

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/2011/405

Appeal against the Order dated 22.08.2006 passed by CGRF–
BRPL in CG.No. 196/2006 & 206/2006

In the matter of:

Smt. Neelam Devi - Appellant No. 1
Shri Raghubansh Prasad Singh - Appellant No. 2

Versus

M/s BSES Rajdhani Power Ltd. - Respondent No. 1
Smt. Geeta Devi & Others - Respondent No. 2

Present:-

Appellants Shri Hrushikesh Panda, Advocate, Smt. Neelam Devi (Appellant No.-1), Shri Raghubansh Prasad (Appellant No.- 2) , and Shri Amit Singh, son of the Appellants No. 1 & 2

Respondent No. -1 Shri Tanmay Mohanty, Business Manager –Palam, Shri D P Kotnala, DFO, and Shri Manish Sabharwal, Asstt. Accountant attended on behalf of the Respondent No. 1 – BRPL

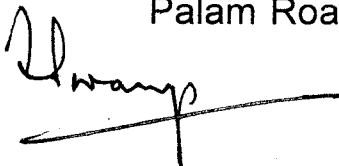
Respondent No. -2 Smt. Geeta Devi, and Shri Jitender Kumar attended on behalf of the Respondent No. 2

Date of Hearings : 07.12.2010, 28.01.2011, 18.02.2011, 08.04.2011 and 14.06.2011

Date of Order: 20.09.2011

ORDER NO. OMBUDSMAN/2011/405

1.0 The Appellant, Smt. Neelam Devi (Appellant No.1) and Shri Raghubansh Prasad Singh (Appellant No.2), R/o RZ-2-A, Ground Floor, Peepal Wali Gali, Mahavir Enclave, Dabri-Palam Road, Palam, New Delhi, through their advocates Shri



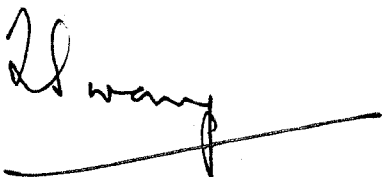
Hrushikesh Panda & Shri C.P. Sharma have filed this appeal dated 22.11.2010, against the CGRF-BRPL's order dated 22.08.2006 in case No.CG/196-2006, 206-2006/F-2/1325. Further, against the order of the CGRF-BRPL, the Appellant had also filed a writ petition in the Hon'ble High Court of Delhi. The Hon'ble Delhi High Court vide its order dated 08.11.2010 (WP(C) No.15190/2006) disposed of the matter with the directions that the Appellants should file an appeal before the Ombudsman, and the said appeal be considered and decided in accordance with the law without considering the pleas of being barred by time or by laches and acquiescence.

2.0 In pursuance of the above directions, the Appellants have filed this appeal against the CGRF's order dated 22.08.2006. The Forum has also already issued an Interim Order vide No.CG/196-2006/F2/829 dated 23.05.2006 in accordance with the orders of the Hon'ble Delhi High Court dated 22.05.2006.

3.0 The background of the case as per the records is as under:

3.1 The case dates back to the year 2006 when the Appellants approached the Hon'ble Delhi High Court over the delay in consideration by the CGRF of their complaint No.CG/196/2006 & 206/2006 and the Hon'ble High Court vide its order dated 22-05-2006 directed the Forum to take-up the case expeditiously, and the Forum issued an Interim Order on 23.05.2006.

3.2 Further, as per the Hon'ble High Court's order dated 29.05.2006, the Appellant has also deposited Rs.50,000/- on

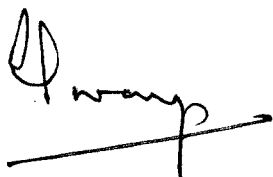


23.06.2006, and the supply of connection K.No.2660W3513153 was restored on 24.06.2006.

3.3 The CGRF, after hearing the parties vide its order dated 22.08.2006 directed the complainant to deposit the remaining amount of Rs.2,24,775.86 in six installments, the first installment being for Rs.24,775.86 failing which, the supply was to be disconnected. The Appellant was also directed to make the payment of the remaining installments as per the schedule, alongwith the current bills, based on the actual readings of the meter.

3.4 Not satisfied with the above order of the CGRF-BRPL, the Appellant has filed this appeal dated 22.11.2010, requesting for:

- Setting-aside the impugned order of the CGRF dated 22.08.2006
- Quashing the impugned revised bill dated 06.05.2006 amounting to Rs.2,74,775.17
- Directing the Respondent to restore the electricity connections bearing K. No.2660W3520406 and 2660W3520794 installed at the premises of the Appellant No.2
- Directing the Respondent to provide all the documents on the basis of which four new electricity connections bearing K. Nos.2660W3590728, 2660W3521297, 2660W3521298 and 2660W3590727 were installed in the name of the tenants of the Appellant No.2.

