

**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/2012/471**

Appeal against the Order dated 28.12.2011 passed by CGRF—  
BRPL CG.No. 453/2011.

**In the matter of:**

**Shri Ajit A. A. Tirkey - Appellant**

**Versus**

**M/s BSES Rajdhani Power Ltd. - Respondent**

**Present:-**

**Appellant:** The Appellant Shri Ajit A.A. Tirkey was present in person

**Respondent:** Shri Yudhveer Singh, DGM, Shri Saurabh Saxena J.E. (Com.) and Shri Manish Srivastava, Advocate attended on behalf of the BRPL

**Dates of Hearing:** 05.06.2012, 19.06.2012

**Date of Order :** 18.07.2012

**ORDER NO. OMBUDSMAN/2012/471**

This is an appeal filed by Shri Ajit A A Tirkey against the Consumer Grievance Redressal Forum – BSES Rajdhani Power Ltd (CGRF-BRPL) dated 28.12.2011 passed against the BSES-Rajdhani Power Ltd (BRPL) awarding a compensation of Rs.10,000/-, as he remained without electricity for one year and four months. The Appellant has asked for enhancement of compensation to Rs.50,000/- as he was denied electricity while others in the



neighbourhood were provided the same; he was humiliated and insulted; his studies as a student of Law Centre of Delhi University were affected for one year etc.

The case was heard on 05.06.2012, in which the DISCOM was asked to file a detailed reply explaining each day of delay in supplying electricity, and also explaining the entire sequence of events. On the day fixed for hearing on 19.06.2012, no reply was filed, and the DISCOM engaged a lawyer who argued that there were issues of law to be raised. The reply that had been sought was primarily on matters of fact relating to the sequence of events and an explanation of each day of delay in providing the connections, and not on points of law. However, the DISCOM was allowed to file a reply before 22.06.2012, which would be considered in the orders to be passed and the matter was reserved for orders.

The reply was filed on 22.06.2012, and it raised a number of legal issues including:

1. The Discom states that the complainant is not a registered consumer. This argument is not valid because for the purpose of the Consumer Protection Act, 1986 and corresponding provisions thereof in the Electricity Act, 2003, users of electricity connections are also considered as having locus standi to file their case before the appropriate Forum. The Supreme Court Judgment cited by the Discom is on a different point which deals with the transfer of property.

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2. The Discom raised the question that the complainant has not applied for a change of name as per clause 22 of DERC Supply Code and Performance Standards Regulations, 2007. This argument is not valid since it was open for the Discom to take appropriate action against the consumer on this account. The cited judgment of National Commission pertains to privity of contract. In the present case, the complainant is not asserting this issue. He simply prayed for restoration of electricity supply.
3. The Discom has, further, raised the question of non-joinder of necessary party on the ground that rights of Shri Bhola Nath (registered consumer) may be affected by the order. This argument is not valid since it was open for the Discom to file an application for impleadment of Shri Bhola Nath before the CGRF, which was not done. Now, the Discom cannot raise this point in the appeal for the first time.
4. The Discom has pointed out that the connection was never disconnected. This objection is also not valid since the consumer has never said that the connection was disconnected. He merely said that there was no electricity supply in his connection for which he was entitled after payment of the full dues of the Discom.
5. The Discom has also raised the question that the consumer has not exhausted the remedy available under clause 7 (2) of the CGRF & the Ombudsman Regulation, 2004. This is also not valid because the CGRF has a right to hear the case without entering into the question of the above-said remedy, under the proviso of the above clause.

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6. The Discom has also raised the question that the case was time-barred. This argument is also not valid since there is no time limit fixed by the regulation to file a case before the CGRF.
7. The Discom has strongly pointed out that section 43 of the Electricity Act, 2003 is applicable only in case of granting of a new connection. On going through the above provision, it is seen that the words used in this section are "supply of electricity". This will obviously include non-supply of electricity in the old connections also. Therefore, this plea also cannot be accepted.

Each of the above issues were relevant in the hearing before the CGRF, and as has been explained above, these do not come in the way of hearing this appeal. The matter before us is a small request to enhance compensation as the Appellant had undergone a great deal of suffering due to delay in providing the electricity connection, which finally happened only on the intervention of the CGRF.

The contention of the Appellant that the delay should be considered under Section 43 of the Electricity Act, and a penalty should be levied upon the DISCOM by the Ombudsman is not a valid one as this section does not confer any powers upon the Ombudsman. This section primarily authorizes the Delhi Electricity Regulation Commission (DERC) to take action in cases where the distribution licensee fails to supply electricity within one month of receipt of the application for such supply. The case has to be

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specifically one of a failure evident on the face of the matter. In the instant case, from the record, it appears that the Appellant was asked to obtain consent of neighbours to allow the line to pass. There were other houses in the same line as the Appellant, which had service lines either on the ground, or underground, whereas in the case of the Appellant, the DISCOM appears to have asked him obtain permission from neighbours to take a line overhead. The DISCOM has not given a detailed sequence of events, day by day, as directed by us on the hearing held on 05.06.2012. The DISCOM instead raised factual and other legal issues through its lawyer, which are not relevant at this stage. The lack of a factual reply laying out the sequence of events implies that the DISCOM is not in a position to justify its action, and, therefore, there is merit the Appellant's contention for enhancement of compensation.

Therefore, the appeal of the Appellant is accepted, and the compensation is enhanced to Rs.25,000/- In addition, the matter shall be referred to DERC, under Section 43(3) of the Electricity Act, 2003, as it appears to be a particularly bad case of failure to provide supply to a genuine consumer, in time.

  
(PRADEEP SINGH)  
OMBUDSDMAN

18th JULY, 2012

