

Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057
(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2008/273

Appeal against letter no. CGRF/F-2/08-09/791 dated 03.05.2008 issued by CGRF–NDPL.

In the matter of:

Shri Rajesh Saraf - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Rajesh Saraf was present alongwith
Shri Kul Bhushan

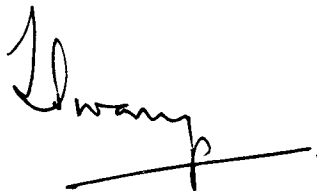
Respondent Shri Vivek Singla, HOD,
Shri O.P. Singh, Corporate Commercial,
Shri Arun Sharma, Commercial Manager,
Shri Ashok Acharya, District Manager,
Shri Ajay Aggarwal, Assistant Manager,
Shri Vivek, Assistant Manager (Legal) attended on behalf
of NDPL

Dates of Hearing : 25.07.2008, 21.08.2008

Date of Order : 05.09.2008

ORDER NO. OMBUDSMAN/2008/273

1. The Appellant Shri Rajesh Saraf, resident of 59, Teacher's Colony, Samaypur, Delhi -42, has filed this appeal on 19.05.2008 against letter no. CGRF/F-2/08/09/791 dated 03.05.2008 of the Secretary CGRF-NDPL informing him that his grievance falls under Section 135 (DAE)

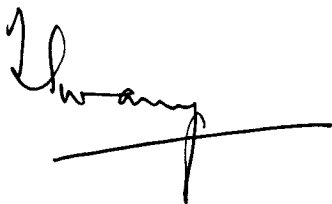


of the Electricity Act 2003, as such the Forum is not in a position to register his complaint. It is the Appellant's plea that the CGRF has not considered his complaint on merit and that no case of DAE had been established against him.

2. The background of the case as per the records submitted by both the parties is as under:

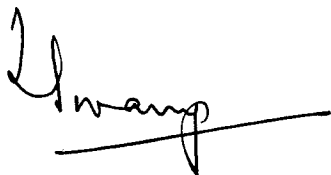
i) The Appellant Shri Rajesh Saraf is a r/o 59, Teacher's Colony, Samaypur, Delhi and an electricity connection K.No. 45400125620 is installed in the house in the name of Smt. Kamla Kaul. Shri Rajesh Saraf is the power of attorney holder of the registered consumer Smt. Kamla Kaul and has stated that he is her nephew. He has alleged that on 01.03.2008 a few NDPL officials came to change the meter of another consumer Shri B.R. Bharti having a connection K. No. 45400126662 but forcibly replaced the meter of his connection K. No. 45400125620. It is seen that copy of the protocol sheet no. 1000269 bears the name of another consumer Shri B.R. Bharti, having a connection K. No. 45400126662, and it has been recorded on the protocol sheet that the old meter no. 0103306807 was found tampered with, and is retained at site in a new box seal no. G-100606. A new meter no. 40295754 was installed on 01.03.2008 at the residence of Shri Rajesh Saraf at 59, Teacher's Colony, Samaypur, Delhi.

ii) The Appellant lodged a complaint at the Samaypur police station on 03.03.2008 stating that on 01.03.2008 the NDPL officials



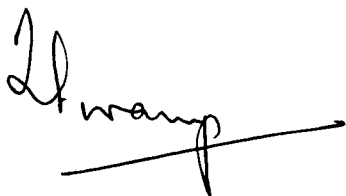
forcibly entered the house and removed the meter and took it inside their van and after fiddling with it, the meter was re-fixed and the supply restored through another meter. The protocol sheet dated 01.03.2008 was handed over to his wife, who could not read it, as it was in English. On showing it to the neighbours it was learnt that the meter to be replaced was that of one Shri B. R. Bharti, r/o 59A, Teachers Colony, but the meter of the Appellant was replaced by the NDPL officials instead. It is further stated by the Appellant that he had not made any request for change of his meter, whereas the protocol sheet indicates that a request no. 0708561462 was made by the consumer for replacing his damaged meter. The Appellant is a resident of House No. 59, Teacher's Colony, Samaypur, Badli, whereas Shri B. R. Bharti is the resident of House No.59, Block-A, Teacher's Colony, Samaypur.

