

## 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/2010/370**

Appeal against Order dated 02.02.2010 passed by CGRF–NDPL in CG.No. 2453/10/09/CVL.

**In the matter of:**

Shri Servesh Gupta &  
Shri Sanjiv Seth

- Appellant

## Versus

M/s North Delhi Power Ltd.

- Respondent

**Present:-**

**Appellant** Shri S.P. Gupta, Authorised Representative attended on behalf of the Appellant

**Respondent** Shri Ajay Kalsie, Company Secretary,  
Shri Gautam Jai Prakash, Manager- KCC-Legal  
Shri Vivek, Manager (Legal) and  
Shri Krishnendu Datta, Advocate attended on behalf of  
the NDPL

**Date of Hearing** : 03.06.2010, 21.07.2010, 29.07.2010

**Date of Order** : 09.08.2010

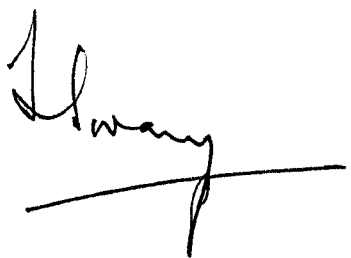
**ORDER NO. OMBUDSMAN/2010/370**

1.0 The Appellants, Shri Servesh Gupta and Shri Sanjiv Seth have jointly filed this appeal against the order dated 02.02.2010 passed by the CGRF-NDPL in the case CG No.2453/10/09/CVL.

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1.1 The brief facts of the case as per the records and submissions of the parties are as under:

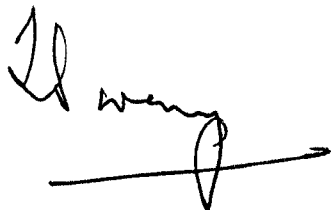
- (a) The Appellants had earlier filed a joint complaint before the CGRF-NDPL dated 26.09.2009, stating that Shri Servesh Gupta approached the Respondent in June 2004 for grant of separate connection of 16 KW load each for nine number cottage units at 8/Y, Under Hill Lane, Civil Lines, Delhi. He was asked to deposit 50% of the estimated cost of the electrification scheme, as the area was un-electrified. Later on Shri Sanjiv Seth also approached the Respondent for providing new electricity connection in each of the six residential units at 10/A, Under Hill Lane, Civil Lines, Delhi. On the request of the two Appellants, the Respondent prepared a combined electrification scheme for electrification of 8/Y and 10/A, Under Hill Lane, Civil Lines, Delhi and the Respondent informed them to deposit 50% of the estimated cost of electrification amounting to Rs.14,31,380/-. The Appellants deposited the final installment on 09.04.2007 towards 50% of their share of the cost.
- (b) The Appellants stated before the CGRF that the Civil Lines area was already electrified. As such, only service line charges were payable by them and they requested for refund of the development charges already paid by them.
- (c) The Respondent officials stated before the CGRF that the load was not applied for in 2004. In fact Shri Sanjiv Seth applied for the combined load for six cottages on 15.04.2006,



and deposited Rs.10,000/- as charges for preparation of estimates for electrification. In response to this request a demand note was sent by the Respondent on 23.05.2006 for depositing RS.9,22,080/- on account of 50% cost of electrification charges. Out of Rs.9,22,080/-, Rs.6.87,080/- was deposited vide receipt no. 3472 dated 26.02.2007.

- (d) Shri Servesh Gupta applied for connections for nine cottages on 25.09.2006 and deposited Rs.10,000/- on 26.09.2006 for preparation of estimates. On 10.02.2007, Shri Servesh Gupta, Director of M/s Bhavana Realtors and Shri Sanjiv Seth, Director of M/s Lalamal Sangamlal Seth Constructions Pvt. Ltd requested the Respondent that a combined estimate for electrification of 8Y-Under Hill Lane and 10 A- Under Hill Lane, Civil Lines, Delhi may be prepared and the estimated cost may be informed. Accordingly, the Respondent prepared a common scheme for electrification for both properties for an amount of Rs.28,62,760/ and intimated Shri Servesh Gupta and Shri Sanjiv Seth vide DISCOM's letter No.: Manager (KCG)/DEV-252/LGNEG0004747 dated 28.03.2007, that Rs.14,31,380/- being their 50% share of the cost was to be deposited by them through cheque/bank draft. Shri Servesh Gupta and Shri Sanjiv Seth who were developing the 2 plots, deposited the amount.

