

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

(Phone No.: 011-26144979, E.Mail: elect_ombudsman@yahoo.com)

Appeal No. 50/2023

(Against the CGRF-TPDDL's order dated 19.10.2023 in C.G No. 81/2023)

IN THE MATTER OF

M/s L.R. Builders Pvt. Ltd.

Vs.

Tata Power Delhi Distribution Limited

Present:

Appellant: Ms. Bhumika, Advocate, on behalf of the Appellant

Respondent No.-1: Shri Ajay Joshi, AGM (Legal) & Shri Shantanu, Manager
(Express) on behalf of the TPDDL

Respondent No.-2: Shri P. Chaitanyashil, Ms. Tejaswi Bhanu & Others, Advocates
on behalf of M/s P.P. Jewellers Pvt. Ltd.

Date of Hearing: 07.02.2024

Date of Order: 09.02.2024

ORDER

1. Appeal No. 50/2023 has been filed by M/s L.R. Builders Pvt. Ltd. through its Advocate, Shri Akash Malik, against the Consumer Grievance Redressal Forum-Tata Power Delhi Distribution Limited's order dated 19.10.2023 in CG No. 81/2023.

2. The background of the case is that M/s L. R. Builders Pvt. Ltd. (hereinafter referred to as a Company) is a registered company under the Companies Act, 1956, having its registered office at 8233, L.R. Complex, Rani Jhansi Road, Delhi – 110006. The Appellant, Shri Rahul Gupta, submitted that he is a director of the company and, as such, authorized by the Board of Directors of the Company, to sign, verify and submit applications, petitions, complaints, written submissions, etc. on behalf of the company. The Appellant also claimed that he is the absolute owner of property bearing No. H-5, Netaji Subhash Place, Delhi – 1100034 vide registered Perpetual



Lease Deed dated 14.06.1999 and the said property was given as collateral security in respect of a loan taken by M/s P.P.Jewellers (Export), a partnership firm consisting of Shri Kamal Gupta and Smt. Veena Gupta, from the State Bank of India, and the title deed is still in the possession of the bank.

3. The Appellant further submitted that the Company, as a registered consumer has an HT electricity connection bearing CA No. 60000015721 at the premises H-5, Netaji Subhash Place, Pitam Pura, Delhi. Since neither the Company nor any of its employees/directors are using the premises, he has requested to the Respondent No.- 1 (hereinafter referred to as Discom) vide an e-mail dated 19.01.2023 to disconnect the electricity connection bearing CA No. 60000015721. When no action was taken by the Respondent, the Appellant again sent emails on 20.01.2023 and 07.02.2023. On 14.02.2023, the Company received an e-mail from the Discom to submit the required documents for disconnection of the above-mentioned connection, which were duly submitted to them on 20.02.2023. On the same day, an employee of the Discom visited the site for the initiation of a disconnection request, but instead of disconnecting the connection, the official of the Discom started using filthy language and threatened the appellant for applying disconnection. The Appellant communicated the same to the Discom through e-mail on 21.02.2023 and again on 22.02.2023, for the disconnection of the above-mentioned electricity connection. Thereafter, on 23.02.2023, Shri Sanjeev, an employee of the Respondent No. 1, visited the premises, and the electricity was disconnected in the presence of Shri Akash Verma, Counsel of the Appellant's Company. However, staff of the Discom was trying to restore the connection with the aid of local police officials. On the same day, the Appellant received a message from Discom mentioning that "*Notification No. 002032982308 could not be executed on 23.02.2023 due to a Dispute/Court Case.*" In this regard, the Appellant informed the Discom vide his e-mail dated 23.02.2023 that neither any court case nor any dispute with regard to the ownership of the premises, in question, is pending before any court/authority and a request for disconnection of the electricity supply was made by the absolute and legal owner of the said premises. The Appellant further submitted an email dated 15.06.2023 stating that since the date of the requisition for disconnection of electricity, he has been receiving inflated bills, resulting in huge losses every month, but the Discom did not disconnect the electricity connection. Thereafter, the Appellant filed a complaint before the CGRF referring to Rule 9 of the Electricity (Rights of Consumers) Rules, 2020, as notified by the Central Government on 31.12.2020, and prayed to direct the Respondent to disconnect the electricity connection bearing CA No. 60000015721 and to punish the Respondent, its officials and its agents under Section 142 of the Electricity Act, 2003.



