

Office of the Electricity Ombudsman

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

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Appeal No. F. ELECT/Ombudsman/2015/679

**Appeal against the Order dated 10.11.2014 passed by CGRF–
BRPL in CG.No.122/2014.**

In the matter of:

Smt. Nirmal Jindal - Appellant

Versus

M/s BSES Rajdhani Power Ltd. - Respondent

Present:-

**Appellant: Shri Varun Jindal attended the hearing on behalf
of the appellant.**

**Respondent: Shri Dheeraj Koul, C. O. (D) Vikaspuri attended on
behalf of the BRPL.**

Date of Hearing : 04.03.2015

Date of Order : 18.03.2015

ORDER NO. OMBUDSMAN/2015/679

This appeal has been filed by Smt. Nirmal Jindal, wife of late Shri Subhash Jindal, R/o RZ – 84, Flat No.12, South Ex. Part – 1, Shukkar Bazaar Road, Uttam Nagar, Near L. S. Play School, New Delhi – 110059, against the order of Consumer Grievance Redressal Forum – BSES Rajdhani Power Ltd. (CGRF-BRPL) dated 10.11.2014 in which her request for deletion of amount transferred on her CA No. 150385586 was declined.

The case was filed by the complainant before the CGRF stating that she has electricity connection No.150385586 on which the DISCOM has transferred dues of disconnected connection of one Smt. Veena Devi (CA No.103063867). According to her, this is wrong.

The DISCOM in its reply before the CGRF stated that a total amount to the tune of Rs.20,656/- was transferred on pro-rata basis to the 17 existing live connections on the premises. Before doing this it had duly issued a show cause notice for 'personal hearing' and the complainant did not attend.

The CGRF has dismissed the case on the basis of some alleged undertaking given by the DISCOM to the effect that it had resolved the matter with the consumer. This is not, however, the case and now the complainant has preferred the present appeal in which she has reasserted her claim made to the CGRF and added that being an old lady she could not attend the hearing.

The DISCOM opposed the appeal and added that the electricity connection was given to one Smt. Veena Devi on 11.05.1986. The electricity connection was given to the complainant on 09.04.2012. After this the electricity connection of Smt. Veena Devi was disconnected on 18.09.2012 with pending dues of Rs. 20,656/-. The dues of Smt. Veena Devi were transferred on the strength of a **Declaration/Undertaking** given by the appellant at the time of the energization of her electricity connection. According to the DISCOM this action is supported by the case decided by Hon'ble High Court and the Supreme Court in the case of **Mrs. Madhu Garg Vs. NDPL** (LPA 233-24/2006, dated 22.03.2006) and **M/s. Swastic Industries Vs. Maharashtra State Electricity Board** (Dt. 24.01.1997, AIR-1997-SC-1101).

Both the parties were heard and the record was perused.

Both these cases do not apply to the present case. **Smt. Madhu Garg** case was decided on 22.03.2006 in which it was held that the dues of the earlier occupant can be recovered from a subsequent occupant. The DERC has duly

formulated the **DERC Supply Code and Performance Standards Regulations, 2007** in which it has set the terms and conditions, alongwith procedure, for recovery of pending dues of a disconnected connection from a new occupant. In these new Regulations, which are binding on the DISCOM, it can merely deny a new connection to a subsequent occupant, until she pays the dues pending on the premises (Clause- 15 (ii) of the DERC Regulations, 2007). In the present case, the connection of the complainant was already existing in the premises when the connection of Smt. Veena Devi was disconnected. She cannot be held liable to pay the dues pertaining to her neighbour. The DISCOM is repeatedly misrepresenting the above judgment in its alleged notices etc. when the Regulations are clear on the subject.

The case of **M/s. Swastic Industries**, with judgment dated 24.01.1997 in which it was held that the demand can be made by way of supplementary bill, on which 3 years limitation shall not apply, is not relevant in the present case as there is no ground of limitation involved.

If we examine the alleged notice dated 21.11.2013 issued by the DISCOM, it is seen the notice is erroneous in its mention of various judgments of the High Court and the Supreme Court. The DISCOM has to understand that its governing body is the DERC in the first instance and only later the courts. The courts can approve, or not approve, the action of the DISCOM as per the DERC Regulations, 2007. The language of the Notice appears to create an impression of amounts due amongst the semi-literate consumers which is not supported by the DERC Regulations, 2007. Secondly, the Notice relies on the declaration given by the consumer at the time of availing of the connection by her. As mentioned earlier this declaration does not give an unfettered right to the DISCOM to create any demand for dues as and when it likes unless supported by the Regulations. At best, this can be read only as an assurance to pay any unsettled demand pending at the time of energization of connection under Section 135 (theft) or 126/127 (misuse charges) of the Electricity Act, 2003


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pertaining to the previous occupant. It cannot be extended to any demand becoming due to non-payment by a neighbouring person. Notices must be specific in citing the Regulations used and the clauses invoked prior to demanding dues or transferring dues. Generalised references to court judgments will not suffice.

The DISCOM, in this case, is lethargic in recovery of its dues from the actual defaulter Ms. Veena Devi and is putting the onus of payment on the other consumers. Lastly, calling somebody for a '**personal hearing**' is an important right which is given only to adjudicating bodies under the relevant statute. It could have simply asked for written or oral objections, or both, from the complainant before transferring any outstanding dues pertaining to some other connection. The DISCOM is not supposed to give notice for 'personal hearing' except for the purpose of proceedings under Section 126 of the Electricity Act, 2003. This amounts to a deficiency in service. The DISCOM shall be free to recover its dues from the actual defaulter, if so advised, as per law. The fact that some persons have paid the amount asked by the DISCOM does not make it obligatory for Smt. Jindal to pay as well.

The stake invoked in the appeal is small but the issue is larger. The DISCOM shall remove the amount transferred from Smt. Veena Devi to the appellant. If already paid this shall be refunded immediately. The DISCOM shall also pay Rs.5000/- for deficiency of service and for inconvenience caused to the consumer.

Copy of this order be circulated to all the CGRFs and CEOs of the DISCOMs.


(PRADEEP SINGH)
Ombudsman
18/3/15
March, 2015