

**OFFICE OF ELECTRICITY OMBUDSMAN**

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

**B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057**

(Phone: 011-26144979)

**Appeal No. 39/2023**

(Against the CGRF-TPDDL's order dated 17.08.2023 in C.G No. 45/2023)

IN THE MATTER OF

Shri Tirath Singh Khatkar

Vs.

Tata Power Delhi Distribution Limited

Present:

Appellant: Shri Tirath Singh Khatkar, along with Shri Harpreet Singh and Shri Vishal Srivastava, Advocate

Respondent: Shri Ajay Joshi, AGM (Legal) and Shri Rahul Adhikari, Senior Executive on behalf of the TPDDL

Date of Hearing: 29.11.2023

Date of Order: 30.11.2023

**ORDER**

1. Appeal No. 39/2023 has been filed by Shri Tirath Singh Khatkar, R/o 2979/2, Ranjit Nagar, South Patel Nagar, New Delhi – 110008, through his son Shri Harpreet Singh, against the order dated 17.08.2023 passed by the Consumer Grievance Redressal Forum (CGRF) –Tata Power Delhi Distribution Ltd. (TPDDL) in CG No. 45/2023.

2. The brief background of the case is that the Appellant, a senior citizen, had approached the Discom vide his e-mail dated 28.05.2021 for shifting of high-tension wires passing over the roof of his premises at 3066/8A/2, Street No. 10, Ranjit Nagar, Delhi – 110008, for reasons of security and fire hazards and also to ensure the safety of lives and property. The house was constructed in 1965 when there were no wires or pole installed in front of his house and there was no breach of safety norms. Later,



when there was up-gradation of the wires etc., the alignment got changed and wire crossed the roof of the Appellant. The Appellant corresponded with the Discom several times through letter as well as e-mail, to remove these wires. On his insistence, technical team of the Discom conducted site visit on 14.07.2022, and found encroachment at the site and Discom filed a case under 133 Cr.PC. before the SDM. In this regard, the Appellant received a notice from SDM's office on 29.01.2023 (Case No. 22), for appearing.

Further, on the request of Appellant vide letter dated 16.06.2022, the Discom prepared an estimate of Rs. 2,60,280/- on account of charges for the shifting of high-tension lines and wires. On receiving the said demand note, the Appellant again approached the Discom vide his letter dated 22.11.2022 for unjustified charges raised by them. The Discom duly replied to him vide letter No. CEM/2022-23/357 dated 20.12.2022 justifying the cost based on the site visit conducted on 14.07.2022, necessary observations, geographical layout, along with mechanical and related technical requirements. Discom also claimed that the details were shown to his representative, Shri Harpreet Singh, who duly acknowledged by signing the said document. Pursuant to concurrence, a demand note Notification No. 2030857959, amounting to Rs.2,60,280/- ( including GST), was raised as per Regulation 24(ii) of DERC (Supply Code and Performance Standards), Regulations, 2017. Appellant approached the CGRF-TPDDL vide his complaint dated 12.04.2023, requesting to waive off the unjustified demand of Rs.2,60,280/- for laying/shifting new cables/lines. The Appellant further requested to get the wires/cables shifted at the cost of the Discom, due to genuine safety concerns and to end unnecessary harassment. Appellant contended that the Discom was responsible for laying wires over the roof top of his house. On the request for re-consideration of the amount vide communication dated 27.12.2022, Discom revised the estimate to Rs.1,86,495/-. After approaching the CGRF, a joint inspection was carried out and based on that, the estimates were further revised to Rs.91,806/-. An Interim Order was issued in this regard.

3. The Forum, in its order dated 17.08.2023, stated that as per Regulation 24(4)(iv) of DERC (Supply Code and Performance Standards), 2017, the complainant is liable to pay the estimated amount of Rs.91,806/- for the shifting of electrical lines by the Discom. Further, the shifting of lines/cables work will be done only after the complainant remits all applicable charges. Therefore, the request of the complainant for payment of the estimated amount in six installments and starting work after payment of the first installment was not acceded to. The Forum also directed the Discom, to carry out the shifting work, considering the safety aspects, within 21 days after the deposit of the estimated charges by the complainant.





4. Aggrieved by the order dated 17.08.2023, passed by the Forum, the Appellant preferred this appeal and submitted that he is a senior citizen and has numerous ailments due to which he usually travels to the USA for medical treatment

5. The Appellant filed his appeal on the grounds that (a) in spite of the default of the Discom, they are demanding charges for shifting of the LT line, (b) gross negligent conduct of the Discom had led to suffering and danger to his and his family's lives, (c) as per Section 2(11), Consumer Protection Act, 2019, there is a deficiency in services by the Discom, (d) he suffered a mental agony, (e) the Discom's services will fall under the ambit of Section 2(42) of the Consumer Protection Act, 2019, which states "xxxx but does not include the rendering of any service free of charge or under a contract of personal service", (f) pole structure should be installed/aligned as per Pole Installation Guidelines given by the Government of India, (g) Shifting costs under the demand note is unreasonable. The Appellant, in support of his contention, also referred to the High Court of Delhi's judgment in the case of BSES-BYPL vs. Deepak Saran (WP(C) No. 4283/2015), (h) Due to gross negligence of the Discom, LT Transmission Lines are diagonally crossing the road, which is against laid down standards .