4. The Discom before the CGRF submitted that this is a property dispute matter. As per the company/LLP Master data downloaded from the Ministry of Corporate Affairs, the following are directors and signatories of M/s L. R. Builders Pvt. Ltd.:

<u>Name</u>	<u>Begin Date</u>	<u>End Date</u>
Arjun Kumar	25.04.1995	-
Pawan Kumar Gupta	30.09.1995	-
Veena Gupta	28.05.2011	-
Rahul Gupta	05.06.2015	-
Kamal Kumar Gupta	01.06.2008	-
Balbodh Ram	27.01.2020	-

The Discom further submitted that Shri Kamal Gupta and Smt. Veena Gupta (Respondent No.- 2) filed a complaint against Shri Rahul Gupta (Appellant before this court) with SHO, Police Station, Netaji Subhash Place, Pitampura, Delhi, for commission of offenses on 07.07.2023 and simultaneously, on the same day, filed a representation to the Discom stating that the Appellant (son of Shri Kamal & Smt. Veena Gupta) has illegally become the Director. Earlier, he had also cheated his own family members and now applied for disconnection of the electricity connection at the premises, in question. His directorship and shareholding are being challenged in the National Company Law Tribunal (NCLT). There are multiple criminal investigations currently being carried out by the Central Bureau of Investigation and the Directorate of Revenue Intelligence for the smuggling of gold against him. Respondent No. 2, also submitted that the property in question has been in their possession since 2002 and is being used to run a jewellery store by the name of M/s P.P.Jewellers Pvt. Ltd. They further requested the Discom not to disconnect the electricity connection unless the request is submitted with the signature of all the Directors and Shareholders of the company.

5. The Discom also submitted that at the request of the Appellant, an attempt to disconnect the electricity connection was carried out, but the same could not be done due to resistance from the other Directors at the site. Since then, the Appellant has been raising the issue of early disconnection and making severe allegations, such as bribery etc.. Further, the payments against electricity bills are being made timely by the caretaking organization, i.e. M/s P.P. Jewellers (Respondent No.-2). The Discom, before the CGRF also submitted that the connection is in the name of M/s L.R. Builders Pvt. Ltd., therefore, all Directors of this company, are allowed as necessary parties in the case. Accordingly, M/s P.P. Jewellers Pvt. Ltd. were impleaded as Respondent No. 2, before the Forum.



6. However, Respondent No.- 2 (M/s P.P. Jewellers Pvt. Ltd.), before the Forum, submitted that the complainant, Shri Rahul Gupta, is neither the authorized signatory nor the director of the company, namely M/s L.R. Builders Pvt. Ltd. and all the issues are pending before the competent courts/tribunals and the only business of the company is to deal in real estate. The Company has only two groups of shareholders, viz; (i) M/s P.P.Jewellers Pvt. Ltd., holding 50,001 shares and (ii) Arjun Kumar Gupta – holding 49,999 shares. The CGRF in its order dated 19.10.2023, elaborately mentioned the details of the Company.

