, during the year 2015 the Discom rejected her application for new electricity connection as allegedly there were pending dues on the second portion of the building and later on when she applied for new connection latest in the year 2020, the application was rejected on the pretext of building height more than 15 meters. She further submitted that she has been applying for new electricity connection during all the previous years viz; 2015, 2016, 2017, 2018, 2019 and further upto 2020 but her applications were rejected on every occasion by the Discom. In order to substantiate the same she also submitted the copy of one of her application for the new electricity connection dated 07.03.2018 which was rejected by the Discom on the basis of pending dues amounting to Rs.2,71,319/- and ELCB (Earth Leakage Circuit Board) required to be installed as per DERC guidelines. Her latest application dated 01.01.2020 vide Request No. 8004287067 was also rejected on the basis of ELCB not installed and 'Fire Clearance Certificate' required from the Fire Department, since the height of the building is more than 15 meters. She categorically denied that any dues were pending on the portion of the building for which she had applied for the new electricity connection. The Appellant alleged that she has been misguided by the Discom during all these years that electricity connection could not be released because of pending dues, whereas in reality it was not the case.

She also approached the officials and officers of the Discom several times but as the electricity connection was not released by them, she filed a complaint with the CGRF-BYPL for redressal of her grievances. The Appellant further submitted that after hearing the arguments, the CGRF dismissed her complaint for release of the new electricity connection on account of the latest regulations pertaining to the height of building, although they ordered for an award of compensation and penalty on account of wrong/defective demand raised by the Discom and mental agony and physical harassment she had undergone through all these years. Being aggrieved by the rejection of her complaint by the CGRF, the Appellant has preferred the present appeal on the grounds that the CGRF has failed to consider that she has been paying the house loan in the form of EMIs and side by side she has been paying the rent for all these years, since she could not live in the said flat due to non-release of the electricity connection by the Discom. She further submitted that she is not interested in getting the compensation or the penalty but she only wants the release of the electricity connection in the flat as the regulation of height of more than 15 meters did not exist in the year 2015 when she initially applied for the new electricity connection. The regulation regarding



height came into existence later on only in the year 2017, and if she would have been given the connection in 2015 only, then she would not have been forced to undergo so much hardship for all these years. Secondly, the value of her flat is zero without the electricity connection. Since she had been denied the new electricity connection during the years 2015, 2016, etc. for no fault on her part, therefore, she finally prayed to direct the Discom to release the electricity connection at the earliest.

3. The Discom in its reply submitted that the Appellant filed the aforesaid complaint before the CGRF for the grant of new electricity connection in respect of 4th Floor of the property bearing No. A-499, Gharoli Dairy Colony, Mayur Vihar, Phase - 3, Delhi - 110096. That the said matter was finally decided and disposed of by the CGRF on 16.10.2020, whereby it was held that in view of the DERC Regulations, 2017, new connection cannot be granted to the Appellant yet the CGRF awarded a compensation in her favour on the premise that she has been asking for the fresh electricity connection since the year 2015, but on account of the wrongful act on the part of Discom with respect to the demand of wrong electricity dues as outstanding, when in reality no dues were pending leading to non grant of electricity connection, she suffered and as such she is entitled to the compensation. It was further submitted by the Discom that issuing of the deficiency letters wherein outstanding electricity dues were mentioned does not amount to any harassment as the same were issued as per the then existing situation. The Discom admitted that perhaps there was mistake on their part which in all likelihood was on account of two properties with the same address. As and when the Appellant followed the matter actively with the Discom in the year 2020, the said mistake was rectified as the Appellant explained that the property in issue is divided into two portions of 30 Sq. Yards each. The fact of the matter is that the Appellant never objected to the rejection letters issue in the year 2015, 2016 and 2017 and in the original complaint filed before the CGRF she only referred to the rejection letter issued during the year 2018 under the column pertaining to details of the earlier complaint. Thus, by necessary implication the Appellant accepted the rejection letters issued by the Discom in the year 2015, 2016 and 2017. In any case, the rejection letters issued prior to 2018 are time barred and could not have been taken into consideration by the CGRF.

The Discom further submitted that as far as the matter of outstanding dues is concerned, the Appellant for the first time in the year 2020 represented that premises bearing No. A-499, is divided into two portions of 30 Sq. Yds. each,



therefore, on site verification it was found that at the addresses bearing No. A-499, electricity dues were outstanding on account of theft of electricity which took place in the year 2013 and 2014. It further transpired that one of the said theft bill was settled before the Lok Adalat and in respect of the other bill partial payment was made somewhere in the year 2018, thus admittedly in the year 2018 the theft dues were outstanding but on account of the settlement and perhaps on account of partial payment the said dues were not claimed later as the Appellant was able to show that the premises bearing No. A-499 was divided into two portions and her portion was the one wherein no theft was committed. In any case, the same being the matter of verification could have come into the knowledge of the Discom only in case the Appellant pursued the matter as she did in the year 2020. Thus, there may be mistake on the part of the Discom but the Appellant was equally to be blamed for the same as she never pursued the matter or raised objections regarding the rejection of electricity connection on account of outstanding dues. Thus, it is not a case that there were no outstanding dues issue against the premises since the year 2015 as is now claimed by the Appellant but is a case that as of now there are no electricity dues pending against the portion of premises wherein fresh electricity connection is sought by the Appellant. The Discom accordingly on re-verification gave up its claim of the outstanding dues which came to its knowledge for the first time while the matter was pending before the CGRF. As such, the Discom is not liable to pay any compensation more so as the CGRF had no jurisdiction to grant the compensation.

