

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/2009/326

Appeal against Order dated 05.03.2009 passed by CGRF-BYPL in Complaint No.31/02/09.

In the matter of:

Shri S.P. Madhavan - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent No.1
Shri Mohammad Naseem - Respondent No.2
Shri Noorul Hasan - Respondent No.3

Present:-

Appellant Shri S.P. Madhavan

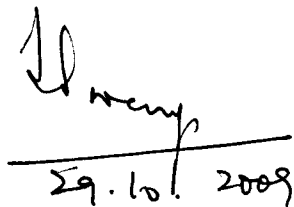
Respondent Shri Rajeev Ranjan, A.M. Legal
Ms. Sapna Rathore, AM-CGC
Shri Parikshat Mahipal, Legal Retainer, and;
Shri Suman Khuller, Sr. Officer, attended on behalf of the
BYPL

Dates of Hearing: 25.08.2009, 08.09.2009 & 24.09.2009

Date of Order : 29.10.2009

ORDER NO. OMBUDSMAN/2009/326

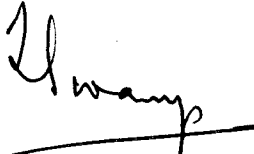
1.0 The Appellant, Shri S.P. Madhavan has filed this appeal against the CGRF-BYPL's order dated 05.03.2009 in complaint CG No. 31/02/09. He has prayed in the aforesaid appeal for disconnection, of the illegal commercial electricity connections in a residential building, sanctioned by the Respondent No. 1 (BYPL) to the


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Respondent No. 2 (Shri Mohammad Naseem) in the unauthorised shops at the premises F-30, Dilshad Colony, Delhi -110095, and to the Respondent No. 3 (Shri Noorul Hasan) in his residential flat at F-30/G-2, Dilshad Colony, Delhi -110095 respectively.

1.1 The brief facts of the case are as under:

- (i) The Appellant is a resident of the first floor Flat No. F-30/G-1, Dilshad Colony, New Delhi-110095. He complained to the Respondent No.1 BYPL on 18.10.2008 and requested for disconnection of the electricity connections illegally sanctioned for commercial use at the shops of the Respondent No. 2, and in the flat of Respondent No. 3 at the aforesaid premises. He also requested for removal of the electricity meter installed inside shop No.2 and the service line cable, which provided electricity to the shops of the Respondent No. 2, by shifting the same from the wall of the Appellant's flat.
- (ii) As the Respondent No. 1 could not resolve the grievance of the Appellant despite repeated complaints, the Appellant complained to the CGRF-BYPL and prayed for removal of the electricity meter installed inside shop No.2 as also the service line cable, which was providing electricity to the 3 shops of Respondent No. 2.
- (iii) The CGRF- BYPL, after considering the records and after hearing the contentions of the parties, recorded in its final order dated 05.03.2009 that the issue of conversion of

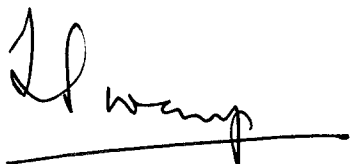

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residential flats to shops pertained to the MCD and DDA, and the matter was not within its purview. The CGRF-BYPL also recorded in its order that the issue of usage of domestic connection bearing K. No. 1211 1531 1191 sanctioned in the name of Smt. Anuradha Bhatia meant for residential Flat No. F-30/G-1, being used in the shop named as 'Mandakini Beauty Parlour' and 'Anuradha Beauty Parlour' (carved out from the Flat No. F-30/G-1) for non domestic purpose, required action by the licensee as per the DERC Regulations.

- (iv) The CGRF in view of the above findings, directed the Respondent No. 1 to initiate action against the use of the domestic connection No.1211 1531 1191 for commercial purposes in accordance with the DERC guidelines, within 15 days, and, thereafter to issue electricity bills accordingly.

