

## **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-cum-Fax No.: 011-26141205)

### **Appeal No. 780/2017**

#### **IN THE MATTER OF:**

Shri Puneesh Garg - Appellant

Vs.

M/s BSES Rajdhani Power Ltd. – Respondent

(Appeal against letter No. F5/34/2017 dated 22.03.2017 issued to the Appellant by CGRF-BRPL declining to accept his complaint)

#### **Present:**

Appellant: Shri Puneesh Garg

Respondent: Shri Anurag Gupta, DGM (KHP), Shri Devashish Shaily, CO (KHP), Shri Prashant Saxena, Nodal Officer, and Shri Deepak Pathak, Advocate on behalf of BSES - BRPL

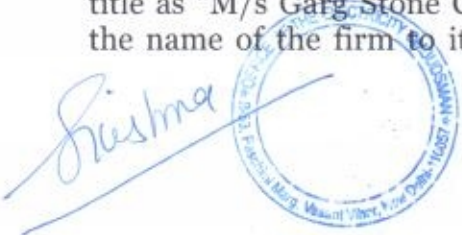
Date of Hearing: 09.05.2017

Date of Order: 22.05.2017

### **ORDER**

1. Appeal No. 780/2017 has been filed by Shri Puneesh Garg, S/o Late Anand Prakash Garg, R/o 40- A, Pocket-A, DDA SFS Flats, Sukhdev Vihar, New Delhi – 110025 against CGRF-BRPL's letter cited above declining to accept his complaint against the Discom (Respondent) on the ground that the complainant is not a consumer since the electricity connections which are the subject matter of his appeal were disconnected in the years 1992 and 2002.

2. The brief background is that the Appellant had approached the Discom (Respondent) seeking a correction in the name of his late father's stone crushing company, namely "M/s Garg Stone Crushing Co", as it appears on the old electricity bills as his family is involved in some litigation in various courts and he needs to make the name of the firm consistent across all records. Most specifically, copies of the bills in question issued by the present Discom at the Appellant's request give the name of his firm as "M/s Garg Stone Crushing" on one bill and as "M/s Garg Stone Co" on another while the old DESU (MCD) electricity bills carry the full name and title as "M/s Garg Stone Crushing Co". The Appellant's request for a correction in the name of the firm to its full title of "M/s Garg Stone Crushing Co" on the bills





issued by the present Discom has been declined by them on the ground that the connections in question were disconnected in January, 1992 and October, 2002 and are, therefore, not in existence anymore and, further, there are no provisions for correcting addresses and names in disconnected connections.

3. Following the refusal of the Discom to accede to his request for a correction, the Appellant approached the CGRF which did not admit his plaint in the first place on the ground that the connections in question stood disconnected and that the Appellant was, therefore, not a consumer by definition. The Appellant's grievance is that the CGRF has arbitrarily dismissed his case at the outset itself without even affording him an opportunity to state his case and without passing a reasoned order. The Discom, whose response was called for, has repeated what they had submitted to the CGRF, namely that the connections in question already stood disconnected as of January, 1992 and October, 2002 and that there are no provisions under which such rectifications can be carried out.

4. I have heard both the parties and examined the material on record. Firstly, it was not correct on the part of the CGRF to have dismissed his plaint summarily through an opaque, poorly-worded letter dated 22.03.2017 which conveyed, in effect, that he had no locus standi to approach the Forum. An essential ingredient of natural justice is the basic principle of *audi alteram partem* which prohibits a decision which could impact an individual's rights without giving all parties in the dispute a right to be heard and which, by common usage now, has been extended to include the right to receive notice of a hearing and to be given an opportunity to be represented or heard at that hearing. The Forum could have easily invoked the provisions of Regulation 7(2) of the DERC's Guidelines for the Establishment of Forum for Redressal of Grievances of the Consumers and Ombudsman (Regulations), 2003 on jurisdiction which confers a considerable degree of freedom to accommodate genuine cases which do not fit into standardized categories.

