

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/2011/407

Appeal dated 30.12.2010 against Order dated 28.09.2010 passed by CGRF-BRPL in case no. CG-175/2010.

In the matter of:

Shri Raj Kumar Mehndiratta

- Appellant

Versus

M/s BSES Rajdhani Power Ltd.

- Respondent

Present:-

Appellant

The Appellant Shri Raj Kumar Mehndiratta was present in person

Respondent

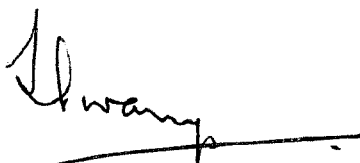
Shri Rajesh Doshi, DGM,
Shri Mahesh Chander, Asstt. Acctt. and
Shri Surender Kumar, Asstt. Acctt. attended on behalf of
BRPL,

Date of Hearing : 25.02.2011

Date of Order : 14.03.2011

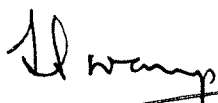
ORDER NO.: OMBUDSMAN/2011/407

1.0 This appeal is filed by the Appellant, Shri Rajkumar Mehndiratta, against the order of the CGRF-BRPL's order dated 28.09.2010 regarding transfer of electricity dues of connection K. No. 2650W8031114 on plot No.T-81, Gali No. 3, Sukar Bazar Road, Uttam Nagar, New Delhi. The building was completely demolished


14.03.2011

and rebuilt into six apartments by the builder. The Appellant Shri Raj Kumar Mehndiratta is the owner of one of the rebuilt apartments.

- 1.0 The back ground of the case as per the records and averments of the parties is as under:
 - 1.1 The electricity connection K. No. 2650W8031114 was sanctioned in the name of Smt. Pushpa Devi, the owner on 11.3.2004. Due to non-payment of consumption charges, the connection was disconnected on 01.05.2008. At present there are six new connections existing in this property, including the connection of the Appellant K. No. 2650W8031422, which was sanctioned on 18.06.2007. To recover the dues pending against the earlier connection existing in the property, a Show-Cause Notice was issued to all the existing consumers. When there was no response from the consumers, the dues of Rs.30,492/- were transferred against the six connections equally. The Appellant was asked to pay the pro-rata amount under threat of disconnection, resulting in his complaint to the CGRF.
 - 1.1 The CGRF after hearing the parties, vide its order dated 28.09.2010, held that since the construction had been raised over the plot in question by bifurcating the same into six different residential units, and the complainant is the occupant of one of the floors, the liability for the dues pertaining to the old consumer, is to be shared by all the new occupants on a pro-rata basis.



14.03.2011

1.2 Not satisfied with the above orders, the Appellant has filed this appeal against the order of the CGRF since according to him it was a lapse on the part of the Respondent in allowing the builder to escape from making the payment of the electricity dues of connection K. No.: 2650W8031114, which had been subsequently, loaded onto the six apartment holders as arrears, despite the fact that his connection was energized on 18.06.2007, whereas the connection with arrears was disconnected only on 01.05.2008.

2.0 After scrutiny of the appeal, the records of the CGRF, and the reply/comments submitted by the Respondent, the case was fixed for hearing on 25.02.2011.

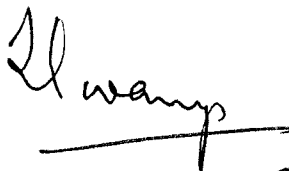
On 25.02.2011, the Appellant, Shri Raj Kumar Mehndiratta was present, in person. The Respondent was present through Shri Rajesh Doshi, DGM, Shri Mahesh Chander, Asstt. Acctt and Shri Surender Kumar, Asst. Acctt.

Both the parties were heard. It was stated by the Respondent that mis-use charges were levied on connection K. No. 2650W8031114 of Smt Pushpa Devi in 2006, and this connection was disconnected on 19.09.2006, as the provisional bills were not paid. It was further informed during the hearing that this connection was illegally restored by Smt. Pushpa Devi, and a penalty of Rs.500/- was also levied. The Respondent was asked to submit the K. No files of all the connections as also the site visit reports on the basis of which misuse charges were levied, names of the meter readers visiting the


(4.03.2011)

premises alongwith the Statement of Accounts for Smt. Pushpa Devi's connection.

