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**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/2009/332**

Appeal against Order dated 16.06.2009 passed by CGRF–BYPL in case CG. No.66/04/09.

**In the matter of:**

Shri Kailash Chandra - Appellant

**Versus**

M/s BSES Yamuna Power Ltd. - Respondent

**Present:-**

**Appellant** Shri G.P. Aggarwal, Advocate attended on behalf of the Appellant

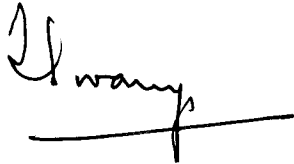
**Respondent** Shri Deepak Benjamin, Business Manager,  
Shri D.K. Sharma, Commercial Officer  
Shri Vijender Sharma, AG-III  
Shri Rajeev Ranjan, A.M. Legal and  
Ms. Sapna Rathore, AM-CGC, attended on behalf of the BYPL

**Dates of Hearing:** 15.09.2009, 24.09.2009

**Date of Order** : 08.10.2009

**ORDER NO. OMBUDSMAN/2009/332**

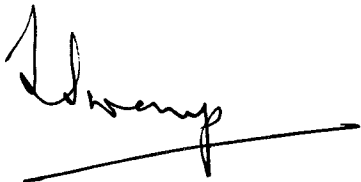
1.0 The Appellant Sh. Kailash Chandra has filed this appeal against the orders dated 16.06.2009 passed by the CGRF-BYPL in the case CG No. 66/04/09 with the prayer that the Respondent may be directed to release the new connection, applied for by the Appellant for his own use, without deposit of the previous



electricity charges of Rs.29565.63 against the connection K. No. 1220R3070064 of the tenant Smt. Mithlesh Kumari as well as the electricity charges of Rs.5967.11 against the connection K. No. 1220R3070099 of the tenant Shri Satish Chand.

**1.1 The background of the case as per the contents of the appeal, the CGRF's order and submissions of the parties is as under:**

- a) Shri Jyoti Prasad father of the Appellant was the owner of the property No.335/33-B (old number), new No. 725, Prem Gali, South Gandhi Nagar, Delhi. After the death of Shri Jyoti Prasad and his wife Chameli Devi, the Appellant became the exclusive owner of the property on the basis of one registered release deed dated 14.05.2007.
- b) Smt. Mithlesh Kumari and Shri Satish Chand were the tenants in two separate portions of the said property. Smt. Mithlesh Kumari was sanctioned electricity connection in her name vide K. No. 1220R3070064 in the tenanted portion of the property in 1980. Shri Satish Chand also got an electricity connection sanctioned in his name in 1984 vide K. No. 1220R3070099 in the portion of the property in which he was a tenant. The Appellant got the portion of the property rented to Smt. Mithlesh Kumari vacated through Eviction Order of the Rent Controller on 11.2.2009.
- c) Thereafter, the Appellant applied for a new domestic connection vide application No. N-122009020912 on



13.02.09 in the District Office, Krishna Nagar, Delhi. The Respondent directed the Appellant Sh. Kailash Chandra to deposit the dues pending against the connections installed in the premises vide K. Nos.: 1220R3070064 and 1220R3070099 for getting the new domestic connection in his name.

- d) The Appellant Sh. Kailash Chandra filed a complaint before the CGRF stating that the Respondent has rejected his application for a new connection, as there are outstanding dues on the premises amounting to Rs.24167.00 against K. No. 1220R3070064 and Rs.23189.00 against K. No. 1220R3070109 in the name of Smt. Mithlesh Kumari and Shri Satish Chand respectively. The Appellant Sh. Kailash Chandra also stated that both the above connections were installed in the name of his tenants without taking no objection certificate (NOC) from the owner. Therefore, he is not responsible for his tenant's dues and the same be recovered from the registered consumer or their legal heirs.
- e) The Respondent in his reply stated that the dues of Rs.29,565.63 and Rs.5967.11 are pending against connection K. No.: 1220R3070064 disconnected on 11.04.2007 in the name of Smt. Mithlesh Kumari, and K. No.: 1220R3070099 disconnected on 29.04.2009 in the name of Shri Satish Chand, respectively. The K.No.1220R3070109 was not in the name of Sh. Satish Chand.
- f) The Respondent further stated that the connections in the name of Smt. Mithlesh Kumari and Shri Satish Chand were

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released in the year 1980 and 1984 as per the rules prevailing at that time. The registered consumers had been consuming electricity for almost 28-29 years and the issue of NOC was never raised earlier by the Appellant Sh. Kailash Chandra.

