

OFFICE OF ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

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Appeal No. 58/2024

(Against the CGRF-BRPL's order dated 13.11.2024 in CG No. 78/2024)

IN THE MATTER OF

Ms. Misha Katyayan

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Aman Gaurav, Spouse of Smt. Misha Katyayan

Respondent: Shri Sudarshan Bhattacharjee, Senior Manger, Ms. Pooja Babbar, Manager, and Shri Shreyek, Advocate, on behalf of BRPL

Date of Hearing: 02.04.2025

Date of Order: 03.04.2025

ORDER

1. Appeal No. 58/2024 has been filed by Smt. Misha Katyayan, R/o C-94, Ground Floor, C-Block, Vikaspuri, New Delhi-110018, against the Consumer Grievance Redressal Forum – Rajdhani Power Limited (CGRF-BRPL)'s order dated 13.11.2024 in CG No.78/2024.

2. The background of the case is that the Appellant had applied for an electricity connection vide Application No. ONVKP2708243452 on 27.08.2024 at ground floor of the property in her occupation but did not receive any positive response from the Discom. As a follow up, she sent an e-mail on 02.09.2024 requesting for immediate installation of the electricity connection at the above cited address. On 03.09.2024, the Discom asked for ownership documents, which the Appellant asserts, was demanded for the first time and after the expiry of the statutory period of two days. As per DERC's Regulations, her application should have been considered accepted as of 27.08.2024. She contends that the demand of ownership documents is unnecessary and was only to



harass her. As per the provisions of the Electricity Act, 2003 and the Electricity (Rights of Consumers) Rules, 2020, ownership document are not required, and she asserts that she is the lawful occupant of the premises. As a result, she filed a complaint before the CGRF-BRPL, with a request to direct the Discom to install the applied for electricity connection immediately.

3. The submission by Discom before the CGRF was that the Appellant had applied for a new connection on 27.08.2024, submitting ID Proof and an Affidavit-cum-Indemnity Bond, as proof of occupancy, but no ownership document was provided. According to the Regulations 10(3) of DERC's Supply Code, 2017, proof of ownership or occupancy is mandatory. Consequently, a deficiency notice was sent through SMS to the Appellant's registered mobile number 9990838490 on 28.08.2024, requesting necessary registered ownership document. A copy of the system's screen shot was also provided to the Forum during the course of hearing. Since the Appellant had failed to provide necessary document within the stipulated time period, the application for the new connection was deemed as cancelled.

In response to the Appellant's assertion that the connection should have been released within seven days, as per the regulations, the Discom submitted that no such rules exist. The application could only be considered once the deficiency was removed, as per clause 11(1)(vii) of DERC's Supply Code, 2017. If no deficiencies were found during the field inspection, a Demand-Note would have been raised as per clause 11(3) of DERC's Supply Code, 2017, and the connection could only be released after receipt of payment from the complainant/consumer. While Clause 11(4)(i)(d) of DERC's Regulations, 2017, specifies a timeline for releasing connections, this applies only when there are no deficiencies in the application or during field inspection, which was not the case of the complainant.

4. However, the Appellant stated that she had provided her passport as address proof and voter ID card as identity, in compliance with Rule 4(9)(2) of the Electricity (Right of Consumers) Rules, 2020. This rule mandates only two documents for obtaining a new electricity connection, one as ID proof and the other for occupancy when the separate ownership/occupancy documents are not available.

5. While the case was pending before the CGRF-BRPL, the Appellant filed a Writ Petition No. WP(C) 15344/2024 before the High Court of Delhi, and requested to direct the Discom for release of the electricity connection. However, the Court disposed off the matter directing the Appellant to approach the CGRF for an expeditious decision. Also, the petitioner had a remedy against the order of the CGRF before the Ombudsman in terms of Section 42(6) of the Act.



6. The CGRF-BRPL, in its order dated 13.11.2024, found that two individuals had applied for a new electricity connection for the same property with the contention of possession of the applied premises through on-line applications on ownership basis. The complainant (Ms. Misha Katyayan) had also executed a 'no objection' in favour of her brother Shri Bhavishya Katyayan, and subsequently had shifted her stand. She filed a complaint before the Forum asserting that she seeks connection based on occupancy of the applied premises in accordance with Rule 4(9) of the Electricity (Right of Consumers) Rules, 2020. The Forum considered Rule 2(k) of these regulations, which defines "Occupier" to mean the owner, tenant or person, in occupation of premises where electricity is used or proposed to be used, proof of possession of the premises need to be established". The Forum ordered that whether the possession is based on ownership or based on legal and valid occupancy, that can be proved only based on supporting documents, as required in Regulation 10(3) of DERC's Supply Code, 2017, and, therefore, dismissed the Appellant's complaint.