- 2.2 On 01.03.2011, the Respondent submitted the file relating to levy of misuse charge on Smt. Pushpa Devi's connection showing the photographs alongwith Inspection Report dated 07.08.2006 of the connection being mis-used for construction purposes alongwith the two K. No. files of Smt. Pushpa Devi and Smt. Maya Devi. However, there is no record in the file of details regarding Inspection Report of K. No.265W8031114 of Smt. Pushpa Devi, levy of misuse charges or illegal restoration of the disconnected connection & levy of penalty. This has facilitated transfer of the arrears of the connection to the Appellant, and non recovery of the dues from the builder during the construction period. The misuse of supply for almost a year and non raising of bills during the period, clearly brings out the nexus between the builder and the Respondent's officials. Further, it is on record that the arrears of the connection K. No. 265W8031114, which was disconnected only on 01.05.2008 have been transferred to connection K. No.2650W8031422 on pro-rata basis although this connection was sanctioned only on 18.06.2007. This seems to be untenable as per the DERC's Regulations, and the law of natural justice. It is provided that new connections are to be sanctioned only after commercial clearance is given and it is confirmed that there are no dues on the premises, where the new connections are to be installed. In this case, the dues had been kept in abeyance by the Respondent's officials to benefit the builder, and have been


14.03.2011

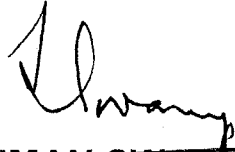
subsequently transferred to the six new connections on pro-rata basis.

3.0 In view of the fact that the Appellant has not been a party to the misuse of the supply, and also when the new connection was sanctioned for his flat, no pending dues were asked for, inter-alia, implies that no dues were payable by him. He is being compelled to pay the same under threat of disconnection. This is unjust and uncalled for in view of the facts of the case.

4.0 After considering all the facts of the case, it is clear that there is a nexus between the builder and the Respondent's officials and the builder has been unduly benefitted. The transfer of dues on connection K. No. 2650W8031422, which has been sanctioned on 18.06.2007, i.e. almost a year before the disconnection of connection K No. 2650W8031114 on i.e. 01.05.2008, is untenable. Accordingly, the order of the CGRF is set aside. The Appellant is not liable to pay any dues for connection K. No. 2650W8031114. The CEO should also enquire into the role of various officials who have benefitted the builder and take disciplinary action against them, including recovery of the loss incurred by the Discom.

The compliance report be submitted by the Respondent within a period of 21 days of this order.

14th March 2011


(SUMAN SWARUP)
OMBUDSMAN

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/2011/407

Appeal dated 30.12.2010 against Order dated 28.09.2010 passed by CGRF-BRPL in case no. CG-175/2010.

In the matter of:

Shri Raj Kumar Mehndiratta - Appellant

Versus

M/s BSES Rajdhani Power Ltd. - Respondent

Present:-

Appellant The Appellant Shri Raj Kumar Mehndiratta was present in person

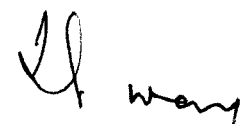
Respondent Shri Rajesh Doshi, DGM,
Shri Mahesh Chander, Asstt. Acctt. and
Shri Surender Kumar, Asstt. Acctt. attended on behalf of
BRPL,

Date of Hearing : 25.02.2011

Date of Order : 14.03.2011

ADDENDUM DT.23.09.2011 TO THE ORDER NO.:OMBUDSMAN/2011/407

Further to the Order No.OMBUDSMAN/2011/407 and the Respondent's compliance report dated 18.04.2011, keeping in view the harassment and mental tension caused to the Appellant due to the deficiency of service on the part of the employees of the Respondent, the Appellant is awarded a compensation of Rs.5,000/- (Rupees Five thousand only). The aforesaid amount of compensation may be paid to him by cheque within a period of seven (7) days.


(SUMAN SWARUP)
OMBUDSMAN