

**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. 28/2020**

(Against the CGRF-TPDDL's order dated 22.10.2020 in CG No. 68/2020)

**IN THE MATTER OF**

**M/S B.R. ENGINEERING WORKS**

**Vs.**

**TATA POWER DELHI DISTRIBUTION LTD.**

**Present:**

**Appellant :** Shri B.P. Agarwal, Advocate, on behalf of the Appellant

**Respondent :** Shri Ajay Joshi & Shri Harshendu Kumar, Sr. Manager (Legal),  
on behalf of the TPDDL.

**Date of Hearing:** 11.02.2021

**Date of Order:** 08.03.2021

**ORDER**

1. The appeal No. 28/2020 has been filed by Shri Pravin Kumar Singla, Proprietor of M/s B.R. Engineering Works through his Advocate Shri B. P. Agarwal, against the order of the Forum (CGRF-TPDDL) dated 22.10.2020 passed in CG No. 68/2020. The issue concerned in the Appellant's grievance is regarding release of the new electricity connection after a huge delay by the Discom (Respondent) in respect of his property bearing No. H-162, Sector - 3, DSIIDC Industrial Area, Bawana, Delhi - 110039.

2. In the instant appeal, the Appellant has stated that his firm is a proprietorship firm and he had applied for a new electricity SIP (Small Industrial Power) connection for a sanctioned load of 49 KW/53KVA vide notification No. 2019406894 dated 16.01.2019 with the Discom. He further stated that as per Regulation 11(2) of the Supply Code, 2017, the Discom conducted the site inspection and after the site conditions were found satisfactory they sanctioned the load of 49 KW/53 KVA and issued a Demand Note (DN) as required under Regulation 11(3) of the Supply Code,



2017. He accordingly deposited Rs. 2,68,000/- as per the DN on 23.01.2019. The Appellant also submitted a copy of the DN dated 22.01.2019, which was taken on record. He further submitted that as per Regulation 11(4) (i) (a) of the Supply Code, 2017, in case where road cutting permission or right of way is not required, the Licensee shall energize the connection within one (1) day from the date of receipt of the full payment against the DN. In the DN the following condition as stipulated in Regulation 11(4) (iii) of the Supply Code, 2017 was also mentioned which says that if the new distribution transformer is required then the maximum period within which the connection can be released is four (4) months. However, in the DN it was not specifically mentioned that the release of this connection will certainly require augmentation of the transformer.

The Appellant further submitted that he visited number of times to the office of the Discom but no information was given to him about the date of energization of the connection. The connection was, however, energized on 12.09.2019 after a gap of 232 days from the date of deposit of the amount raised in the DN and even if it is considered that the augmentation was required then also there was a delay of 168 days from the date of deposit of the DN. Since, there was a delay of 232/168 days considering the augmentation, hence the Appellant was forced to file the complaint before the CGRF on 18.02.2020. Further, it was alleged by the Discom that after the augmentation, the officer of the Discom visited the premises of the Appellant on 23.08.2019, 30.08.2019 and 05.09.2019 for meter installation but the meter could not be installed as there was no separation between the two premises and after the separation of the premises was carried out by the Appellant, the connection was installed on 12.09.2019. The Appellant pleaded that it is important to point out here that while making the allegation it was not considered by the Discom that there was a small gate in between the two premises which also existed when the Appellant had applied for the connection and the premises was initially inspected by the Discom. The Appellant also submitted that there was complete partition between the two premises having the separate municipal numbers and since the Appellant was also using the adjacent premises being the tenant in the other premises so a small gate was provided for going to the other premises. The Appellant further argued that in addition to above, it was also submitted by the Discom that he had sought one week's time to close the door or getting the partition done at the premises and due to this reason there was some delay, whereas this gate existed at the time of inspection prior to the issue of the DN and at that time no objection was raised in respect of the gate and now the Discom has taken this false plea regarding the partition. In view of above, the allegation of the Discom that there was no separation between the two premises is wrong and not sustainable.





Further, it was also alleged by the Discom that they had written a letter dated 13.07.2020 informing the Appellant that there will be a delay regarding transformer augmentation, whereas no such letter was ever issued or received by him. Moreover, this letter was manufactured by the Discom during the hearing as the connection was already installed on 12.09.2019, and there was no relevance of the letter to be issued in July, 2020.

