

(6)

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: Electricity Ombudsman/2005/48

Appeal against Order dated 12.8.2005 passed by CGRF – BRPL on Case No.: CG/183-2005/f2/1211.

In the matter of: M/s Adarsh Welfare Association - Appellant

Versus

M/s BRPL - Respondent

Present:-

Appellant Shri Rajender Prasad, President of Adarsh Welfare Association and Shri Chetan Prakash, member of the Association on behalf of appellant

Respondent Shri A.P.Ram, Business Manager
Shri Attar Singh, Manager (Operation) and
Shri Sujit Kumar, Legal Retainer on behalf of BRPL

Date of Hearing : 27.1.2006, 13.4.2006
Date of Order : 13.4.2006

ORDER NO. OMBUDSMAN/2006/48

The appeal is filed on behalf of residents of the society by Shri Rajender Prasad, President of the Adarsh Welfare Association, Surkhpur Road, Gopal Nagar, Z-Block, Phase-II, Najafgarh, New Delhi-110 043 against the orders of CGRF dated 12.8.2005. The facts of the case are that –

The Society was receiving electricity through 400 KVA transformer installed in the premises of the society on "as is where is basis". The transformer was burnt in August 2001 and the same was not replaced by the respondent.. The residents made a complaint of the burning of the transformer on 7.9.2001. Thereafter, they also wrote a letter to Shri Sahib Singh Verma, ex-Member of Parliament about the burning of the

3

transformer and their grievance consequent to the same. They also requested for proper supply of electricity and for repairing the transformer. As the transformer was neither repaired nor replaced, the residents stopped paying electricity bills from August 2001 after the burning of the transformer.

Finally in February 2005 the residents of the society were given regular electricity connections and digital meters were installed in their premises. At the same time they received electricity bills for the period August 2001 to January 2005. The complaint of the members of the society is that these bills are wrong and inflated. It is stated that these bills also included development charges of Rs.4,000/- per meter without adjusting development charges already paid.

A complaint was filed by them in the CGRF-BRPL on 8.6.05. The CGRF in its order held that since the residents had been using electricity on "as is where is basis," they were liable to pay charges as per the electricity bills as the residents paid only one or two instalments of the development charges at the initial stages. Therefore, bills have accumulated on which LPSC charges had been included. Since the DISCOM has already adjusted development charges paid by the residents in the bills sent to them and since the DISCOM as per their own statement has informed that LPSC has been excluded from the bills from August 2001 to January 2005 the residents of the Adarsh Welfare Association are liable to pay the electricity bills alongwith development charges. It is against this order that the Adarsh Welfare Association has come in appeal before the Ombudsman.

After calling for the records of the CGRF the following information was called for from the appellant –

The President of the Association was asked to file a certified copy of the bye-laws of the society. He was also asked to file a joint authorization duly signed by all the members to represent their case before the Ombudsman. This was necessary because residents of the Society had individual meters and at a later date some of them may object that they are not a party to the appeal and may not abide by the order passed in the case.

The appellant was also asked to state as to from where the residents were getting electricity after the burning of the transformer. He was asked to submit an affidavit duly notarized by the Oath Commissioner about the source of electricity utilized by them during the intervening period i.e. August 2001 to January 2005. He was also asked whether the residents were receiving and paying electricity bills on "as is where is basis" regularly till the transformer was burnt in August 2001. He was asked to submit copy of the electricity bills paid by them.

The DISCOM was also asked to submit information with regard to the basis and calculation of raising bills and it was asked to submit proof of supply of electricity to the residents.

These and other information were asked for vide letter dated 26.10.2005 to both the parties, and information was sought to be filed by 10.11.2005. Since this information was not furnished, a reminder was sent on 16.11.2005 to furnish the same by 21.11.2005. The DISCOM informed vide its letter dated 10.11.2005 that the consumers had already given an undertaking to the company that they would use electricity by providing their own lines at their own cost and, therefore, the consumer could get

1st
2

electricity from anywhere on the existing net-work lines. The bills were raised on the basis of size of the plot. For plots of more than 200 sq. yards energy charges @ Rs.2/- per sq. yd. would be charged. In addition to energy charges at a flat rate, development charges of Rs.140 per sq. yd. was also to be recovered in instalments through bills. It was also stated that in the present bill development charges and service line charges are also included. A circular dated 10.6.1998 issued by DVB in this connection was also enclosed by the Distcom. A statement of bills raised of the residents was submitted to show that bills were raised on regular basis.

