

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.011-26141205)

Appeal No. 02/2019

(Against the CGRF-TPDDL's order dated 15.11.2018 in CG No. 7839/01/18/KPM)

IN THE MATTER OF

SHRI SANJAY KUMAR SADHWANI

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant : Shri Mukesh Gill, Advocate, on behalf of Shri Sanjay Kumar Sadhwani, the Appellant.

Respondent : Shri Harshendu Kumar, Sr. Manager (Legal), Shri Anirudh Sinha, Asstt. Manager and Ms. Parul Bansal, Asstt. Manager on behalf of TPDDL.

Dates of Hearing: 01.04.2019, 23.04.2019

Date of Order: 29.04.2019

ORDER

1. The appeal No. 02/2019 has been filed by Shri Sanjay Kumar Sadhwani through his advocate Shri Mukesh Kumar Gill, against the order of the CGRF-TPDDL dated 15.11.2018 passed in CG No.7839/01/18/KPM. The issue concerned in the Appellant's grievance is regarding non release of the new Non-domestic connection at H.No. 34, Khasra No. 52/27, Ground Floor, Main Road, Village Rampura, Delhi, for load of 2 Kw by the Discom (Respondent)

2. In the instant appeal, the Appellant had applied for a new Non-domestic connection vide Notification No. 2015911261 dated 27.09.2017 at H. No. 34, Khasra No. 52/27, Ground Floor, Main Road, Village Rampura, Delhi, for a load of 2 Kw. According to the Appellant, the Discom initiated the process of release of the connection but later on the Discom denied the connection on the basis of a huge sum of an outstanding dues of Rs.1,41,86,404/- (Rupees One Crore Forty One lakhs Eighty Six Thousand Four Hundred and Four only) pending on the applied premises. In view of the arbitrary demand and illegal transfer of dues, the Appellant approached the CGRF for redressal of his grievances for waiving of the wrong dues demanded by the Discom and release of the new connection. The Forum after hearing the case, waived off the major portion of the pending dues but asked the Appellant to make the payment for Principal Amount of Rs.7,40,542/- before the connection is released by the Discom.




The Appellant thus preferred an appeal against the order of the Forum on the grounds that the Forum has failed to consider the fact that the dues were demanded on the basis of two Dues Intimation Letters dated 30.01.2018 and 28.06.2018 which are self contradictory, false & fabricated and do not pertain to the premises in question. The Forum has also not taken into account that the Discom has not been able to produce any single document to prove that the House No. 38, upon which these outstanding dues are shown to be pending and H. No. 34 are one and the same premises.

Further, the addresses which have been mentioned in the Dues Intimation Letters are totally different than that of the Appellant and hence the demand of the dues is illegal and arbitrary. The amount shown as pending against the premises is hopelessly time barred under Section 56(2) since it is not clear as to when the dues became first due. The Forum has also not considered the fact that the burden of proof lies upon the Discom to prove that the demanded dues pertain to the premises of the Appellant which they have been unable to prove. Also the final bill of the connection was paid by the Appellant on 25.09.2017 as demanded by the Discom and hence there is no question of any pending dues on the premises of the Appellant in any manner.

In view of the above, the Appellant has prayed as under:

- a) To set-aside the order dated 15.11.2018 bearing C.G. No. 7839/01/18/KPM of Hon'ble Consumer Grievance Redressal Forum, Model Town-II, Delhi.
- b) To direct the Respondent to release the new NDLT electric connection for 2 Kw only after quashing the entire amount which is being demanded by the Respondent/ordered by the Hon'ble CGRF.
- c) To direct the Respondent to compensate the Appellant amounting Rs.1,00,000/- on account of all type of losses i.e. loss of earning livelihood, name, fame, goodwill, physical and mental harassment pain and agony along with litigation cost and as per law time being in force.
- d) Any other and further order/relief in favour of the Appellant which this Hon'ble Court may deem fit and proper, in the interest of justice.

3. In its response, the Discom stated that on receipt of request for release of new connection, they initiated the process for the same, but during the process it was found that the dues of four previous connections of various CA Nos. are pending on the applied premises. In view of the established provisions of the Law that the dues of the premises, wherein the new connection is sought, should be free from any encumbrances as to unpaid electricity dues and the Appellant was accordingly asked to deposit the same. The Discom countered the statement of Appellant as incorrect that the Dues Intimation Letters are false, fabricated and self contradictory. It is pertinent to mention that both the Dues Intimation Letters are same with the only difference that more information is incorporated in the second dues intimation letter filed with the site report based on the findings of inspection,



carried out as per the directions of the CGRF. Further, it was submitted by the Discom that it is not a case of dues transfer, rather the issue involved herein is dues against the premises, which has to be cleared by the incumbent while taking a new connection. The Discom also submitted that the premises indicated as H.No. 34 & H. No. 38 is one and the same and hence the dues are payable by the Appellant.