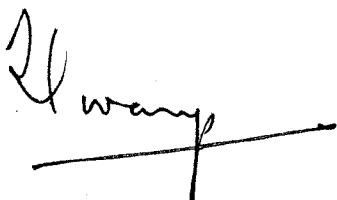


- Directing the Respondent to remove/disconnect the above four electricity connections
- Directing the Respondent not to disconnect electricity connection bearing K. No.2660W3590727 at the premises of the Appellant No.1
- To give suitable amount towards cost and compensation for harassment and damages.

4.0 After scrutiny of the contents of the appeal, the interim applications moved by the Appellant No.2, and the CGRF's order, the case was fixed for hearing on 07.12.2010, after receiving the comments from the Discom.

On 07.12.2010, the appellants Smt. Neelam Devi and Shri Raghubans Prasad were represented through Shri Hrushikesh Panda (Advocate) and Shri Amit Singh, son of the Appellants, was present. The Respondent was represented by Shri Tanmay Mohanty, B.M. (Palam), and Shri Manish Sabharwal(Asst. Acctt.).

Both the parties were heard on the two interim applications filed by the Appellants. On the IA (I) for restraining the Respondent from disconnecting the supply of K.No.2660W3513153, after hearing the parties, it was decided that the supply should not be disconnected till the final disposal of the appeal. On the second interim application of Shri Raghubansh Prasad, regarding restoration of supply through K. Nos.2660W3520794 (Commercial) and K. No.2660W3520406 (Domestic), it was stated by the Discom

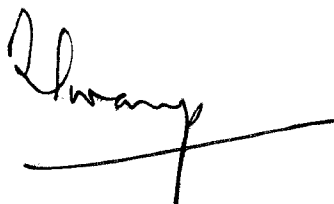


that these connections were disconnected on 15.09.2005 and 17.04.2006 due to non-payment of dues, and as such were dormant. The request for restoration of these connections was rejected till the final disposal of the appeal and till the final decision on the main petition.

- 4.1 On receipt of further comments from the Head Customer Care in the said matter, the case was fixed for further hearing on the main petition on 28.01.2011.

On 28.01.2011, the Appellants argued that the documents referred to in the rejoinder had not been supplied to them by the Respondents. The Respondent produced the four K.No. files of the new commercial connections. These were inspected by the Appellants, and copies of the relevant documents were supplied by the Respondent. The Appellants could however not give any details of payments made by them after September, 1996 upto the disconnection of these two connections in 2005-2006.

The Respondents were also asked to produce the K. No. files, meter books and ledger accounts (from 1991) of the three connections of the Appellants. The Appellants were asked to produce documentary proof regarding payments made by them after September, 1996, and the documents of ownership of the shops, which have been given new connections by the Respondents on the basis of the NOC's of Smt. Geeta Devi, and the next date of hearing was fixed on 18.02.2011.




4.2 The next hearing in the case was fixed at 11.00 AM after serving notices to all the affected parties by Speed Post on 01.02.2011. However, after waiting upto 12.00 PM, only Shri Jitender Kumar appeared on behalf of Respondent No.2 (Smt. Geeta Devi and others) and Shri Tanmay Mohanty (Business Manager) & Shri Manish Sabharwal (Asstt. Acctt.) on behalf of the Respondent No.1. The Appellants Smt. Neelam Devi and Shri Raghubansh Prasad were not present. The hearing was therefore adjourned.

4.3 Meanwhile, it was directed that the site be inspected by the Advisor (Engg. & Legal) and DGM (B), Palam, Mr Mohanty, in the presence of the parties to clear any confusion about the status of the premises, and demarcation of the premises between the parties, and the status of connections installed.

The site was inspected on 07.03.2011 by the above officials in the presence of the representatives of the parties, and the following observations were made by the Inspecting Team:

- The premises as such was a contiguous one with a common entrance and a common veranda at the ground-floor. Apparently, the disconnected DL connection K.NO.2660W3520406 of Shri Raghubansh Prasad was feeding the whole premises as was existing at that time in the year 1983, which was booked for misuse in the year 1985. The NL connection in the name of Shri Raghubansh Prasad was energized on 07.08.1996. The meters of both these disconnected connections appeared to have



existed in a niche for meters at the main entrance of the veranda.