The appellant vide its letter received in this office on 21.11.2005 furnished a copy of the bye-laws of the Society. It also stated that none of the members of the Society received electricity bills from DVB and hence the question of payment does not arise at all. However, some queries raised still remained to be answered. **Vide letter dated 20.12.2005, the appellant was given a final opportunity to attend this office on 27.12.2005 with following documents:**

- a) **Register of valid Members of the Society**
- b) **Original with certified photocopy, agenda of the General Body Meeting, resolution passed there and copy forwarded to the Registrar of Societies, if any and**
- c) **List of Members and their signature who attended the General Body Meeting, those who voted in favour of the resolution and those who opposed it.**

However, the appellant failed to attend on 27.12.05 and also failed to furnish the above documents/information/present the original records required. The appellant was also asked to produce any document to substantiate the contention that none of its members received any electricity bill during the period in dispute. It is unfortunate that despite being given an opportunity to attend this office with required documents, the appellant failed to attend and again wrote a letter dated 24.12.2005 stating that all the information required to be submitted had already been submitted on 21.12.2005.

Thus, the appellant has not provided original records required to be seen as mentioned above. It may be noted that despite letters dated 26.10.05, 16.11.05, 6.12.05 and 20.12.05 and despite giving an opportunity to the appellant to be present on 27.12.2005 with original records and registers of the society, the appellant failed to attend on 27.12.05 and neither provided the required information nor established the locus standi of the members.

The case was fixed for hearing on 27.1.2006 vide "Notice" dated 19.1.2006. The appellant was again specifically requested to bring the original documents as mentioned in our earlier letter dated 20.12.2005 at the time of hearing. Shri Rajinder Prasad attended alongwith Shri Chetan Prakash, another member of the same association. Shri A.P.Ram, Business Manager attended on behalf of the respondent alongwith Shri Attar Singh, Manager (Operations) and Shri Sujit Kumar, their legal representative.

During the hearing held on 27.1.2006, it emerged that in the disputed period, the residents of the **Adarsh Welfare Association were getting electricity** from far off places despite lot of inconvenience. Shri Chetan Prakash submitted that sometimes quarrels took place, leading to violence in obtaining electricity. Shri Chetan Prakash and

①

Shri Rajinder Prasad were asked to substantiate their contention with evidence in this regard and also put their submissions in writing. The appellant was also asked to inform whether any of its members received electricity bills during the disputed period and whether any of them paid the bills to the DISCOM.

As on earlier occasions, the appellant failed to furnish the required information called for on 27.1.2006 at the time of hearing. The required information was to be filed by 14.2.2006. The same was not filed.

A final opportunity was therefore given to the appellant to present the following documents at the time of hearing on 13.4.2006 at 11.30 am.

1. Register of valid members of the Society.
2. Original with certified photocopy, agenda of the General Body Meeting, resolution passed there and copy forwarded to the Registrar of Societies, if any.
3. List of Members and their signature who attended the General Body Meeting, those who voted in favour of the resolution and those who opposed it.
4. To substantiate their contention with respect to taking electricity from adjoining area, and
5. To submit copy of the last bill received by the Members of the Society and payments made thereof.

On 13.4.2006, Shri Rajinder Prasad attended the hearing alongwith Shri Chetan Sharma but did not bring any of the above documents.

It is evident from the above that the appellant has not submitted all the information required. It is still not clear as to who were the members who paid the bills and which member did not pay them even after receipt of bills. **The Hon'ble Supreme Court of India has ruled in Bharti Jain vs MCD 2005 (125) DLT 185 that Municipal Corporation could not fasten the liability of house tax by sending notice to society without individual notice to each members of group housing society. In the present case also, the grievance pertains to individual members and not that of the Society as an entity.**

In view of the above short-comings and in the absence of vital information not filed by the appellant, the case is closed for want of required documents/evidence. The same is disposed off as rejected for statistical reasons. **The individual members of the Adarsh Welfare Association are at liberty to file their complaints individually before the appropriate forum for redressal of their grievance, if they so desire.**

31/2/11 22/2/11
(Asha Mehra)
Ombudsman