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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/2011/412

Appeal against Order dated 20.01.2011 passed by CGRF–NDPL in CG.No. 3131/11/10/SKN (K.No. 35400245605).

In the matter of:

Shri Jagiri Lal

- Appellants

Versus

M/s North Delhi Power Ltd.

- Respondent

Present:-

Appellant Shri S.B. Pandey, Advocate was present on behalf of the Appellant

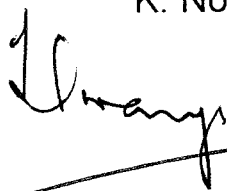
Respondent Shri K.L. Bhayana, Adviser,
Shri Ajay Kalsi, Company Secretary,
Shri V.K. Duggal, Commercial Manager, and
Shri Vivek, Manager (Legal) attended on behalf of the NDPL

Date of Hearings : 30.03.2011, 20.04.2011

Date of Order : 28.04.2011

ORDER NO. OMBUDSMAN/2011/412

1.0 The Appellant, Shri Jagiri Lal, has filed this appeal against the order of the CGRF-NDPL in CG No. 3131/11/10/SKN dated 20.01.2011, requesting for waiver of the outstanding dues of the previous owner of the property, who consumed electricity through K. No. 35400245605.



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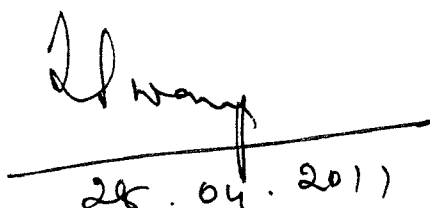
2.0 The brief facts of the case as per the records and averments of the parties are as under:

2.1 The Appellant purchased the premises No. 5-C/70, New Rohtak Road, Karol Bagh, New Delhi-110005 and got the sale deed of the property registered in his name on 10.11.2008.

2.2 The Appellant has stated that he visited the office of the Respondent a number of times to obtain information about the outstanding dues against the above premises, but could not get the same. The Appellant, therefore, sent a letter dated 08.09.2008 to the Respondent, inquiring about the outstanding dues against the aforesaid property because he was purchasing the same. He also mentioned in his aforesaid letter that he would not be responsible for any outstanding dues, if these are not informed to him promptly. He sent the letter on 08.09.2008 by registered post to the Respondent, and produced in original the proof of posting the registered letters.

2.3 When the Appellant, did not receive any reply to his registered letter, he purchased the property No. 5-C/70, New Rohtak Road, Karol Bagh, New Delhi-110005, assuming that there were no outstanding dues against the property.

2.4 The Appellant after the purchase of the property vide registered Sale Deed executed on 10th November 2008 applied for new electricity connections vide request Nos. 1011526517,

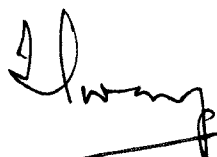

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1011526587, 1011526570 and 1011527595. The Respondent, however, refused to sanction the new connections unless payment of the outstanding dues against the earlier electricity connection K. No. 35400245605 in the premises was made. The earlier connection was disconnected due to non-payment of dues.

3.0 The Appellant filed a complaint before the CGRF against the demand of outstanding dues of the disconnected electricity connection No. 35400245605, about which he had no information.

3.1 The Respondent informed that as per their records, there were outstanding dues of Rs. 6,17,148/- against the old connection No. 35400245605, which the Appellant was liable to pay. Moreover, the Appellant did not apply for a 'No Dues Certificate' in respect of the old disconnected electricity connection.

3.2 The CGRF, after considering the records and arguments of the parties, directed in its order dated 20.01.2011, that the Appellant was liable to pay the outstanding dues of the connection installed in the premises earlier, as he could not produce either the 'No Dues Certificate' nor the 'Receipt' of the delivery of his registered letter to the Respondent. The Respondent was, however, directed to waive the outstanding dues of the DVB period i.e. upto 30.06.2002, and also the LPSC charges.

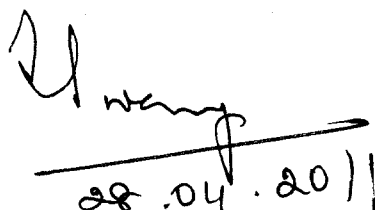

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4.0 The Appellant, not satisfied with the CGRF's order has filed this appeal dated 27.01.2011, requesting for waiver of the outstanding dues of the old connection No. 35400245605.

4.1 The Appellant stated in his appeal that despite visits to the office of the Respondent and his registered letter dated 08.09.2008, the Respondent did not inform him about any pending dues against the premises. Consequently, the Appellant purchased the property on 10.11.2008, assuming that there were no outstanding dues against the premises. However, as soon as the Appellant applied for the new connections, the Respondent asked him to pay the outstanding dues of Rs. 6,17,148/- against the old disconnected electricity connection No. 35400245605 installed earlier in the premises. As the Appellant required the new electricity connections urgently, he paid under protest the revised outstanding amount of Rs. 1,93,380/- demanded by the Respondent as per the order of the CGRF, and four connections have since been released.

