

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. 22/2021

(Against the CGRF-BYPL's order dated 11.01.2021 in Complaint No. 62/2020)

IN THE MATTER OF

Ms. Poonam

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri S. Prashad, Advocate, on behalf of Ms. Poonam,
the Appellant

Respondent: Shri K. Jagatheesh, DGM, Ms. Shweta Chaudhary, Legal
Retainer and Ms. Ritu Gupta, Advocate, on behalf of
BYPL

Date of Hearing: 22.10.2021

Date of Order: 29.10.2021

ORDER

1. The appeal No. 22/2021 has been filed by Ms. Poonam, the Registered Consumer through her Advocate Shri S. Prashad, against the order of the Forum (CGRF-BYPL) dated 11.01.2021 passed in Complaint No. 62/2020. The issue concerned in the Appellant's grievance is regarding removal of the word 'Ancestral Property' from the order passed by the CGRF.

2. The brief background of the appeal arises from the facts that the name of the Appellant's connection bearing C.A. No. 152173315 installed at A-520, Ground Floor, Giri Marg, Mandawali, Delhi - 110092 was changed by the Discom

(Respondent) in the name of Mr. Mehmood, without her knowledge and she came to know of the same only in the month of June, 2020, after a gap of around six months. She approached the CGRF with the request for imparting directions to the Discom for immediate reversal of name change from Mr. Mehmood to Ms. Poonam. During the hearing in the CGRF, the Discom submitted that the said connection in the name of Ms. Poonam was energized on 27.05.2017 and the same was transferred by them in the name of Mr. Mehmood w.e.f. 21.11.2019. As per the Discom, since Mr. Mehmood submitted the name change application along with ownership documents i.e. copy of the Aadhar Card and Registered GPA, therefore they processed his application as per Regulation 17(1) of DERC, Regulations, 2017 and accordingly changed the name of the Registered Consumer. The Appellant, however, denied the above averments and stated that she is residing and is in possession of the said property since her marriage and the property is her ancestral property.

The main issue before the CGRF was whether the name change carried out by the Discom is correct or not. After hearing both the parties, the CGRF decided the case in favour of the Appellant and observed as under:

"After going through all the material facts of the case, we are of considered opinion that the complainant is in possession/occupation since her marriage and after the demise of her mother-in-law and husband, she is still occupant of the same premises and using electricity and paid her bills regularly till November, 2019 till the name change was done by the Respondent.

As decided in above case laws, even encroacher is entitled for electricity connection and if Mohd. Mehmood, purchased this property from the sister-in-law of the complainant, he has every right to approach to the Civil Court for vacation of this property. And still the complainant is in possession of the above said premises she has every right to enjoy the electricity connection in her name.

So, the Respondent is directed:-

- 1. The name change done by the Respondent in December, 2019 should be reverted back in the name of the complainant i.e. Ms. Poonam.*
- 2. The Complainant is directed to pay the electricity bill from November, 2019 till date amounting to Rs.56,960/- which includes LPSC amount of*

Rs.2,829/- The Complainant is entitled to pay this amount because she consumed the electricity during the name change period.

- 3. Respondent is directed to waive off LPSC amount.*
- 4. As directed earlier also, the Respondent is again directed to intimate the registered consumer before name change.*
- 5. Respondent is also directed to file compliance report within 30 days from the date of this order."*

3. From the above, it is quite evident that the main grievance of the Appellant has been satisfactorily resolved by the CGRF, in her favour. However, now the Appellant has preferred this appeal for modification in the Para No. 1 of Page No. 3 of the order passed by the CGRF on 11.01.2021, by removal of the word 'ancestral property'. The Appellant wants the removal of the word 'ancestral property' as she had wrongly stated initially in her complaint before the CGRF and later on vide her replication dated 08.12.2020, she had corrected the facts, wherein she had explained that she has been residing in the property since her marriage and the said property was purchased by her husband in the name of his late mother i.e. her late mother-in-law. The Appellant stated that the real, correct and true fact has been mentioned above and she wants to get it amended in the order of the CGRF, to avoid further controversy/dispute. The Appellant was advised to seek review with the CGRF for modification in their order and accordingly she approached the CGRF again for a review.

