

OFFICE OF THE 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 No.: 011-26144979)

Appeal No. 40/2021

(Against the CGRF-BRPL's order dated 12.11.2021 in CG. No. 49/2020)

IN THE MATTER OF

Shri Anil Goyal

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri B P Agarwal, Advocate on behalf of Shri Anil Goel,
the Appellant

Respondent No. 1: Shri S. Bhattacharjee, Sr. Mgr., Shri Parveen Bajaj
AFO, and Shri Deepak Pathak, Advocate, on behalf of BRPL

Respondent No.2: Shri Mohit Goyal, S/o Shri Sunil Goyal

Date of Hearing: 04.05.2022

Date of Order: 05.05.2022

ORDER

1. The Appeal No. 40/2021 has been filed by Shri Anil Goyal against the order of the Forum (CGRF-BRPL) dated 12.11.2021 passed in CG No. 49/2020, dismissing his plea for the disconnection of an electricity connection bearing C.A. No. 151426666 granted to a firm namely, M/s Prakash Plastics Industries at C-192, Phase - II, Mayapuri Industrial Area, New Delhi.



2. The brief background of the case as per records is:

- The Appellant had filed a complaint before the CGRF-BRPL stating that Shri Sunil Goyal (his brother) had applied for the electricity connection by filing false & fabricated documents and an affidavit mentioned therein that he was one of the partners in the firm.
- The Appellant stated that this firm was constituted in 1989 between the partners, viz, Late Shri Om Prakash Goyal, Shri Sunil Goyal, Shri Sushil Goyal and the Appellant as its partners.
- There were changes in the partners of the said firm over a period of time and following the Partnership Deed dated 01.08.2003, there are only two partners of the said firm, i.e. Shri Mohit Goyal and the Appellant himself. When it came to the knowledge of the Appellant that the said connection had been illegally installed in the factory premises, he enquired with the Respondent's Janakpuri and Nehru Place Office and found that an electricity connection vide Meter No. 29015612, CA No. 151426666 was installed.
- Further, the Appellant stated that Shri Sunil Goyal and Shri Mohit Goyal have affixed forged signatures of his in various affidavits/documents submitted to the Respondent. He further stated that he never signed any letters or affidavits for the installation of the new electricity connection at the firm premises. The Appellant requested for disconnection of the said connection. Since his grievance was not redressed, he approached the Forum for redressal of his grievance.

3. In reply, the Respondent No.1 (Discom) stated before the CGRF that they have sent their reply dated 18.09.2020 to the complainant mentioning therein that the said connection had been sanctioned after completion of all necessary commercial formalities but the partnership deed of the firm i.e. M/s Prakash Plastic had been challenged in the Court and the matter is sub-judice. Since the matter is in arbitration, they were unable to process his request for disconnection of the said electricity connection.



The Respondent also stated that there is no material showing the deficiency in service by them and they have acted as per the extant rules. It is evident from the contents of the complaint that the dispute, if any, is between the complainant, Shri Sunil Goyal and Shri Mohit Goyal. The Appellant failed to place on record any order/direction from the competent court confirming the averments made by him or any direction issued by the competent court to disconnect the electricity connection of the subject premises, hence, the instant complaint is an illegal attempt by the complainant to secure the favourable order.

The Respondent further stated that the electricity connection bearing CA No. 151426666 was released in April, 2015, on the basis of application dated 31.03.2015, after compliance of all the formalities and taking all the documents in adherence with the provisions of law. The same was never disputed by any person including the complainant till date and referred Regulation 56 (5) (i) of DERC (Supply Code and Performance Standards) Regulations, 2017, which mandates that *"no case of unauthorized use of electricity shall be booked by the licensee in the following cases:*

Where consumer is paying the electricity charges for higher tariff category but using electricity for lower tariff category".

That the complainant has willfully not placed on record that there is an ongoing dispute between the complainant and Shri Sunil Goyal, which is pending before the Sole Arbitral Tribunal. This fact was brought to the notice of the Respondent by Shri Sunil Goyal (Respondent No. 2) in his reply dated 17.02.2020 to the notice issued to him vide their letter dated 14.02.2020. Further, It is also evident from the documents submitted by Shri Sunil Goyal attached with his reply dated 17.02.2020 that there is an Stay Operating vide order dated 22.03.2016 passed by Hon'ble High Court of Delhi in OMP (I) (COMM) No. 92/2016 - *"till further orders, the parties to the petition are directed to maintain status-quo in respect of selling, alienating, transferring, encumbering, subletting, assigning, parting with possession in favour of a third party or creating any third party interests in the premises situated at C-192, Rewari Line, Industrial Area, Phase - II, Mayapuri, New Delhi.* Further, from the perusal of the para 4 & 5 of the order dated 06.10.2016 passed by the Hon'ble High Court of Delhi in ARB.P.624/2016 that the averments by complainant



relating to fabrication of documents by Sunil Goyal has been one of the issue to be considered by Ld. Arbitrator.

