

64

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/2010/360

Appeal against Order dated 26.10.2009 passed by CGRF-BRPL in case no. C.G.No.143/2009.

In the matter of:

Smt. Sumitra Devi - Appellant

Versus

M/s BSES Rajdhani Power Ltd. - Respondent

Present:-

Appellant Shri Umesh Chand Yadav, husband of the Appellant and Shri Dhiraj Kumar Pandey, Advocate attended on behalf of the Appellant.

Respondent Shri Manish Singh, Commercial Officer, Khanpur Division attended on behalf of BRPL

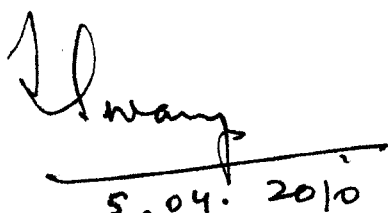
Date of Hearing : 16.02.2010, 09.03.2010, 18.03.2010

Date of Order : 05.04.2010

ORDER NO. OMBUDSMAN/2010/360

1.0 The Appellant, Smt. Sumitra Devi has filed this appeal against the orders of the CGRF dated 26.10.2009 in the case CG No. 143/2009 with the following prayer:

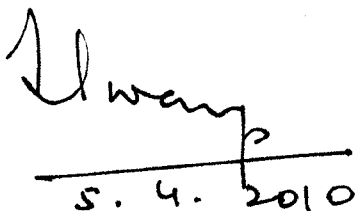
(a) To set aside the impugned order dated 26.10.2009 passed by the Consumer Grievance Redressal Forum and to allow the present representation,


5.04.2010

- (b) to direct the BSES officials to amend the bill against the Appellant and to raise the bill as per tariff for domestic category in place of non-domestic category, and
- (c) to restrain the Respondent from disconnecting the supply of electricity till the disposal of the case.

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

- i) The Appellant states that she is the resident of C-287, Pul Prahladpur, New Delhi – 110 044 and has an electricity connection K. No.2511N8031290 for domestic use. The said electricity connection has been used for purely domestic purpose, but, the Respondent has been raising bills as per the non-domestic use category, without citing any reason.
- ii) The Appellant approached officials of the Respondent several times, but they neither sent any notice nor explained the reason as to why the bills had been raised under the non-domestic category.
- iii) The Appellant has sincerely been paying the electricity bills till April, 2007. However thereafter, she came to know that the Respondent was raising the bills under the non-domestic use category and she stopped paying the bills. The Respondent had raised the bills against the Appellant in the non-domestic use category for the last many months which the Appellant had not noticed earlier.


S. 4. 2010

- iv) The Appellant has recently opened a shop on the ground floor of her residential house, for which she applied for a commercial connection on 21.10.2008. As the commercial connection was not sanctioned, the Appellant filed a complaint before the CGRF.
- v) The Respondent stated before the CGRF that the commercial connection could not be given to the Appellant because from DVB period mis-use charges had been levied on the domestic connection, and commercial use was still going on. The Respondent could not produce any documentary proof that they had issued any show-cause notice to the Appellant for clarifying her position. The Respondent in fact stated that the file was not traceable.

1.2 The CGRF in its order held that:

- In the absence of any documentary proof, the BRPL's version cannot be taken at face value and the benefit of doubt goes to the complainant and she can not be penalized and mis-use charges should not be taken from the consumer. The bills issued levying mis-use charges were set-aside.
- The complainant has herself agreed that she had applied for a commercial connection on 21.10.2008, which clearly proved that she started commercial activity, might be in a small portion, so all the consumption from this date i.e. from 21.10.2008 onwards should be charged on commercial tariff without any penalty being levied.

Swamy
5. 4. 2010

- The Appellant was also at liberty to apply for a commercial connection again, and in case she wanted two connections, one each for domestic and commercial use, she can have both the connections.

Not satisfied with the above order, the Appellant has filed this appeal stating that commercial use is only being done in a small portion on the ground floor, whereas the CGRF has ordered levy of commercial tariff on the entire property w.e.f. 21.10.2008 onwards.

- 2.0 After scrutiny of the contents of the appeal, the CGRF's order and the submissions made by both the parties, the case was fixed for hearing on 16.02.2010.