- iii) The copy of the electricity bill in the name of Smt. Kamla Kaul indicates that her address is 59, Teacher's Colony with a connection bearing K.No.4540 0125 620S and the meter no. is 03306807. The copy of the electricity bill in the name of Shri B.R. Bharti indicates his address to be 59-A, Teacher's Colony, Samaypur with K. No. 4540 0126 662 and meter no. 0103306807. There is only a slight difference between the address and meter numbers of the Appellant and those of Shri B. R. Bharti.
- iv) The premises of the Appellant were inspected by the NDPL's enforcement team on 24.04.2008 and the inspection report no.



135817 indicates that the old meter no. 03306807 was found in the box seal no. G100606. Wires on both sides of the seals were found to be broken and the meter box seal was found tampered with. The Enforcement team observed that this is a case of DAE and of tampering with the meter.

- v) It is also noted that as per the protocol sheet dated 01.03.2008 for meter no. 0103306807 installed at Shri Bharti's premises, it is found that Shri Bharti's meter was also found tampered with, and was retained at site in the box seal no. G100606. The enforcement team however found meter no. 03306807 retained in the box seal no. G100606 on 24.04.2008 at the premises of the Appellant. These two reports appear to be contradictory as meter no. 0103306807 was retained at site on 01.03.2008 by the NDPL team, but meter no. 03306807 was again reported to be found on 24.04.2008 in the same sealed box.
- vi) In their reply dated 17.06.2008, the Respondent submitted that the complaint of the Appellant was not registered and admitted by the CGRF and the Electricity Ombudsman is the Appellate authority for orders passed by the CGRF. As per the DERC Regulations dated 11.03.2004, the Electricity Ombudsman does not have original jurisdiction and has only appellate jurisdiction. The Respondent further submitted that as the complaint had not been admitted / decided by the CGRF, hence in accordance with Clause 20 of the DERC Regulations the complaint does not fall within the



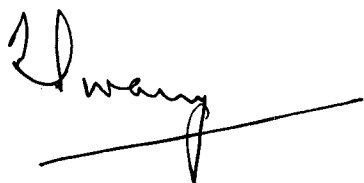
(66)

jurisdiction of the Electricity Ombudsman at this stage, and the present complaint is liable to be rejected and remitted back to the CGRF for a proper hearing, so that the facts of the case can be reconciled at the initial stage itself.

3. In view of the above submissions of both the parties, it was decided to fix the case for a preliminary hearing on 25.07.2008 regarding admissibility of the appeal.

On 25.07.2008, the Appellant Shri Rajesh Saraf was present in person along with Shri Kul Bhushan. The Respondent was present through Shri Vivek, AM (Legal), Shri A. S. Acharya, Distt. Manager, Badli, Shri Ajay Aggarwal, AM, MMG and Shri Arun Sharma, Commercial Manager.

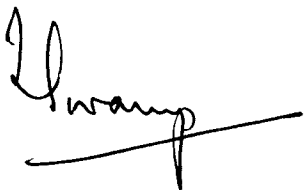
The Respondent at the hearing objected that this being a DAE case, as such it cannot be admitted. After going through the protocol sheet dated 01.03.2008, the inspection report dated 24.04.2008 and the copies of the electricity bills in the name of Smt. Kamla Kaul and Shri B. R. Bharti, produced by the parties, several discrepancies were noticed in these documents. The Respondent further stated that there was an internal complaint about the meter installed at the premises of Shri Bharti, who was a resident of 59-A, Teacher's Colony, Samaypur, but the meter of the Appellant was changed due to confusion caused by similarity in the two addresses and in the meter numbers of the Appellant and of Shri Bharti. On inquiry, the



Respondent informed that no action had been taken in Shri Bharti's case so far. The Respondent was directed to send a team of senior officers for a site inspection and also to send the two old meters of Shri Bharti and Smt. Kamla Kaul for testing to see if there was any tampering with either of the meters and if so, to determine how the meters were tampered with, and if any external device, was used to reduce the electricity consumption recorded by the meters. This was found to be necessary to determine if there was indeed a case of DAE against the Appellant. The testing was directed to be done through a designated third party, and the case was fixed for further hearing regarding admissibility on 21.08.2008.

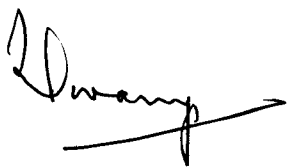
4. On 21.08.2008, the Appellant was present in person. The Respondent was present through Shri Vivek, AM (Legal), Shri Vivek Singla, HOD, Shri O. P. Singh, AM (Corporate Commercial), Shri Ashok Acharya, District Manager, Badli, Shri Ajay Aggarwal, AM (MMG) and Shri Arun Sharma, Commercial Manager.