7. The Appellant, dissatisfied by the order dated 13.11.2024, passed by CGRF-BRPL, has filed this appeal reiterating the facts as submitted before the Forum. In addition, the Appellant asserts that the Forum has misinterpreted the provision regarding ownership and occupancy, and ordered to submit/provide valid documents in accordance with the Regulation 10(3) of DERC's Supply Code, 2017, which is contrary to the Electricity (Right of Consumers) Rules, 2020. Accordingly, the Appellant has relied upon Rule 4 (9) of Electricity (Right to Consumers) Rule, 2020 and Clause 11(1) (iv) of the DERC's Supply Code, 2017, for release of a electricity connection.

The Appellant has requested following reliefs:

- (a) To set-aside the CGRF-BRPL's order dated 13.11.2024.
- (b) To direct the Discom to provide an electricity connection without insisting on ownership documents.
- (c) To grant compensation and penalize the Discom for non-compliance of section 43 of the Electricity Act.
- (d) Pass any other and further order(s) that deem proper and interest of justice.

8. The Discom, in its written submission dated 09.01.2025 asserted that the Appellant has intentionally concealed the fact that a deficiency notice was sent to her registered mobile number via SMS on 28.08.2024, and, denied that her application was considered accepted. To corroborate its claim, the Discom had shown the screenshot of deficiency notice to both, the Appellant and the Forum during the hearing on 15.10.2024. Further, the Appellant's knowledge of the deficiency is evident from her email dated 02.09.2024, in which she has responded to the deficiency. The Discom replied on 03.09.2024, requesting for the ownership documents. The ownership documents were



again requested on 09.09.2024 and 13.09.2024, in accordance with the Clause 10(2) of the DERC (Guidelines for establishment of the Forum and the Ombudsman for redressal of grievances of Electricity Consumers) Regulations, 2024. However, the Appellant failed to provide the requested documents.

Regarding the Appellant's claim that the Discom pressurized her to submit fresh application in the name of her brother Shri Bhavishya Katyayan, instead of pursuing with her application, the Discom submitted that the Appellant submitted before the Forum that "if BRPL is in a position to process and release connection in the name of brother Shri Bhavishya Katyayan, she is not having any objection to the same. The complainant submitted that she will pursue with her brother to re-apply (online) at the earliest and seek short time for the same." Further, the Appellant is misleading the Ombudsman, deliberately misquoting and misinterpreting the Forum's order. The Discom did not claim that her brother's application was complete, the averment made was that his application was time barred but in case he submits a new application, he would be given a connection within seven working days, subject to completion of requisite commercial formalities. Further, the Appellant had made completely new prayers which were not sought in the original complaint, such acts are mischievous and malafide.

The Discom further submitted that the connections are granted on the basis of ownership rather than occupancy. None of the documents proving ownership/ occupancy as specified under clause 10(3) of the DERC's Regulations, 2017 have been filed. The Appellant's assertions that submission of an Indemnity Bond obligates the Discom to provide her a connection is misplaced and beyond the scope of any enabling provision in regulations under DERC's Supply Code, 2017. According to Right of Consumers Rule, 2020, consumer means the owner, tenant or person in occupation of the premises where electricity is used or proposed to be used. It is admitted that Appellant has not provided any documentation to prove her ownership of the premises and has not claimed that she is a tenant in the premises. Further, the fact is that she herself said on several occasions that she is living in some other property as tenant. Therefore, she was also not in occupation of the premises in question.

The claim of the Appellant is that she has submitted her passport as proof of address and voter card as identity, in compliance of Rule 4(9)(2) of the Consumer Rules. If the ownership proof is not available then only an address proof and identity proof are required. However, as per electricity connection application form, she submitted both her passport and voter card only as identity proof, while an Indemnity Bond was submitted as ownership proof, which is an invalid document for ownership proof. Moreover, as per Rule 4(9)(2) of the Consumer Rules, an address proof not given as part of identity proof, can be given consideration. Since both the passport and voter



card have already been used as Identity proof, the same cannot now be considered as ownership proof.

