

Office of 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/2011/411

Appeal against Order dated 23.11.2010 passed by CGRF–BYPL in complaint No.212/10/2010.

In the matter of:

Shri Subhash Chand Bhutani - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent

Present:-

Appellant The Appellant Shri Subhash Chand Bhutani was present in person

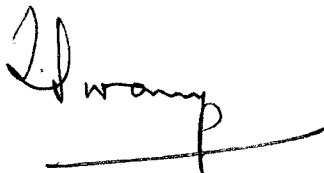
**Respondent Shri Anirudh Arya, Business Manager, Yamuna Vihar
Shri Bipin Anand, Business Manager, Yamuna Vihar
Smt. Yashika Tingal, Head CGC,
Shri Ravinder Singh Bisht, CGC-AG-III
Shri Pawan Mahur, Legal Officer attended on behalf of BYPL.**

Dates of hearing : 18.03.2011, 27.04.2011, 25.05.2011

Date of Order : 08.06.2011

ORDER NO.: OMBUDSMAN/2011/411

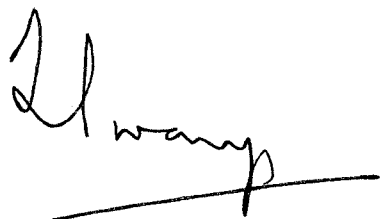
1.0 The Appellant, Shri Subhash Chand Bhutani, has filed this appeal against the order dated 23.11.2010 passed by the CGRF-BYPL in the complaint no.212/10/2010, requesting for sanction



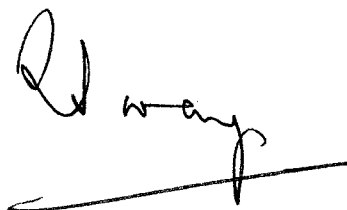
of a second electricity connection applied for by him on 12.04.2007.

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

- a) The Appellant has an electricity connection No. 125053180141, sanctioned on 21.09.1995 at his premises at K3/44 Gali No. 12, West Ghonda, Delhi-110053.
- b) The Enforcement unit of the Respondent carried out an inspection of the aforesaid premises on 13.03.2004 and found that there was direct theft (DT) of electricity at the premises. The Respondent accordingly issued a bill of Rs. 2,70,749/- dated 01.04.2004 for the direct theft (DT) of electricity to the Appellant.
- c) The Appellant filed a suit for permanent injunction dated 06.04.2004 in the Court of the Hon'ble Senior Civil Judge, Karkardooma, Delhi, to restrain the Respondent from proceeding in the matter of theft of electricity. The Hon'ble Civil Judge vide his order dated 29.04.2005 dismissed the aforesaid suit as as not maintainable, and held that an injunction cannot be granted to restrain any person from institution or prosecuting any proceeding in a criminal matter.



- d) The Appellant applied for a second electricity connection for non-domestic purposes at his above premises on 12.04.2007. The Respondent rejected the application of the Appellant on the ground of non-payment of the pending DT bill of Rs. 2,70,749/- dated 01.04.2004.
- e) The Appellant had filed a complaint before the CGRF-BYPL in 2007 against the Respondent, regarding non sanctioning of the second electricity connection, applied for on 12.04.2007.
- f) The CGRF-BYPL, after taking into consideration the records and averments made by the parties, found no merit in the complaint and vide its order dated 25.10.2007 dismissed the same.
- g) The Respondent subsequently, issued a demand note in September 2008 and again on 14.10.2009 to the Appellant, demanding payment of Service Line and Development (SLD) charges as per the DERC Regulations, 2007.
- h) The Appellant requested the Respondent for changing the K.No. and date of his application to 12.04.2007 in the demand note. He also requested for levying SLD charges according to the DERC Regulations, 2003. The Respondent, however, did not accede to his request.

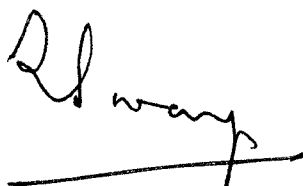
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- 2.0 The Appellant approached the Delhi Government Mediation Cell disputing the levy of higher SLD charges as per the DERC Regulations 2007. His contention was that he had applied for the second electricity connection on 12.04.2007, and, therefore, the DERC Regulations 2003, were applicable for calculating the amount payable as SLD charges and not the amount calculated as per the DERC Regulations 2007.

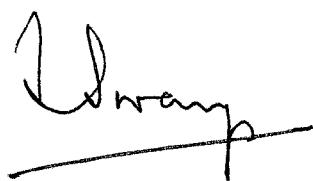
The Delhi Government Mediation Cell vide its order dated 01.02.2011 recorded that an agreement was reached between the parties that on the Appellant's depositing the amount mentioned in the demand note, the Respondent would release the new connection. Accordingly, the Respondent issued the demand note dated 04.02.2011, but the Appellant refused to accept the same and did not comply with the aforesaid order.