On 16.02.2010, the Appellant was present through her husband, Shri Umesh Chand Yadav. Respondent was present through Shri Manish Singh, Commercial Officer, Khanpur Division.

Both the parties argued their case. The Appellant pleaded that commercial charges have been wrongly levied from 2008 when only the ground floor has been converted to a shop.

The Respondent was asked to produce the following documents:

- (a) original meter books for the domestic connection

U. Yadav
5.14.2010

- (60)
- (b) name change file
 - (c) file relating to application for commercial connection earlier in 2008
 - (d) file relating to consumption record of the domestic connection, including payment details.

The Appellant was asked to produce:

- (a) documents relating to purchase of the property
- (b) payment details

The case was fixed for further hearing on 09.03.2010.

2.1 On 09.03.2010, the Appellant was present through her husband, Shri Umesh Chand Yadav and Shri Dhiraj Kumar Pandey, Advocate. Respondent was present through Shri Manish Singh, Commercial Officer, Khanpur Division.

The Appellant produced the documents of purchase of the property on 03.05.2000. The Respondent produced the original meter-books, statement showing consumption and payments since 2002. The name change file and the file containing the request for a commercial connection were stated not to be traceable.

The Respondent was directed to carry out a site inspection on 10.03.2010 and to send a report by 12.03.2010 so as to confirm the actual area under commercial use and the load requirement for

Shri Manish Singh
5.4.2010

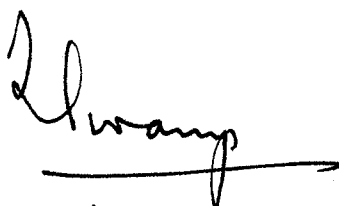
57

the new commercial connection. The Appellant was asked to file a copy of the ownership documents and to furnish the details of payments made so far against the existing domestic connection from May 2000, onwards i.e. after purchase of the property.

The case was fixed for further hearing on 18.03.2010.

2.2 On 18.03.2010, the Appellant was present through Shri Dhiraj Kumar Pandey, Advocate. The Respondent was present through Shri Manish Singh, Commercial Officer, Khanpur Division.

The Report of site inspection dated 10.03.2010 was produced, indicating that two shops of 6' x 8', each, had been constructed on the ground floor and were being used for commercial purposes. From the original meter-books, it is seen that mis-use charges had been levied prior to 2001, as shops were in existence at that time also. The subsequent inspection in 2003 has also confirmed the existence of the shops. The Appellant has also paid bills upto April, 2006 regularly, and part payments were made in April 2007 for Rs.4,100/-, on 16.05.2009 for Rs.20,000/- and on 30.12.2009 for Rs.12,900/- without protest against the levy of misuse charges. The Appellant could not produce any document confirming that any objection was raised against levy of mis-use charges prior to 21.10.2008 by him or by the previous owner.


5.4.2010

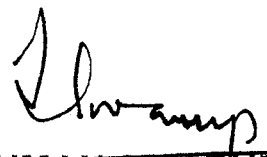
(Sr)

2.3 The Appellant evidently had applied for a 1 Kw commercial connection on 21.10.2008 which was not sanctioned by the Respondent, without giving any valid reason. In fact even the original file is not traceable. Had the commercial connection been sanctioned on 21.10.2008, the mis-use charges would not have been leviable on the entire domestic connection load. Clearly part of the premises are being used for residential purposes and only the ground floor for commercial purposes.

2.4. It is decided that a commercial connection of 1 KW be deemed to have been granted w.e.f.21.11.2008 i.e. after 30 days of the date of the application dated 21.10.2008, and no mis-use charges are leviable from 22.11.2008 onwards. A new commercial meter be installed as applied for, and its consumption be noted for a period of six months. The average consumption for six months of the commercial meter installed, be treated as the basis for charging the Appellant for commercial use of the domestic connection from 21.11.2008 upto date. The remaining consumption of the domestic meter be charged on domestic rates. The mis-use charges levied prior to 21.11.2008 are in order, and the Appellant should pay the un-paid arrears.

The CGRF-BRPL's order is accordingly modified.

5th April 2010


(SUMAN SWARUP)
OMBUDSMAN