

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-cum-Fax No.: 011-41009285)

Appeal No. 33/2021

(Against the CGRF-BYPL's order dated 20.07.2021 in Complaint No. 63/2021)

IN THE MATTER OF

Shri Sunil Kumar Goyal

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Priyank Sumil Garg, Authorized Representative

Respondent: Shri Imran Siddiqi, Manager (Legal) and Ms. Ritu Gupta,
Advocate, on behalf of BYPL

Date of Hearing: 23.02.2022

Date of Order: 25.02.2022

ORDER

1. The appeal No. 33/2021 has been filed by Shri Sunil Kumar Goyal (Registered Consumer), R/o H.No. 41/19, Gali No. 1, East Azad Nagar, Delhi - 110051, through his Authorized Representative, Shri Priyank Sumil Garg, against the order of the Forum (CGRF-BYPL) dated 20.07.2021 passed in Complaint No. 63/2021. The issue in the Appellant's grievance is regarding denial of subsidy by the Discom (Respondent) for his connection bearing CA No. 152937510 for a load of 11 KW under domestic category for staircase purposes.

2. The brief background is that the Appellant application for grant of subsidy in the electricity bill as per the GNCT (Government of National Capital Territory) of Delhi Order No. F.11(11)/2012/Power/Vol*II/2098 dated 07.08.2019 has been declined by the Respondent. The Appellant before the CGRF had submitted that he is having an electricity connection bearing CA No. 152937510 since

October, 2019, at his premises under domestic category and sub-category for separate meter for staircase. The Appellant further submitted that his monthly consumption is less than 200 units, so is entitled for subsidy.

3. The Respondent in its response before the CGRF had submitted that the Appellant raised the issue of subsidy in his electricity bill against the sub-category for separate meter installed for the stairs. They further stated that the subject premises is having Ground + Four Floors (parking, UGF, FF, SF and TF) and all the four are getting subsidy as per rule. The said connection is installed for staircase purposes only and benefit of subsidy is not for the connection released under the staircase category.

The Respondent further states that as per DERC Letter No. F-3(211)/tariff/DERC/2007-08/4885 dated 20.03.2008 vide point no. 8 (d) that proposed subsidy shall not be available to the consumers listed under 4(1) a (ii to x) of Chapter II of DERC Supply Code and Performance Standards Regulations, 2007.

4. The CGRF in its order dated 20.07.2021 states that the subsidy for common area like staircase and parking is not allowed as per relevant DERC and Delhi Government Notifications, viz., DERC Tariff Order No. F.3(211)/tariff/DERC/2007-08/4885 dated 20.03.2008 and GNCT of Delhi (Department of Power) Order No. F.11(111)/2012/Power/Vol-II/2098 dated 07.08.2012.

The CGRF further states that as per inspection held on 07.07.2021, the Appellant is using the electricity connection for lift and parking without the approval from the Respondent.

The CGRF ordered that as per DERC notification and Delhi Government orders as stated above, the Appellant is not entitled for subsidy on electricity use in common area and staircase through separate connection bearing CA No. 152937510.

5 During the hearing on 23.02.2022, further opportunity was given to both the parties to present their respective cases.

6. Accordingly, the Appellant contended the following in his presentation:
- a. That the Appellant is having connection under domestic category and sub-category stairs for separate meter with a sanctioned load of 11 KW. The meter was installed in the parking for staircase purpose. The parking is also being used by the guard for residential purposes since the installation of the electricity connection. Monthly consumption is less than 200 units. Hence, he is eligible for subsidy given by the GNCT of Delhi, Department of Power, by its order no.F.11(111)/2012/Power Vol*II/2098 dated 07.08.2019.
 - b. That initially, the Appellant had approached the Discom by raising his complaints with various concerned offices/departments but he had received only ad-hoc replies without reference to any rule and regulation.
 - c. That he was constrained to approach the CGRF. CGRF rejected his request and passed the order without taking into account the fact that the electricity was being used only for domestic purpose i.e. still parking with washroom, lift and stairs.
 - d. That CGRF did not determine the amount so the Appellant could not deposit the same. He has filed the appeal without one-third amount, as it was not assessed by the CGRF. The Appellant contests that during the pendency of the appeal, the Respondent has disconnected his supply on 18.02.2022 without serving any notice for disconnection to him under Section 53 of Electricity Act, 2003.
 - e. That the CGRF had taken merely references/extracts of the notifications/ letters and orders of DERC but the copies of same were not provided to him before filing the appeal to this office. The same were received by him alongwith the written submission of the Respondent. From perusal of the same, still the Respondent could not correlate/substantiate with their counter arguments for not providing the subsidy.
 - f. That, the CGRF had considered and referred DERC Notification dated 18.04.2007 which states that the electricity connection for which government subsidy is requested fall under 4 (i)(a)(iii) of Chapter-II of



DERC Supply Code and Performance Standards Regulations, 2007. But, actually, the electricity connection is being used for residential purposes by the guard.

