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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/2013/549

Appeal against the Order dated 03.01.2013 passed by CGRF–
TPDDL in CG.No.4617/09/12/SKN.

In the matter of:

Shri Laxmi Chand - Appellant

Versus

M/s Tata Power Delhi Distribution Ltd. - Respondent

Present:-

Appellant: Shri Jagdish Singh, Authorized Representative, attended
on behalf of the Appellant.

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

Date of Hearing: 20.03.2013, 16.04.2013

Date of Order : 23.04.2013

ORDER NO. OMBUDSMAN/2013/549

The appellant, Shri Laxmi Chand, S/o Late Shri Chotu Ram, resident of H.
No.10626, Street No.6-7, Partap Nagar, Andha Mughal, Delhi – 1100007, has filed an
appeal against the order of Consumer Grievance Redressal Forum – Tata Power
Delhi Distribution Limited (CGRF – TPDDL) dated 03.01.2013 in which it was ordered
that, the theft was detected at the premises user Shri Mahesh so being dues relating
to theft the same is beyond the jurisdiction of the forum.

He has filed a case before the CGRF stating that he is the registered
consumer of electricity having a connection bearing K. No. 35205101459 with a
sanctioned load of 2 kW. He received a notice dated 30.07.2012 alongwith an
assessment bill showing a due amount for Rs.1,78,761/- on account of Direct Theft

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(DT) booked in the name of one Shri Mahesh (K. No.10000002662). He contended that his connection was installed on 05.06.2007 whereas the inspection was carried out on 19.05.2006. He alleged that the theft dues did not pertain to him and prayed for its withdrawal.

The TPDDL (DISCOM) filed its reply before the CGRF stating that it had rightly transferred the amount, as the same pertained to unauthorized use of electricity (UUE)/misuse charges and as per rule 8 (1) of the DERC Regulations, 2003, the CGRF does not have any jurisdiction over the matter. The CGRF has accepted the contention of the DISCOM and ordered that the consumer is free to approach the appropriate court/forum.

Now he has filed the present appeal in which he has reasserted his contention made before the CGRF denying receipt of a show cause notice and added that he has given a small room for rent to one Shri Ravinder only and that Shri Mahesh was never his tenant.

The DISCOM while opposing the appeal has pressed the argument that the case pertains to direct theft and only the special court has jurisdiction over the matter, as per the Electricity Act, 2003.

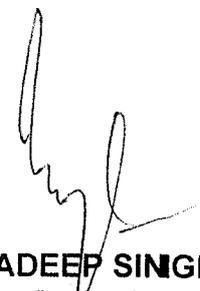
A hearing was held on 20.03.2012 and both the parties were heard. The DISCOM was unable to explain the delay in recovering theft dues from 2006 to 2012. Such cases are to be acted upon by filing FIR within 24/48 hours with consequential action. Further, it is not clear the old theft charges could be automatically transferred/levied after many years. An approval of the Special Court may be required. The DISCOM was asked to explain the legal position.

In the next hearing on 16.04.2013, the DISCOM could not go beyond wanting a ruling on the basis of the comments filed by them to the appeal.

The fact is that a notice for payment of dues; u/s 56 of the Electricity Act, 2003, based on alleged 'Direct Theft' was issued and the CGRF declined to intervene based upon lack of jurisdiction.

In appeal, the DISCOM pleads the same lack of jurisdiction with the Ombudsman. It is correct that in such cases of Direct Theft the Special Court has to decide. While closing these proceedings, it is observed that the DISCOM will ensure the notice is not acted upon without the consent of the Special court, which should be approached by the DISCOM to finalize matters.

The case is closed.



(PRADEEP SINGH)
Ombudsman

23rd April, 2013