Both parties were heard. The Respondent stated that the premises of Shri B. R. Bharti, R/o 59-A, Teacher's Colony, Samaypur having a connection K. No. 45400126662 were checked, and as per the connection verification report dated 18.08.2008 the meter number 00034459 was found installed at site, and this was found to be working satisfactorily with a reading of 7878. The Respondent stated that it appears that this meter was installed at Shri Bharti's premises on 12.07.2003 but by mistake meter number 0103306807 was fed into the system for billing purposes. In fact the first two digits i.e. '01'



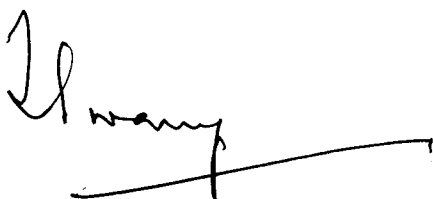
indicate the vendor's code and 03306807 is the meter number. The Respondent further submitted that the meter no. 03306807 was actually installed at the premises of the Appellant on 31.12.2003. The Respondent also admitted that the protocol sheet dated 01.03.2008 was prepared in the name of Shri B. R. Bharti showing meter no. 0103306807 which had been fed wrongly in the billing system. By mistake again the Meter Change Group officials replaced the meter no. 03306807 installed at the Appellant's premises 59-A, Teacher's Colony, Samaypur, as the address and meter numbers were similar. The meter no. 03306807 was found to be tampered with and retained at site for further checking by the enforcement team who found the seals broken and tampered with, on 24.04.2008. The Respondent further stated that a show cause notice was issued to the Appellant and after giving him a personal hearing, a speaking order was passed on 26.05.2008 i.e. after the submission of the appeal dated 19.05.2008, conclusively establishing the case of DAE against the Appellant. A copy of the speaking order was also filed.

It is evident that the case is full of discrepancies and several mistakes have been committed by the NDPL officials. It is also noted that Shri Bharti was being issued bills for the past five years bearing the meter number of the Appellant. The Meter Change Group officials were not authorized to record the observations in the report dated 01.03.2008 that the meter is tampered with. In case, they observed DAE, the matter should have been reported to the authorized officer in the Enforcement unit for further inspection and



action. The meter retained at site on 01.03.2008 was not got checked/tested immediately by the Enforcement Team who inspected it on 24.04.2008 i.e. after 54 days of the visit of the MMG team. In their report the Enforcement Team had recorded the K. No. of the Appellant as per the bill and K. No. of Shri Bharti, as painted on the meter box. The Respondent officials could not explain these discrepancies. It is felt that the case is full of mistakes committed by the Respondent.

5. DERC has laid down the procedure for booking a case for theft of electricity vide Section 56(ii) of Regulations dated 18.04.2007. As per Section 52 (ii) "An Authorized Officer, suo moto or on receipt of reliable information regarding theft of electricity shall promptly conduct inspection of such premises "and as per Section 52 (viii) ". In case of suspected theft, the Authorised Officer shall Remove the old meter under a seizure memo and seal it in the presence of the consumer / his representative. The Licensee shall continue the supply to the consumer with a new meter. The old meter shall be tested in a NABL accredited laboratory and the laboratory shall give a test report, in writing, which alongwith photographs / videographs shall constitute evidence thereof. The list of NABL accredited laboratories shall be notified by the Commission. The Authorised Officer shall record reasons to suspect theft in the premises in his report". Finally as per Section 52 (vi) "No case for theft shall be booked only on account of seals on the meter missing or tampered or

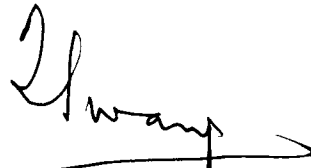


breakage of glass window, unless corroborated by the consumption pattern of consumer and such other evidence as may be available“.

On the face it the Respondent has passed the Speaking Order without following the laid down procedure indicated above and without getting the meter tested from the NABL accredited lab. The Respondent further argued that since a Speaking Order had been passed in a DAE case against the Appellant, under Section 135 of the Electricity Act 2003, and the DAE cases do not fall within the jurisdiction of the CGRF or that of the Ombudsman, the appeal should not be admitted.

Taking into consideration the arguments of the Respondent and the fact that a speaking order has already been passed by the Respondent in the DAE case, the appeal is not admitted, and the Appellant can approach the appropriate Forum for seeking relief.

5th September 2008.


(SUMAN SWARUP)
OMBUDSMAN