3. The Appellant further stated that after considering the submission of both the parties the CGRF vide order dated 22.10.2020 passed the order and a compensation of only 91 days was allowed to him instead of 223 days and hence has preferred this appeal mainly on the grounds that the Discom has failed to follow the laws, bye-laws, rules and regulations as prescribed for release of new electricity connection. Secondly, the CGRF has held that the present case falls under the category of Augmentation of Distribution Transformer capacity allowing only two months time but the CGRF has allowed four months time to the Discom for Augmentation of Distribution Transformer which is against the DERC Regulations, 2017. Also, the CGRF has wrongly observed that in the demand note the Discom has mentioned the maximum time limit as four months and since the Appellant has not objected to the demand note thereby accepting the four months time limit but it was not considered by the CGRF while passing the order that time limit of four months was mentioned for provision of New Distribution Transformer and not for the Augmentation of existing Distribution Transformer. The CGRF has also failed to consider the facts that the Discom is bound to follow the Regulations and there is no relevance to the effect as to whether the Appellant has objected to the time limit or not, and further the regulations cannot be changed even if there is objection or no objection from the consumer. In summary the law in any case cannot be changed and the DN cannot supercede the Regulations.

The Appellant also reiterated that the CGRF has also wrongly observed that there was no partition when the officer of the Discom came to the premises on 23.08.2019, and thus the delay for the period 23.08.2019 to 12.09.2019 is attributed to the Appellant without considering the facts that the small gate existed on the date when the inspection was conducted even prior to the issue of the DN, which was not considered as an irregularity by the inspecting team of the Discom and the DN was issued without any objection. Once the DN was issued on the basis of the same existing small gate the Discom cannot raise the objection and treat it to be an irregularity for denial of the connection on the ground that there was no partition between the premises on 23.08.2019. The CGRF has also failed to consider that the Discom has taken the plea of no partition just to avoid paying the compensation



because the two premises at site are having different plot numbers having separate entrance and boundary wall but having a small gate in between the partition wall so that a person can go to the other plot without going outside which cannot be treated as irregularity. Finally, it was also submitted by the Appellant that the CGRF has wrongly allowed the time period of 24.01.2019 to 23.05.2019 to the Discom for augmentation and allowed only 91 days time for paying the compensation in between 24.05.2019 to 22.08.2019 instead of allowing the time for the period from 24.03.2019 to 12.09.2019.

In view of above, the Appellant prayed to accept the present appeal and the order of the CGRF dated 22.10.2020 may kindly be modified to the extent that the Discom is liable to pay the compensation for 168 days instead of 91 days.

4. The Discom in its reply submitted that on 16.01.2019, the Appellant applied for a new Industrial connection of 49 KW at Plot No. 162, Ground Floor, Pocket H, Sector -3, DSIIIDC, Bawana, Delhi. On receipt of application for new connection Site Verification was carried out by them on 17.01.2019 and found that the premises area was 100 Sq. Mtr. built up to second floor along with a basement and there was no activity at the applied ground floor. Further, on the right side of the said premises an electricity connection bearing C.A. No. 60023862117 was already existing in the premises just adjacent to this premises. The nearest HT Pole 521-53/3/24/9 was at a distance of 10 meters from the premises where the new electricity connection was sought for by the Appellant. It was further submitted by the Discom that the Appellant concealed the material fact that the site was not appropriately separated from the adjacent premises, where another connection was already existing. In this regards, it is submitted that every connection must have a distinctly separate premises and should not be allowed to mingle with any other connection. Further, the supply from network through which the applied electricity connection was to be released was inadequate for release of another connection of 49 KW from the existing 100 KVA/93 KW Transformer as the same would have exceeded maximum safety limit of 90% capacity of the installed transformer. Hence, vide demand note/intimation letter dated 22.01.2019, the Appellant was accordingly informed that 'Energization of the connection will be subject to augmentation of the capacity' of the transformer. The Appellant was also informed through Call Centre on 29.01.2019 that the augmentation of the capacity will be required in this case. The Appellant paid the DN dated 22.01.2019 as raised by them on 23.01.2019.





