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2005

**Office of the Electricity Ombudsman**  
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)  
**B-53, Paschimi Marg, Vasant Vihar, New Delhi – 100 057**  
(Phone No.: 39506011 Fax No.26141205)

Ref: E.OBM/A/05/35

Dated: 8<sup>th</sup> December, 2005

**Appeal No. F. ELECT/Ombudsman/2005-06/35**

Appeal against Order dated 22.6.2005 passed by CGRF – BYPL on :  
Complaint No.: CG-53/08/2004.

**In the matter of:** Mr. Brij Bhushan Gupta - Appellant

**Versus**

**Present:-** M/s BSES Yamuna Power Ltd. - Respondent

**Appellant** Shri Brij Bhushan Gupta, the appellant,  
Shri Anil Kumar Gupta, advocate of the appellant

**Respondent** Shri Devi Singh, Business Manager  
Shri Sanjay Kumar, Manager (Enf.) of BSES- BYPL  
Shri Lalit Kr. Gupta of M/s Suri & Co., Counsel for BSES

Date of Hearing : 22.11.2005 & 29.11.2005  
Date of Order : 08.12.2005

**ORDER NO. OMBUDSMAN/2005/35**

The appeal is in regard to following 5 K.No. connections of Premises No. '3' which were disconnected on 20.7.2004.

<u>Sl.No.</u>	<u>K.No.</u>	<u>Name of R/C</u>
1.	125050080162	J.P.Aggarwal
2.	125050080164	Geeta Aggarwal
3.	125050080070	Swami Oxygen
4.	125050080232	M/s M.G.Wood Works
5.	125050080085	M/s Ashoka Indust.Corp.

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Records of the CGRF were called for. After examination of records, the comments of the Discom were called for on specific points, some of which were submitted (after several reminders) after a period of 80 days. The case was fixed for hearing on 22.11.2005.

On 22.11.2005, the officials of the respondent company did not attend. A proxy advocate turned up only to ask for time as the senior advocate was not available. Hearing was therefore adjourned to 29.11.2005.

On 29.11.2005, Shri Brij Bhushan Gupta, the appellant alongwith his advocate Shri Anil Kumar Gupta attended the hearing.

Shri Devi Singh, Business Manager, Shri Sanjay Kumar, Manager (Enforcement) of BSES-BYPL and Shri Lalit Kr. Gupta, Counsel for BSES attended the hearing.

At the start of hearing OMBUDSMAN informed that since the appeal has been filed against the CGRF-BYPL orders dt. 22-06-2005, the issue of following 5no. connections,

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lying disconnected since 20-07-2004 and raised before the CGRF, would only be taken up. Shri Lalit Kumar respondent's advocate raised two objections against taking up this case by OMBUDSMAN on the plea that (i) a case under Sec.135 for direct theft is pending against the consumer Shri Brij Bhushan Gupta and (ii) further Shri Gupta has no authority to represent the case as he does not come under the definition of "consumer". On asking why this objection was not raised before CGRF, Shri Lalit Kumar informed that his objection was ignored by CGRF. Respondent's advocate was reminded that in his reply he has stated that CGRF order's dated 22-06-2005 are acceptable as they are just, perfect and legal. He stated that it was replied so, as the CGRF orders were in his favour. It is pertinent to mention that CGRF-BYPL has not given any relief as prayed for by the appellant. Appellant's advocate stated that as per affidavit given by him he is a consumer as per Sec.2(15) of the Electricity Act 2003.

The OMBUDSMAN stated that if any document / evidence is produced by respondent showing that these 5 numbers connections have been booked/charged under Sec.135 for theft of electricity, this appeal will not be taken up. **Shri Sanjay Kumar Manager-Enforcement of Respondent**

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Company, when asked, categorically stated that the 5 connections have neither been booked under section 126 or 135 of Electricity Act 2003 nor any theft bill has been raised against them. It was also confirmed by respondent that all 5 connections were alive and connected on 20-07-2004 and that the bills have been paid regularly.