2.0 The Appellant, not being satisfied with the order of the CGRF dated 05.03.2009; has filed this appeal dated 19-05-2009 and has prayed for the following reliefs:

- (a) Disconnection of electricity connections being used for commercial purposes at Mandakini Beauty Parlour, Madakini Boutique/ Anuradha Boutique, and Dream Home Associates located in shops at the premises No. F-30/G-1, Dilshad Colony, Delhi, owned by the Respondent No. 2;

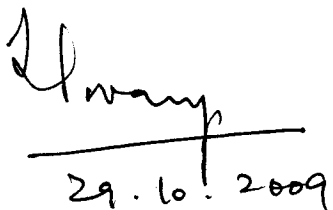

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- (b) Removal of the electricity meters installed in the premises of the Respondent No. 2, outside the earmarked area for installation of meters in the premises; and
- (c) Compensation for harassment and tension caused to him.

3.0 After scrutiny of the contents of the appeal, the records, the CGRF's order dated 05.03.2009, and the submissions of the parties, the first hearing in the case was fixed on 25.08.2009.

At the first hearing on 25.08.2009, the Appellant was present, in person. Respondent No. 1 was represented by Shri Rajiv Ranjan, Asst. Manager (Legal), Shri Parikshat Mahipal (Legal Retainer), Ms. Sapna Rathod, Asst. Manager (CGC) and Shri Suman Khuller (Sr. Officer).

3.1 The Appellant contended that his flat is located in a residential building as per the MCD and DDA's approved plans. As such, the Respondent No.1 could not sanction electricity connections for commercial purposes and convert a domestic electricity connection for commercial purposes in favour of Respondent No. 2 and 3 as their shops / commercial premises were unauthorized. He pointed out that Respondent No. 2 had tampered with, and blocked the sanitary pipe of his toilet, which was passing through the wall in his shop. He also informed that he had also reported the matter of unauthorized construction of three shops in the set back of the residential flat on the ground floor to the MCD, and the nuisance

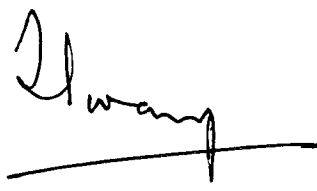

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caused to him as a result thereof, to the local Police. He produced photos to establish the fact of running of unauthorized shops and tampering with the sanitary pipes leading to his toilet in the premises. He also filed a copy of the order dated 15-07-2009 of the Public Grievances Commission, Govt. of NCT of Delhi on his complaint.

3.2 The Respondent No. 1, officials of BYPL, clarified that the electricity connections were sanctioned/converted for commercial use in favour of the Respondents No. 2 and 3 as per the policy of the BSES-BYPL, after checking their applications and documents.

3.3 After hearing the parties, the Appellant was directed to submit documents to establish that the building in which his flat existed was approved by the MCD for residential purposes. The Respondent No. 1, on the other hand, was directed to submit the applications and relevant documents, including approval from the concerned authorities, regarding permission to convert the residential flats for commercial use by the Respondent Nos. 2 and 3. The next hearing was fixed on 08.09.2009.

4.0 At the second hearing on 08-09-2009, the Appellant was present, in person, whereas the Respondent was present through Ms. Sapna Rathod, AM (CGC) and Shri S. Khuller (Sr. Officer).


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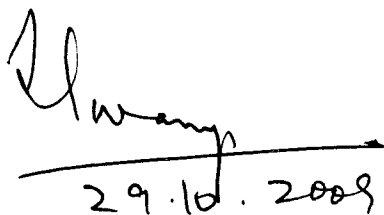
The Appellant submitted a copy of the sanctioned building plan of the building in which his flat is located, by the MCD. He also filed a copy of the order dated 03-08-2009 of the Public Grievance Commission, Govt. of NCT of Delhi on his complaint. These documents were taken on record.

Respondent No. 1 submitted the K. No. file pertaining to sanction of a domestic connection to Shri Noorul Hasan and its conversion from domestic use to commercial use. The file relating to the sanction of a commercial connection to Shri Mohammad Naseem was also produced.

- 4.1 Respondent No. 1 reiterated their earlier stand that the electricity connections were provided for commercial use as per the policy of the BSES-BYPL, after checking the documents filed by the applicants Shri Mohammad Naseem and Shri Noorul Hasan.

