

**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/2009/325**

Appeal against Order dated 08.05.2009 passed by CGRF–BRPL in case no. C.G.No.61/2009.

**In the matter of:**

Shri R.K. Sharma - Appellant

**Versus**

M/s BSES Rajdhani Power Ltd. - Respondent

**Present:-**

**Appellant** The Appellant was present in person alongwith  
Shri Yogesh Kaushik, Advocate

**Respondent** Col. Rakesh Tondon, OSD (Enforcement) attended on  
behalf of the BRPL (Respondent No.1)

Smt. Mehedi Mitra was not present (Respondent No.2)

**Date of Hearing** : 09.06.2009

**Date of Order** : 11.06.2009

**ORDER NO. OMBUDSMAN/2009/325**

Sh. R. K. Sharma, the Appellant has filed this appeal dated 21.05.2009 against the CGRF order dated 08.05.2009. He has prayed for setting aside the aforesaid order of the CGRF and for restraining the BSES, the Respondent No.1, from issuing any new electricity connection in the name of Smt. Mehedi Mitra, the Respondent no. 2 residing in the

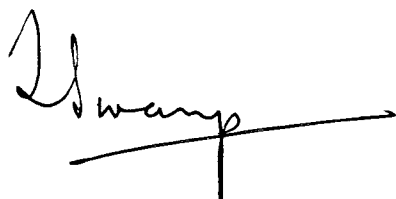


flat no. 33 Aurobindo Appt., Adhichini without payment of the electricity bill of Rs.1,23,539/- for theft of electricity.

1. The brief facts of the case as per records are as under:-

- a) There was no electricity connection in flat No.33 owned by Sh. Pawan Mehta who had rented out the same to the Respondent no.2.
- b) The Respondent No. 1 installed an electricity connection on 24.07.2007 in flat no. 28, Aurobindo Appt. Adhichini in the name of Sh. Pankaj Mehta, the owner of the flat.
- c) The Appellant purchased the flat no. 28 from Sh. Pankaj Mehta on 11.12.2008 and flat no. 33 from Sh. Pawan Mehta on 15.12.2008. At the time of purchase of flat No. 33, Smt. Mitra was residing in the flat having been tenant of the earlier owner, Sh. Pawan Mehta.
- d) Smt. Mitra continued to occupy the flat No. 33 even after its purchase by the Appellant. The appellant filed a suit dated 05.03.2009 against her in the Court of Senior Civil Judge, Patiala House Courts Delhi, for eviction alleging that she was an unauthorized occupant/intruder in the aforesaid property No. 33.

2. (i) The Enforcement Dept. of the BSES inspected the flat No. 33 on 20.01.2009 and registered a case of direct theft of electricity against Respondent No.2 on the ground that there



was illegal tapping of electric supply from the BSES service cable. An assessment bill of Rs.1,23,539/- was issued on 11.02.2009 in the name of Respondent No.2.

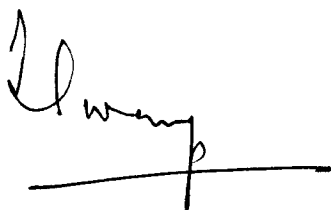
3. The Respondent No. 2 Smt. Mehedi Mitra also filed a representation before this Forum on 09.03.2009 for cancellation of the aforesaid theft bill. This Forum, however, rejected the representation on the ground that the matter pertained to theft of electricity which was outside its jurisdiction.
4. (i) The Respondent No. 2 Smt. Mitra, also filed a complaint before the CGRF on 23.03.2009 for a new electricity connection at flat No. 33, without having cleared the assessment bill raised for theft of electricity.
- (ii) The CGRF after taking into consideration the facts and circumstances of the case and after hearing the parties, passed the order dated 08.05.2009, concluding that the electricity supply to flat No. 33 was facilitated from flat No. 28 and as such there was no theft of electricity. Moreover, the liability for the payment of the aforesaid bill was on the landlord. As such Smt. Mitra was entitled to a new electricity connection in the premises No. 33 either in her name or in the name of Sh. R. K. Sharma depending upon the payment of charges for the new connection.



5. The Appellant has filed this appeal dated 20.05.2009 before this Forum against the order of the CGRF dated 08.05.2009 praying for setting aside the CGRF's order and for restraining the Respondent No. 1 from issuing any new electricity connection in the name of Respondent No. 2 in flat No. 33, without paying the assessment bill of Rs.1,23,539/-. The Appellant subsequently also filed an application dated 28.05.2009 for early hearing in the matter because if a new connection was sanctioned to the respondent No. 2, the case would be rendered in fructuous.
6. After scrutiny of the documents, comments were sought from the Respondent No.1 and 2 and the first hearing was fixed on 09.06.2009 at 12.00 Noon.

On 09.06.2009, the Appellant was present in person along with his advocate Sh. Yogesh Kaushik. The Respondent No. 1 was present through Col. Rakesh Tondon, OSD (Enforcement). Respondent No. 2 was not present despite service of notice.

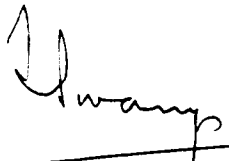
Respondent No. 1 at the outset informed that the order of the CGRF dated 08.05.2009 has been challenged by them in the Hon'ble Delhi High Court on the ground of jurisdiction. He produced a copy of the order of the Hon'ble Delhi High Court

A handwritten signature in black ink, appearing to be 'Uwamy' with a horizontal line underneath.

dated 27.05.2009, staying the order of the CGRF dated 08.05.2009. In the last para of the aforesaid order it has been stated that "In the meantime, there shall be a stay of the order dated 08.05.2009 passed by the Consumer Grievance Redressal Forum in application no. CG-61/09/F1/335".

7. In view of the above order, of the Hon'ble High Court, the aforesaid appeal cannot be admitted under Clause 7 (3) of the DERC Notification dated 11.03.2004 as the matter is subjudice before the Hon'ble Delhi High Court. **The appeal is accordingly disposed off and the matter is closed.**

11<sup>th</sup> June 2009

  
(SUMAN SWARUP)  
OMBUDSMAN