4.2 The first hearing in the case was fixed on 30.03.2011 after obtaining the required clarifications from the parties.

On 30.03.2010, the Appellant was present through his advocate Shri S. B. Pandey. The Respondent was represented by Shri K. L. Bhayana (Advisor), Shri Ajay Kalsi (Company Secretary), Shri V. K. Duggal (Commercial Manager) and Shri Vivek (Managr Legal).



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The Appellant reiterated the facts stated in his appeal. The Respondent, however, stated that the Appellant was required to pay the outstanding dues as per the CGRF's order because he did not obtain the 'No Dues Certificate' before the purchase of the premises, as provided in the DERC's Regulations.

- 4.3 The parties were directed to produce the following documents:
- a) K. No. files of all the electricity connections in the premises (whether working or disconnected) including their statements of account;
 - b) Details of the outstanding dues and the efforts made by the Respondent to recover the outstanding dues from the old registered consumer; and
 - c) The details of applications received by the Respondent for new connections from the consumer and the decision taken thereon.

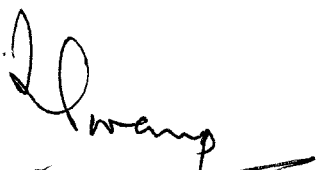
The next hearing was fixed on 20.04.2011.

- 4.4 On 20.04.2011, the Appellant argued that despite several visits to the office of the Respondent and his registered letter dated 08.09.2008, the Respondent did not inform him about the dues pending against the premises. Consequently, the Appellant purchased the aforesaid property vide registered Sale Deed dated 10.11.2008, believing that there were no outstanding dues against the premises. However, when the Appellant


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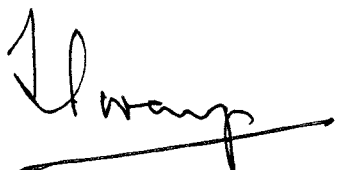
applied for the new connections, he had to pay the outstanding dues against the old disconnected electricity connection No. 35400245605. He also cited the Hon'ble Supreme Court's Judgment dated 20.08.2010 in the case of Haryana Electricity Board Vs. Hanuman Rice Mills and Others in support of his argument.

- 4.5 The Respondent stated that the last payment was made by the previous owner on 07.06.2000 amounting to Rs. 4,890/- against the electricity bill for April 2000. As such, all the electricity dues upto June 2000 were cleared. However, after July 2000 no payment was received till 19.09.2006. In May 2006, the meter reading was 1,20,667 and the bill was raised but not paid by the previous owner. Consequently the supply was disconnected in September, 2006. The Respondent stated that these outstanding dues of the earlier connection installed in the premises had to be paid by the new buyer and cited the orders of the Hon'ble Delhi High Court dated 09.11.2005 and 22.03.2006 in the case of Madhu Garg Vs. NDPL, and filed the copies of the aforesaid judgments. The Respondent, also informed that in compliance with the orders of the CGRF dated 20.01.2011, the outstanding arrears were reduced to Rs.1,93,380/- after waiving off the LPSC and the dues of the DVB period. The Appellant had paid the aforesaid dues of Rs.1,93,380/- at the time of obtaining the four new connections, without any protest.


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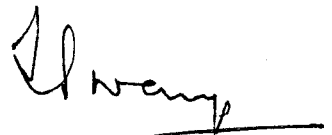
5.0 It is evident from the perusal of the records that there is deficiency in service under Clause 3(k) of the DERC Notification dated 11.03.2004 on the part of the Respondent. The Respondent did not disconnect the supply of electricity after 15 days of service of the notice under Section 56(1) of the Electricity Act, 2003, after June 2000, when no payment was received against the electricity bills stated to have been raised. Despite the fact that the electricity was being used and substantial amount of dues were accumulating, the Respondent made no efforts to recover the outstanding dues in respect of the electricity connection No. 35400245605 between June 2000 and September 2006, when the supply was disconnected and meter removed. Further, the Respondent did not inform the Appellant about the outstanding dues against the meter when requested by the Appellant through personal visits and vide his registered letter dated 08.09.2008. According to Section 27 of the General Clauses Act of 1897, service of a letter is deemed to have been effected by properly addressing, pre-paying and posting the letter by registered post. Further, in the circumstances, the mere denial of service by the addressee is not sufficient to rebut the presumption relating to service of the registered letter.

6.0 The facts and circumstances of the judgments submitted by the parties in support of their contentions are different from the present case, and, therefore, are not being relied upon. The Respondent, without making any efforts to recover the outstanding dues of the electricity connection No. 35400245605 from the old user for six years, was waiting to recover these from the new buyer of the


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property and attempted to recover the same as soon as the buyer applied for new electricity connections in September 2010. No cogent reason for allowing the dues to accumulate for six years and for not recovering them for several years thereafter is available. As such, the Respondent cannot be allowed to take advantage of the deficiency in service on their part. **The Respondent is, therefore, restrained from charging the outstanding dues of the connection No. 35400245605 from the Appellant. The Respondent is directed to take from the Appellant only the charges for the new connections sanctioned to him, and for his electricity consumption as per the DERC Supply Code and Performance Standards Regulations, 2007, Respondent should refund by cheque the excess amount paid by the Appellant, within two weeks. The case is accordingly disposed of.**

28.04.2011


(SUMAN SWARUP)
OMBUDSMAN