

OFFICE OF ELECTRICITY OMBUDSMAN

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

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone No.: 011-26144979, E.mail: elect_ombudsman@yahoo.com)

Appeal No. 15/2024

(Against the CGRF-BYPL's Order dated 22.04.2024 in CG No. 459/2023)

IN THE MATTER OF

Shri Prem Kumar Solanki

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Gajender Solanki & Shri Deepak Bhardwaj, Advocates,
on behalf of the Appellant

Respondent: Shri Sanjeev Valecha, Commercial Officer, Ms. Chhavi Rani,
Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of
BYPL

Date of Hearing: 31.07.2024

Date of Order: 01.08.2024

ORDER

1. Appeal No. 15/2024 dated 06.06.2024 has been filed by Shri Prem Kumar Solanki, R/o 66618/1, Neem Wala Chowk, Nabi Karim, Delhi - 110055, through his son advocate Shri Gajender Solanki, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 22.04.2024 in Complaint No. 459/2023.

2. In the instant case, the Respondent (BSES-BYPL) transferred dues of Rs. 60,397.62 of a disconnected connection bearing CA no. 100422983 to the Appellant's live connection bearing CA No. 100460845 installed at No. 6548, Babu Ram Solanki Marg, Nabi Karim, Delhi – 110055. According to the Appellant, the connection bearing CA No. 100422983 was in the name of a post-bearer of Hanuman Mandir and belongs



to the Hanuman Mandir Society (R) and his shop, where CA No. 100460845 is installed, is also in the same complex. Further, the disconnected CA No. 100422983 had never been installed at his shop. Therefore, the 'Society' is responsible for clearing the pending dues, if any.

The Appellant further submitted that the CA No. 100460845 is a private meter and installed at his shop and, he has been paying the bills for so many years without any default. As such, the Appellant requested the Forum to stop the Discom from recovering dues pertaining to disconnected CA No. 100422983 from him. The Appellant also replied on the above lines to the notice issued by the Discom on 09.10.2023.

3. However, the stand taken by the Discom before the CGRF was that the outstanding dues of disconnected electricity connection (CA No. 100422983) registered in the name of Shri Babu Ram, installed at the premises bearing No. 6548Q, Secretary, 11 Mandir Road, Pahar Ganj, Delhi -110055, was transferred to live electricity connection bearing CA No. 100460845 registered in the name of Shyam Sunder. Therefore, the complainant has no locus standi as he is not a registered consumer. The registered consumer Shyam Sunder died on 19.12.2014. In spite of that, the connection continues to be in the name of the deceased Late Shri Shyam Sunder. The complaint was filed in the capacity of nephew of Late Shri Shyam Sunder and not as a user of the connection. The Discom also submitted that during site visit, the hoarding of advocate Shri Gajender Solanki, grandson of Late Shri Babu Ram Solanki, Ex-MLA, Ram Nagar, was found in the shop in question, where the said disconnected connection (CA No. 100422983) was used. Thus, admittedly, complainant Shri Prem Kumar Solanki is not a user of the subject connection, and, therefore, he has no locus standi to file the present complaint.

4. The Respondent before the Forum further stated that the premises involved is a Hanuman Mandir bearing No. 6548 situated at Pahar Ganj, Delhi. The Hanuman Mandir Trust Committee (hereinafter called 'Trust') applied for a new connection and the same was rejected for outstanding dues of the disconnected CA No. 100422983. On rejection, the "Trust" vide its letter dated 13.07.2023 and 25.07.2023 informed the Discom that on the ground floor of the Mandir Complex, there is a shop which was used and occupied by Late Shri Babu Ram, who was Ex-Pradhan of the 'Trust' and now the relative of Late Shri Babu Ram has been using the property, as such, Trust further asked Discom to transfer the dues to the live connection registered in the name of the relative of the registered consumer of the disconnected connection. Upon receipt of the said letter, the Discom visited the site again on 20.09.2023 and found that a live connection registered in the name of Shri Shyam Sunder was supplying electricity to the registered premises of the disconnected connection. Subsequently,



Shri Shyam Sunder (registered consumer) was served a show-cause notice on 22.09.2023 for clearing the outstanding dues of the disconnected connection as he had undertaken to clear the accumulated dues against the premises at the time of grant of electricity connection to him. The complainant duly replied to the notice vide his letter dated 09.10.2023. Thereafter, in order to re-verify the dues the site was re-visited on 20.10.2023. It was confirmed from site visit that the shop was old and transferred dues pertained to that shop only and as such the dues transferred were in order. The connection was disconnected on 02.04.2009 whereas live connection was energized on 18.01.2010.

