

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. 18/2018

IN THE MATTER OF:

Shri Naresh Gupta & Shri Rachit Gupta- Appellant

Vs.

M/s Tata Power Delhi Distribution Ltd. – Respondent

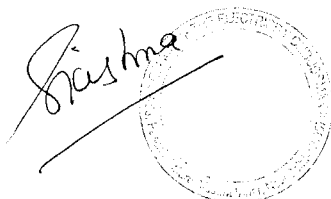
(Appeal against order dated 19.04.2018 passed by CGRF- TPDDL in CG No.
7833/12/17/NRL)

Present:

Appellant: Shri S.P. Gupta & Shri Pritam Singh, Authorized Representatives
Respondent: Shri Harshendu Kumar, Senior Manager (Legal) and Shri Surendra Choudhary, Senior Manager (NEG) on behalf of TPDDL
Date of Hearing: 11.07.2018
Date of Order: 16.07.2018

ORDER

1. This appeal has been filed by Shri Naresh Gupta & Shri Rachit Gupta, Khasra No. 72/24, Village Alipur, Zindpur Road, Delhi-110036, through their authorised representatives against the verdict of the Consumer Grievance Redressal Forum–Tata Power Delhi Distribution Ltd. (CGRF-TPDDL) cited above.
2. The background of the case relates to two small industrial power (SIP) connections which the Appellants had applied for and for which they had deposited Rs. 1.66 lakhs and Rs. 1.21 lakhs respectively. The Discom (Respondent) raised a demand note for the installation of infrastructure consisting of a 250 KVA transformer, 270 meters of cabling and an outdoor ring main unit with the parties being made to deposit about Rs. 9.95 lakhs representing 50% of the cost of the infrastructure provided. The contention of the Appellants is that they have had to make payment of the amount demanded under duress as they were in urgent need of the connections and that the demand was in violation of Regulation 30 of the DERC's Supply Code & Performance Standards Regulations, 2007. They have also claimed that they were coerced by the Discom into providing an affidavit agreeing to bear 50% of the cost before the connections were given. Their challenge of the Discom's action as illegal before the CGRF with a demand for a refund was not accepted by the Forum, hence this appeal.
3. The Discom's response is that the locality in question, where the connections have been given, fall under the unelectrified category as per the list maintained by the Discom/DERC. Regulation 30 of the Supply Code 2007 read with Regulation 18 (iii) clearly provides for consumers in un-electrified areas to bear part of the cost for the provision of the infrastructure required for their connections. These guidelines have been reiterated by the Discom's COO through a letter dated 19.05.2009 which provide for the levy of 50% share of the electrification cost on consumers who are desirous of obtaining connections in unelectrified areas. Furthermore, the Discom has expressly



denied bringing any form of pressure or coercion to bear on the Appellants to execute an affidavit agreeing the cost-sharing arrangement as alleged by them.

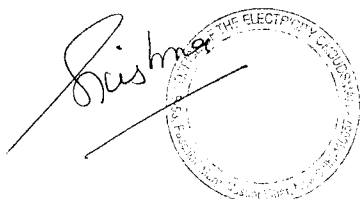
4. I have heard both the parties and considered the material on record carefully. It is abundantly clear that the area in question falls in the unelectrified category in terms of the DERC's public domain list. The Appellant's argument that the Discom is the developer of the area with only SLD charges being attracted is not sustained by the ground reality. While some other premises in the same area have indeed been granted connections, the Discom has categorically stated that it has been done only after recovery of their share of the costs involved. No development works at the Discom's own expense have been carried out and the Discom cannot be regarded or considered as the area's "developer" and no official document or notification is available to substantiate such an inference. Neither can the Appellants' argument that their area does not fall under the unelectrified category in terms of sub-clause (iii) of Regulation 30 of the Code of 2007 be sustained in view of the locality clearly figuring in the DERC's list as "unelectrified".

5. The Appellants have also questioned the technical basis of the decisions taken by the Discom to lay a cable of 3 x 400 sq. mm. as being technically unsound and imposing an unnecessary financial burden on the consumers. It is not within the ambit of this Court to investigate the wisdom of technical decisions taken by the Discom which is the final arbiter in such matters. Consumers cannot dictate the terms, conditions and technical parameters on which the basis of which the Discom should carry out its engineering / developmental works. It has to be kept in mind that the Discom bears the final responsibility for the integrity and safety of the lines and/or equipment they are laying or installing and – if an accident or some similar unfortunate event were to take place – the ultimate legal liability for the consequences of that event as well. The fact that the initial cost estimates of about Rs. 21 lakhs for the works were subsequently revised downwards have been explained by the Discom as a result of technical changes to reduce the costs with the consumers ultimately benefiting from it. No substantive basis for doubting this assertion has been advanced by the Appellants beyond a claim that the revision of the estimated costs by the Discom indicates that "they do not have any idea about the amount required". This objection is frivolous at best and cannot be accepted.

6. A major focus of the arguments presented by the Appellants was that they had been forced under duress to give an affidavit agreeing to the Discom's terms and conditions even though neither the DERC's regulations nor the Electricity Act prescribed any such affidavit. They insisted that the format of the affidavit had been devised by the Discom and that they had to sign it under pressure, claiming that the nature of the language used in the document was evidently coercive in nature.

7. The position taken by the Appellants with regard to the affidavit which they themselves have signed and duly notarized is difficult to sustain. Affidavits can be sought or required to establish that the deponent has understood clearly the contents of what he is saying or is committing to, whether it is a sale, a tenancy or an application for a service etc. and constitutes a protective mechanism to ensure that the parameters of the basis on which the service or facility is being granted is clearly understood and the party providing the service is not placed under a legal obligation to go beyond these parameters. In the present case, the Discom cannot be faulted for having insisted on an affidavit given the fact that the area is an unelectrified area and it is not uncommon at all for residents to raise all sorts of demands at different points in time to suit their individual conveniences.

8. The argument that such affidavits have not been prescribed in the regulations works the other way around too in that the regulations do not debar the Discom from insisting on one either. Given the circumstances peculiar to the area which falls under an unelectrified category as noted above, the Discom may necessarily have to tailor

A handwritten signature in black ink is written over a circular official stamp. The stamp contains the text "THE ELECTRICITY COMMISSION, DELHI" around its perimeter. The signature appears to be "Sushma".

affidavits to protect its own interests and ensure that demands outside the parameters of the framework agreed upon are not foisted on it. The syntax and grammar of the language have to be specific to the requirements of the case and cannot be deemed coercive. In the final analysis, the affidavits in question have been signed by the Appellants, who are mature adults and who have clearly stated that they have understood its contents and they are executing it without any pressure, coercion, force or threat. Their execution of the affidavits constitutes an integral part of a conscious business decision they have taken and, if they had indeed harboured serious reservations about it, they could have just as well declined to do so at that stage itself and challenged the demand before the appropriate authority. They cannot retract from it at this stage after having submitted it to obtain the facilities which they have availed of and then change their stance later. If the logic advanced by the Appellants is to be accepted, then any affidavit signed by a deponent and duly notarized – or for that matter, any document signed by him - will carry absolutely no sanctity whatsoever and can be retracted or denied by a deponent to suit his whims, fancies or convenience at any time of his choosing. The Appellants' arguments in this connection are, therefore, unsustainable.

9. Given the above exposition, no substantive basis can be found for faulting or interfering with the verdict of the CGRF which may stand as it is. This appeal is, therefore, declined as being without merit.



(Sundaram Krishna)
Ombudsman
16.07.2018