He further stated that complaint has been lodged against 9 no. connections of the consumer mentioned in the petition filed in the Special Court under section 135. Copy of the petition filed before Special Court of Shri S P Garg, Hon. Special judge, Karkardooma Courts, reveals that the case is filed by BYPL against Ashoka Paper Mills which refers to premises no.2, as mentioned on page 6 para7 of the petition. The present appeal before the Ombudsman is in respect of premises no.3 having 5 connections. At Sl. No.10 and 13 of the petition it is stated that consumer (Ashoka Paper Mill ) has been booked under Sec.135 for direct theft of electricity and bill for Rs.44,52,19,206/-raised with connected load of 3596.351 kw. At this stage **Shri Sanjay Kumar, Manager – Enforcement informed that in fact no FIR has been lodged against these 5 number connections. These 5 number connections have not been booked so far under Sec.135. In view of above the appeal was taken up for hearing.**

Perusal of the CGRF orders and submissions made by appellant and respondent reveal that

- i) On 17-7-2004 Enforcement officials of the Discom were denied entry by the appellant for inspection of premises no.3 where the 5no. connections were installed. Respondent officials issued a notice under sec.163(3) of Elec. Act'03. On refusing to accept, same was pasted on the gate, giving 24 hours period to make the premises available for inspection.
- ii) On 20-07-2004, Tuesday(off day) Sr. Manager (Enf.) visited the site along with B.M (Yamuna Vihar) and his staff. Sr. Manager (Enf.) directed at site that as per enforcement information these 5 no. connections are already disconnected and service line (s/line) must be removed immediately. As per BM (Yamuna Vihar)'s note dated 29-07-2004 s/line of 5 number connections was disconnected and removed. **This note does not mention that supply was disconnected in pursuance to notice under sec.163(3) pasted on 17-07-2004.**

During hearing Shri Sanjay Kumar Manager - Enforcement informed that these 5 no. connections were not already disconnected and were alive on 20-07-2004. He further stated that notice under sec.163(3) was not sent by post to the consumer though this should have been done. As per DERC Regulations 25 (vii) (Performance Standard – Metering and Billing) 2002, the notice must be sent by registered post to the consumer. This has not been done. After disconnection of supply on 20.7.2004, appellant was not informed about the reasons for disconnecting the supply.

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Appellant informed respondent vide letter dt. 21-07-2004 that 5 no. connections have been disconnected without serving any show cause notice by cutting and removing the s/lines on 20-07-2004 which was Tuesday(weekly off day). He came to know from department that service lines of these connections were cut on the plea that these connections stand already disconnected in their record. Appellant requested respondent vide letter dated 16-08- 2004 for restoration of supply disconnected without notice. Vide letter dt.7-03-2005 the appellant (to avoid any controversy and further delay in the matter) offered the premises for inspection to the Discom at any reasonable time and requested for restoration of supply. **Strangely respondent officials kept unexplained silence without any action/reply to the letters of the appellant for restoration of supply/inspection of the premises even when none of the 5 connections was booked under sec.126 or 135 of the Electricity Act 2003.**

Respondent 's plea that Shri Brij Bhushan Gupta is the owner and running business from all the 3 premises is without evidence. **The fact that premises No. 2 has been booked under sec.135 for direct theft of electricity can not be the reason for disconnecting supply in a different premises( premises No.3) of 5 number connections installed in the said premises and keeping it disconnected without confirming the reason of disconnection to consumer and without reply to his correspondence.**

In view of above facts, it is ordered that the supply of the 5 number connections disconnected on 20-07-2004 be restored immediately and if required, inspection of premises no. 3 may be done by following due process of law. Report on compliance of order be sent within 7 days.

The orders of CGRF- BYPL dt 22-06-2005 are accordingly set aside.

अशा मेहरा  
(Asha Mehra)  
Ombudsman