The Discom further stated that since there was no margin available for release of new connection of 49KW as applied by the Appellant, the existing Transformer of 100 KVA was required to be augmented to 160 KVA for which size of the existing double pole was required to be increased from 1800 mm to 2200 mm in width. Since more space was to be occupied by the transformer after increasing the width between the poles and fencing of the area of the transformer was also to be carried out for the safety of public at large, the officials working at site received severe resistance and the work remained held up for extended period of time. This is evidently clear from the fact that the transformer was to be placed right in front of the premises of the Appellant and since the Discom faced resistance, therefore, the poles were moved/shifted towards adjacent premises. However, owing to the public hindrance at site, the proposed augmentation of the transformer could be completed only in the month of August, 2019, which was beyond their control. It is pertinent to mention here that though the augmentation work got completed in August, 2019, but the site of the Appellant was still not ready and the separation of the premises in question from adjacent premises was carried out by the Appellant only in the month of September, 2019. Immediately, after execution of the transformer augmentation from 100 KVA to 160 KVA, their team visited the Appellant's premises on 23.08.2019 to install the meter. Since, the site was not appropriately separated from the adjacent premises where another connection was already existing, the Appellant was requested to get the premises separated. The Appellant sought a week's time for physical separation from neighboring premises. The Discom also submitted that their officials visited the Appellant's site on 27.08.2019, 30.08.2019 and 05.09.2019 for the purpose of installing the meter with respect to release of new electricity connection but separation work was not carried out by the Appellant. Subsequently, they were informed that the Appellant has separated the site from adjacent premises and hence immediately thereafter, on 12.09.2019, the meter could be installed in his premises. From the above, it is apparent that the premises of the Appellant was not ready for installation of the new connection and in any event no connection could have been installed by them till the premises of the Appellant was not separated from the adjacent premises.

5. The Discom further stated that after grant of electricity connection, the Appellant filed complaint before the CGRF inter alia, seeking compensation for delay in providing electricity connection. The same was responded by the Discom denying the allegation of the Appellant but vide the impugned order dated 22.10.2020, the CGRF erroneously held that the Appellant is entitled to an amount of Rs. 3,65,820/- as compensation for delay in releasing the new connection. The CGRF vide its final order held that as the DN amount was paid by the Appellant on 23.01.2019,



therefore, the period up to 23.05.2019 is to be allowed to the Discom for providing electricity connection. Accordingly, the period from 24.05.2019 to 22.08.2019 is the period of delay beyond the provisions of Regulations and therefore, the Discom is liable to pay compensation for 91 days delay in energizing the connection. The amount was calculated as Rs. 3,65,820/- for 91 days on account of delay in releasing the electricity connection. The Discom further submitted that subsequently they challenged the order dated 22.10.2020 passed by the CGRF before the Hon'ble High Court of Delhi by filing the Writ Petition (WP) No. 10500/20 and Civil Miscellaneous Application No., CM 33207/2020 on 03.12.2020 with the prayer to quash the same. The Appellant meanwhile filed the present Appeal before the Ombudsman. The Hon'ble High Court disposed of the WP on 21.12.2020 considering the submission that an appeal before the Electricity Ombudsman has been filed challenging the impugned CGRF order. The copy of the order dated 21.12.2020 as submitted by the Discom was taken on record.

With regards to the compensation as ordered by the CGRF, the Discom submitted that in view of the facts explained above, it is quite evident that the delay in the release of electricity connection is purely on the part of the Appellant and the order of the CGRF is in complete ignorance of the provisions of Regulations especially Regulation 76 (as amended on 28.12.2018) of DERC Supply Code and Performance Standards Regulations, 2017 towards which the attention of the CGRF was brought during the course of hearing. However, the CGRF without deliberating upon the cited provision of Regulation passed the order merely calculating the number of days and amount of compensation. The CGRF has not clearly distinctly deliberated the issue with regard to when the Appellant got affected by the failure of the Discom to meet the standards of performance and when the Appellant needed to make an application for compensation. The CGRF lost sight of the fact that at the time of site visit on 17.01.2019 the site was vacant and at the time of site visit on 27.08.2019, 30.08.2019 and 05.09.2019, the premises was not separate with the adjacent premises and that adjacent premises was using this premises for godown purpose. Furthermore, the application for compensation filed by the Appellant is purely an afterthought as the same was filed after release of connection. The CGRF order is contrary to the provisions of law, erroneous and unsustainable in law therefore liable to be set-aside. Further, it was emphatically submitted by the Discom that the requirement of augmentation timelines was already mentioned on DN and the Appellant was aware of same before DN payment. It is relevant to mention here that the message was printed on DN where a tentative timeline of 4 months was mentioned and it is also denied that the Appellant ever visited the Office of the Discom during the entire period from the date of making application till the