The CGRF considered the matter and rejected the review application of the Appellant vide order dated 25.03.2021 with the following orders:

- "That the Forum ordered for change of name of the CA No. 152173315 on the basis of the occupancy only. Since the Complainant is in occupation of the said property since long.*
- Forum has no right to decide about the ancestral or any ownership of the property. The Forum mentioned the statement of the complainant only. This has no relevance and not the operative part of the order of the Forum.*

- *The Forum has not entered into the ownership dispute, and as stated above only on the basis of the occupancy of the complainant, the Forum ordered to transfer the connection in her name.*
- *If the complainant wants to file property related dispute of the property, she has every right to approach to Civil Court.*
- *This Forum has no jurisdiction to decide regarding the ownership of the property.*
- *The electric connection does not create any right over the property.*
- *The complainant did not pay the energy charges till 22.03.2021 and total dues till date are of Rs.60,080/-. The Respondent has already changed the name in the bill.*

We are of considered opinion that the review application of the complainant has no substance and same is rejected. The Forum confirms its previous order dated 11.01.2021.

The Forum directs as under:-

- 1. The name change has been made effective by the Respondent after the orders of the Forum dated 11.01.2021.*
- 2. Since the complainant has not complied with the earlier orders of the Forum, she is again directed to pay the electricity bill from November, 2019 till date which has now become RS.60,080/-.*
- 3. If the complainant fails to pay the energy charges which are due against CA No. 153269666, the Respondent is at liberty to take legal action as per law.*

The review application is rejected with directions.”

4. The Discom in its reply stated that by way of the present appeal, the Appellant has challenged the order dated 25.03.2021 passed by the CGRF in review application vide R.A. No. 1/2021. The present appeal is limited to the issue of use of word of 'ancestral property' in the order dated 11.01.2021 and the

Appellant has sought the removal of the word 'ancestral property'. The said review petition was dismissed on 25.03.2021 by holding that the review petition had no substance and while dismissing the review petition the CGRF specifically held that they have no right to decide about the ownership of the property nor have they entered into the ownership dispute and had passed the order only on the basis of occupancy of the Appellant. By way of the said review, the Appellant was again directed to comply the order dated 11.01.2021 by making the payment of electricity bill which from November, 2019 onwards till date has become Rs.60,808/-. The CGRF also held that in case the Appellant failed to pay the energy charges then the Discom would be at liberty to take legal action as per law. The Discom further submitted that it is important to mention here that the Appellant neither in review petition nor by way of present appeal has challenged the electricity dues or to say that the electricity bills raised by them are not in issue. As the present appeal is limited to the issue of removal of word 'ancestral property' in the order dated 11.01.2021 as such the Discom has no say in the matter as it has no property issue with the Appellant.

5. The Discom further stated that in spite of repeated orders of the CGRF, the Appellant has failed to clear the outstanding electricity dues which are not in dispute. The Discom also submitted that in view of the above, it is necessary to give the background of the case which is as under:-

The electricity connection i.e. CA No. 152173315 was energized and registered in the name of the Appellant on 27.05.2017. On the request of Mr. Mohd. Mehmood the said electricity connection was changed from the name of the Appellant to that of Mr. Mohd. Mehmood and as a consequence, the CA No. also got changed to 152982523 on 02.12.2019. The same was disputed by the Appellant and in terms of the order dated 11.01.2021 of the CGRF again the name change took place from that of Mr. Mohd. Mehmood to the name of the Appellant, as a consequence whereof again the CA No. was changed which at present is CA 153269666 registered in the name of the Appellant. On account of dispute pertaining to name change admittedly no payment towards electricity charges was made after November, 2019 though throughout there was consumption of electricity at the premises which as per the Appellant has always been in her possession, as such the CGRF vide its order directed the Appellant to clear the then outstanding dues of Rs.56,960/- with further direction to waive the LPSC of Rs.2,829/-. The name change from Mr. Mohd. Mehmood to Ms. Poonam took place on dated 05.03.2021 and new bill after name change for Rs.63,830/- was

generated on same day. Further, due to Covid period no actual reading bill could be generated for the month of April to May, 2021 and as per the direction of the CGRF, LPSC amount of Rs.2,829/- was waived off. However, as no bill was raised on account of Covid-19, as such further rebate of Rs.801/- i.e. towards subsequent LPSC was also given. So after deduction of LPSC amount net current bill for payment was of Rs.60,200/-.