- g. That, the CGRF had referred the extract from DERC Tariff order no.F.3 (211)/tariff/DERC/2007-2008/4885 dated 20.03.2008. In this regard, it should be noted that the said letter was written to BYPL under the direction of letter no. F-11(08)/2008/Power/656 dated 20.03.2008 of GNCT of Delhi. The letter of DERC dated 20.03.2008 is not issued under the direction of letter no. F.11(111)/2012/Power/Vol-II/2098 dated 07.08.2019. Hence, any guidelines, if any, should not be applied for granting subsidy under the current order of the GNCT of Delhi as there is no reference to any previous order/letter/guidelines in the current order.
 - h. The Appellant also contests with regard to Draft Operating Guidelines for implementation of subsidy scheme and claims that these guidelines provided by the Respondent are just 'Draft' not final or approved as evidenced from the heading of the guidelines and these guidelines were drafted to serve the interest as directed by the GNCT of Delhi in its letters dated 26.11.2007, 26.12.2007, 01.01.2008 and 29.01.2008.
 - i. That there is no relation between these guidelines and the current subsidy order, as no reference was made for these guidelines in the current subsidy order. The Appellant has requested to grant the government subsidy, if any.
 - j. On being asked about his contention/interpretation on subsidy, the Appellant referred second point of the GNCT of Delhi (Department of Power) order dated 07.08.2019 in his support. The Appellant claims that as per said order, the subsidy should be granted, irrespective of the load to domestic consumer of BYPL who are utilizing upto 200 units in a month. The Respondent could not overrule his arguments in their written submission.
7. Opportunity was also given to the Respondent to present their case/counter arguments. The Respondent presented the following in their rebuttal:

- a. That from perusal of the Appellant's bill, it is clear that the connection is installed in his premises for a load of 11 KW under domestic category, sub-category for staircase. The said connection is installed in the parking for staircase purpose only and benefit of subsidy is not for the connections released under the staircase category. The Appellant has been granted the benefit of domestic connection but the subsidy cannot be given to him. All the relevant documents has been provided to him alongwith their written submission.
- b. That CGRF had passed a reasoned order, whereby it was observed that government subsidy is not applicable to the electricity connection though granted for domestic purpose but was not for residential purposes. The disputed connection was not granted for residential purposes. It was granted for staircase purposes. There are another four connections granted by the Respondent in the building for residential purposes and the benefits of subsidy are being given to the consumers.
- c. The Respondent referred point (v) of Govt. Order No.F.11(111)/2012/Power/Vol-II/2098 dated 07.08.2019 which stipulates as under:

"DERC to see the fact through DISCOMs that electricity connections are not getting splitted by the consumers in the same premises owner just to avail the benefit of subsidy. Appropriate administrative check and balances be put in place to see that genuine consumers are getting the benefits of subsidy."

- d. The Respondent submitted that GNCT of Delhi issued appropriate order for implementation of the subsidy scheme wherein it has been specifically mentioned at point 8 (d) that its subsidy was not applicable in respect of the consumers which were listed under category 4 (i)a (ii to x) of Chapter II of DERC Supply Code of Performance Standards Regulations, 2007. As per Regulation 4, the categories for supply of electricity are classified at sub regulation (i) as domestic connections which is further sub-divided into various categories as detailed therein. The Respondent read Sub-Regulation 4, Classification of Supply, of DERC notification 18.04.2007, in detail.

- e. The Respondent further submitted that from the joint reading of said regulation alongwith Guidelines provided by the GNCT of Delhi, it is apparent that its subsidy is applicable only for electricity connections which are under category Domestic but for residential purpose only. As such no other consumers though being charged under the domestic tariff category are entitled to subsidy as per the government guidelines.
 - f. On being asked about disconnection of his electricity supply even when the matter is subjudice, the Respondent submitted that the connection was disconnected due to non-payment of bills. There is a proper procedure for disconnection. His connection has been restored after the Appellant deposited one third amount. The Respondent further submitted that the instant issue is related to subsidy only. Disconnection of supply due to non-payment is not the subject matter.
8. I have gone through the material on record and also heard both the parties during the hearing on 23.02.2022.

The contention of the Appellant that the impugned connection is domestic/residential, whereas it is clearly mentioned in the bill that the connection is domestic/staircase. The above connection i.e. domestic/sub-category staircase is barred from getting subsidy through an order of DERC. Even the contention of the Appellant that the order is dated and does not find mention in the recent subsidy order of GNCTD does not hold water as the order of DERC barring the connection in dispute, i.e. category domestic /staircase has not been repealed and gets applied across Delhi by all the Discoms.


Further, the connection as contended by the Appellant is used for residential purposes of his Guard has no merit in it as there are no walls/rooms etc. for his above said residence and the connection is used for staircase, lift and common area. The Appellant specifically applied for the above connection and accordingly got the connection.

The said building has four floors apart from the stilt parking, staircase etc. and all the floors have separate connections and are entitled to subsidy as per rules and are getting the subsidy accordingly. The common area, lift and parking is used by all the four occupants including the Appellant, and hence they are not

entitled to further subsidy. The above mentioned DERC orders also vindicate this position.

9. On the basis of the above, I am of considered opinion that order passed by the CGRF in not giving subsidy to the connection in question is right and this Forum does not intend to interfere in the order and appeal is disposed off accordingly.

However, the Respondent is directed to be more transparent in their functioning and give time-bound replies to the communications received from the complainants.


(P.K.Bhardwaj)
Electricity Ombudsman
25.02.2022