

**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/2013/542**

Appeal against the Order dated 24.12.2012 passed by CGRF—  
TPDDL in CG.No.4584/09/12/SKN.

In the matter of:

Shri Tara Chand

- Appellant

Versus

M/s Tata Power Delhi Distribution Ltd.

- Respondent

Present:-

Appellant: Shri M. K. Gill, advocate, attended on behalf of the  
Appellant.

Respondent: Shri Vivek, Sr. Manager (Legal), Shri Ashish Singh (Legal  
Retainer), attended on behalf of the TPDDL

Date of Hearing: 27.02.2013

Date of Order : 14.03.2013

**ORDER NO. OMBUDSMAN/2013/542**

This appeal has been preferred by Shri Tara Chand, S/o Late Shri Bir Singh, R/o House No.10655, Ground Floor, Gali No.8, Andha Mugal, Pratap Nagar, Delhi - 110007, against the order of the Consumer Grievance Redressal Forum (CGRF) in which the contention of the complainant to delete the amount transferred by the DISCOM under Clause 49 (ii) of DERC Supply Code and Performance Standards Regulations, 2007 from another connection was refused.

The complainant has filed his case before the CGRF stating that he is the registered consumer of electricity having a connection bearing K. No. 35200552427. He received a bill showing a due amount for Rs.12,74,570/- in the month of December, 2011 which were dues transferred from a connection not pertaining to

95

him but belonging to Sh. Sudesh Kumar with K. No.35205101393. He alleged that the transfer of his amount is wrong and prayed for its deletion in his bill.

The DISCOM filed its reply before the CGRF stating that it had rightly transferred the amount, as electricity was being supplied to the earlier disconnected connection in the name of Sh. Sudesh Kumar from the live connection of the complainant. This was done after duly issuing a show cause notice. The DISCOM has filed the copy of an inspection report dated 14.12.2010, alongwith copy of an alleged notice dated 06.01.2011.

The CGRF took the view that Sh. Sudesh Kumar, who is the son of the Complainant/Appellant herein, Sh. Tara Chand, was booked under a theft case in 2005 and the amount in question being related to that case, it had no jurisdiction over the case and dismissed the complaint.

Now the complainant has filed the present appeal in which he has reasserted his contention made before the CGRF denying receipt of a show cause notice under Clause 49 (ii) and added that even in the alleged inspection report dated 14.12.2010, Sh. Sudesh Kumar was shown taking the electricity from meter no. 40180993, which pertains to Sh. Sudesh Kumar only. The complainant was not, therefore, supplying the electricity and he does not come in the picture. He also added that the alleged theft charges were declared time barred by the DISCOM itself and the DISCOM has not attempted to recover the amount from the alleged actual thief. Therefore, the transfer of this amount is not justifiable.

The DISCOM while opposing the appeal has pressed the argument that the case is under Sections 126/135 of the Electricity Act, 2003 and is outside the purview of the CGRF/ Ombudsman. It has dropped its earlier plea, made before the CGRF at one stage, that proper notice under Clause 49 (ii) was issued for transfer of dues.

Both the parties were heard. The following points emerge for discussion:-

- a. Whether the case pertains to theft charges and is outside the jurisdiction of CGRF/Ombudsman;

- 94
- b. If not, whether the alleged amount has been transferred by the DISCOM as per Clause 49 (ii) correctly ;
  - c. Whether the amount which was declared as time barred by the DISCOM itself can be transferred to another account.

Regarding the first point, as per Clause 8(1) of the CGRF/Ombudsman Regulation, 2003, the jurisdiction of CGRF/Ombudsman is barred regarding cases pertaining under Section 135 (theft cases) of the Electricity Act, 2003. In these cases only the Special Court has jurisdiction. But in the present case the Appellant/Complainant himself was never booked under Section 135. Only his son, namely Sh. Sudesh Kumar, was booked in 2005, alongwith some other two persons. For the purpose of this complaint, this cannot be said to be a theft charge. Therefore, the CGRF/Ombudsman have jurisdiction over the matter. Further, as per the documents of the DISCOM itself, the theft charges issue was stalled and became time barred. If the theft charge case does not remain valid the issue of transfer of dues under Clause 49 (ii) is to be seen.

In this, the second point above, the DISCOM has not shown the fulfillment of the requirements as prescribed in Clause 49 (ii). A bare reading of this clause shows that three conditions should be fulfilled before transferring the dues under this clause:

- a. Inspection by the DISCOM showing supply of electricity from live connection to a dead connection with proper diagrams, sketches etc.,
- b. Show cause notice to a consumer and proper service of it to stop the supply within the period specified,
- c. Re-inspection by the DISCOM showing non-stoppage of such supply within the above period.

In the present case none of these three conditions for transfer of dues were fulfilled. There is no name and address of the person of the DISCOM conducting the inspection on the report. This is only a two page printed proforma in which some

details are filled up. There is no designation or rubber stamp of the person conducting such inspection. 'Approved by' column has been left blank. Such types of inspection reports do not inspire confidence in an adjudicating body. Although the DISCOM has filed a photocopy of an alleged postal receipt, this does not carry the date and receipt of the postal department. The DISCOM has never mentioned the date of dispatch in its reply (W.S.) before the CGRF. The consumer has already denied receipt of any show cause notice. It could have been left to both the parties to prove their contention before the appropriate court through evidence, but since the inspection report itself says that Shri Sudesh Kumar was taking the supply from his own meter (perhaps, by way of reconnecting it), the complainant cannot be held responsible for it. There is mention of Complainant's K. No., below the meter no. of Shri Sudesh Kumar, as also on the first page of the report, and the wrong meter number may have been given by mistake. However, there is no re-inspection to ensure whether such supply was stopped or not.

Although there is one re-inspection report dated 26.11.2012, which was conducted on the strength of the CGRF order dated 20.11.2012, in which supply of electricity to the erstwhile connection of Sh. Sudesh Kumar is shown being given from the connection of some other person, namely Sh. Ramkumar, this person is not the complainant. Therefore, this inspection report cannot be used. It is also observed that the action of the CGRF ordering re-inspection was wrong, as this amounts to intervening unnecessarily in a legal and procedural requirement. The CGRF has to pass the order on the basis of the prior/existing inspection report which has to be made before transfer of the amount occurs and not afterwards. Any illegal supply of electricity found as a result of a CGRF ordered inspection will be a fresh cause of action requiring the DISCOM to issue a proper show-cause notice followed by a re-inspection and subsequent transfer of dues by the DISCOM. Such transfer of dues cannot be ordered by the CGRF placing itself in the shoes of the DISCOM. It can, at best, close the case being heard and ask the DISCOM to proceed.

Thus the appeal is allowed on the basis of the first and second points, and it is not necessary to enter a discussion on the third point. It is also observed that the connection of the Complainant/Appellant was disconnected on account of wrong dues being transferred and he remained without electricity for about 9 months

without any fault of his own. This deserves some compensation in his favour. When a connection is disconnected on an illegal ground, no commercial formalities are required to be fulfilled for its reconnection.

The appeal is allowed to the extent that the alleged theft charges added into the bill of the appellant under Clause 49 (ii) supra from the account of Sh. Sudesh Kumar are deleted. The DISCOM shall pay Rs.10,000/- on account of mental and physical harassment to the consumer.

Copy of this order be circulated to all the CGRF's for correct appraisal of the provision.

  
(PRADEEP SINGH)  
Ombudsman

14th March, 2013