The Appellant finally prayed:

- To nullify the demand note of Rs.91,546/-.
- To rectify the LT lines which violate the rule for the installation of LT lines in the street.
- To pay an amount of Rs.1.00 lakh along with 9% interest per annum for mental harassment.
- To pay Rs.40,000/- and Rs. 3,000/- incurred on account of litigation costs and legal notice, respectively.

6. Whereas, the Discom in its written submission to the appeal, reiterated the same as submitted before the Forum. The Discom further stated that they had made preliminary objections regarding the maintainability of the proceedings before the CGRF based on a complaint u/s 133 Cr PC before SDM (Patel Nagar). However, the CGRF proceeded with the matter only after the Appellant showed his willingness to shift cables and agreed to pay the 'estimate' prepared by them. In this regard, the Forum, in its Interim Order dated 27.06.2023 recorded that – *"As on date, as submitted before us, the case before SDM is now transferred to MCD and no update is available by either of the parties. However, the complainant has submitted that he is willing to shift the cables running over his premises for the safety of his premises and agrees to pay the estimate prepared by the Respondent. However, he has*





reasonable nor as per DERC Regulations. The Appellant also denied for any consent on revised amount of Rs.91,806/- before the CGRF.

10. In rebuttal, Respondent reiterated its contention as in written submission. When it was asked whether the matter was taken up before the SDM in the past or any notice under Section 133 was served to the Appellant before 2021, at any point in time during the course of augmentation or replacement of wires. Respondent referred to a photograph of site, taken in 2011 at the time of inspection of existing connection installed there. Respondent asserted that the wires were laid with appropriate clearance but afterwards there appears to be modification in old constructed premises by way of extended balcony which resulted in crossing of LT network on Appellant's roof. Appellant was served notice only in 2021. The proceeding before the SDM is still pending. However, the Appellant's response in respect of any extension of balcony was negative and he persisted upon old construction (1965) of premises with balcony and no alteration thereafter till date. The Respondent was further asked (i) about the clause under which notice u/s 133 was served to the Appellant, how does it apply in the instant matter, (ii) Why L shape overhead wires could not be laid in line with Regulations, instead of laying 38 meters wires diagonally, in violation of Regulations, (iii) What is the significance of one pole installed without utilization of any kind at the opposite side of Appellant's premises? Respondent could not respond convincingly on these queries.

11. The material on record has been considered. The Discom has not disputed that the construction of the house of the Appellant is old, and claimed to exist since 1965. With reference to the e-mail dated 28.05.2021, the Discom for the first time on 09.06.2021 informed the Appellant about unauthorized construction and encroachment at the site, without elaborating as to when the lines in question were laid down and when the encroachment took place. As per the drawing submitted by the Appellant, the length of 29.8 meter to an unutilized pole was not used and a diagonal length of 38 meter used for laying down, which was contrary to the guidelines on the subject. No rebuttal to this fact or acceptance of the mistake by the Discom has been placed on record. As a matter of fact, the averment by the Appellant in Para 6 of his application before the CGRF has been admitted by the Discom, in their reply dated 29.05.2023. The photographs of the site, in question, clearly indicate that the premises is a single storey construction with a balcony, the corner of which is adjacent to the electricity lines.





In case this construction is not new, i.e. many years old, the onus to maintain safety would lie on the Discom in the light of the provisions of Regulation 61 of Central Electricity Act (Measures Relating to Safety and Electricity Supply) Regulations, 2010, which requires maintenance of a horizontal distance of 1.2 meter. The potent risk to human life would invoke the strict liability of the Discom as recognized by the Supreme Court in the case MP Electricity Board vs. Shail Kumar (A.R. 2022 SC 551) decided on 11.01.2002.

Without addressing the above aspects of the matter, the Discom has solely relied upon the provisions of Regulation 24 of the DERC (Supply Code & Performance Standards) Regulations, 2017, which inter alia provide as under"

- i) *The proposed shifting if technically feasible, and*
- ii) *The applicant remits the applicable charges required for shifting of electrical line.*

12. This Court has heard the contentions of both the parties, have gone through written submissions and other documents submitted by respective parties. This Court has also gone through the relevant provisions and is of considered opinion that the CGRF has not gone into the safety/technical aspect of the issue and only focused on commercial angle. This Court sets-aside the CGRF-TPDDL's order dated 17.08.2023 and directs the Respondent:

- (i) To install a mid span pole existing between pole Nos. 1304-27 & 1364-27 in Gali No. 20, Ranjit Nagar, for proper support of distribution network/AB Cables, at corner of building No. 3066/8A/2, Ranjit Nagar, considering safety norms for distribution network as well as hassle free traffic movement.
- (ii) To take appropriate steps in consultation with relevant officers for sensitization of the Field Staff and the Field Offices about the need for strict adherence to safety norms. The Officers may also be sensitized to resolve consumer grievances in a very transparent and effective manner, in order to avoid harassment and mental agony.
- (iii) Action taken report be submitted to this office within three weeks time.

The appeal stands disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
30.11.2023