

Office of 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 No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2006/129

Appeal against Order dated 08.08.2006 passed by CGRF – BYPL on Complaint No. CG-162/05/2006

In the matter of:

Mrs. Usha Goyal - appellant

Versus

M/s BSES - Yamuna Power Ltd. - Respondent

Present:-

appellant Shri Ashok Bhardwaj and Shri Hitendra Attri, Advocates attended on behalf of the appellant

Respondent Shri Ranbir Duggal, Business Manager, Shankar Road alongwith Shri Rajeev Ranjan, Senior Legal Officer, Shri Sumit Prakash, Legal Retainer, Shri Hemant Gupta, Advocate all on behalf of BYPL

Date of Hearing: 18.01.2007, 31.01.2007

Date of Order : 06.02.2007

ORDER NO. OMBUDSMAN/2007/129

The appellant filed this appeal against CGRF order dated 8.8.2006. The facts of the case are that the appellant purchased premises No. 13A/82, 2nd floor and 3rd floor, WEA Karol Bagh, New Delhi from Shri Sanjeev Kapoor. At that time one Shri Parvinder Singh was occupying 2nd floor of the said premises and he also had an electricity connection vide K. No. 114043091261 in his name.

The appellant intimated to the DISCOM that Shri Parvinder Singh's electricity dues may be collected regularly and these should not be allowed to accumulate as he (appellant) will not be liable for the dues of Shri Parvinder Singh (residing in the same premises.)

The DISCOM did not take any action to recover the dues which had accumulated to Rs. 20,000/- but disconnected the electricity supply of Shri Parvinder Singh on 12.2.05 for non-payment of dues. The appellant again wrote to the DISCOM vide letter dated 12.4.2005 that Shri Parvinder Singh had resorted to theft of electricity and appropriate action may be taken against him because the appellant

will not be responsible for the theft by Shri Parvinder Singh staying in the said premises.

Later on 10.01.2006 and 6.02.2006 the DISCOM carried out inspections on the premises and found that Parvinder Singh had infact resorted to dishonest abstraction of energy. Accordingly it filed cases of criminal complaint against Shri Parvinder Singh in the special courts on 6.02.06 and 4.04.06. These cases are stated to be pending in the special courts.

The grievance of the appellant is that she applied to the DISCOM for a new connection in her name and the same is denied to her because of pending dues against K. No. 114043091261 in the name of Shri Parvinder Singh residing in the 2nd floor of the said property.

After scrutiny of the contents of the appeal, the records of the CGRF and submissions made by both the parties the case was fixed for hearing on 18.1.2007.

Shri Ashok Bhardwaj and Shri Hitendra Attri, Advocates attended on behalf of the appellant. Shri Ranbir Duggal Business Manager and Shri Rajeev Ranjan, Senior legal Officer of BYPL attended alongwith Shri Hemant Gupta, Advocate and Shri Sumit Prakash, Legal Retainer on behalf of the Respondent Company.

During the hearing it was stated that the appellant purchased property of 2nd and 3rd floor floor on 29.11.2004 and asked for the transfer of connection from Shri Parvinder Singh to that of Smt. Usha Goel. Shri Ashok Bhardwaj, the Advocate of appellant referred to letter dated 2.12.2004 wherein the appellant informed the DISCOM that the dues of Shri Parvinder Singh may be collected from him regularly and not allowed to accumulate or else she will not be responsible. Further he pointed out that when electricity was disconnected for non payment of dues, the appellant vide her letter dated 5.5.2005 informed the DISCOM that if there was misuse of electricity (theft) without meter she will not be responsible.

The DISCOM was asked

- (i) Whether DISCOM has replied to any of the letters of the appellant referred to above regarding timely recovery of dues/theft of electricity.
- (ii) Whether any action was taken by the DISCOM on receipt of letter dated 2.12.2004, 5.5.2005 and 27.6.2006 of the appellant. The above information was required to be submitted by 31.1.2007.
- (iii) Whether an FIR was lodged against Shri Parvinder Singh for DAE/theft

On 31.1.2007 Shri Ashok Bhardwaj and Ashok Attri, Advocates attended on behalf of the appellant. Shri Ranbir Duggal, Business Manager attended alongwith Shri Hemant Gupta, Advocate on behalf of the Respondent Company.

The representatives of the DISCOM informed that FIR was not lodged against Shri Parvinder Singh but criminal complaint was lodged on 6.2.2006 on the basis of inspection carried out on 10.1.2006 and another criminal complaint was lodged on 4.4.2006 on the basis of a /inspection carried out on 6.2.2006. Both the cases are stated to be pending in the special courts and it was implied that till the cases are decided by the special courts and the bills including those on account of theft are paid, Smt Usha Goel will not be given the connection.