The Discom thus prayed that in view of the above, the Discom has acted in accordance with the provisions of law and the Appellant is not entitled to any relief in this matter and the present appeal is liable to be dismissed.

4. After hearing both the parties and going through the material on record the basic issue which now finally emerges is the dispute regarding the Principal amount of Rs.7,40,542/- alleged to be outstanding on the premises from the year 2002 onwards during the NDPL period which needs to be paid by the Appellant for release of new connection, as per the decision of the CGRF.

On careful perusal of the two Dues Intimation Letters issued by the Discom, it can be observed that amount shown as dues on the premises of the Appellant, pertain to H.No. 34, Ground Floor Office, Village Rampura, Delhi - 110035, House No. 34, First Floor, H. No. 38, Village Rampura and H.No. 38, Street No., Main Road, Village Rampura, Delhi. It is pertinent to mention here that the dues transferred from H. No.38 pertain to one Ms. Basanti, whose case has already been decided earlier in one of the appeals related to this very site by the then Ombudsman order in Appeal No. F.Elect/Ombudsman/2013/546 vide order dated 06.08.2013. The contention of the Discom in its reply that premises indicated-as H. No. 34 & H.38 is one and the same is not correct as the same has been clearly decided vide above referred order dated 06.08.2013 and therefore to raise the same issue again by the Discom is not in order and cannot be accepted.

The CGRF's verdict in this case is deficient on more than one count. While the Forum has not taken into consideration the earlier verdict of the Ombudsman, dated 06.08.2013 regarding the site of H. No. 38 & H.No.34 not being the same premises and hence the dues pertaining to H. No. 38 cannot be transferred to H. No. 34 on the plea that both the sites are one and the same thing. It is abundantly clear that the precise identity of the premises under question is itself under doubt with multiple connections in the same area carrying the same address. The liability for the payment of dues cannot be imposed on the Appellant unless it is preceded by a precise determination of the premises against which these dues are actually pending. Secondly, since the Appellant had already paid the final bill of Rs.5,106/- as demanded by the Discom on 25.09.2017 at the time of disconnection and removal of the meter of the earlier connection bearing CA No. 60018032058, the demand of the huge arrears at the time of release of new connection seems to be an afterthought and an attempt to recover the amount related to some other connections from the Appellant, is absolutely wrong.

In the present case, while perusing the file of CGRF and the replies and submission presented by the Discom, one fails to understand as to from where the figure of Principal amount of Rs.7,40,542/- has been arrived at. No calculation or documentary proof was submitted by the Discom and the CGRF has also not gone



into the details of the same. CGRF has ordered the Appellant to pay the said amount merely on the submission of the Discom without going into the details of the same hence not in order. The Forum has not even considered the possibilities of and given a finding on the applicability of limitations even though the Appellant has specifically invoked it in his submission.


The case was heard on 01.04.2019 and in order to assess as to how the quantum of arrears/dues have been arrived at, the Discom was asked to provide the following details:

- "a) The breakdown of Rs.7,40542/- shown as outstanding dues in the CGRF's order dated 15.11.2018 in the instant case. The name, address and CA No./K.No. of the subscriber against whom this is outstanding.
- b) Whether the dues were shown as outstanding in any of the previous bills of CA No. 60018031058 in the name of Mr. Arun Kumar Narda."

The Discom prayed for two week's time which was granted. Matter was re-notified for hearing on 23.04.2019 with an interim direction to Discom to submit the details by 15.04.2019 with a copy to the Appellant.

In view of the aforesaid direction the Discom has submitted a compliance report on the date of hearing vide their letter dated 23.04.2019 stating that the aforesaid matter has been resolved and the new connection to the Appellant has been released. The meter installation form has also been enclosed for reference and record and further, the one-third amount deposited by the Appellant has also been refunded to him. Subsequently, the Appellant has also submitted a request to this office vide letter dated 23.04.2019 that the matter has been settled between the parties so he does not want to pursue the case further being satisfied and hence wanted to withdraw the appeal from this forum.

5. Given the above background the verdict of CGRF dated 15.11.2018 is set-aside and the appeal is accordingly disposed off as withdrawn by the Appellant in view of the satisfactory resolution of his grievance by the Discom.


(S.C. Vashishta)
Electricity Ombudsman
29.04.2019