

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 – 110 057

(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2010/387

Appeal against Order dated 02.07.2010 passed by CGRF–BRPL in case no. C.G.No.249/2010.

In the matter of:

Shri Man Mohan Jain

- Appellant

Versus

M/s BSES Rajdhani Power Ltd.

- Respondent

Present:-

Appellant

Shri Rudra Kahlon, Advocate attended on behalf of the Appellant

Respondent


Shri Sudhir Bhattacharya, Senior Manager (Enforcement) attended on behalf of BRPL

Date of Hearing : 27.10.2010

Date of Order : 29.10.2010

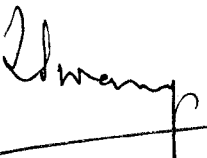
ORDER NO.: OMBUDSMAN/2010/387

- 1.0 The Appellant, Shri Man Mohan Jain has filed this appeal against the order of the CGRF BRPL dated 02.07.2010, praying for setting aside the aforesaid order and the demand of Rs. 83,619/- raised by the Respondent (BRPL) .


29.10.2010

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

- a) The Appellant is the registered consumer of electricity connection K. NO. 2510N2720665 for domestic use at his residence A-114 A-8, Ground Floor, Kalkaji Extension, New Delhi-110019.
- b) The Enforcement Department of the Respondent conducted a raid at the premises of the Appellant in the morning of 24.10.2010 and booked a case of dishonest abstraction of electricity (DAE) under Section 135 of the Electricity Act, 2003.
- c) The Appellant has stated that he reached the office of Respondent before the aforesaid raid in the morning of 24.02.2010 and voluntarily declared that his meter was tampered with and registered the same under the Voluntary Declaration Scheme. The Respondent raised an assessment bill for theft vide their bill No. ANENF 2402201002 dated 24.02.2010. He also paid at about 2:00 P.M. on the same day, the electricity bill of Rs. 15,458/- dated 24.02.2010 on account of DAE.
- d) The Respondent served a 'Show Cause Notice' of DAE dated 24.02.2010 on the Appellant based on the inspection the same day. The Appellant on 12.03.2010 replied to the aforesaid 'Show Cause Notice' stating that he had already deposited the assessed bill for his tampered meter.

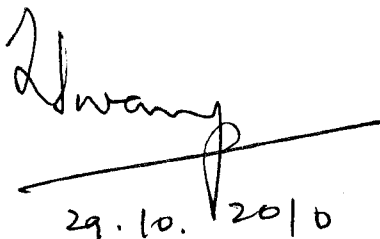

29.10.2010

- e) The Enforcement Cell of the Respondent passed a speaking order dated 19.05.2010 holding a case of electricity theft under Section 135 and 138 of the Electricity Act.
- f) The Respondent sent to the Appellant a notice dated 16.06.2010 under Section 56 of the Electricity Act along with an assessment bill of Rs. 83,619/- to be paid within fifteen days, failing which the Appellant's electricity would be disconnected.

2.0 The Appellant filed a complaint before the CGRF-BRPL against the disconnection notice under Section 56 of the Electricity Act challenging the bill of Rs. 83,619/-.

The CGRF-BRPL, after considering the records and averments made by the parties, observed in its order that the Appellant on seeing the raid at his premises at 1:05 P.M. rushed to the Respondent's office at 1:52 PM and deposited the bill of Rs. 15,458/-. The CGRF-BRPL, therefore, rejected the Appellant's complaint on the ground that as the case of electricity theft under Section 135 of the Electricity Act had been booked against him, the Forum had no jurisdiction to take up the complaint.

3.0 The Appellant on 04.08.2010 filed an appeal before the Ombudsman for setting aside the order of the CGRF dated 02-07-2010 as also the demand of Rs.83,619/- raised on 16.06.2010.


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3.1 A preliminary hearing of the case was fixed on 27.10.2010 after obtaining the required clarifications from the parties.

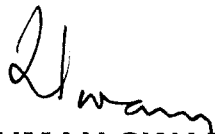
The contentions of both the parties were heard. Based on the arguments of the parties and perusal of the records, prima facie this appears to be a case of theft of electricity. Apparently the Voluntary Declaration Scheme under Regulation 55 of the DERC Supply Code has been availed of by the Appellant, on the day the inspection was carried out by the Enforcement Department. It is not possible to determine from the available records that the Appellant was unaware of the inspection by the Enforcement Department on 24.02.2010 at his residence, at the time when he made the voluntary declaration of his meter being tampered under

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Regulation 55 of the DERC Supply Code and paid the assessment bill. The CGRF-BRPL and the Electricity Ombudsman are prohibited from taking up cases of theft under clause 8(1) of the DERC Notification No. 11(29)/DERC/2003-04/1265, dated 11.03.2004.

- 3.2 In view of the above, the appeal of the Appellant against the order of the CGRF –BRPL dated 02.07.2010 is rejected. The Appellant is, however, at liberty to approach the appropriate Forum for relief.

29th October 2010


(SUMAN SWARUP)
OMBUDSMAN