- (d) The Respondent officials also placed on record before the CGRF an internal letter no.:IC-CCU/D04/1516 dated



22.05.2004 in which it has been clarified that if a single point connection is taken for a plot, the charges were to be recovered as per the norms, and all such plots that are carved out of the one main plot, shall than be categorized under the category of un-electrified area. The area of 8Y and 10 A, Under Hill Lane was treated as un-electrified areas. Shri Servesh Gupta and Shri Sanjiv Seth had constructed a member of residential units as developers on these plots, and the development charges deposited by them were therefore not refundable.

- (e) The CGRF vide its order held that Shri Servesh Gupta and Shri Sanjiv Seth were developers and the 50% development charges recovered as per the DERC's guidelines are not refundable.

2.0 The Appellants, not satisfied with the order of the CGRF dated 02.02.2010, have filed this appeal with the prayer that the CGRF has not given any concrete/valid reason for rejection of the complaint and the order is in violation of the guidelines of the DERC. Moreover, the area where the premises are situated has already been electrified for decades and the connections were given on LT system of supply and the connection is neither a single point delivery nor given on 11 Kv supply. As such the cost of electrification is not chargeable from them.



3.0 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 03.06.2010.

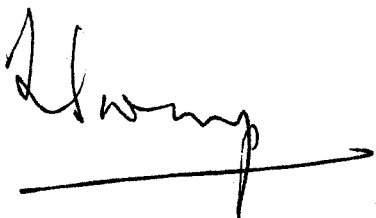
3.1 On 03.06.2010, the two Appellants were present through Shri S.P.Gupta their authorized signatory. The Respondent was present through Shri Krishnendu Datta (Advocate), Shri Ajay Kalsie (Company Secretary), Shri Gautam Jai Prakash (Manger – KCG Legal) and Shri Vivek (Manager – Legal).

The Appellants argued that Civil Lines is an electrified area and cannot be treated as un-electrified merely because new constructions have come up on large plots, which were already having electricity.

The Respondent stated that the development charges were deposited in 2007, as per the approved electrification scheme. The residential units constructed by the Appellants are already sold off, and as such, the Appellants have no 'locus standi' now to ask for the refund. The Appellants had not lodged any protest in 2007, while depositing the amount.

After hearing, both the parties, they were directed to produce the following details:

- (i) K. No. files and billing details of all connections sanctioned on the two plots.



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- (ii) Reasons for clubbing the two properties for preparing of estimate.
- (iii) Copy of the scheme prepared for electrification and the agreement executed by the parties, and
- (iv) Copies of sale-deeds and other title documents of owners of individual properties constructed on the plots, and documentary proof of the 'locus standi' of the Appellant for seeking refund at this stage.

The case was fixed for further hearing on 16.06.2010. On the request of the Appellants, the case was rescheduled for 21.07.2010.

3.2 On 21.07.2010, the Appellants were not present. The Respondent was present through Shri Krishnendu Datta (Advocate), Shri Gautam Jai Prakash (Manager -KCG Legal) and Shri Vivek (Manager - Legal).

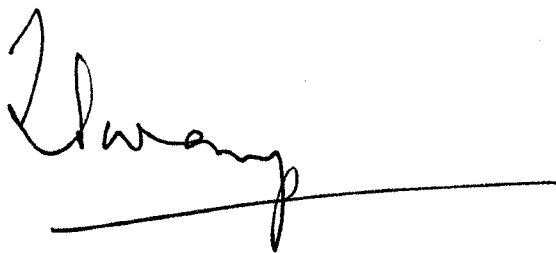
The Respondent produced the file relating to preparation of the electrification scheme for the two plots. They could not give any valid reason for preparing a common electrification scheme. The Respondent argued that the Appellants having sold the properties do not have any 'locus standi' to file this appeal. As such the appeal is not maintainable. The case was fixed for further arguments on 29.07.2010.



- 3.3 On 29.07.2010, the Appellants were not present. A letter was received from them stating that they have nothing more to add in the matter except what has already been submitted, and they will not be able to attend the hearing on 29.07.2010.