5. Secondly, since the grievance involves an electricity discom and the prescribed authorities for adjudicating on them under the Electricity Act, 2003 are the CGRFs and the Electricity Ombudsman, it is incumbent upon these two authorities to take cognizance of the complaint preferred and hear the aggrieved party before delivering a verdict. I, therefore, hold that there has been an error in taking a narrow, clerical view on the admissibility of the complaint and dismissing it outright without even having heard the complainant in the first place and without passing a reasoned, speaking order.

6. The Discom has extensively argued that the complainant has no locus standi to approach the CGRF/Ombudsman, arguing that he is not a consumer within the definition of Regulation 3(g) of the DERC's Guidelines of 2003 referred to in paragraph 4 supra and that, by extension, he is not eligible to file a complaint or even make the request for rectification he has made to the Discom in the first place. They have further claimed that the complaint is not sustainable before the Ombudsman in terms of Regulation 20(2) of the Guidelines referred to above as the Appellant has to exhaust the remedial mechanism of the CGRF first. During the hearing, the Discom has further invoked Section 56(2) of the Electricity Act, 2003, on the subject of limitations to hold that the connections in question stand disconnected as long ago as 1992 & 2002 and that a cause of action cannot arise now when bills have not been issued on a month to month basis.



7. For his part, the complainant has argued that he falls very much within the category of a consumer as the legal heir of his father who owned the firm which forms the subject matter of this case and has produced documentation in support of his contention which include the death certificate of his late father issued by the Delhi Government, a surviving member certificate issued by the SDM (South). He has emphasised that all he needs is a simple rectification in the name of the firm as it appears on the old electricity bills already issued by DESU (MCD) so that the name is consistent across all documents which are required in connection with some litigation his family is involved in. During the hearing, the complainant added that a letter from the Discom giving the name of the firm in full in response to his application would be quite acceptable if the Discom does not wish to amend the name on the bills they have issued to him. He has also produced copies of final bills given to him by the present Discom in October, 2016, one of which (pertaining to CA No. 101698080) raised a demand of Rs.35/- which he duly paid before filing the rectification application with the Discom.

8. It would be necessary to keep in mind that this is a rather unusual case which does not fit into the standard categories of incorrect billing, faulty meters or deficiencies in service rendered etc which characterize most if not all of the cases/appeals which come up before the CGRFs/Ombudsman. Rules and regulations as extant may be able to cover a majority of complaints but not necessarily each and every variant which may emerge. Tailoring laws to cover every permutation and combination and each and every contingency is a herculean if not impossible task. In several previous verdicts delivered by the Ombudsman, the need for Discoms to introduce a system of customer relations which is less bureaucratic and more personalised and which takes into account the individual characteristics of each case has been emphasized repeatedly. All cases are not identical and the grievance /complaint redressal mechanism has to be flexible and sensitive enough to accommodate the peculiarities of individual cases to resolve the issue at hand. Laws, particularly those concerning consumer interests and delivery of services, are meant to enable - not to deny. Their interpretation should, therefore, always be positive and pragmatic with narrow clerical interpretations without an application of mind being best avoided. In the present case, I therefore hold that the Appellant's request for rectification is perfectly well covered under Regulation 3 of the DERC's Guidelines of 2003 on definitions and more specifically under sub-clause (l) which covers "all other attendant sub-services etc" within the generality of the term "electricity service".

9. Furthermore, the complainant, as the legal heir of his late father who was the former consumer, is within his rights to file this appeal and within the ambit of law for the Ombudsman to consider it with his case being fully covered by Regulation 3(e)(iv) of the DERC's Guidelines of 2003. The Discom's allegation that the complaint is *"highly misconceived, malafide and has been filed by abusing the process of law for unjust, inequitable relief of grant of connection in a premises where already exists a connection and there is no legal force or entitlement in the claim..."* (sic) is entirely overboard, exaggerated and out of context as well as being unnecessary. Neither any malafide nor any abuse of the process of law on the part of the complainant is made out. The issue at hand has absolutely nothing to do with a *"grant of a connection in a premises where already exists a connection"* (sic) as claimed by the Discom in paragraph 1.2 of its response dated 08.05.2017 to the