7. The Appellant again filed a rejoinder on 03.10.2023 reiterated its submission. In addition, the Appellant submitted that a resolution on 16.09.2023 had been passed to apply for disconnection of the electricity connection bearing CA No. 60000015721. Besides, the Appellant submitted that Respondent No. – 2 (P.P.Jewellers Pvt. Ltd.) started making alterations and illegal constructions at the property in question, and in this regard, he referred to the High Court of Delhi's order dated 20.12.2017 in W.P.(C) 11236/2017 – M/s Parivartan Foundation vs. SDMC, and requested to take the necessary action accordingly. In this regard, the Appellant also submitted that though the Respondent No. -2 (M/s P. P. Jewellers) before the High Court of Delhi submitted that the excess coverage/deviation/unauthorized construction in the subject property has already been removed, the High Court of Delhi, vide their order dated November 23, 2022, in W.P.(C) 8848/2022, directed the Delhi Development Authority (Respondent No. 2 before the High Court of Delhi) to inspect the subject property and submit the report.

8. The CGRF-TPDDL, in its order dated 19.10.2023 opined that it is undisputedly clear the user of electricity is M/s P.P.Jewellers Pvt. Ltd. and also occupier of the premises. All the Directors are family members and have multiple litigations against each other regarding ownership and shareholdings of their Company, are pending before the various courts and tribunals. In view of the above fact, the Forum did not find any reason to get the electricity connection bearing CA No. 60000015721 disconnected and deprive the occupier of the premises from using the electricity connection. However, the complainant was allowed liberty to approach the Discom, if so required, after receiving an appropriate order in its favour from the competent court in the future.

9. Not satisfied with the CGRF's order dated 19.10.2023, the Appellant preferred this appeal on the following grounds: (a) the CGRF has not mentioned the reasons for declining his request for disconnection of the electricity connection, (b) Respondent No. -2 (M/s P P Jewellers Pvt. Ltd.) is an illegal occupant/trespasser of the property and has no locus standi, was impleaded without giving reasons and merely mentioned being a necessary party for proper disposal of the complaint, (c) Respondent No. -2 filed an intervener application and not an application for impleadment before the



Forum, (d) Respondent No.-2 has not submitted any document, to justify their possession of the property in question, (e) It is evident from the electricity bills issued by the Discom with respect to the property that M/s L.R. Builders Pvt. Ltd. (the Appellant) is the registered consumer and not M/s P.P.Jewellers Pvt. Ltd., (f) since the Appellant is a registered consumer of the Discom, hence entitled to disconnection of the electricity connection under Regulation 53 of DERC's Supply Code, 2017 and Rule 9 of the Electricity (Rights of Consumers) Rules, 2020, (g) the Board Resolution filed by Respondent No. -2, does not authorize Shri Kamal Gupta to represent M/s P.P.Jewellers Pvt. Ltd. before the CGRF, his objection was ignored and not taken into consideration by the forum, (h) no interim order has been passed by any court restraining him from acting/representing the Appellant in his capacity as a Director.

In the light of the various grounds enumerated in the appeal, the Appellant mainly prayed for:

- (i) Setting aside the order dated 19.10.2023 passed by the CGRF.
- (ii) To direct the Respondent to produce the electricity consumption details/chart for 23.02.2023, through which it will prove that the electricity at the property was disconnected and illegally reconnected on 23.02.2023.
- (iii) To direct the Discom to disconnect the electricity connection bearing CA No. 60000015721.
- (iv) To Direct the Discom to refund the security amount amounting to Rs.13,50,000/-
- (v) To direct the Respondent No. -2, to pay him the interest earned on it from 2003 year till date.

10. The Respondent No. -2, in its written submissions to the appeal submitted that Shri Rahul Gupta (Appellant) has filed this appeal in disguise of M/s L.R. Builders to wreck personal retaliation on his father, Shri Kamal Gupta, who is also one of the Directors of the Appellant's Company, namely, M/s L.R. Builders Pvt. Ltd. as well as Director of M/s P. P. Jewellers Pvt. Ltd. (Respondent No. 2), is running a jewellery showroom from the building in question. Shri Kamal Gupta has been the legal occupant of the said property since 2002, and it serves as their source of livelihood. The present appeal has been filed by forging the documents, making false representations and blatantly lying on the face of the records. The Respondent No. 2 further submitted that Shri Rahul Gupta was involved in a multi-million dollar gold smuggling case and was thrown out of the family home in 2015. They further submitted that if Shri Rahul Gupta is the absolute owner of the property and he himself recorded before the CGRF that the property in question has been given as collateral



security in respect of a loan taken by M/s P.P.Jewellers (Exports), a partnership firm of Shri Kamal Gupta and Smt. Veena Gupta, then how can somebody else be given property as collateral?