release of electricity connection on 12.09.2019 and thereafter. Thus, the claim of Appellant in this regard is unsustainable. The Appellant came out only after release of electricity connection in well pondered manner with the sole objective to claim undue compensation. The Discom further argued that the present matter is primarily related to the interpretation of Regulation 76 (2) and other provisions of law and is not related to the calculation of the days of compensation. Secondly, the delay in releasing the electricity connection is mainly attributable to the Appellant since the premises was not ready for release of connection at any point of time. Further, the Appellant himself contended the fact that two premises were connected through a small gate which substantiates the fact that both premises were found connected for usage. Even at the time of visit, the premises was found lodged with lot of material which is evidently clear from the photographs taken at the time of visit which further sustains the fact of inter-connection of both premises.

6. The Discom further submitted that with reference to Regulation 76(2) the Appellant was under obligation to raise the claims for compensation within sixty days from date of cause of action first accrued, which accrued on 23.05.2019, i.e. the first date of default, however, the present complaint was made by the Appellant only on 04.11.2019, which is beyond the period prescribed by the Regulation and hence, the complaint of the Appellant ought to have been dismissed being barred by limitation. Therefore, the impugned order is liable to be set-aside on the sole ground that the same has been passed without taking the above point into consideration. The Appellant is not entitled to any relief such as compensation, therefore, present appeal is liable to be dismissed. It is emphatically submitted that the Discom has acted in accordance with provisions of law. In addition to above, it is further submitted that the Appellant was under obligation to file the complaint within 60 days from the aforesaid date 23.05.2019 meaning thereby the complaint was only maintainable if the claim should have been filed on or before 23.07.2019. Whereas it is an admitted fact that the complaint was filed on 04.11.2019 which is highly time barred. Therefore, the CGRF erred in calculating the 60 days within which the Appellant was under obligation to file the complaint to claim compensation, as the day will start running from the day he was aggrieved, i.e. the day on which the stipulated time to grant electricity connection expired. The CGRF further failed to appreciate that the intent of legislature can never be to permit unjust enrichment to any party, rather the provision of regulation for compensation, in appropriate cases, is with an intention to bind the licensee to adhere to stipulated timelines, and in case of failure the aggrieved can register complaint /claim within 60 days, so that in no case the compensation can keep on accruing without any intimation to the licensee about such failure. The complaint was to be filed within 60 days from the date the



complainant was aggrieved and not within 60 days from the date when the grievance of the complaint stands resolved. The days within which the complaint is to be filed cannot reckon from the date connection stands granted as that cannot be the date from which a person is affected, rather the date of grant of connection is the date on which the grievance of the complainant stands resolved. The complaint filed by the complainant was not maintainable and should be rejected at its very outset.

In the above background, the Discom prayed to dismiss the present appeal and quash the order of the CGRF as the same does not have any merit and further the Appellant is not entitled to any type of compensation and accordingly the compensation awarded by the CGRF be also quashed as the CGRF's order is not sustainable in the eyes of the law.