- 3.0 The Appellant also approached the Public Grievances Cell of the NCT of Delhi against the demand note of Rs. 4,500/- raised by the Respondent.

The Public Grievances Cell, after perusal of the records and after hearing the parties, vide its order dated 25.11.2008 directed the Appellant to approach the appropriate court because the Appellant had challenged the DERC's Regulations, and the PG Cell had no jurisdiction to decide the same.



- 4.0 The Appellant again filed a complaint before the CGRF-BYPL on 01.10.2010 requesting for sanctioning of the second electricity connection. The CGRF, after considering the records and submissions made by the parties, decided vide its order dated 23.11.2010, that the Appellant's contentions that the date of demand note be changed and that his earlier application of 12.04.2007 be restored could not be accepted, and his request for the second electricity connection be considered after completion of the commercial formalities as per the DERC's Regulations 2007.
- 5.0 The Appellant, not satisfied with the aforesaid order of the CGRF-BYPL dated 23.11.2010, has filed the present appeal for directions to the Respondent that the date of his application for the second connection ^{be} treated as 12.04.2007 and, therefore, the SLD charges be demanded as per the DERC Regulations 2003, and not as per the DERC Regulations, 2007.
- 6.0 The first hearing in the case was fixed on 18.03.2011 after obtaining the required clarifications from the parties. The Appellant was present in person, whereas the Respondent was represented by Shri Pawan Kumar Mahur (Legal officer) and Shri Anirudh Arya (Business Manager, Yamuna Vihar).



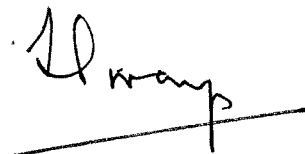
The Appellant stated that he had first applied for a new non-domestic electricity connection on 12.04.2007, which was rejected on the ground of non-payment of the pending DT bill, which was not received by him.

The Respondent clarified that the Appellant was required to pay the pending DT bill before any new electricity connection could be granted to him for the same premises.

6.1 After perusing the records and hearing the parties, the Respondent was directed to submit the following documents by 06.04.2011 :

- a) the original records relating to the inspection carried out at the premises of the Appellant by the Enforcement Cell;
- b) the electricity bill for the direct theft DT of electricity and the details of the follow up action taken in the case;
- c) the original records relating to the existing connections at the premises of the Appellant, and payment details.
- d) the file containing the Appellant's application for the new electricity connection.

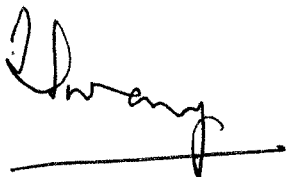
7.0 At the next date of hearing on 27.04.2011, the Respondent produced the original file of the Inspection Branch and relevant copies of the documents pertaining to DT (direct theft) of electricity at the Appellant's premises. The Respondent requested for more time to trace the file relating to the



application for a new connection and raising of demand notes, which could not be located so far. The Respondent was given two weeks time to submit the relevant documents and the next hearing was fixed on 12.05.2011.

- 8.0 At the next hearing on 25.05.2011, both the parties argued their case at length. The Appellant pleaded that the Respondent be directed to issue the new connection of electricity to him as the demand note had already been raised on several occasions on the basis of his application made on 12.04.2007. He had applied for the new connection on 12.04.2007 and was informed verbally that his application was rejected on the basis of a DT bill which he did not receive. Subsequent demand notes were raised without his making any application.

The Respondent, on the other hand, stated that the new connection can not be sanctioned without settlement of the pending DT bill, which they are willing to settle with the Appellant. They also informed that the DT bill was received by the Appellant, which is confirmed by the fact that the Appellant filed a suit for permanent injunction against the DT bill. The Respondent also stated that while the file of the original application made by the Appellant on 12.04.2007 and its rejection is not traceable, details are available on their computer. As per the Discom's policy in such cases, demand notes are



raised from time to time to grant new connections to such consumers for mitigating theft and for ensuring that old dues are settled. This is done so that all such cases are not required to be settled through the courts.

9.0 A perusal of the records indicates that the Appellant applied for a new electricity connection on 12.04.2007 for non-domestic purposes without settling the pending DT bill in respect of his premises. In his appeal, he concealed material facts about the court proceedings before the Hon'ble Civil Judge. It is also a matter of record that the Appellant had also approached various Forums i.e. the CGRF, the Mediation Cell and the PG Cell, but did not comply with their directions.

10.0 In view of the above discussion, the Appellants request for a new electricity connection cannot be agreed to, without settlement of the DT bill for the same premises. The Appellant, is therefore, directed to approach the Respondent for the settlement of the pending DT bill. Thereafter he may apply afresh for obtaining the new non-domestic electricity connection as per the DERC Regulations 2007, and comply with the commercial formalities prescribed. The case is accordingly disposed of.

8/5 June 2011


(SUMAN SWARUP)
OMBUDSMAN