

OFFICE OF ELECTRICITY OMBUDSMAN

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

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Review Petition in Appeal No. 12/2024

IN THE MATTER OF

Smt. Sandeep Kumar & Smt. Sucheta Verma

Vs.

BSES Yamuna Power Limited

Present:

Petitioner: Shri Shanky R. S. Gupta, Authorized Representative.

Date of Hearing: 22.08.2024

ORDER

1. Shri Shanky R. S. Gupta, Authorized Representative (AR), appearing for the Petitioners, Shri Sandeep Kumar Verma & Smt. Sucheta Verma, R/o D-6, Block-D, Naveen Shahdara, Delhi – 110032, has filed a review petition against the order dated 27.06.2024 pronounced by the Ombudsman in the Appeal No.12/2024, vide e-mail dated 26.07.2024 and speed post received on 29.07.2024.

2. In the review petition, the AR has stated that the Electricity Ombudsman has eroded and showed delinquency in reasoning the order, discriminated, manipulated and circumgyrated the Appellants, while overruling the order in the case of Shri Imran Khan vs. B YPL. An allegation of personal bias has also been raised against the Ombudsman. It has also been mentioned that while referring to Regulation 53 (2) of DERC's Supply Code and Performance Standards Regulations, 2017, the Ombudsman committed error and showed delinquency and did not apply Regulation 50 (7) supra, in the case.

3. The review petition was taken up for hearing on 21.08.2024. The AR for the petitioners was present.



4. During the course of hearing, the AR appearing for the Appellants reiterated the grounds as stated in the review petition. The Ombudsman asked the AR to specifically indicate any error apparent on the face of record or any new material which despite due diligence was not available at the time of hearing, as could form basis for a review of the earlier order. The AR was not able to make any satisfactory submission in this regard. However, he incidentally mentioned about the pending matter before the High Court of Delhi in a group of petitions titled "Inder Chawla & Ors. vs. BYPL", where the High Court had directed to associate the DERC for submitting their response in the light of the raised controversy. The present dispute was not at all under consideration. In response to a specific query whether the pending matter pertains to amalgamation or else, the AR conceded that the issue of MCD objection based on amalgamation and the non-responsive attitude of the MCD thereafter had not been taken up by him before the High Court of Delhi so far. The AR was advised to approach the competent authority/concerned vigilance department with respect to his claim about numerous electricity connections granted to others in MCD booked premises. The AR further denied about any amalgamation in the building as contested in the earlier submission.

Having regard to the difference in facts and circumstances and the non-cognizance of BCC issued and already on record, the decision by the Ombudsman in the matter of Shri Imran Khan had no relevance in the instant matter. Reference on applicability of Regulation 50 and 53 (2) of DERC's Supply Code, 2017 was also explained to the AR as the Appellant had himself in his appeal relied upon the relevant provisions for disconnection and the alleged pick and choose policy. The aspect of the disconnection was totally irrelevant since the appeal pertained to non-release of connection.

5. The law related to Review Petition has been enunciated by the Hon'ble Supreme Court of India in a series of judgments as under:

a. In *Col. Avatar Singh Sekhon v. Union of India and Others* [10 1980 Supp SCC 562],

".....A review of a judgement is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. .. The present stage is not a virgin ground but review of an earlier order which has the formal feature of finality."



- b. In *Parsion Devi and Others v. Sumitri Devi and Others* [12 (1997) 8 SCC 715],

“9. Under Order 47 Rule 1 CPC a judgment may be open to review *inter alia* if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of this jurisdiction under Order 47 rule 1 CPC it is not permissible for an erroneous decision to be ‘reheard and corrected’. A review petition, it must be remembered has a limited purpose and cannot be allowed to be ‘an appeal in disguise.’”

- c. In *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma* [15 (1979) 4 SCC 389].....

“3.....The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.”

6. The Power of Review has been defined in Regulation 67 of the DERC (Guidelines for establishment of the Forum and the Ombudsman for redressal of grievances of Electricity Consumers) Regulations, 2024. The Power is to be exercised in accordance with the Principles laid down in Section 114 read with Order 47 Rule 1 of the Civil Procedure Code, 1908.


7. It needs to be mentioned that the Grounds for disconnection by the Licensee, as enumerated in Regulation 50 of DERC's Supply Code, 2017 and the provision in Regulation 53 pertaining to disconnection on Consumer's request, *ipso facto* do not



have any bearing on the review petition since the appeal filed by the Appellants was in respect of denial of the connection on the basis of an EDMC (now MCD) objection contained in their letter dated 03.08.2021, mentioning about amalgamation of both properties from stilt floor to second floor, which resulted in booking of the properties.

8. Having considered the matter in its entirety, it is apparent that the AR of petitioners has no material to prove any error apparent on the face of the record or submitted any new material which despite due diligence could not be produced at the time of hearing. Since the present review petition does not satisfy the requirements mentioned under Regulation 67 supra as well as Law laid-down by the Supreme Court, there is no merit in the petition. The same is dismissed.

9. However, having regard to the baseless/unsubstantiated allegations leveled in the petition about discrimination, manipulation, bias and delinquency etc., the AR is cautioned to take due care in future.


(P. K. Bhardwaj)
Electricity Ombudsman
22.08.2024