

**OFFICE OF 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**

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**Appeal No. 44/2024**

(Against the CGRF-BRPL's order dated 20.03.2023 in CG No. 22/2023)

**IN THE MATTER OF**

**Shri Sanjay Barnwal**

**Vs.**

**BSES Rajdhani Power Limited**

**Present:**

Appellant: Smt. Shivanjani Barnwal, W/o Shri Sanjay Barnwal, along with her daughter Ms. Swarna Barnwal, on behalf of the Appellant

Respondent: Shri Sudarshan Bhattacharjee, Senior Manager, Shri Bijumon George, Executive Associate and Shri Himanshu, Advocate, on behalf of BRPL

Date of Hearing: 20.02.2025

Date of Order: 21.02.2025

**ORDER**

1. Appeal No. 44/2024 dated 13.11.2024 has been filed by Shri Sanjay Barnwal, R/o B-35, First Floor, Panchsheel Enclave, New Delhi – 110017, through Advocate, Ms. Shobha Gupta, against the Consumer Grievance Redressal Forum – BSES Rajdhani Power Limited (CGRF-BRPL)'s order dated 20.03.2023 in CG No. 22/2023.

2. The background of the case is that the Appellant, Capt. Sanjay Barnwal, is the occupier of the first floor of the aforesaid mentioned premises since 2004 and had an electricity connection of 11 KW bearing CA No. 100097893 (Meter No. 27055437) installed in his name. The Appellant claims that till May, 2022 (bill dated 30.05.2022) he



received bills for this connection in his name. Thereafter, from July, 2022 (bill dated 30.07.2022), the bills were being received in the name of his elder brother Shri Shekhar Barnwal, with a new CA No. 153827126 (Meter No. 27516075). Consequently, the Appellant filed a complaint with the Discom vide a letter dated 16.08.2022 stating that the electricity connection, in question, was released in his name on 19.06.2004 by the Discom. The Appellant alleged that his brother, Shri Shekhar Barnwal had fraudulently got transferred the connection in his name with a new CA No. 153827126, Meter No. 27516075, on the basis of forged 'Gift Deed' and 'Will' and asked for either installation of new meter in his name with his mobile number or restoration of his old meter.

In response the Respondent informed the Appellant vide its letter dated 05.09.2022, mentioning that the name change request made online by Shri Shekhar Barnwal was allowed on 08.08.2022, after completion of all necessary commercial formalities, viz; Identity Proof, Aadhar Card, Ownership Proof and a Mutation of Property issued by the SDMC on 12.04.2019, in accordance with the DERC's Regulations.

The Appellant filed a complaint before the CGRF-BRPL and contended that the Discom cannot deny the installation of a separate meter or the restoration of the previous meter merely on the ground that the complainant does not possess the valid ownership document or a rent or lease agreement. The Appellant further submitted that his father late Shri Ram Jiwan Prasad Barnwal purchased the subject property in 1972. Since 1974, he and his siblings along with his parents have been staying there together. After the death of his father, in 2021, the property came under dispute, as the ownership was obtained/claimed by his elder brother. As a result, several cases/suits/petitions are currently pending in various Courts of NCT of Delhi involving the siblings. The Appellant sent a letter dated 06.08.2022 accompanied by several documents, viz' HP Gas Agency Receipt, Passport, Election I Card, Aadhar Card, as a proof of address and identity.

3. However, the Discom's submission was that upon verification of the Appellant's application for a new electricity connection, it was found that "self attested" proof of ownership was not attached with the application. Further, name change was applied by Shri Shekhar Barnwal for the CA No. 100097893 on 14.06.2022, and the name had already been changed with a new CA No. 153827126. Accordingly, the Appellant's request for restoration could not be acceded to.

4. The CGRF, in its order dated 20.03.2023 observed that various petitions, suits related to property disputes among family members, such as, Gift Deed, Registered Will, are currently pending before various Courts. Therefore, in the light of Clause 13(1)



of DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman), Regulations, 2018, the Forum declined to adjudicate on the matter.

5. Against this order, the Appellant filed a Writ Petition No. 1398/2024 in the High Court of Delhi. The Court disposed off the matter by advising the Appellant to avail the remedy in terms of Section 42(6) of the Electricity Act, 2003, and to approach the Ombudsman.

6. The Appellant, aggrieved by the CGRF's order dated 20.03.2023 has filed this appeal on 13.11.2024, reiterating its submission as before the Forum. In addition, the Appellant asserted that his brother Shri Shekar Barnwal has changed the name in electricity connection (CA No. 100097893) which was installed at his premises, using forged and fabricated documents. The Appellant also contended that his brother is not the owner of the property. Therefore, he has no authority/right to get the Appellant's electricity meter uninstalled on the basis of false/fabricated documents, which have already been challenged before the Court and are pending for adjudication and particularly when he continued with undisputed occupation of this portion of the property.

The Appellant has requested for the following relief:

- (i) To direct the Discom to install the electricity connection in the Appellant's name with his mobile number.
- (ii) To uninstall the electricity meter currently installed in the name of his brother, Shri Shekhar Barnwal and
- (iii) To restrain the Discom, not to disturb the meter of the Appellant till the final disposal of the cases amongst the family members.

7. The Discom, in its reply dated 16.12.2024 to the appeal, reiterated its submissions as before the CGRF-BRPL. In addition, the Respondent emphasized its obligation to adhere to the DERC's Regulations. The Appellant has failed to present a legal basis that would justify the cancellation of the name change, based on the MCD's mutation letter. The name change occurred after completion of all required formalities. Furthermore, the Appellant has initiated a law suit for the declaration and cancellation of the Gift Deed dated 02.03.2019, and the Registered Will dated 26.03.2020, under Case No. 600/2022 in the court of Shri Dinesh Kumar at the Saket District Court on May 10, 2022. A criminal Petition under Section 156(3) of the Cr. P.C., complaint No.