4. The Discom further submitted that the CGRF disposed of the complaint with inter alia the following directions/observations:

".....That the Forum grants compensation as per Schedule I, Rule 1, for not releasing the connection to the complainant and for the mental and physical harassment caused to the complainant, thereby depriving her right to life and personal liberty and enjoying her own property due to the negligence of the Respondent amounting to Rs.56,040/- (since 18.03.2018 till 07.10.2020) and Rs. 1,00,000/- for wrong/defective demand (bills) given to her by the Respondent".

It was also submitted by the Discom that the aforesaid direction is in violation of the DERC (Supply Code and Performance Standards) Regulations, 2017, and amounts to over reaching the same which is beyond the jurisdiction of the CGRF.



In this regards, the Discom also submitted that admittedly the present case is a case where no demand note has been raised and as such no payment against demand note has been made. Thus, the provisions of Schedule I, Rule 1, of the Supply Code, 2017, are not applicable as the same are applicable only in case the Discom issues a demand note and consumer/prospective consumer makes payment against the said demand note. As such, the grant of compensation under Schedule I, Rule 1, is per se illegal and beyond the jurisdiction of the CGRF. Since, besides the compensation as specified under the Supply Code, 2017, the CGRF cannot grant any other compensation such as compensation for mental agony and harassment is also per se illegal and beyond the jurisdiction. The Discom further clarified that there has been no harassment of the Appellant on part of the Discom and as such no case of compensation is made out.

The Discom also reiterated that it is important to mention here that in respect of the building wherein the electricity connection cannot be granted on the issue of height, an order has been passed by the Public Grievances Cell (PGC), which was duly brought to the notice of the CGRF and it was offered by the Discom that they can grant the temporary electricity connection to the Appellant in case the Appellant applied for the same. It seems the Appellant is not interested in getting the temporary electricity connection. Thus, from the averment made herein above, it is clear that non electrification of the flat in issue is solely on account of the delay and latches on the part of the Appellant for which the Discom cannot be blamed. In any case, when admittedly on account of height issue the electricity connection cannot be granted, then the Discom cannot be held responsible for non grant of fresh electricity connection. It is important to mention here that in the building in issue the Discom had already granted three electricity connections which were granted during the period from 2006 to 2012. In view of the submissions made herein above, it is apparent that the Discom has shown its bonafide by offering to grant temporary connection to the Appellant, provided that she applied for the same till the issue of height was resolved. It is important to mention here that the Discom has already initiated action as directed by the PGC, and is in process of issuing letters to the concerned authorities.

The Discom further submitted that the allegation of the Appellant that she is unable to use the property for want of electricity connection, is unwarranted and in any case with due respect the Discom cannot be blamed for the same, as the Appellant chose to purchase the property without electricity connection and without any proper due diligence on this aspect at the time of the purchase and



also thereafter slept over the matter by not following the same diligently with the concerned authorities. Thus, it is prayed that the appeal be rejected and the order dated 16.10.2020 passed by the CGRF be modified by deleting the portion pertaining to compensation to the Appellant.

5. After going through the material on record and hearing the arguments of both the parties at length, the basic issue which emerges is that the Discom refused to release the new electricity connection for long five years on account of demand of wrongful electricity dues outstanding against the Appellant, whereas in reality no dues were pending against her and she had to suffer financially as well as on account of mental agony. It is observed from the records that the Appellant applied for new electricity connection every year since 2015 onwards till 2020. The Discom rejected the application till the year 2017 on the pretext of pending enforcement bills and regular energy dues, whereas in 2018, the application was rejected on account of both the pending dues and the height of building more than 15 meters. It is also observed that the Appellant pursued regularly during all these years, since the time she purchased the property in 2015, but the Discom did not take the matter seriously and rejected the applications for long five years casually on one pretext or the other without going into the details of the case. The Discom came into action only after the matter was taken up by the Appellant in the CGRF. The pending dues were removed and dropped by the Discom only after the matter was heard in the CGRF which clearly shows that the dues were wrongly mentioned by the Discom in the rejection letters against the applications for new electricity connection during the last five years.

In view of above, it quite evident that there is no fault on the part of the Appellant because she regularly applied for the new electricity connection since August, 2015 till the year 2020. The Appellant was deprived of the essential requirement of the electricity for all these years and she had to live in a rented apartment causing her a huge financial loss. Had the Discom gone into the details of the matter of the pending dues against the building in the year 2015 itself, the problem of non-release of the electricity connection due to height of the building more than 15 meters would not have cropped up in 2020 since the regulation of height more than 15 meters did not exist at that point of time. During the hearing on 01.02.2021, the Discom however sought some time in order to resolve the issue amicably to the satisfaction of the Appellant. The Discom was accordingly granted one weeks time to look into the matter and revert back.



Subsequently, the Appellant filed a letter of withdrawal dated 08.02.2021 duly notarized on 16.02.2021 vide which the Appellant stated that she has amicably settled the matter with the Discom and as such she wants to withdraw the present appeal. She further stated that she has settled all her disputes with the Discom of her own free will without any duress, coercion and force from anybody and as such she does not want to pursue the appeal. The withdrawal letter as above has been taken on record and keeping in view the request of the Appellant, the appeal filed by Smt. Nita Rani is ordered to be dismissed as withdrawn.


(S.C.Vashishta)
Electricity Ombudsman
22.02.2021