

**OFFICE OF 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**

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**Appeal No. 19/2024**

(Against the CGRF-BYPL's Order dated 07.06.2024 in CG No. 70/2024)

**IN THE MATTER OF**

**Shri Sher Singh**

**Vs.**

**BSES Yamuna Power Limited**

Present:

Appellant: Shri Sher Singh, the Appellant along with his son Shri Jarnal Singh

Respondent: Shri S.P. Anand, Commercial Officer, Ms. Chhavi Rani, Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 11.09.2024

Date of Order: 12.09.2024

**ORDER**

1. Appeal No. 19/2024 dated 05.07.2024 has been filed by Shri Sher Singh, R/o S-36/A, South Anarkali, Krishan Nagar, Delhi - 110051, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 07.06.2024 in Complaint No. 70/2024.

2. The background of the case is that the Appellant had purchased one L-shape shop from Ms. Parveen Khurana in November 2011, at E-86, Ground Floor, South Anarkali, Krishna Nagar, Delhi-110051, in which an electricity connection bearing CA No. 150271101 already stood installed in her name. The Appellant claims that since November, 2011 he has been regularly paying the various electricity bills, but in the month of October, 2023, an outstanding dues of Rs.29,135/- pertaining to one other disconnected connection was transferred to his live electricity connection bearing CA No. 150271101.



The Appellant's plea before the Forum was that there is one another shop on the ground floor, which was purchased by Ms. Seema Tandon on 29.03.2012. An electricity connection (CA NO. 100834792) was also installed in the name of Ms. Reshma in 1999 at the premises and later disconnected on 17.11.2014. Ms. Seema Tandon got the new electricity connection bearing CA No. 150523644 on 01.09.2012 without obtaining 'NOC' from the Discom. These outstanding dues pertain to that disconnected connection (CA NO. 100834792), hence, these dues have nothing to do with his electricity connection. In support of his contention, the Appellant submitted all the relevant documents before the Forum.

3. However, the stand of the Discom before the Forum was that they have submitted the details and status of electricity connections installed in the subject premises and stated that the outstanding dues of Rs.58,271/- pertain to the disconnected electricity connection (CA No. 100834792) which was installed at the same premises, i.e., E-86, Ground Floor, South Anarkali, Delhi, and, therefore, outstanding dues were transferred to both the live connections.

The Discom further stated before the Forum that during the site inspection carried out on 22.09.2023, it was found that the meters of the live connections were installed at the same premises. Consequently, show-cause notice dated 22.09.2023 was issued to both the registered consumers of CA Nos. 150271101 and 150523644. When no representation was made by both of them, the dues of disconnected electricity connection (CA No. 100834792) of Rs. 58,271/- were transferred to both the live connections on a pro-rata basis. According to them, the transfer of dues has been done correctly under Regulation 52 of DERC's Supply Code, 2017. Apart from this, the Discom also relied upon judgments, as details are given below:

- Rajkumar vs. BSES Yamuna Power Ltd. – Case No. 191(2012) of High Court of Delhi.
- Telangana State Southern Power Distribution Co. Ltd. & Anr. vs. M/s Shrigdhaa Beverages CS in Appeal No. 1851/2020 SC.
- Ravinder Nath Sahni vs. BSES Yamuna Power Ltd.

4. The Forum, in its order, referred various judgements regarding recovery of dues and found that the Discom has not placed on record any details regarding the bill of disconnected connection in the name of Ms. Reshma. However, during the hearing, the Discom further stated that Ms. Seema Tandon has already made the payment of transferred outstanding dues, payable by her.



The Forum was of the opinion that the dues were payable by the complainant. Since, it is an unwanted burden of the erstwhile connection of Ms. Reshma to the present connection holder, the Forum ordered the Discom to revise the bill of the complainant by taking the disconnection date as the last reading date and waving off the entire LPSC amount levied thereon. The Forum further directed the Discom to allow complainant easy installments along with current charges.