7. After hearing both the parties at length and considering the material on record, the basic issue revolves around the fact that the Appellant had applied for a SIP (Small Industrial Power) electricity connection on 16.01.2019 and after the inspection of the site, a DN was raised on 22.01.2019 by the Discom. Accordingly, the Appellant deposited an amount of Rs.2,68,000/- as raised in the DN on 23.01.2019. Despite depositing the said amount, the electricity connection of the Appellant was released/installed on 12.09.2019, after a gap of around eight months well beyond the period as laid down under the Regulation 11 (4) (ii)(c) of the DERC Supply Code and Performance Standards, Regulations, 2017. The relevant portion of the above Regulation stipulates as under:

(c) "Subject to sub-clause (a) above, if giving of new connection requires augmentation of distribution system, the Licensee shall inform the applicant about the approximate time frame by which the applied load can be energized. Such time frame shall not exceed the time schedule specified as under:

(i)	Electrified Areas (where extension of line upto five poles is required).	Within 15 days from the date of receipt of full payment against demand note.
(ii)	Electrified Areas (Where extension of lines or augmentation of Distribution Transformation capacity, where peak load of transformer has reached 90 % of its rated capacity)	Within 2 months from the date of receipt of full payment against demand note.
(iii)	Electrified Areas (Where new Distribution Transformer is required)	Within 4 months from the date of receipt of payment against demand note.





*Provided that the Licensee may approach the Commission for extension of time specified in specific cases, where magnitude of electrification works is such that it requires more time, duly furnishing the details in support of such request for extension."*

In this regards, it is observed that the DN issued by the Discom had mentioned that the connection of the Appellant will be released subject to the augmentation of the capacity and/or extension of the electricity network and/or availability of space by Government of NCT/Developers, if required. It was further mentioned in the DN that the connection will be released after the installation of new distribution transformer and as per DERC Regulations it will take four months from the payment of DN. In view of above, it is observed that the conditions mentioned in the DN, are quite confusing and have no clarity at all as to whether it is a case of augmentation of the existing transformer or the installation of a new transformer. But as per the written statement of the Discom, it is observed that in the instant case they have augmented the transformer's capacity from 100 KVA to 160 KVA. Therefore, as per the DERC Regulations, supra, two months time is allowed after full payment of DN. In addition to above, from the conditions mentioned in the DN it seemed that these are the general conditions mentioned in every DN issued to the consumers in general and accordingly the Discom was asked to clarify the same by way of an affidavit as to if the conditions mentioned in the DN are different on case to case basis or are general in nature. The Discom by way of an affidavit dated 24.02.2021 confirmed that the conditions and timelines mentioned under Heading 'Notes' are variable on case to case basis and the time frame mentioned in DN depends upon the time required for energization of the new electricity connection in accordance with the timelines provided in DERC Regulations, 2017 with respect to the particular application for new electricity connection.

In the above background, it is observed that although the present case falls under the category of Augmentation of Distribution Transformer capacity, wherein only two months time is allowed for release of connection after the payment of DN by the Appellant, but the Discom had particularly mentioned a maximum time limit of four months for release of the connection in the DN which was not objected to by the Appellant. It is noteworthy to mention here that the DN dated 22.01.2019 issued by the Discom has wrongly mentioned four months period for release of connection as against two months as provided under the Regulations. Further, as the Appellant did not raise any objection to the conditions mentioned in the DN before making the payment of the DN and the Discom has also confirmed by way of an affidavit that the conditions mentioned in the DN varies from case to case, as such it is construed that



the Appellant had agreed to the timeline of four months for release of the said connection. Hence, in view of above, the Discom is hereby allowed four months time for capacity augmentation and providing the connection to the Appellant from the date of payment of the DN.

8. With regards to the next issue as to what extent the delay in release of connection is attributable to the Appellant or some other factors, it is observed that there is no evidence on the record that the Discom had ever communicated to the Appellant in writing about the impending delay in release of connection on account of hindrances at site due to one factor or the other. During the hearing, the Discom was also asked categorically if they had ever sent any communication with regards to the delay in release of the connection, to which the Discom denied having sent any communication to the Appellant. The regulations are also quite clear in this regards that if it is taking more time in release of the connection on account of the reasons which are beyond the control of the Discom, they may approach the Commission for extension of time specified in specific cases, where magnitude of works is such that it required more time, duly furnishing the details in support of such request for extension. In view of above, in the instant case since the Discom has not approached the Commission either and hence the delay in release of connection in this regards is attributable to the Discom only.