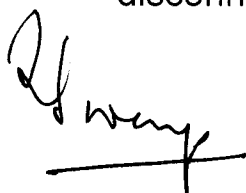
- g) The CGRF in its order decided that the Appellant who had applied for a new connection has to pay the electricity dues pending against the connections in the premises as the electricity was allegedly consumed by his erstwhile tenants.

Not satisfied with the CGRF's order, the Appellant has filed this appeal.

- 2.0 After scrutiny of the contents of the appeal, the CGRF's order and the replies submitted by both the parties, the case was fixed for hearing on 15.09.2009.

On 15.09.2009, the Appellant was present through Sh. G.P. Aggarwal, Advocate. The Respondent was present through Sh. Rajeev Ranjan, AM-Legal, Ms. Sapna Rathod, Sh. Deepak Benjamin, BM, Sh. D. K. Sharma, CO and Sh. Vijender Sharma.

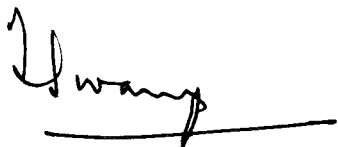
Both the parties made their oral submissions. The Appellant also filed citations and written arguments which were taken on record. After scrutiny of the record, it is seen that the disconnected connection in the name of Smt. Mithlesh Kumari



is being used to commit direct theft as per the Respondent's site report dated 29.04.2009. The Business Manager was directed to take immediate cognizance and book the concerned person under law, if theft of electricity is found. The Appellant Sh. Kailash Chandra drew attention to the documents on record which reveal that the two connections sanctioned in the name of his tenants stand disconnected, but no action for recovery of dues had been taken for the last few years and the dues were allowed to accumulate.

2.1 The Respondent was directed to produce the K. No. files of the connections sanctioned for the premises at the next date of hearing, along with the statements of account of the two disconnected connections. The file relating to disposal of the application of the Appellant for a new connection was also to be produced. The Appellant was directed to produce a clear site plan of the premises indicating clearly the area for which the new connection is sought. The case was fixed for further hearing on 24.09.2009.

2.2 At the hearing on 24.09.2009, both the parties argued their case at length. The Appellant filed an interim application and the site plan of the premises. From the interim application it was seen that the service line of the disconnected connection is still hanging. The Respondent confirmed that the legal heirs of the tenant, Sh. Satish Chand (since expired), had been booked for stealing electricity through the illegal wires. The Business



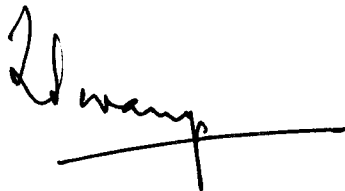
Manager was directed to remove the service line / illegal wires, facilitating theft immediately and to report compliance.

The Respondent cited the judgment of the Hon'ble Delhi High Court in LPA 223-24/2006 in the case of Mrs. Madhu Garg and Another Vs. NDPL, to establish that a new connection can be given to the Appellant only when he clears the dues of his tenants.

### 3.0 OBSERVATIONS

3.1 It is noted that Smt. Mithlesh Kumari and Sh. Satish Chand were tenants of separate portions of the premises. Smt. Mithlesh Kumari got an electric connection in her name vide K. No. 1220R3070064 in the year 1980. This connection was disconnected on 11.04.2007 due to non-payment of dues of Rs.29,565/-. The dues had been allowed to accumulate for several years. The Appellant got the part portion under occupation of Smt. Mithlesh Kumari vacated on 11.02.2009 though an eviction order passed by the Rent Controller after years of litigation.

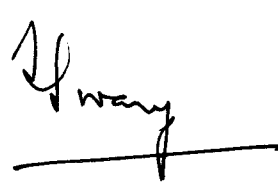
3.2 The case for eviction of Sh. Satish Chand from the portion occupied by his legal heirs is pending. The dues against the connection of Sh. Satish Chand amounting to Rs.5967/- are also pending since 29.04.2009, and no meter was found at site by the Respondent's officials. However no action was



taken by them either to recover the dues or for illegal removal of meter.

3.3 From the plan/ map of the premises filed by the Appellant clearly demarcating/ indicating the portions which were earlier under occupation of Smt. Mithlesh Kumari and Sh. Satish Chand, it is seen that the new connection has been applied for in the portion which was vacated by Smt. Mithlesh Kumari. Thus the issue of payment of dues/ arrears of the connection of Smt. Mithlesh Kumari only will be considered. The heirs of Shri Satish Chand are still residing in their portion of the tenanted premises.