Further, the Respondent also referred Regulation 12 and 13 of the DERC's Regulations which read as under:

"12. Jurisdiction of the Forum

- (1) *The Forum shall have the jurisdiction to entertain the grievances filed by the complainant with respect to the services provided by the Distribution Licensee and give such orders and directions as may be deemed necessary.*
- (2) *The Forum shall entertain only those grievances where the complainant has approached the appropriate authority of the Distribution Licensee as specified in the complaint handling procedure in SOP Regulations from time to time and is not satisfied either with the response of the licensee or there is no response from the Licensee within the time stipulated therein:*

Provided that no grievance shall be entertained unless it is filed before the Forum within three months from the date the consumer has exhausted the remedy under the complaint handling procedure;

Provided further that the Forum may for reasons to be recorded in writing, entertain a grievance which does not meet the aforesaid requirement.

13. Limitation of Jurisdiction of the Forum

- (1) *The Forum shall not entertain a grievance if it pertains to the same subject matter for which any proceedings before any court, authority or any other Forum is pending or a decree, award or a final order has already been passed by any competent court, authority or forum.*
- (2) *The Forum shall not entertain grievances falling under Section 126, 127, 135 to 139, 142, 152 and 161 of the Act.*



(3) *Subject to sub-regulation (1) and (2) above, no grievance shall be rejected by the Forum at any stage, unless the complainant has been given an opportunity of being heard."*

4. The CGRF had after considering these facts and hearing the arguments held that the Forum did not have the jurisdiction to entertain the case on the grounds that the matter in respect of ownership is pending before the Arbitrator and Hon'ble High Court of Delhi. Accordingly, the Forum cannot give any effective order for disconnection of the electricity connection CA No. 151426666.

5. Aggrieved by the rejection of his complaint by the CGRF, the Appellant has filed the present appeal stating therein that:

- (a) The Forum failed to consider the facts that he had never requested to decide the ownership status of the property or firm.
- (b) Because the Forum misunderstood the case of filing the false affidavit and fabricated documents to procure the electricity connection to ownership dispute, which was not pleaded by him.
- (c) He had filed a simple case on the ground that Shri Sunil Goyal has obtained the electricity connection in the name of the Firm stating that he was the partner on the date of application i.e. 31.03.2015 along with two false affidavits.

And prayed that:

- i) The order of the CGRF dated 12.11.2021 passed in the CG No. 49/2020, whereby his complaint was dismissed may kindly be set aside and;
- ii) Direct the Respondent No.1, to disconnect the electricity connection bearing CA No. 151426666 installed in the name of M/s Prakash Plastic Industries, installed at C-192, Mayapuri Industrial Area, New Delhi.



- iii) Pass any other or further order which this Court may deem fit and proper in the facts and circumstances of the case in his favour in the interest of justice.

6. The above appeal was admitted and the date of hearing was fixed for 04.05.2022.

On 04.05.2022 both the parties were present and were represented by their respective lawyers. The representative of Shri Sunil Goyal (Respondent No. 2) was also present. Shri Sunil Goyal was also impleaded in the appeal as he was an important link in the entire episode.

7. Both the parties were heard and relevant queries/questions were raised by Advisor (L), Secretary and the Ombudsman to know more about the point in issue. The records available were also perused and after detailed deliberation, the Forum has reached the following conclusions:


- That the present Appellant is not a registered consumer but he claims to be a partner of the registered consumer i.e. M/s Parkash Plastic Industries.
- That the Appellant did not react to the installation of the electricity connection in April, 2015 but sent a letter for disconnection in 2019. There is no explanation for the delay. The connection at the said premises was in the knowledge of the Appellant for so long.
- That the Appellant never mentioned the existence of dispute with respect to partnership and also existence of case pending before the Hon'ble High Court of Delhi and subsequently before Sole Arbitrator.
- That there are documents available on records with respect to the partnership, authorized signatories etc. which are contradictory to each other.



- That there are multiple disputes between the Appellant and the Respondent No.-2, i.e. Shri Sunil Goyal for ownership, partnership, etc.

8. In view of above conclusions, I am of considered opinion that the Forum is not competent to decide the dispute in the partnership/ownership, etc. and find no deficiency in service so far as the Respondent No.-1, i.e. BSES-RPL. Further, this Forum has also been limited by Section 29(3)(v) of the DERC's regulations very categorically. I intend to concur with the findings of the CGRF and would not like to interfere with the order of the CGRF.

9. The above order disposes off the appeal in question.


(P. K. Bhardwaj)
Electricity Ombudsman
05.05.2022