5. The CGRF-BYPL, in its order dated 22.04.2024, stated that the complainant admitted that properties mentioned for both the CA Nos. (Contract Account) have the same address. CA No. 100422983 was disconnected on 02.04.2009 and CA No. 100460845 was energized in the name of Shri Shyam Sunder on 18.01.2010, who died in 2014, but the connection still continues in his name. Both the connections have a common link of supplying the electricity to the same address.

The complainant's insistence on the fact that Shri Babu Ram had written the word 'Secretary' in his address, does not support his contention that the said connection (CA No. 100422983) was for the Hanuman Mandir Trust, and only the Trust is responsible for clearing the bills, because the said connection is in the name of Shri Babu Ram and not in the name of Hanuman Mandir Trust which was established in 1959. The electricity connection should be applied for in the name of Hanuman Mandir Trust. The Trust has now applied for a new connection in 2023 vide application No. 008006375584, which was rejected due to outstanding dues. However, CA No. 100422983 was taken personally in the name of Shri Babu Ram, making it clear that he and his successors were responsible for payment of bills. Writing any designation like, Secretary, President, CEO or otherwise, in the address does not change the status of the consumer.

The Forum further stated that the complainant failed to provide any concrete evidence in support of his contention that he was not a beneficiary of the connection, dues of which have been transferred. Therefore, the dues transferred by the Discom are correct and payable by the complainant. To facilitate the complainant, Discom was directed to waive off the entire LPSC from the transferred bill amount and also allow him easy installments, if required by the complainant.

6. Not satisfied by the order dated 22.04.2024 passed by the CGRF-BYPL, the Appellant has preferred this appeal on the grounds that the Forum has not considered the following:



(i) The electricity meter bearing CA No. 100422983 was in the name of Babu Ram, who was Secretary of the Hanuman Mandir Society and the father of the Appellant. However, the name of the father of the Appellant is Babu Ram Solanki, who was Pradhan in the Society for only one year and since then, Secretary(s) has been changed and new Secretary(s) has been appointed to the Mandir's society till today.

(ii) The Secretary of the Hanuman Mandir Society works as a member of a Society and not in his personal individual capacity. Therefore, instead of post bearers, the Mandir Society, as a whole, is liable to pay for the arrears of the electricity and for any other thing related to the Mandir Society.

(iii) The Discom did not produce a K. No. file of the meter bearing CA No. 100422983 even after specific direction from the Forum, from which it would become clear that the meter bearing CA No. 100422983 was given to Babu Ram as Secretary or as a private meter in his personal capacity.

(iv) The dues are time-barred as per the law.

The Appellant prayed to (i) set-aside the CGRF-BYPL's order passed on 22.04.2024, (ii) any other relief which may be deemed fit and proper and (iii) compensation of Rs.50,000/- on account of mental harassment and agony.

7. The Discom, in its written submission dated 27.06.2024 reiterated the same as before the Forum. In addition, the Discom submitted that the Appellant claims to have been in possession of the shop for the past 40 years, despite the fact that the subject connection was only energized in 2010. This was also confirmed by the Mandir's Committee in its letter dated 02.02.2024, indicating that electricity was being used in the shop. The outstanding dues related to property No. 6548 were not denied by the Appellant, who is currently Secretary of the Trust of the Mandir. The death of the registered consumer, Late Shri Shyam Sunder, was never reported to the Discom, and no application for transfer of connection has been made since his death. According to regulations, the agreement between the consumer and the Discom ends upon the death of the registered consumer, requiring the Appellant to apply for a new connection or a name change. Although the K. No. file for the disconnected connection is unavailable, the Discom was able to locate the meter book and some related papers which were submitted with its reply. The Discom further submitted that electricity dues are statutory dues and are not barred by limitation and can be claimed as a precondition for grant of new connection or by way of transfer of dues at any time. Additionally, Shri Kamal Kumar, on behalf of the Trust vide letter dated 02.02.2024, stated that the outstanding dues do not pertain to the Trust, as they have a separate electricity connection bearing CA No. 100478604 since 03.02.2010. A site visit on



18.06.2024 revealed that the Mandir building has a ground floor and two additional floors, with four shops outside the premises. The inspection team was unable to confirm the source of supply at the Mandir, Shop No. 1, or Shop No. 4, and was not permitted to enter the first and second floors of the Mandir. No other meter was found on the Mandir premises.