In addition, Shri Kamal Gupta also submitted that multiple complaints were filed before the Economic Offenses Wing of the Delhi Police, and to protect the interests of the company, Petition No. 52/241-242/PB/2020 was filed before the National Company Law Tribunal, New Delhi, under Sections 241, 242, and 59 of the Companies Act, 2013. Regarding the security amount deposited by the Appellant at the time of applying for the electricity connection, this is a fresh issue raised in the appeal. The R. No.-2, further submitted that electricity is a basic amenity under the Right of Life, as per Article 21 of the Indian Constitution and upheld by Courts, and prayed to dismiss the appeal with cost.

11. The Discom, in their written submission dated 12.12.2023 reiterated its submissions as before the CGRF. In addition, the Discom stated that they have initiated an attempt for disconnection of an electricity connection bearing CA No. xxxx5721 on the request of the Appellant on 23.02.2023, however, due to the resistance from the other Directors (as referred to in para 4 supra), the same could not be done. Therefore, the reliance of the Appellant on Rule 9 of the Electricity (Rights of Consumers) Rules, 2020, is completely wrong. The Discom also quoted Regulation 10(1)(vi) of DERC's Supply Code, 2017, stating "the Electricity bill shall be only for electricity supply to the premises occupied by the consumer and shall not be treated as having rights or titles over the premises." Therefore, the Discom prayed before the CGRF that all the Directors of the Company (M/s L.R. Builders Pvt. Ltd.) be impleaded as necessary parties for effective determination of the matter. With regard to the complaint and representation dated 07.07.2023 made by the Respondent No -2 (Shri Kamal Gupta and Smt. Veena Gupta) to SHO, Police Station, Netaji Subhah Place, Pitam Pura and Discom, respectively, they were placed on record before the CGRF. Therefore, it is wrong to state that these documents were not in the knowledge of the Appellant.

The Discom also stated that the Appellant has not raised the issue of the security deposit amount and interest thereon before the CGRF, as such, the issue at the state of appeal is not permissible/maintainable. Even the Appellant did not reveal the pendency of the number of cases/suits in different courts with Respondent No.-2, at the time of filing the complaint before the CGRF. Furthermore, the supply of electricity connection bearing CA No. xxxx5721 was not disconnected on 23.02.2023, so there is no question of its reconnection. With respect to interest on the security deposit amount from 2003, the Discom submitted that interest is regularly adjusted in the account on a yearly basis as per the provisions of the Regulations. The Appellant unnecessary raised the issue, which does not have any relevance with the present matter.



12. The appeal was admitted and fixed for hearing on 07.02.2024. During the hearing, the Appellant and Respondent No. 2, were represented by their Counsels. Respondent No. – 1 was represented by its Authorized Representatives/Counsels. An opportunity was given to all the parties to plead their case at length.

13. During the course of the hearing, the Counsel for the Appellant reiterated their contentions and submissions for the disconnection of the electricity connection. In response to a query in what capacity the Appellant had applied for disconnection of connection in the subject premises, the Counsel referred to Regulation 53 - 'Disconnection on Consumer's Request' of DERC's Supply Code, 2017, would be applicable, and the registered consumer (Appellant) has a right over it as the property belongs to M/s L.R. Builders. In this regard, Clause 15 of Section 2 of the Electricity Act, 2003, with respect to "Consumer" was explained for the appellant's locus in the instant matter. When further asked about the current status of M/s P.P. Jewelers Pvt. Ltd. (Respondent No.2) at the premises, the Counsel replied that they are presently illegal occupants despite being users of electricity connection and, therefore, the connection should be disconnected.