1128/2022, is also pending before Mrs. Vijayshree Rathore, Metropolitan Magistrate, Saket District Court. Moreover, the ownership dispute is already under consideration in several courts, making it unreasonable for the Respondent to make any arbitrary decisions prior to a ruling from the Court of Law. Regarding disconnection of supply, the Discom clarified that the supply was not disconnected, only the meter was replaced on 12.07.2022. Furthermore, the Appellant's reliance on the High Court of Delhi's judgement in the case of Sanjana vs BSES Yamuna Power Ltd., pertains to a different context and is not applicable in this case. The completion of commercial formalities as per the DERC's Supply Code is sine quo non for the grant of a connection, as settled by the Division Bench in the case of M.S Jadhav vs BSES Rajdhani Power Ltd. (No. 39/2016) vide judgement dated 25.01.2016, which affirmed that no connection can be granted without due compliance of the law as required under the law.

8. The appeal was admitted and fixed for hearing on 19.02.2025, but adjourned for the next day, i.e. 20.02.2025, on the request of the Discom. During the hearing, both the parties were represented by their authorized representatives/Advocates. An opportunity was given to both the parties to plead their respective cases at length. Relevant questions were also asked by the Ombudsman as well as the Advisors, to elicit more information on the issue.

9. During the hearing, the wife of the Appellant, appearing on his behalf, reiterated his stand as in the appeal and the prayer. She submitted that after the mutation of property in 2019 for three years no effort was made in the direction of ownership of the property. However during 2022, bills were obtained from them by Shri Shekhar Barnwal for facilitating transfer of connection in his name even though the matters pertaining to title dispute and partition of property were pending before the various courts from 2021 onwards. There was no notice received from the Discom or their consent taken for change of name of CA No.100097893 (meter no.27055437) changed to CA No.153827126 (meter no.27516075) as occupants of this portion of the property. It was an apparent case of forgery of documents since the father of the Appellant was a patient of Alzheimer and suffered a stroke three times and, therefore, not in a mental state to accord free Will for the documents in question i.e. the Will and the Gift Deed.

10. Advocate for the Respondent invited attention to the aspect that it was for the competent court to decide the title dispute / property rights between the parties. Advocate, however, conceded that disputes were pending before the various courts from 2021 onwards. As regards transfer of the connection, attention was invited by the Advocate for the Respondent to Regulation 10 (3) of DERC Supply Code, 2017 wherein as a proof of ownership, mutation deed is one of the listed documents. The Appellant



stated that the first floor is in continuous occupation since the year 2004 till date. On the basis of the representations made by Shri Sanjay Barnwal after the change took place, no action was taken by the Discom for violation of the terms of the declaration since the information furnished was false and incorrect and the issue of the title was under challenge before the court and pending adjudication before the court of law and did not attain the finality on the date of application. There was also no clear title available with Shri Shekhar Barnwal. To this extent, the declaration by the applicant was incomplete, misleading and incorrect and necessitated proactive action by the Discom in the light of the representation made by Shri Sanjay Barnwal.

Regarding the background of the meter change in response to a query by the Advisor (Engineering), no satisfactory reply could come forward since there was no material on record in support of reasons for meter change or material to prove that the meter had become defective and required change. One issue also arose on the placement of the three meters in the garage and on the ground floor all in the name of Shri Shekhar Barnwal although the mutation in his name was for the entire house and Shri Sanjay Barnwal continued to stay on the first floor, using the electricity and making payment for the same from 2004 onwards till date. The issue also emerged about the positioning of the meters and the reasons for the meters being in a locked garage making it inaccessible to the meter reader for readings and the requisite corrective action in this regard. It was also apparent that Shri Shekhar Barnwal was not in occupation and staying on the first floor while the bills are being raised on the address of the first floor which could not be explained by the Respondent.

11. Having taken all factors, written submissions and arguments into consideration, the following aspects emerge:

- a) It is not in dispute that Partition Suit Test Case 71/2021 by Ms. Neena Barnwal (sister of the Appellant), Eviction Suit CSDJ/607/2021 by Shri Shekhar Barnwal (brother of the Appellant) and suit for cancellation of Gift Deed and Registered Will by Shri Sanjay Barnwal were pending before the various Courts. The factum of pending litigation was well known to Shri Shekhar Barnwal on the date of submission of application for change of name of electricity connection (CA No. 100097893). To this extent, denial of complete information on challenge to title and resultant misrepresentation before DISCOM did take place.
- b) The CGRF considered the above mentioned cases pertaining to the family disputes and declined to intervene as per Regulation 13(1) of the DERC

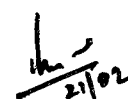


12. This court has gone through the above aspects as well as the replies submitted by both parties very minutely. After reviewing the relevant provisions of DERC's Supply Code, 2017, this court directs as under:

- a) The order passed by the CGRF-BRPL is set-aside.
- b) In the interest of natural justice and fair play, it is directed that the connection in the name of the Appellant be restored (as on 17.05.2022) till the finalization of various suits in various Courts.
- c) Discom may also consider taking action against Shri Shekhar Barnwal for not giving the right information/concealing information in procuring the connection in his name despite the fact that the Appellant had the possession and was staying there. This can be done in consultation with their legal department. The aspect of connivance of officers of the Discom in allowing the transfer can also be a subject of vigilance enquiry.
- d) Compliance report be submitted in next 30 days.

13. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier. The parties are informed that this order is final and binding, as per Regulation 65 of DERC's Notification dated 24.06.2024.

The case is disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
21.02.2025