- The DL connection K. No.2660W3513153 of Smt. Neelam Devi was energized on 16.09.2005. In her affidavit, Smt. Neelam Devi had claimed that the premises was built before 01.01.1981, as such it can be construed that the portion of the premises claimed by Smt. Neelam Devi too was being fed by the connection of her husband, the only connection existing in the whole premises at that time.
- Smt. Neelam Devi's connection K. No. 2660W3513153 was presently feeding the dwelling units on both sides of the veranda, barring the rooms which were found locked, and under dispute of ownership.

The next hearing for final arguments was fixed on 08.04.2011.

- 4.4 On 08.04.2011, the Appellants were represented by Shri Amit Kumar (S/o Smt. Neelam Devi) and Shri Hrushikesh Panda – Advocate. Respondent No.1 was represented by Shri Manish Sabharwal, Assistant Accountant, Shri D.P. Kotnala, Deputy Finance Officer. Respondent No.2, Smt. Geeta Devi was present alongwith Shri Jatinder Kumar.

The Appellants and Respondents No.1 & 2 argued their case. They were asked to file written arguments giving the sequence of events since the matter dates back to three decades or so, by 25th April latest. Copies of the written arguments were directed to be given to both the Respondents and the

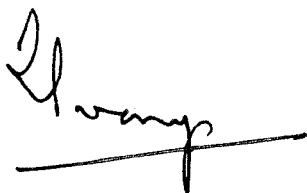


Appellants, and the next date for hearing was fixed on 14.06.2011.

4.5 On 14.06.2011, Appellants Smt. Neelam Devi and Shri Raghubansh Prasad Singh were present. Respondent No.2 Smt. Geeta Devi and Shri Jitender Kumar (Son-in-law) were also present. Respondent No.1 was represented by Shri Tanmay Mohanty, Business Manager. and Shri M.K.Jindal, A.C. (II), Palam. Both the Appellants and Respondents No.1 & 2 were heard. The Appellants stated that they were the owners of the property and had been paying the dues for the meters installed in the premises. The bills raised by the Discom were being disputed as the dues were inflated. The Business Manager agreed to review the bills raised and to examine the documents produced by the Appellants of paid bills, for arriving at the final figure of dues by 27.06.2011.

Respondent No. 2 explained that the four new connections (non-domestic) were sanctioned on the basis of valid documents. The K. No. files of these would be produced by the Discom, alongwith K. No. files of other connections in the premises. Directions were issued for production of a) the K. No. files, b) the statement of Accounts, duly signed by the Business Manager by 27.06.2011.

4.6 Meanwhile, a communication was received from the Discom stating that a mutual settlement with the Appellant was being finalized, and Smt. Neelam Devi and Shri Raghubansh Prasad were ready to deposit Rs.15,000/- within 7 days, out of the



total dues of Rs.2,95,400/- upto March, 2011, alongwith the current demand of Rs.16,10/- pertaining to May, 2011.

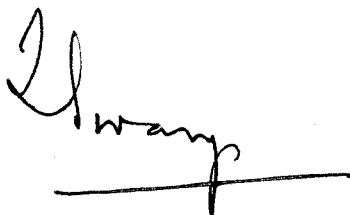
5.0 The Respondents were advised to furnish the following:

- The Memorandum of Settlement giving the terms clearly.
- The Statement of Accounts duly authenticated.
- The basis for reducing the amounts due and the decision of the Competent Authority; in this regard.

5.1 In response to this, the Respondent vide their letter dt.15.07.2011 submitted all the account statements intimating that the total outstanding amount was Rs.2,94,500/-. However, no settlement could be arrived at between the parties. The case is therefore discussed on merits.

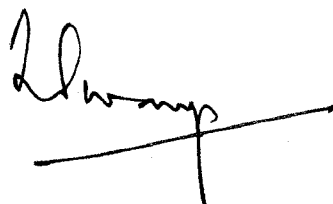
6.0 The main grievance of the Appellants relates to transfer of the outstanding dues of the old electricity connections K. No.2660W3520406 and K. No. 2660W3520794 in the name of Shri Raghubansh Prasad, which were disconnected, due to non-payment of outstanding dues.

6.1 To resolve the issue, a site inspection in the presence of the parties was carried out on 07.03.2011 and photographs were taken of the premises. It is clear from the inspection report, and the photographs submitted, that the claim of the Appellants that the premises of Smt. Neelam Devi and Shri Raghubansh Prasad are separate, is not valid. The premises in fact has one common entrance and a common veranda at the ground floor. The electricity was being supplied through



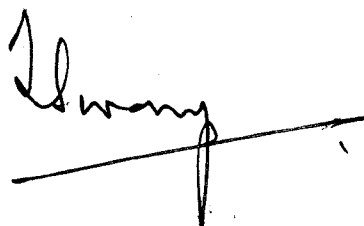
the old K. No. 2660W3520406 to the entire premises, which was sanctioned for domestic purposes, and which was also booked for misuse in 1985. It was also noticed that the non-domestic connection in the name of Appellant No.2 was energized almost after a decade on 07.08.1996. Subsequently, K.No. 2660W3513153 in the name of Appellant 1, Smt. Neelam Devi, wife of Shri Raghubansh Prasad was energized on 16.09.2005 for domestic use. Presently, the electricity connection installed in the name of Appellant No.1, Smt. Neelam Devi, is supplying electricity to the premises.

