

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 No.: 011-26144979)

Appeal No. 24/2020

(Against the CGRF-BRPL's order dated 12.10.2020 in CG. No. 36/2020)

IN THE MATTER OF

Shri Rambir Singh

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Rambir Singh

Respondent: Shri R.S.Yadav, DGM (F), Shri Rakesh Gupta, DGM (F),
Shri Sudarshan Bhattacharjee, Sr. Manager and
Shri Deepak Pathak, Advocate, on behalf of BRPL

Date of Hearing: 13.01.2021 & 25.01.2021

Date of Order: 27.01.2021

ORDER

1. The Appeal No. 24/2020 has been filed by Shri Rambir Singh, against the order of the Forum (CGRF-BRPL) dated 12.10.2020 passed in C.G. No. 36/2020. The issue concerned in the Appellant's grievance is regarding the billing dispute against his domestic electricity connection installed at H.No. 55, near Ram Milakh Dayal Mandir, Rajpur Khurd Extn., Delhi -110068.

2. The brief background of the appeal arises from the fact that the Appellant received an inflated bill in the month of February, 2020 for the period 19.12.2019 to 19.01.2020, having a consumption of 1334 units. The Appellant stated that



though his premises was vacant during the month of January and February, still the bill of February is of very high amount. He wanted to get the bill rectified since the meter was not working properly after January, 2020. He also submitted that his meter was changed by the Discom on 29.11.2019 without any reason and without informing him. The Discom was supposed to give a notice before changing the meter which they have failed to do so. The new meter after replacement is working very fast and hence he had received the inflated bill for the month of December & January, 2020.

As the Appellant was not satisfied with the response of the Discom, he approached the CGRF for redressal of his grievance. The CGRF vide its order dated 12.10.2020 held that the bill for the period from 19.12.2019 to 19.01.2020 having consumption of 1334 units is in order and further provided an opportunity to the Appellant to pay the bill in four installments along with regular bills. The Appellant was not satisfied with the order of the CGRF and hence preferred this appeal mainly on the ground that the CGRF has failed to take into consideration, the fact that no notice for replacement of the meter was issued to him by the Discom. In view of the above background, the Appellant submitted that the order passed by the CGRF be set-aside and the inflated bill in consideration be got rectified.

3. The Discom in its reply submitted that meter of the Appellant was replaced on 29.11.2019 and he has raised objection with regards to the bill for the month of January, 2020 against his electricity connection bearing CA No. 102246500 on the plea that the new meter is running fast. The Discom also submitted the Meter Replacement Particular Sheet along with the written submission. The Discom further stated that the bill contested by the Appellant is for the period 19.12.2019 to 19.01.2020 having a consumption of 1334 units and the bill has been raised on the basis of downloaded reading. Further, as the MDI for the corresponding period is very high viz; 4.27 KW, which clearly shows that the bill in question for 1334 units is in order and the electricity has been actually consumed by the Appellant. The Discom also stated that from the meter reading chart it is quite evident that the MDI for the period especially January & February, 2020, is on the higher side i.e. of the order of 4.27 & 5.37 KW respectively and hence the consumption is also high accordingly.



The Discom also submitted that as per the direction of the CGRF, meter was got tested at site and found to be working normal and the error was also within permissible limits. The Appellant was present during the testing of the meter but he refused to sign the Meter Testing Report. On the issue of replacement of the old meter, the Discom submitted that as the meter was very old having reading downloading problems and hence the same was replaced with the new meter free of cost. The Discom also submitted the Statement of Accounts of the said connection from November, 2018 to August, 2020 for the purpose of analyzing the consumption pattern. As per the Discom, the Appellant has not been paying the regular bills after January, 2020 onwards and at present the total outstanding dues are Rs. 25,360/- which needs to be paid by him. However, the Appellant deposited an amount of Rs.10,000/- as per the direction of the CGRF. In addition to above, during the hearing, on being asked, the Discom submitted the test report of the old meter which was replaced on 29.11.2019, according to which the old meter was also working alright and its accuracy was also found to be within permissible limits. The Discom, however, could not produce any document to substantiate that any notice was served/issued to the Appellant before replacement of the old meter.

In view of above, the Discom submitted that the bill in question is in order and the Appellant's plea be dismissed.

4. After hearing both the parties and considering the material on record, the basic issue revolves around the fact that the Appellant filed a complaint for rectification of his bill for the month of January, 2020, against his domestic connection bearing CA No. 102246500. It is observed that the old meter was replaced by the Discom as a part of the periodic replacement and also since the meter was having reading downloading problems. The old meter was also tested by the Discom and was found to be working alright and its accuracy was also found to be within permissible limits. The new meter installed was also got tested at site, as per the direction of the CGRF and its working was found to be normal and its accuracy was also within permissible limits. It is important to note here that the Appellant refused to sign the Meter Testing Report. From the analysis of the trends as per the 'statement of accounts' of the said connection, it is also observed that the first bill for the month of December, 2019, after replacement of the meter was low whereas the next bill for the month of January, 2020 was high. Later on the bills were again on the higher sides in the month of June and July, 2020, which are comparable to the disputed bill under contention



for the month of January, 2020. The MDI's have also been observed to be high during the months of January, February, June and July, 2020 and accordingly the consumption is also high during these months. From the perusal of the consumption chart it is evidently clear that whenever the consumption is high, the MDI is also high and secondly as both the old and the new meters were tested and found to be working normal and their accuracy was within permissible limits, so there is no reason to raise any doubts on the bill under consideration as issued by the Discom.