Further, the Discom has repeatedly mentioned about the public hindrances and factors beyond their control leading to delay in transformer capacity augmentation which has vehemently been denied by the Appellant. The argument given by the Discom that there was an issue of right of way and space constraint does not hold any merit as higher capacity transformer of 160 KVA required only a mere 400 mm of additional space. In addition to above, the Appellant has also clarified that there was no issue regarding space from the adjacent premises on which side the additional space was required and utilized by the Discom for the transformer, as the same was also under the occupancy of the Appellant being a tenant in that adjacent premises. Hence, the contention of the Discom about public hindrances and factors beyond their control also does not hold good and cannot be considered a valid reason for the delay. Thus, the Discom has not been able to establish that there was any delay either attributable to the Appellant or on account of public hindrances or any other reasons beyond their control in getting the transformer capacity augmented well within the prescribed time limit.





9. The Discom has also argued that the premises of the Appellant were not ready for release of the connection when their team visited his premises for installation of meter on 23.08.2019. The reason put forward by the Discom in this context is that there was no proper partition between the Appellant's premises, where the connection was to be installed, and the just adjacent premises. The Discom further argued that the site was also not appropriately separated from the adjacent premises where another connection was already existing. In this regards, from the records and the argument, it is observed that the two premises are having separate municipal numbers and separate entry points and there existed a complete separation between the two premises by way of a partition wall. However, as the Appellant is also a tenant in the adjacent premises, a small gate between the two premises had been opened inside the two premises in the inter connecting partition wall for the convenience in the working by the Appellant and hence this small opening of the gate cannot be considered as a valid reason and objection for not granting the connection by the Discom as the two premises are distinctly separate premises. Even if it is hypothetically considered that this is an objection and an irregularity for release of connection, the Discom would have objected to the same at the time of site inspection only on 17.01.2019 just before the sanctioning of the load and raising the DN as the small gate in the partition wall existed even at the time of inspection prior to the issue of DN. As per regulations the licensee shall have to indicate all the deficiencies to the Appellant in one go and to raise objections later on at the time of installation of the meter does not make the Appellant responsible for the same. In the instant case, the Discom did not raise this objection at the time of field inspection initially and furthermore the opening of small gate cannot be considered as a valid objection.

It is important to mention here that while providing the connection the Discom certainly has a right to see that the premises where the new connection is to be installed is having a separate identity and is not intermingled with some other premises in the neighbourhood, but in the instant case a small gate in the partition wall of the two premises cannot be considered as a reason for raising the objection at the nick of time and not releasing the connection. Hence, the objection raised by the Discom that the premises of the Appellant was not ready for release of connection is not tenable. Therefore, this delay of 20 days in installation of connection from 23.08.2019 to 12.09.2019 cannot be attributed to the Appellant and Discom has to take the brunt of the same. In all probabilities this objection seems to have been raised by the Discom to put the onus of whole delay from 23.05.2019 onwards on the Appellant in order to escape the compensation on account of delay in release of the connection. It is also important to point out here that once the DN



has been issued on the basis of the small gate in the partition wall the Discom cannot take up this objection later on at the time of release of the connection and hence the contention of the Discom in this regards is not sustainable.

10. This Discom has also contended that the present matter is merely not related to the calculation of days of compensation but it is primarily related to the interpretation of Regulation 76(2). The operative part of the Regulation 76 (2) (amended on 28.12.2018) is given as under:

**"76. Procedure for determination and payment of compensation:**

- (2) For failure of standards of performance other than power supply failure:
- (i) Any person who is affected by the failure of the Licensee to meet the standards of performance specified herein and who seeks to claim compensation shall file his claim with the concerned Licensee within a maximum period of 60 (sixty) days from the date such a person is affected by such failure of the Licensee to meet the standards of performance.

- (ii) The Licensee shall compensate the affected person(s) within a maximum period of 90 (ninety) days from the date of filing his claim:

*Provided that in case the Licensee determines that compensation is not payable to the affected consumer, the Licensee shall record the reasons in writing after giving opportunity to the consumer of being heard, giving due justification for their action and communicate the same to the consumer.*

- (iii) In case the Licensee determines that no compensation is payable to the affected consumer or if the affected person is aggrieved by non-settlement of his claim, the aggrieved person may approach the respective Forum for redressal of grievances to seek such compensation.