3.4 From the statement of account of Smt. Mithlesh Kumari's connection vide K.No. 1220R3070064, it is observed that the registered consumer was earlier regularly paying her electricity bills and arrears were only Rs.6.52 in October 2004. After October 2004, the registered consumer did not make any payment of the subsequent 16 number bi-monthly bills, and the arrears were allowed to accumulate to Rs.29,927/- upto April 2007. For recovery of the dues, the licensee was required to follow the DERC Metering & Billing (Performance Standards) Regulations 22 (i) according to which "on non-payment of dues, the licensee may issue a disconnection notice in writing, as per section 24 of the Electricity Act, to the consumer who defaults on his payment of due charges, giving him 7 clear days to pay the dues.



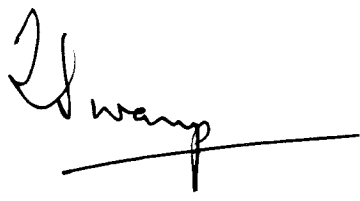
Thereafter, the licensee may disconnect the consumer's installation on expiry of notice period."

As per the Electricity Act 2003, section 56 (i) pertaining to disconnection of supply in default of payment, provides "where any person neglects to pay charges for electricity due from him to licensee, the licensee after giving not less than 15 clear days notice in writing to such person and without prejudice to his rights to recover such charge, cut off the supply of the electricity until such charge together with any expenses incurred are paid".

The Respondent could not give any satisfactory reply as to why the dues were allowed to accumulate and no action was taken for recovery of dues as per the DERC Regulations and the Electricity Act 2003.

**4.0 CONCLUSION**

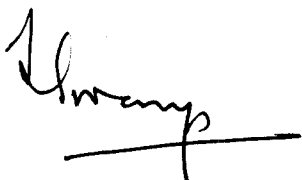
4.1 From the records it is observed that Smt. Mithlesh Kumari had been making regular payments towards her electricity bills since 1980 as the dues were only Rs.6.52 in October 2004. The case filed by the Appellant for eviction was going on against Smt. Mithilesh Kumari in the court of the Rent Controller. Perhaps knowing that the premises will have to be vacated she stopped making payment of her electricity bills. The Respondent officials appear to be in collusion with





the registered consumer Smt. Mithlesh Kumari and dues were allowed to accumulate and no action was taken for recovery of her dues. The supply was disconnected only on 11.2.2007 when the dues had accumulated to 29,927/-, as is evident from the Statement of Account.

4.2 The Respondent has cited the decision of the Hon'ble High Court in the case of Mrs. Madhu Garg & Another Vs. NDPL for recovery of the pending dues against the premises, from the Appellant. In my view this case is different from the cited case of Mrs. Madhu Garg, as the Appellant is not a new purchaser of the premises where the connection is lying disconnected. The Appellant got the premises vacated through the Rent Controller after a long legal battle for eviction of the tenants. It was the responsibility of the Respondent to raise regular bills and to effect regular recovery. In case of non-payment of dues, the Respondent was required to take appropriate action by way of issuing disconnection notice and the supply should have been disconnected on non-payment of dues as per rules. In this case, the Respondent did not take any action for recovery of dues for almost 30 months and allowed the dues to accumulate, for which no satisfactory explanation was put forth by the Respondent. Now, the Respondent cannot be allowed to take advantage of their own mistakes / failure. Had the Respondent taken timely action for recovery of dues, the same would not have accumulated to Rs.29,927/-.




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The Respondent may investigate and fix the responsibility on the officials who allowed the dues to accumulate and also failed to take recovery action.

4.3 The Respondent is directed to sanction a new connection in favour of the Appellant Shri Kailash Chander, without recovery of dues pertaining to Smt. Mithlesh Kumari against the premises. It is reported that Smt. Mithlesh Kumari is now residing in the adjacent house and in my view the dues can easily be recovered ~~from~~ her. The Respondent should also ensure that appropriate action against the legal heirs of the tenant Sh. Satish Chand is also taken as the meter was not found at site on 29.04.2009 and they are indulging in direct theft as per the report dated 29.04.2009 and 18.09.2009. They are also liable to pay the accumulated dues.

4.4 The orders of the CGRF are accordingly set aside. Compliance of orders contained in paras 4.1 to 4.3 above may be reported within 21 days of this order.

8<sup>th</sup> October 2009 .

  
(SUMAN SWARUP)  
OMBUDSMAN