5. Not satisfied by the order dated 07.06.2024 passed by the CGRF-BYPL, the appellant has preferred this appeal and submitted that there was no meter installed in his Shop No. E-86, Ground Floor. There is also no meter connection mentioned in the registry of Ms. Parveen Khurana, and when she purchased the said shop from Shri Man Mohan Singh in the year 1999. In fact, Ms. Parveen Khurana obtained a new electricity connection in her name in November 2011, and she sold this shop to the Appellant in the same year. Moreover, the disconnected connection in the name of Ms. Reshma was installed in the adjacent shop and, outstanding dues from the year 1999 to November, 2011 were only Rs.5,000/- as per the copy of the relevant bill submitted. Therefore, he was ready to pay the payment on pro-rata basis.

The Appellant prayed to reverse the order of the CGRF-BYPL dated 07.06.2024 and not to disconnect his electricity supply till the disposal of the appeal.

6. The Discom reiterated their submissions as before the Forum vide its letter dated 24.07.2024. In addition, the Discom submitted that the subject shop and adjacent shop are a part of E-86, the subject premises, where a disconnected connection was installed, as such, dues were transferred proportionately to both live connections. Further, the Appellant's argument that he had already had a live electricity connection at his premises since November, 2011, so he is not liable to pay the dues beyond November, 2011 is not valid, as the old connection was disconnected in the year 2014. Further, as was apparent from the statement of account and reading chart of the said connection, the electricity was being consumed at the subject premises. Therefore, the Appellant was required to clear the dues of the disconnected connection amounting to Rs. 29,135/-, which have been transferred on a pro-rata basis. Moreover, after the study of all the three K. Nos. files and statement of accounts of the disconnected connection, it was apparent that the Appellant is also the beneficiary of the supply of electricity through the disconnected connection. Furthermore, as directed by the Forum, the bill of disconnected connection has been revised after excluding LPSC of Rs. 3,573/- and, as such, the share payable on a pro-rata basis by the Appellant is now Rs. 25,562/-.



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7. The appeal was admitted and fixed for hearing on 11.09.2024. During the hearing, the Appellant was presented along with his son Shri Jarnal Singh and the Respondent were represented by its authorized representatives/Advocate. An opportunity was given to both the parties to plead their respective cases at length.

8. During the hearing, the Appellant reiterated his stand as mentioned in the appeal as well as the relief sought. The Appellant submitted that the shop was vacant at the time of purchase in 2011 and, there were no outstanding dues shown against the shop. If any dues were pending against the property, it was only Rs. 5,000/- (till April-2011), as shown in the copy of bill dated 28.10.2011. In response to a query about the basis of access to this bill of registered consumer Ms. Reshma, the Appellant submitted that the same was contained in the records of chain of property and the copy of same bill could be found with Ms Seema Tandon also. It was also submitted that Ms. Parveen Khurana had obtained an electricity connection and the shop had electricity on the date of purchase of the shop. Subsequently, the connection was also released in the name of Ms Seema Tandon during the year 2012. The Respondent did not inform of any outstanding dues on the date of applying connections of shop by both of them (the Appellant and Ms. Seema Tandon) and released the two connections. No notice in regard to the pending dues was also received by them at any stage.

9. In rebuttal, the Advocate for the Respondent contended that the connection of Ms Reshma was disconnected in 2014 on account of non-payment of dues. However, in response to a query by the Ombudsman, no satisfactory response could be given on the delay of 8 years for taking action by the Discom for the recovery of the due amount. While the Advocate asserted that there was a presumption about use of electricity by Shri Sher Singh and Ms. Seema Tandon but there was no material produced in support of their contention. There was also no satisfactory response to a query about involvement of Shri Sher Singh and Ms Seema Tandon in misuse of connection establishing their liability to pay or assisting Ms. Reshma in utilization of electricity unauthorizedly. It is a matter on record that no case for unauthorized use of electricity was booked at any stage. No notices, as contemplated by Regulation 49 (ii) of DERC Regulations, 2007, were also issued to any party in this regard.