- (iv) If the aggrieved person is not satisfied with the decision of the Forum, the affected consumer may approach the Ombudsman for redressal of his grievance.

- (v) In case the claim for compensation for violation of standards of performance is upheld by the Forum or Ombudsman, as the case may be, after following due process of Law, the compensation shall be determined in accordance with the Schedule-I of these Regulations:





*Provided that the Forum or the Ombudsman may in addition to the compensation, award interest at the bank rate for the period from date when the compensation became first due.*

- (vi) *The compensation shall be payable by the licensee but not later than 90 (ninety) days from the date of a direction issued by the Forum or by the Ombudsman, as the case may be."*

In the instant case the connection of the Appellant was installed on 12.09.2019 and the Appellant approached the Discom for compensation vide his letter dated 26.10.2019 which was received by the Discom on 04.11.2019. From the foregoing it is observed that the Appellant approached the Discom for compensation within 60 days of release of the connection. Further, the plea of the Discom that the application of compensation was filed by the Appellant after release of connection and thus is time barred is not tenable on the ground that the Appellant remained aggrieved from the time the amount against the demand note was deposited till the date and time of release of the connection and his grievance was resolved only on the date of installation of the connection. Till that time the Appellant definitely remained affected by the failure of the Discom to meet the standard of performance. This is also in line with the spirit and ethos of Regulation 76(2) of DERC Supply Code, 2017. In addition to above, the application for compensation can only be filed for the delay of specific number of days and the same can be calculated only after the connection has been released. The Appellant could not have been in a position to calculate/assess the compensation for the real time period until and unless he knew the exact date on which his grievance will be resolved. Thus, in this case the actual date for calculation of the compensation starts from the date on which his connection was released.


The interpretation of the Discom regarding Regulation 76(2) that the Appellant was under obligation to raise the claims for compensation within sixty days from the date of cause of action first accrued, which accrued on 23.05.2019 i.e. the first date of default, is not in order since it was a continuous cause of action which remained live upto the date the connection was actually released on 12.09.2019. Hence, the Appellant applied for compensation well within the period of 60 days of release of connection and the objection of the Discom in this regards is not sustainable. Thus, in view of the above facts the application for the compensation filed by the Appellant stands valid as he remained aggrieved till the date of installation of the connection and the period of 60 days shall be counted from the date of release of connection only as per the Regulation 76(2) of the DERC Supply Code, 2017.



11. In the background of above, it is concluded that the Discom is to be given a time frame of four months for capacity augmentation and providing connection to the Appellant since the Appellant did not raise any objection to the conditions as mentioned in the DN at the time of the payment of DN. Secondly, the Discom has also not been able to substantiate the delay in transformer capacity augmentation on account of public hindrances or any other reasons beyond their control or on the part of the Appellant. Further, as neither the Discom at any stage sought additional time period for release of connection in writing on account of the reasons such as permission for road cutting, right of way, acquisition of land or occurrence of force majeure etc. nor has sought additional time from the Commission for completion of work as per the DERC Regulations, 2017, therefore, the Discom is liable to pay the compensation as per Schedule -I of the Regulations.

In view of above, as the Demand Note (DN) was paid on 23.01.2021, the time period upto 23.05.2021 is to be allowed to the Discom for providing the connection. Accordingly, the period from 24.05.2021 to 12.09.2021 when the connection was released is the period of delay beyond the provisions of Regulations, and therefore, the Discom is liable to pay the compensation for 111 days delay in energizing the connection. As per the Schedule -I of the DERC Regulations, the compensation payable at the rate of 1.5% of the DN amount for each day of delay is applicable which comes out to Rs.4,46,220/- payable by the Discom. As such, the order of the CGRF is upheld but modified to the extent of compensation payable by the Discom for 111 days instead of 91 days as ordered by the CGRF. The Discom is, therefore, directed to pay the compensation of Rs.4,46,220/- for delay in releasing the connection bearing CA No. 60024469524 and the amount of compensation is to be given by way of credit in the ensuing bills of the Appellant.

With the above order and directions, the case is disposed of on merit.

  
(S.C.Vashishta)  
Electricity Ombudsman  
08.03.2021