The next hearing in the case was fixed for 24.9.2009, in order to provide an opportunity of being heard to the affected parties in the matter. It was directed that notices be issued to Shri Noorul Hasan and Shri Mohammad Naseem being the affected parties. They were also provided copies of the appeal and the reply filed by the Respondent No. 1.

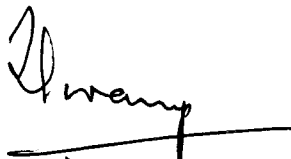
- 5.0 At the hearing held on 24.09.2009, the Appellant was present, in person. Respondent No. 1 was present through Shri Rajiv Ranjan,


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A.M.(Legal) and Shri Suman Khuller (Sr. Officer). Shri Mohammad Naseem and Shri Noorul Hasan were also present, in person, and were impleaded as Respondents No. 2 & 3, being the interested parties.

5.1 The Respondent No. 2 Shri Mohammad Naseem stated that he had purchased the property consisting of these shops on 'power of attorney' from one Shri Giri Raj for commercial use and accordingly had got the electricity connection for commercial use. He produced a copy of the 'power of attorney' to establish this. He further stated that he was running a property dealer business in one of the three shops purchased by him. The other two shops in the premises were leased out to Ms. Anuradha Bhatia for running a boutique and beauty parlour. He stated that the commercial activities being carried out in his shops were in the list of permissible activities as approved by the MCD and DDA. Moreover, he had also deposited the conversion charges with the MCD for all the three shops measuring 10 sq. mt., 10.5 sq.mt and 10.89 sq. mt. respectively. He also informed that no space in the shops was being used for residential purposes. He submitted the following documents; which were taken on record:

- Letter dated 24.09.2009 to the BSES-BYPL
- MCD General Receipt No.: 287047 dt. 26.5.09 for deposit of Rs.2246/-
- MCD General Receipt No. 5290 dt. 06.06.08 for Rs.3246/-
- MCD General Receipt No. 55409 dated 01-05-2009 for Rs.3112/-


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- MCD General Receipt No. 287093 dt. 28.5.09 for Rs.5990/-
- Irrevocable General Power of Attorney dt. 2.6.08 for the premises
- BSES Revised Demand Note dt. 18.6.08
- BSES Acknowledgement for new connection dt. 10.6.08
- BSES Bill for the month of April 2009 for Rs.465.18.
- BSES Bill for the month of June 2009 for Rs.779.91.
- BSES Bill for the month of August 2009 for Rs.899.47.

5.2 The Respondent No. 3, Shri Noorul Hasan stated that he was using part of his residential flat for running a computer institute, which was a permitted activity as per the MCD. He also clarified that part of his flat was vacant and was meant for residential use. He submitted the following documents; which were taken on record.

- BSES's bill for the month of August 2009 for Rs.1850/-.
- Meter Change Report No. 06/204336
- BSES's revised demand note dated 20.12.06 for Rs.2300/-
- BSES acknowledgement note for category change dt. 12-02-2009.

5.3 The Appellant argued that he was facing acute harassment as a result of the commercial activities in a residential building being carried out by Respondent No. 2 in his shops unauthorizedly constructed in the open space meant as a set back. He also pointed out that the Respondent No. 1 was also harassing him for

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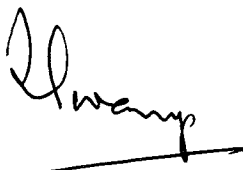
complaining, by issuing disconnection notices for unauthorised use of electricity and he produced a copy of the notice dated 15.1.2009, which was taken on record. It is the Appellant's contention that grant of electricity connection for commercial use by Respondent No. 1 in the unauthorized shops was causing him grave harassment and inconvenience

5.4 The Respondent No. 1, when asked about the reason and justification for the disconnection notice, could not give any satisfactory explanation. They only stated that the disconnection notice was sent by another department.