It was stated that although the appellant's letters were not replied, action in pursuance thereof was taken by the Discom. On 12.02.2005 the electricity supply was disconnected for non payment of dues and criminal cases were filed against Shri Parvinder Singh for theft.

The DISCOM representatives were asked why dues were allowed to accumulate to Rs. 22,000/- when Shri Parvinder Singh did not pay his bills for nearly 9 months. It is pertinent to note that even though the appellant warned the DISCOM not to allow dues to accumulate yet no action was taken to collect the dues regularly. When the representatives of the DISCOM were asked why no action was taken to collect dues regularly from Shri Parvinder Singh, the representative stated that the DISCOM is not the recovery agent for the petitioner. One would wonder whether it is the responsibility of the DISCOM to recover the dues for electricity supplied to a connection and whether it is not obligatory on its part to collect the dues regularly on supplying electricity, and not allow them to accumulate specially when some other person is drawing your attention to it. The representative of the DISCOM continued to state that action as was necessary was taken pursuant to the letters of the appellant. The only action taken was to disconnect the electricity. In fact vide its letter dated 21.12.2006, DISCOM has stated that "it is none of the business of the appellant to know as to why the dues were allowed to be accumulated and why no efforts of recovery were made".

The appellant stated that in stead of appreciating the action of the appellant of informing the DISCOM about theft of electricity, the DISCOM has only passed on the liability to her and not given the connection asked for.

Vide letter dated 21.12.2006 the DISCOM stated that Ombudsman has no jurisdiction to entertain any appeal in respect of theft demand. "In the present case theft demands of Rs. 58,648 and Rs. 1,41,963/- are raised against Parvinder Singh and not against the appellant.. The appeal filed by the appellant is not in regard to any theft bill raised against her, because no theft bill is raised against her (appellant) nor any criminal complaint/FIR is lodged against the appellant. Hence this is not an appeal against a theft case, and is therefore will within the jurisdiction of the Ombudsman.

The appeal is filed because the CGRF in its order held that the onus to pay the outstanding dues of the said premises is on the subsequent purchaser even though it has questioned the action of the Discom to release a new connection in the name of Shri Parvinder Singh who has clearly stated in is

affidavit that he is the owner of the property but no relevant papers were submitted by him to declare his proof of ownership.

From the CGRF order it appears that Shri Parvinder Singh was given the connection on the basis of Ration Card which is only a proof of residence and not a proof of ownership.

In the CGRF order it is further stated that "In the light of the submissions made by the **Company the Forum is constrained to note that the Company did not undertake any disconnection proceedings against the registered consumer Shri Parvinder Singh despite the fact that he was not paying his electricity bills from the May 2004**". Yet CGRF passed the order directing the appellant to pay the accumulated dues on account of K.No. in the name of Shri Parvinder Singh.

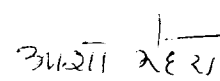
Here it may be stated that it is incumbent on the purchaser to ensure that all dues prior to purchase of the property are paid for by the seller and if any dues remain, it becomes the liability of the purchaser to pay the same. In this case, it seems some dues of Shri Parvinder Singh had already accumulated as on the date of purchase of property. Therefore, the dues of Shri Parvinder Singh (who was occupying the property at the time of purchase by the appellant) as on 29.11.2004 are to be paid by the appellant. Shri Parvinder Singh's electricity dues after 29.11.2004 are not the liability of the appellant and it is for the DISCOM to recover the same from Shri Parvinder Singh.

The statement of accounts show that Shri Parvinder Singh's dues of Rs. 22,000/- represent arrears from May 2004 to 15.2.2005. Thus, the dues from May 2004 to 29.11.2004 are payable by the appellant. **The dues for 30.11.2004 to 15.02.2005 and the theft bill of Shri Parvinder Singh are not the liability of the appellant.**

The criminal complaints filed by the DISCOM in special courts do not form the subject matter of hearing before the Ombudsman. The dues in this regard are to be collected from Shri Parvinder Singh as criminal liability is that of a person who committed criminal offence and can not be transferred to another innocent person.

The DISCOM is directed to give new connection as asked for by the appellant on payment of dues of Shri Parvinder Singh from May 2004 to November 2004 i.e. the dues on the premises prior to its purchase by the appellant. The appellant is directed to pay such dues for obtaining the electricity connection in her name.

The order of CGRF is set aside.


(Asha Mehra)
Ombudsman