14. Respondent No.1 (TPDDL) reiterated their submissions as filed before CGRF and in its reply to this Court. Shri Shantanu (Manager), who appeared on behalf of the Respondent could not give a satisfactory reply to a query in respect of the first attempt for disconnection of the electricity connection by one of their officials without submission of documents, necessitating at points 8 & 9 of their letter, mainly 'Resolution' duly signed by all the Board of Directors of the Company. The Respondent further submitted that during the survey on the site, the connection could not be disconnected, as alleged by the Appellant, due to the resistance or objection of the Directors at that time. However, it was observed that there was a property dispute between the owners. Moreover, the applicability of Regulation 50 of DERC's Supply Code, 2017 – 'Grounds for Disconnection' - was also quoted by the Ombudsman.

15. The Counsel for Respondent No.2 (M/s P. P. Jewellers Pvt. Ltd.), reiterated its rejoinder as submitted in this office.

16. This Court has heard the contentions of both the parties, have gone through the appeal, written submission submitted by the respective parties.

17. It is apparent from the record that M/s P.P. Jewellers (Respondent No. -2) is functioning from the premises H-5, Netaji Subhash Place, Pitam Pura, Delhi- 110034 since 2002 and continues as such. At no stage it has been wound up. Although, the property in question was granted in perpetual lease to M/s L. R. Builders (P) Ltd. during the year 1999, it is in possession of M/s P. P. Jewellers (P) Ltd. No civil case regarding illegal occupation and declaration as illegal occupant has been filed before any court




and no orders in this regard have been passed by any Court. There is no Board resolution on record signed by all directors for initiating any action against M/s P. P. Jewellers (P) Ltd. for alleged illegal occupation and in particular disconnection of the electricity connection for CA No. 60000015721 in use by M/s P. P. Jewellers (P) Ltd. The material on record also indicates that M/s P. P. Jewellers (P) Ltd. are regularly paying bills for electricity consumption, as occupier of the property, and the Appellant has not produced any material on record to the contrary. However, Regulation 53 of the DERC's Supply Code, 2017, authorizes the consumers to apply for disconnection and lays down the procedure. As per the definition of 'Consumer' in Section 2(15) of Electricity Act 2003, it is M/s P.P. Jewellers who are supplied electricity for its use by the licensee and in possession of the premises which is connected for the purpose of receiving electricity. Further, the locus standi of M/s L.R. Builders (P) Ltd. to raise any request for disconnection cannot arise since all Directors of the Company have not, under any resolution, authorized Shri Rahul Gupta to initiate action for disconnection of electricity supply against CA No. xxxx15721. For this reason, no Board Resolution could be placed by the Appellant for consideration before CGRF. The aspect of disconnection also needs consideration in the light of a recent decision by Punjab & Haryana High Court in the matter of M/s Om Prakash vs. Balkar Singh & Others (2023) RCR (Civil) 572, where the Court held as under:-

"Question as to whether the petitioner is an illegal occupant of the suit property or not or as to whether he is liable to be evicted or not would be a matter of trial. The fact of the matter is that the petitioner is in possession of the suit property and still further his eviction has not been ordered by a competent court of law. Therefore, as long as the petitioner is in possession of property, he cannot be deprived of electricity."

18. CEO of the Discom is, however, directed to order an enquiry into the aspect of the action initiated under Regulation 53 for disconnection by the erring officials, ignoring the aspect that 'P.P. Jewellers' were the consumers and not L.R. Builders and only a consumer as defined in Section 2(15) of Electricity Act, 2003, can request for disconnection. Outcome of the enquiry may be informed within four weeks.

19. In view of the above, this Court upholds the order dated 19.10.2023, passed by the CGRF-TPDDL. The appeal is dismissed as devoid of merit.


(P.K. Bhardwaj)
Electricity Ombudsman
09.02.2024