6.0 The issues for consideration in this case are:

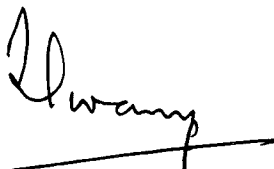
- (a) whether the sanction of a commercial connection and conversion of a domestic electricity connection by the Respondent No. 1 for commercial use in a residential building, were in accordance with the policy of the BSES-BYPL and the DERC Regulations?
- (b) whether harassment was being caused to the Appellant due to (a) above?

7.0 From a perusal of the records and after hearing the averments made by the parties, it is clear that the Respondent No. 1 sanctioned a commercial electricity connection to Shri Mohammad Naseem and converted the domestic connection of Shri Noorul Hasan to commercial use, in a residential building in total disregard


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of the bye-laws and plans of the MCD and DDA, and its own policy in the matter. It is a matter of record that BRPL stated before the CGRF in the case of Smt. Sunita Vs. BRPL, that they had disallowed an electricity connection on the grounds that the premises was an unauthorized construction and were in violation of the building bye-laws. Accordingly, the decision of BRPL, was upheld by the CGRF-BRPL, and the case was decided in favour of BSES –BRPL and against the complainant, Smt. Sunita. BSES is expected to follow a consistent and uniform policy in the BRPL & BYPL areas, and to adopt the same policy for all consumers.

- 7.1 The documents submitted by the Respondent Nos. 2 and 3 do not prove that necessary sanctions and approvals have been obtained from the competent authorities for conversion of the residential premises for commercial use, in accordance with the bye-laws and plans of the MCD and DDA. Mere submission of applications for conversion by Respondents No.2 and 3 to MCD does not imply that approval has been given for use of residential building for commercial purposes. In fact the 3 shops purchased by Respondent No.2, appear to be totally unauthorized constructions and their conversion is dependent on whether these are first regularized. However this is a issue to be decided by the MCD.
- 7.2 It is also noted that Respondent No. 1 i.e. BYPL has failed to take necessary action on the Joint Inspection Report dated 17-11-2008 and the CGRF-BYPL's order dated 05-03-2009, against the misuse

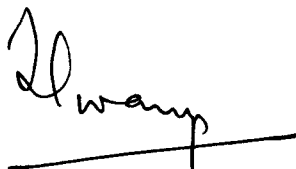

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of the domestic connection No. 1211 1531 1191, within the 15 days stipulated.

7.3 Respondent No.1, BYPL in its disconnection notice dated 15-01-2009, issued to the Appellant, has alleged that the Appellant had extended the supply of electricity from his meter to another disconnected connection bearing K. NO. 121 1153 10751 at F-30, Janata Colony, Shadara. Delhi -110095. The Respondent No. 1, through the notice, has called upon the Appellant to show-cause as to why the outstanding dues of the disconnected connection should be not transferred to his connection. This notice has evidently been issued without any valid reason or justification and appears to have been issued to harass the Appellant, who has been complaining against the grant of commercial connections in a residential building.

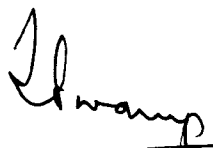
7.4 It is clear from the documents and photographs submitted, and the averments made by the Appellant, that he has been suffering harassment and nuisance due to the sanction of electricity connection for commercial use in a building approved for residential use by the MCD.

8.0 After considering all facts on record, the Respondent No. 1 – BYPL, is, directed to disconnect the commercial connection sanctioned for the three shops which are evidently an unauthorized construction belonging to the Respondent No. 2 Shri Mohammad


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Naseem. BYPL should also disconnect the commercial connection and restore the earlier domestic connection sanctioned to the Respondent No. 3 Shri Noorul Hasan for use in his flat. Any misuse of the domestic connection by Smt. Anuradha Bhatia, or by Shri Noorul Hasan sanctioned for residential use be strongly dealt with as per Rules. A compensation of Rs.10,000/- (Rupees Ten Thousand only) is awarded to the Appellant for the undue harassment, inconvenience and nuisance caused to him as a result of grant of commercial connections to Shri Mohammad Naseem and Shri Noorul Hasan, by the BYPL. The Respondent should report compliance within 21 days of this order.

29th October 2009.


(Suman Swarup)
Ombudsman