

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

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Appeal No. F. ELECT/Ombudsman/2013/576

Appeal against the Order dated 29.05.2012 passed by CGRF-TPDDL in the matter of Sh. Bhushan Lal Gupta vs. TPDDL in CG.No.4147/03/12/BWN.

In the matter of:

M/s D.S.I.I.D.C.

- Appellant

Versus

M/s Tata Power Delhi Distribution Ltd.

- Respondent

Present:-

Appellant: Ms. Deepali Gupta, advocate, attended on behalf of the Appellant.

Respondent: Shri Vivek, Sr. Manager (Legal) and Shri Anupam Varma, Advocate, attended on behalf of the TPDDL

Date of Hearing: 04.09.2013

Date of Order : 11.09.2013

ORDER NO. OMBUDSMAN/2013/576

This Appeal was filed by M/s DSIIDC, New Delhi, against the order of the Consumer Grievance Redressal Forum – Tata Power Delhi Distribution Ltd. (CGRF-TPDDL) dated 29.05.2012 in the matter of Shri Bhushan Lal Gupta vs. TPDDL.

One Shri Bhushan Lal Gupta resident of A-117, Ground Floor, DSIDC, Narela Industrial Area, Delhi – 110040, approached the CGRF – TPDDL that he had not been issued a demand note on his request for release of a new electricity connection for his plot no.A-117, Ground Floor, DSIDC Narela, Delhi, with a sanctioned load of 60 KW for industrial use. During the hearing of this complaint, the TPDDL informed the CGRF that

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the area of the original complainant, Shri Bhushan Lal Gupta, needs further electrification and strengthening of system including augmentation of capacity of transformers and lines. This would require 50% of the cost amounting to about Rs.35 Crores to be deposited by the DSIIDC, Narela, which had not yet been deposited, thus holding up the work and also holding up the release of the connection of the original complainant. The CGRF called the DSIIDC and the concerned officer present was reported to have informed the CGRF that Rs.10 Crores was to be paid initially and that the relevant file was with the Finance Department for clearance, after which payment would be released. The payment of the balance amount would be expedited. During the course of the hearing, the TPDDL issued a demand note for Rs.1.21 Lakhs on 28.05.2012 which was paid on 29.05.2012, which is also the date of the final order of the CGRF.

It appears that the case, which was first heard on 27.04.2012, and went through four hearings till 29.05.2012, was being conducted in the background of the facts placed before the CGRF by the officer of the DSIIDC. It is also to be noted that an amount of Rs.10 Crores was, later, actually deposited by the DSIIDC with the TPDDL. It would appear that the issue of the demand note one day prior to the order of the CGRF and its payment on the date of the order of the CGRF implies everyone was aware in which direction the matter was headed in relation to the DSIIDC.

The DSIIDC filed a complaint before the Ombudsman on 27.06.2013 that the CGRF had no power to give direction to them regarding payments to be made and that the order of the CGRF be recalled/modified. They had approached the CGRF directly also on 16.07.2012 and 29.11.2012 but no action was reportedly taken. It may be noted in passing that a bare reading of the CGRF order shows that they have merely noted the points/facts placed before it by the representative of the DSIIDC and have not given any direction. The initial amount of Rs.10 Crores intimated by the DSIIDC's representative to the CGRF as payable was actually released later. It appears that the points stated in the order of the CGRF are purely factual and are not directive in nature. If the representative of the DSIIDC had exceeded his brief or if he was not authorized to

speak on their behalf at all the DSIIDC will have to internally question him for appearing and stating what he did.

The matter was heard on 04.09.2013 and the DSIIDC's submissions were examined. They had filed the complaint under Clause 19 of the Delhi Electricity Regulatory Commission (Guidelines for establishment of Forum for Redressal of grievances of the Consumers and Ombudsman) Regulations, 2003 (hereinafter called Regulations) where only *complainants aggrieved by any order of the Forum* can approach the Ombudsman. These Regulations have been drafted by the DERC in exercise of its powers under Section 181 of the Electricity Act, 2003 read with sub-section (5) of Section 42 of this Act.

Section 42 (5) of the above Act enables only "consumers" to approach a Forum for Redressal of grievances and Section 42 (6) allows "any consumer", who continues to be aggrieved by non-redressal of his grievance under sub-section (5) to make a representation for the redressal of his grievance to the Ombudsman. The DSIIDC is not a "consumer" under Section 42 (5) and, hence, cannot be a complainant under Regulation 19 of the above Regulation framed under the above Act. Clause 20 of the above Regulations also clarifies the procedure to be followed by a complainant/consumer in filing the representation which would again not apply to the DSIIDC in this case. It was also not a party before the CGRF. The Ombudsman is empowered to settle grievances of consumers and for this purpose can issue orders/directions to the Distribution Companies to do or not to do whatever the specific case requires. The DSIIDC is, therefore, not entitled to any relief from the Ombudsman, in this case.

In case the DSIIDC continues to be aggrieved by what it considers to be a 'wrong direction' given by the CGRF, it will have to approach the appropriate Court of Law.


(PRADEEP SINGH)
Ombudsman

11th September, 2013