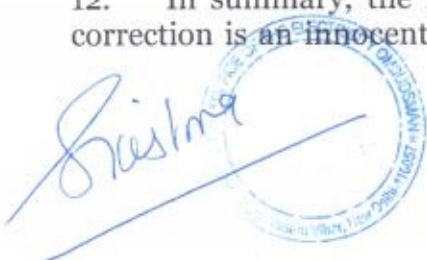


Ombudsman. The Discom has also claimed that there are no provisions to correct addresses when the complainant has stated in no unequivocal terms that he is only seeking a rectification in the firm's name, not its address. Again, the Discom has held that there are no explanations as to why the issue of rectification has been raised after such a long time and that it *"smacks malafide and for creation of title documents in the garb of correction"* (sic) etc. The Discom is exceeding its jurisdiction here by demanding explanations as the Appellant has very clearly said that he was a minor when his father passed away and that these discrepancies in the names came to his notice only a short while ago during a search of old documents pertaining to his father's firm and that the rectification is required to make the firm's name consistent across all documentary records. Accordingly, the Discom is advised to refrain from distorting or misrepresenting facts in future, be more attentive to the language used in their rebuttals to complaints/grievances and avoid levelling allegations or imputing motives which border on libel unless there is corroborative evidence to that effect. In summary, the Discom's objections border on the frivolous and are worthy of dismissal.

10. The limited issue involved here is an editorial correction/amendment to a name as it appears on two different sets of electricity bills issued by the Discom. As long as this amendment does not compromise or in any way adversely impact the Discom's interests, as long as no breach or violation of extant laws are involved and as long as the amendment requested for by the applicant is reasonable and supported by documentary evidence, there can be no particular reason to simply deny it on purely bureaucratic grounds without an application of mind. The papers brought on record and the averments made by the Appellant during the pleadings leave little room for doubt that the firm of "M/s Garg Stone Crushing Co" - as it appears in the old bills issued by the erstwhile DESU (MCD) - is very much the same entity mentioned in the "final disconnected electricity bill" issued by the present Discom to the Appellant where the name has been shown as "M/s Garg Stone Co" on one bill and as "M/s Garg Stone Crushing" on another. It does not require a Sherlock Holmes to determine this.

11. In response to a specific query posed during the hearing as to what does the Discom stand to lose if the editorial correction is carried out, the only response was a generalized one to the effect that there were "legal implications" without any clarity as to what precisely this was supposed to mean. The old DESU (MCD) bills carry the full title of the firm as mentioned above - the abbreviated / distorted versions appear only on the present Discom's bills. It is abundantly obvious as to what has happened - some clerk or a data entry operator in the employ of the Discom has clearly made a clerical error through carelessness or oversight when typing out the firm's full title into the relevant field during the process of data entry / record migration. Instead of getting into a continual denial mode and making a mountain out of a molehill, the Discom should consider and factor in the possibility of a mistake having been committed at lower levels and take measures to correct it. Errors can and do happen and no loss of grace is involved in accepting such errors. As observed in paragraph 8 supra, regulations, particularly those concerning consumer interests and delivery of services, are meant to enable - not to deny.


12. In summary, the request in the present case for an editorial amendment / correction is an innocent request by itself and in no conceivable way prejudices the



interests of the Discom. The Discom can always issue an amended bill with a caveat that the amendment / correction in the name of the firm is being done at the request of the applicant - similar to the language used by commercial banks when issuing account balance certificates to their clients - and that it is being done without any prejudice to the Discom's interests.

13. The appeal is, therefore, admitted and the Discom directed to carry out the editorial amendment /correction sought by the complainant within a week from the date of receipt of this order and incorporating, if it desires, the safety valve suggested above.

14. Furthermore, the Discom cannot be absolved of resorting unnecessarily to an obstructive, bureaucratic attitude /tactics on what is essentially a trivial matter, particularly one which does not compromise or adversely impact their interests and escalating it to a point where the complainant was forced to go first to the CGRF and then the Ombudsman for relief. Accordingly, a penalty of Rs 10,000/- (Rupees ten thousand only) is hereby imposed on the Discom to be paid to the complainant as compensation for the harassment and inconvenience caused to him, also within a week from the date of receipt of this order. The Discom is further advised to revisit their consumer grievance redressal mechanisms and review them so that similar situations are not triggered in the future.

  
(Sundaram Krishna)  
Ombudsman  
22.05.2017