The Appellant has admitted in her appeal that she does not have any ownership proof and submitted that *"I also undertake that as and when the ownership documents/Title Deed etc. are available in my name/favour, I shall submit the copy of said documents with the Discom."*

With regard to the Appellant's plea that connection should have been released as per the timelines under Rule 11 of the DERC's Regulations, 2017, the Discom has submitted that they are unaware of any such rules. The Appellant's application can only be considered on removal of deficiency, as per clause 11(1)(vii) of DERC's Supply Code, 2017. In case the application would have been complete, a field inspection of the premises would have to be done as per clause 11(2) of the Regulations, 2017. In the event of non-discovery of any deficiency, during the field inspection, the demand note would have been raised as per clause 11 (3) of the Regulations, 2017 and connection could only be granted after receipt of payment from the Appellant. Clause 11(4)(i)(d) of the DERC's Supply Code, 2017, provides a timeline for releasing connections, but this applies only in cases where there are no deficiencies in the application or during field inspection, which does not apply to the Appellant's case.

9. The appeal was admitted and fixed for hearing on 02.04.2025 but was adjourned to 02.04.2025 on the request of the Respondent. During the hearing, the Appellant was represented by her spouse Shri Aman Gaurav and the Respondent was represented by its authorized representatives/advocate. An opportunity was given to both the parties to plead their respective cases at length and relevant questions were asked by the Ombudsman and Advisors, to elicit more information on the issue.

10. During the hearing, the Authorized Representative for the Appellant reiterated her contentions as in the appeal. He has also referred to the provisions of Rule 4 (9)(2) of the Electricity (Right of Consumer) Rules, 2020 to substantiate that there was no ownership document required on account of submission of the necessary identity proofs i.e., Passport, Voter ID and an Affidavit-cum- Indemnity Bond, before the Discom. He admitted that apart from his wife, Misha Katyayan, there was three other legal heirs of the deceased father and, therefore, she was not an absolute owner of the applied property.

11. In rebuttal, the Advocate appearing for the Respondent, while referring to the records, also produced before the CGRF, disputed the aspect of non-receipt of discrepancy notice, also stating that the application submitted for the new connection was based on ownership whereas the definition under Rule 2 (k) of the Rules 2020 pertained to occupant and the Appellant did not fall in any of the three mentioned



categories either as an owner, tenant or occupant because she was at present living in a rented accommodation elsewhere.

12. Having taken all factors, written submissions and arguments into consideration, the following aspects emerge:

- (i) As per application form approved by the DERC, 'NOC' from co-owners is a mandatory condition for a new connection.
- (ii) Rule 4(9) (2) – (Right of Electricity Consumers) Rules 2020, provides that in the absence of proof of ownership or occupancy, any other address proof not given as identity proof, can be provided.
- (iii) It is not in dispute that Bhavishya Katyayan, Shrey Katyayan, Megha Katyayan and Misha Katyayan are all siblings, surviving after death of parents, and owners of property in perpetual lease in the name of the father Shri D.S. Katyayan, Plot No. 94, C-Block, Bodella, being a registered document.
- (iv) There is no laid down law/procedure to justify release of a connection on the basis of an Affidavit-cum-Indemnity Bond, in order to circumvent the need for possession and ownership proof.
- (v) The Appellant is insisting to provide connection taking cognition of Electricity Rules, 2020 (Right of Consumers), but these rules are not incorporated by DERC, anywhere so far.
- (vi) The connection can only be provided on submission of any one document as specified in Regulation 10(3)(i) to (viii) of the DERC (Supply Code & Performance Standards) Regulations, 2017 and on submission of 'NOC' in her favour from her siblings.


13. In the light of the above, this court directs as under:

- (a) While accepting the documents on record namely, Passport, Voter ID as identity proof and passport as occupancy document, it is impressed upon the Appellant as a co-owner to submit NOCs of the three other legal heirs and other supporting documents to the Discom at the earliest for release of requisite connection at the earliest, subject to completion of other commercial formalities.
- (b) The Discom will process the request based on the 'NOCs' and other relevant documents received at the earliest.



14. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier. The parties are informed that this order is final and binding, as per Regulation 65 of DERC's Notification dated 24.06.2024.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
03.04.2025