The Respondent had submitted the file relating to preparation of the electrification scheme, and it is seen that the important facts/dates are as under:

- (i) The combined electrification scheme was prepared for 8/y and 10/A, Under Hill Lane, Civil Lines, Delhi, on the request of the Appellants. The cost of the combined scheme was Rs.28,62,760/- and 50% share comes to Rs.14,31,380/- + Rs.10,000/- (for preparation of estimates).
- (ii) The demand-note was issued on 28.03.2007 and the last installment of payment was received on 09.04.2007.
- (iii) As per the Respondent, ten connections have been given in nine cottages in 8/y and 9 connections in 10/A, Under Hill Lane, Civil Lines, Delhi. All the cottages have more than one floor. The Respondent confirmed that 50% of the estimated cost of development was recovered from the Appellants as is done in the case of other private developers and government agencies.



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4.0 After hearing the arguments of both the parties and after scrutiny of records produced, it is seen that:

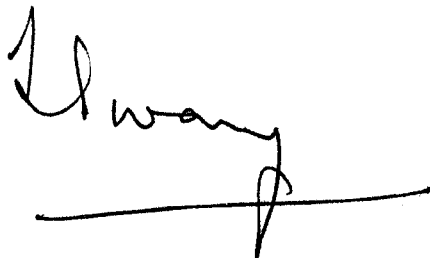
The Appellants Shri Servesh Gupta and Shri Sanjiv Seth represented by their authorized signatory Shri S.P.Gupta, have not produced any documentary proof of ownership/occupation of the property as on date of filing this appeal or established their 'locus standi' for seeking a refund at this stage.

The Respondent has raised an objection that the cottages built on the plot have already been sold off and the Appellants have no 'locus standi' to ask for a refund at this stage, since the cost of electrification is included in the sale price as is evident from the sale deed produced. No protest was made by the Appellants in 2007, while making the payment against the demand-note raised for electrification.

4.1 The issues which require a decision are:

- (a) Whether the Appellants have any 'locus standi' to seek a refund at this stage having sold the cottages constructed?

From a copy of the sale deed filed it is evident that while selling the residential units constructed alongwith land, the developers have already recovered the cost of electrification from the buyers. As such, at this stage, they are not entitled to seek any refund.





- (B)
- (b) Whether the plots were already electrified, and as stated by the Appellants service line charges alone were recoverable for granting a 16 Kw load for each of the 9 + 6 (15) cottages constructed thereon?

4.2 To sort out the issue at (b) above we have to see the definition of un-electrified area as given in the DERC's Supply Code and Performance Standards:

**"Un-electrified area** shall mean areas requiring/undergoing development including smaller pockets within larger developed areas, which themselves require/are undergoing development, such that the area does not have any existing distribution network/ appropriate transformation capacity to cater to the demand/ potential load of such area. Such areas shall continue to be treated as un-electrified till such time a distribution network has been established and electrified to cover the proposed plotting/ development layout thereof."

As per Supply Code and Performance Standards Regulations' Clause 30 (i)

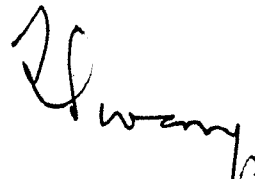
"For area developed and sponsored by development agencies like Delhi Development Authority, Municipal Corporation of Delhi, Public Works Department or private developers, the electrification shall be carried out by Licensee after charging 50% of cost towards

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HT feeders, sub-station including civil works, LT feeders and 100% cost towards service line and street lights."

- 4.3 As per the records, the owners of 8/Y and 10/A, Under Hill Lane, Civil Lines, Delhi, engaged Shri Servesh Gupta, Director of M/s Bhawana Realtors and Shri Sanjiv Seth, Director of M/s Lala Ram Sangam Lal Seth Construction Pvt. Ltd. to develop/construct the residential units on their plots. The Appellants developed the plots by constructing dwelling units which were later on sold to other buyers, alongwith pro-rata interest in land. As per the Respondent, the existing distribution network and transformer capacity was not adequate to meet the load requirement of the new dwelling units, each having 2 to 3 floors. There have been a number of such instances where large plots have been sub-divided into smaller portions, and for providing electricity to each of the smaller plots, the owners had to share the cost of electrification on pro-rata basis.
- 5.0 Thus, there appears to be no merit in the plea of the Appellants. I do not find any justification for interfering with the order of the CGRF-NDPL. The appeal is accordingly disposed of.

9<sup>th</sup> August 2010

  
(SUMAN SWARUP)  
OMBUDSMAN