10. For proper evaluation of the matter and in the interest of justice and fair play, the Respondent was asked to submit copies of bills of Ms. Reshma, Ms. Parveen Khurana & Ms. Seema Tandon to know exactly, who were the likely beneficiary of the connection of Ms. Reshma during the relevant period. However, the respondent submitted copies of few bills only. Perusal of the bills reveal the followings:



- (A) Ms. Reshma's bills for the billing cycle months of May, 2013, July, 2013, November, 2014 were submitted. In billing cycle of May, 2013 & July, 2013, reading is not down loaded/taken. In November, 2014 cycle from 27.6.2012 to 26.10.2014 for 851 days and the consumption was shown as 4818 units, i.e., per day average consumption is 5.66 units.
- (B) Ms. Parveen Khurana's bills for the billing cycles - September, 2013, January, 2014, February, 2014, March, 2014, June, 2014, July, 2014, August, 2014 & October, 2014 were submitted, which indicate billing cycle per day consumption as 0.13 units, 2.51 units, 1.9 units, 2 units, 4.2 units, 4.15 units, 4.26 units & 4.31 units respectively. This shown normal consumption pattern.
- (C) Ms. Seema Tandon's bills for billing cycles May, 2013, November, 2013, March, 2014, April, 2014, May, 2014, June, 2014, September, 2014 & November, 2014, record reveals per day consumption as 0 unit, 0.001 units, reading NDL, 0 unit, reading NDL, reading NDL, reading 0.08 units & 4.35 units respectively.
- (D) Bills of Ms. Reshma & Ms Seema Tandon, shows that in most of billing cycle either meter reading is not down loaded/reading is not taken. While in same premises reading of meter of Ms. Parveen Khurana was properly down loaded in given billing cycle, which is possible only with connivance of meter reader & related consumers.

From above, it is clear that from the date of meter energization, there was regular consumption of Ms. Parveen Khurana from her connection and there is no change in consumption after disconnection of supply of Ms Reshma on 14.11.14, while consumption of Ms. Seema is negligible from the date of energization of her meter till supply of meter of Ms. Reshma was not disconnected. But after disconnection of supply of Ms. Reshma's meter consumption of Ms. Seema Tandon has shot up to 4.35 units per day, an exponential Increase. Preponderance of probability suggests that Ms. Seema Tandon was using/beneficiary from connection of Ms. Reshma.

11. After taking all the factors into account, written submissions and arguments, the following aspects emerge for consideration:

- (a) After purchase of property of 40 sq. yards on 30.06.1995, the property had two rooms on ground floor and one room on the first floor. A electricity connection bearing CA No. 100834792 was energized in the name of Ms. Reshma on 23.05.1999.



- (b) Of the two shops on the ground floor, one was purchased by Ms. Parveen Khurana (L-Shape Shop) on 22.04.1999 from Shri Manmohan Singh, Executant on behalf of Ms. Reshma and the other by Ms. Seema Tandon from Ms. Reshma on 29.03.2012 through General Power of Attorney (GPA). Both the shops had separate connections installed in November, 2011 and September, 2012, respectively.
- (c) No notice defining any liability of any shop owner was sent either to Ms. Parveen Khurana or Ms. Seema Tandon or Shri Sher Singh between 2012 and August, 2023. No such dues have been shown as pending in any of the bills regularly issued from 2012 till July, 2023, as contemplated in Section 56(2) of the Electricity Act. For the alleged misuse/unauthorized reconnection, no notice was issued to any party as contemplated in Regulation 49(ii) of the DERC's Supply Code, 2007,
- (d) There is no material on record to show that connections to the two shops were at any stage utilizing the connection of Ms. Reshma, energized in 1999, and disconnected on 17.11.2014. Since the two independent connections are in place from 2011 and 2012 respectively, who is the beneficiary of reconnection is therefore not clearly borne from record?
- (e) Two connections were released in the year 2011 and 2012 to Ms. Parveen Khurana and Ms. Seema Tandon respectively, despite there being outstanding dues on the property. The fact that, the meter of Ms. Reshma (disconnected in 2014) was in the shop of Ms. Seema Tandon, also supports the claim of the Appellant that he has no relation with the connection of Ms. Reshma and the outstanding amount. It is not the case of Discom that both the shops had connection through CA No. 100834792 energized in the name of Ms. Reshma. The Discom has not been able to place either before the Forum or the Ombudsman, the details of pending bill of Ms. Reshma on the date of disconnection in 2014.
- (f) The fact that the premises is the same loses significance since three separate connections for three separate portions exist from 1999, 2011 and 2012 respectively.
- (g) When connection was taken by Ms. Parveen Khurana in 2011, at that time DERC's Supply Code, 2007 was in force. Regulation 15 of the DERC's Supply Code, 2007 covered such issue on new connection which clearly states as under:



- (i) *Where applicant has purchased existing property and connection is lying disconnected, it shall be the duty of the applicant to verify that the previous owner has paid all dues to the Licensee and has obtained "no dues certificate" from the Licensee. In case "no-dues certificate" is not obtained by the previous owner, the applicant before purchase of property may approach the Business Manager of the Licensee for a "no dues certificate". The Business Manager shall acknowledge receipt of such request and shall either intimate in writing the outstanding dues, if any, on the premises or issue "no-dues certificate" within one month from the date of application. In case the Licensee does not intimate outstanding dues or issues "no-dues certificate" within specified time, new connection on the premises shall not be denied on ground of outstanding dues of previous consumer.*
- (ii) *Where a property/premises has been sub-divided, the outstanding dues for the consumption of energy on such Premises, if any, shall be divided on pro-rata basis based on area of sub-division.*
- (iii) *A new connection to such sub-divided premises shall be given only after the share of outstanding dues attributed to such sub-divided premises is duly paid by the applicant. A Licensee shall not refuse connection to an applicant only on the ground that dues on the other portion(s) of such To be published in Part IV of Extraordinary Gazette of Govt. of NCT of Delhi Electricity Supply Code and Performance Standards Regulations 19 premises have not been paid, nor shall the Licensee demand record of last paid bills of other portion(s) from such applicants.*
- (h) Delhi High Court's verdict *Azhar Ahmad vs BRPL*, which incitation was given by the Forum in its order does not fulfill condition, as connection to Ms. Parveen Khurana was provided on 03.11.2011 and at that time no outstanding dues demand was raised by the Discom.
- (i) The Respondent reply dated 24.07.2024 relies upon Proviso to Regulation 52 of DERC's Supply Code, 2017, to justify transfer of dues but there is no sustainable evidence/supporting documents to prove that disconnected connection of Ms. Reshma was either feeding supply from CA No. 150271101 (Registered Consumer – Ms. Parveen Khurana) or how the connection of Ms. Parveen Khurana was a beneficiary from disconnected connection. The two connections independently released in 2011 and 2012 negate the story of any benefit from disconnected connection of 2014. In the event of a mis-use of connection of Ms. Reshma, why no booking was



done during 2014 or thereafter and why no responsibility fixed on erring officers.

- (j) Preponderance of probability suggests that Ms. Seema Tandon was the beneficiary of the connection in the name of Ms. Reshma and, therefore, liable to pay the entire outstanding dues.

12. In the light of the above, this court directs as under:

- i. The order of CGRF –BYPL is set aside.
- ii. Payment made of Rs 9610/ by Shri Sher Singh be credited/adjusted in ensuing bill/bills of CA No. 150271101 .
- iii. Balance amount be also recovered from Ms. Seema Tandon. It is proved by analysis of bills that she was using the power during the relevant period i.e. 2012 to 2014.
- iv. Shri Sher Singh will apply for name change of connection, which stands in name of Ms. Parveen Khurana & respondent will change the name as per DERC supply code -2017.
- v. The case in hand raises the deficiencies/ failures by the Discom on various counts including:
  - (a) Absence of regular meter readings at the premises in violation of the Regulations.
  - (b) Non-raising of bills on a regular basis on the basis of actual consumption, as per the directives in the DERC's Supply Code, 2007 & 2017.
  - (c) Delay in recourse to disconnection on the failure of Ms. Reshma to pay the outstanding bills during the year 2011, 2012, 2013 & 2014.
  - (d) Pro-rata distribution of the outstanding dues between Shri Sher Singh and Ms. Seema Tandon was without proper analysis and application of mind and without any material to support the action.
  - (e) Delay in recovery of outstanding dues and failure of the Audit Teams for many years (9 years) to evaluate the outstanding dues and to take steps for its recovery.






vi. CEO of the Discom is directed to have an indepth enquiry conducted on the aforesaid aspects of the matter for fixing responsibility on the erring personnel. CEO may also take steps to develop a suitable mechanism for recovery of pending dues.

vii. ATR be sent to this office within 30 days of receiving this order.

13. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier.

The parties are hereby informed and cautioned that the Order of Settlement of Grievance raised in the appeal is, as per Regulation 65 of DERC's Notification dated 24.06.2024, final and binding on the parties.

The case is disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
12.09.2024