The Discom also submitted that in the first week of July, 2021, the Appellant verbally requested for payment of pending bill in three equal installments which was accepted by them. As such, the Appellant herein made a payment of first installment of Rs.20,000/- through cheque dated 14.07.2021 against outstanding dues of Rs.60,200/-. As the Appellant continued to consume electricity as such bills for the month of July, 2021 for Rs.15,395/- and August, 2021 for Rs.5,903/- also got accumulated. So the total pending bill as per actual reading till 23.07.2021 is Rs.61,740/- which the Appellant had not paid in spite of repeated demands. In view of above, the Discom finally submitted that since the Appellant has not made any payment except one payment of Rs.20,000/-, as such the electricity of the premises in issue is liable to be disconnected on account of outstanding dues.

6. After hearing both the parties and considering the material on record, it is observed that the Appellant initially approached the CGRF for change of the name of her electricity connection from Mr. Mehmood to Ms. Poonam i.e. in the name of the Appellant. Although, the Discom had changed the name of the connection in the name of Mr. Mehmood on the basis of the relevant documents, as submitted by him, as per the applicable regulations, yet the CGRF got the name of the connection changed back in the name of the Appellant on the basis of occupancy of the premises. From the above, it is important to note that the CGRF has decided the matter judiciously and the main grievance of the Appellant stands resolved to her satisfaction.

Now, coming to the present appeal through which the Appellant has requested to get the word 'ancestral property' removed from the order of the CGRF dated 11.01.2021 on the plea that she had wrongly stated initially in her complaint before the CGRF that the said property is her ancestral property and later on vide her replication she had corrected the facts, wherein she had explained that she has been residing in the property since her marriage and the said property was purchased by her husband in the name of his late mother i.e.

her late mother-in-law. It is also observed that the above matter was considered again by the CGRF and the review application was rejected on the grounds that they have no right to decide about the ownership of the property. The central issue for determination in this case reduces to whether the CGRF has acted within the framework of law by rejecting the plea of the Appellant to remove the word 'ancestral property' from its order dated 11.01.2021. The answer to this is in the affirmative. The CGRF has acted within the ambit of its powers and has rightly rejected the plea of the Appellant on the basis that they have no right to decide the issue of ownership of the property.

In the background of the above, it is held that the CGRF has only mentioned the statement of the Appellant and the same has no relevance as the word 'ancestral property' is not the operative part of the order. The issue of ownership dispute cannot be decided by the CGRF or the Ombudsman and the same is beyond their jurisdiction. The Appellant by way of this appeal wants to get the issue of ownership decided, which is not the right forum and the arguments advanced by the Appellant in this respect are irrelevant and immaterial to the central issue at hand. However, if the Appellant wants to get the issue of ownership of the property decided she has every right to approach the appropriate civil court. It is also pertinent to mention here that the electricity connection does not provide any right to the consumer regarding the ownership of the property. Hence, the plea of the Appellant in this respect to get the word 'ancestral property' removed from the order of the CGRF is not tenable.

7. In addition to above, the Appellant also raised the issue of non-compliance of the order of the CGRF regarding the waiver of LPSC charges to the tune of Rs.2,829/- by the Discom, during the hearing and by way of her additional submissions. The Appellant also requested to get the details of all the bills since November, 2019 onwards, when the name of the electricity connection was changed by the Discom. The issue of waiver of LPSC was explained by the Discom to the Appellant during the hearing itself, wherein they clarified that the LPSC amount of Rs.2,829/- has already been waived of and in addition to above a further rebate of Rs.801/- towards subsequent LPSC on account of Covid-19 has also been credited to the Appellant. Although, the Discom had explained the calculations of the pending electricity bills to the Appellant, yet for the satisfaction of the Appellant the Discom is directed to send a statement of accounts to the Appellant from November, 2019 onwards depicting clearly the waiver of LPSC etc. Further, with regards to the complaint of the Appellant regarding some alleged

misbehavior by some of the official/officer of the Discom during her visit to their office, the Discom is advised to make the system of Consumer/Discom interface more consumer friendly in order to give better service to the consumers in general.

Given the above background, no case is made out for interference with the verdict of the CGRF. The Discom is directed to issue the latest bill for pending dues and in case the Appellant fails to pay the energy charges, the Discom is at liberty to take further necessary action as per the regulations.

The appeal is disposed of accordingly.

8/10/2021
(S.C.Vashishta)
Electricity Ombudsman
29.10.2021