In the background of above, it is held that the bill for the period from 19.12.2019 to 19.01.2020 having a consumption of 1334 units is in order and the bill has been rightly raised on the basis of the downloaded reading, which is comparable to the MDI for the corresponding period, which is also on higher side viz, 4.27 KW. The Appellant in any case has to pay for the electricity consumed by him during the period.

5. As regards the non-receipt of the notice by the Appellant, before replacement of the old meter by the Discom, it is noted that the Discom could not produce any proof of having issued the requisite notice. The Regulation 78 of the DERC Regulations, 2017, is quite clear in this regards, which stipulates that the notice under the act shall be deemed to be duly served by the licensee if it is sent by Registered Post, Delivered by Hand, affixed at a conspicuous part of the premises or sent through electric mode such as e-mail address provided that the consumer shall also be informed through SMS. Initially during the hearing on 13.01.2021, the Discom could not produce any proof to substantiate that the notice has been issued, but on 20.01.2021 the Discom came up with an affidavit accompanied by a certificate U/s 65(B), of the Indian Evidence Act and requested that in the interest of justice the enclosed affidavit and other documents regarding delivery of the notice of replacement of the old meter may be taken on record. Through this affidavit, the Discom submitted the details of the SMS dated 27.11.2019 sent to the Appellant on his mobile number 9810747542 informing him about the replacement of old meter. The SMS states that "As per your request 1024043261, Mr. Som Singh No. 9555991231 will visit you on 27.11.2019. Share Code 2801 if satisfied after installation. Team BRPL. The affidavit further states that after the service of message, the meter bearing number 21708773 was replaced with new meter bearing no. 26768770 and old meter bearing no. 21708773 was sent to the laboratory where it was reported that accuracy found within limits and data could not be downloaded. The Discom



vide certificate 65(B), submitted the details of the person under whose care and custody the computer has been kept. They further confirmed that the said message was retrieved from the data files by Ms. Sampada Arora working as IT Associate, BRPL and in that respect enclosed certificate under 65(B) of Evidence Act is being filed. The above certificate and affidavit were taken on record. The Discom submitted that in view of the above documents, showing the issue/service of notice through SMS, they have duly complied with the provisions of Regulation, 78.


The copies of the affidavit and the certificate 65(B), were also forwarded by the Discom to the Appellant. The Appellant through E-mail dated 25.01.2021 countered the claim of the Discom and submitted that all the information provided by the Discom is wrong and the message has not been received on his mobile number on 27.11.2019 as alleged by the Discom. The Appellant also contended that the documents submitted by the Discom should not be considered at this stage. In this regards, the regulation emphasize that the evidences/documents which after due diligence could not be put forth earlier can be considered before passing the order. This further shows that regulations provide ample opportunity to the contesting parties to place records in order to reach at conclusive judgement. Therefore, in the interest of justice, another hearing was fixed for 25.01.2021 in order to provide opportunity to both the parties to put forth their point of view on the subject matter.

6. During the hearing on 25.01.2021, the Discom admitted that the said record could not be produced mistakenly by them earlier at the time when the matter was being heard before this office. They further submitted that from the perusal of the records, it is clear that the notice had been served through SMS to the Appellant. These computerized facts as submitted by way of affidavit cannot be claimed to be forged and fabricated and hence the provision of Regulation 78 has been duly complied with by them. During the hearing, the Appellant again reiterated the same argument that the SMS has not been received by him and the amount of Rs.10,000/- deposited by him should be refunded back, which was deposited by him as per the direction of the CGRF. During the hearing on being asked, the Appellant however admitted that the mobile number given in the affidavit, on which SMS has been alleged to be sent belongs to him only. After the hearing on 25.01.2021, the Appellant again submitted the same pleadings through e-mail as reiterated earlier and the same were taken on record.



In the background of the affidavit submitted by the Discom and denial by the Appellant respectively, it may judiciously be noted that it is beyond the purview of this office to adjudicate upon the authenticity of the affidavit and the denial by the Appellant for want of substantial and accurate supporting evidences. However, in the light of the details of the SMS given by way of affidavit and the certificate under section 65(B) of the Evidence Act as submitted by the Discom, it can conveniently be construed that the Discom has issued the required notice dated 27.11.2019 to the Appellant and later on the change of the old meter was carried out by the Discom as per the provision of the regulation. In view of above, it is held that the Discom has duly complied with the Regulation 78 of the DERC Regulations, 2017 and the contention of the Appellant that the meter has been changed without service of notice is not sustainable. It is also observed that the Appellant has not been paying even the current bills after February, 2020, when he allegedly received the inflated bill and therefore a huge amount of pending bills got accumulated. The Appellant should have paid the current bills after February, 2020, even if there was a pending dispute for the inflated January bill. Accordingly, the CGRF had rightly asked the Appellant to deposit an amount of Rs.10,000/- against the pending amount of Rs.28,000/- and further directed the Appellant to deposit the current bills in future regularly. The CGRF also directed the Discom to not to disconnect the supply till the pendency of the appeal. Hence, in the light of the above fact that the Appellant has not been depositing the current bills, the demand of the Appellant to refund of Rs.10,000/- is not sustainable and cannot be accepted.

Against the above background, no substantive case is made out for any interference with the verdict of the CGRF and the appeal is disposed of accordingly.


(S.C.Vashishta)
Electricity Ombudsman
27.01.2021