- 6.2 In view of the above position, there is no merit in the contention of the Appellants Nos. 1 & 2 that the arrears of the disconnected connections K. No. 2660W3520406 and K.No.2660W3520794 cannot be transferred in the bill of the live electricity connection K. No. 2660W3513153, in the name of Smt. Neelam Devi. The husband and wife cannot be allowed to obtain electricity connections in the name of one spouse, accumulate arrears of electricity, leading to disconnection for non-payment of arrears, and again obtain another electricity connection in the name of the other spouse. According to the Respondent No.1, as a last resort, the outstanding dues of the disconnected connections had to be transferred to the existing live connection of Smt. Neelam Devi, as she had earlier been using electricity from the disconnected connections. The CGRF-BRPL in its order No.CG/196/06, 206/06/F2/1325 dated 22.08.2006 has decided that the electricity bill of the



remaining amount of Rs.2,24,775.86 (Rs.2,74,775.86 - Rs.50,000.00) was payable by the complainant.

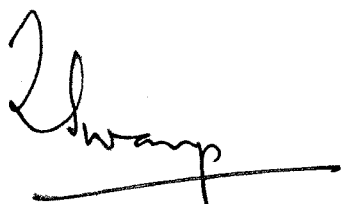
- 6.3 The contention of the Appellants No. 1 & 2 that they have paid their electricity dues in installments regularly was also not borne out by the records. The Appellants No. 1 & 2 also could not provide any details and proof of the payments made by them after September, 1996 till the disconnection of their three connections in 2005-06. The Respondent No.1 has also informed vide their letter dated 15.07.2011 that the Appellant No.1 visited their office on 24.06.2011 for settlement of the disputed bill. However, no settlement could be arrived at between the parties.
- 7.0 After considering the facts on record and the arguments of the parties, the Respondent No.1 is directed to issue a revised bill to the Appellant No. 1 after transferring the dues of connections nos. 2660W3520406 and 2660W3520794 which existed in the name of her husband Shri Raghubansh Prasad. The arrears pertaining to the DVB period, as per the decision of the Hon'ble Delhi High Court dated 02.12.2010 in the case of Lalit Gulati Vs. Govt. of NCT of Delhi WP(C)8568/2009 may be waived. In case the Appellant No. 1 fails to pay the revised bill, necessary action be taken in accordance with the DERC Supply Code and Performance Standards Regulations, 2007.
- 7.1 There is no justification for restoring the electricity connection bearing K. No. 2660W3520406 and 2660W3520794 installed

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in the name of the Appellant No. 2 because only one electricity connection for domestic use is allowed for a dwelling unit. Secondly, there is no need for any other electricity connection for commercial use in the name of the Appellant No.2, because the four tenants have already been sanctioned independent electricity connections for their shops, in their own names.

7.2 The Respondent No. 1 is directed to maintain status-quo in respect of the four commercial electricity connections bearing K. Nos. 2660W3590728, 2660W3521297, 2660W3521298 and 2660W3590727 sanctioned to the tenants in the premises on the basis of NOCs from the Respondent No.2, to avoid any undue hardship to them. The ownership dispute of the property is before the Hon'ble Delhi High Court, and the status of these connections be reviewed on the basis of the final order of the Hon'ble Delhi High Court in respect of the ownership of the property.


7.3 The Respondent No. 2, Smt. Geeta Devi, is the widow, and natural heir of Late Shri Baleshwar Prasad, who was the owner of the property. The Respondent No. 1, is directed to process her application No. 266005120570 dated 15.12.2005, as per Rules for grant of a new connection without taking into account the arrears of the disconnected electricity connections K. Nos. 2660W3520406 and 2660W3520794, registered in the name of Shri Raghubansh Prasad, and which are payable by the Appellant No.1, as directed above at para 7.0.

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8.0 This order is subject to the interim and final orders issued by the Hon'ble Delhi High Court regarding the property disputes between the parties.

The Respondent No.1 is directed to implement this order within 21 days from the date of issue, and send the compliance report to this office.

20th September 2011


(SUMAN SWARUP)
OMBUDSMAN