8. The appeal was admitted and fixed for hearing on 31.07.2024. During the hearing, the Appellant was represented by Shri Gajender Solanki, Advocate and the Respondent was represented by its authorized representatives/Advocate. An opportunity was given to both the parties to plead their respective cases at length.

9. During the hearing, the Advocate appearing for the Appellant as well as the Respondent submitted that deliberations were on for arriving at a compromise with the Mandir Samiti in respect to payment of the outstanding amount. In response to a query of Appellant's locus standi in the instant case, Advocate, appearing for Appellant, submitted that being nephew of RC and after his demise, user of the live connection / occupier of the subject shop, he has filed the present appeal. The Advocate appearing for the Appellant asserted that the Mandir is about 63 years old and the shop is in existence for 40 years, with an electricity connection only 14 years old. Therefore, the onus for payment of outstanding dues vested with the Mandir. In response to a query by the Ombudsman, Respondent informed that excluding LPSC, the outstanding amount would be around Rs.48,000/-. It was also informed that before 2009, two payments were made by cheques during the years 2004 & 2006 for an amount of Rs.18,800/- & Rs.20,000/- respectively against the disconnected connection. However, there was no record available about the executor of cheques.

11. Having taken all factors, written submissions and arguments into consideration, the following aspects emerge:

- (a) Though the Discom submitted that the dues have been transferred as per the Regulation 52 (3) of Supply Code, 2017 and to establish linkage of dues mentioned, that on the shop, where CA No. 100460845 is existing and found the name of advocate Shri Gajender Solanki on board, who is grandson of Late Shri Babu Ram. Simultaneously, there is grave error on the part of the Discom, that when at the same place, the connection was granted in favour of Late Shri Shyam Sunder on 18.01.2010, why at that stage dues were not checked/recovered of the disconnected connection, i.e. CA No. 100422983. However, Discom has claimed that scrutiny of complete chain/inspection report and evidences establishes that the Appellant was beneficiary of transferred dues and,



thus, payable by him under proviso of Regulation 52(3) of the DERC's Supply Code, 2017.

- (b) Mandir was established in 1959. Shri Babu Ram applied as Secretary of Mandir for the connection bearing CA No. 100422983. The same was disconnected on 02.04.2009, Shri Babu Ram having expired in 2002, how the live connection in the same property was released on 18.01.2010 for the shop in the temple complex ignoring the outstanding dues. Ostensibly, temple and shop are separate entities.
- (c) There is no material to prove that late Shri Babu Ram did not apply for electricity connection for the Mandir.
- (d) How the temple is functional without electricity from 1960, and in particular after disconnection in 2009, is not borne from record.
- (e) When the Discom conceded that the outstanding dues pertain to the shop, why application by Mandir Trust in 2023 was rejected and the present status of electricity supply to the temple is not clear.
- (f) Action taken against the Discom's officers responsible for inaction on outstanding dues between 2009 till 2022, is not borne from record apart from the reasons for non issue of any show-cause notice etc.
- (g) Both 'Mandir' as well as 'Shop' are purported beneficiaries of disconnected connection. The amount of Rs.60,397/- needs to be divided as beneficiaries and both the entities owe twin liability towards Discom for paying the consumed electricity.

11. The facts as appearing from the available records in the case indicate that the Mandir is in existence from 1960 and the connection stood disconnected only in 2009. On the basis of the meter reading produced, a domestic light connection was in existence for many years ostensibly for the Mandir and, subsequently, when the shop came into existence, there was perhaps some sharing arrangement between the parties. Preponderance of probability suggests both the parties being beneficiary of the same. This aspect was not refuted by the Advocates present. Therefore, the principal amount may be divided between the parties on pro-rata basis.

12. Having considered the matter in its entirety, this Court directs as under:

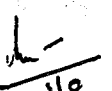
- (i) The order passed by the CGRF is set-aside.
- (ii) Since the Appellant has already paid Rs.21,500/- out of the total recoverable (to be calculated by Discom) dues after deducting the



LPSC, the balance amount shall be paid by the Mandir Society, as purported beneficiary, in the ratio of one-third and two-third respectively. Credit in respect of surplus amount already paid shall be given to the Appellant to be adjusted against the future bills.

- (iii) The Appellant is directed to get the name changed and make the application accordingly in next 15 days, Discom on their part would provide the connection accordingly. After payment by temple of the amount mentioned in para (ii) above, connection be released to the temple after completion of commercial formalities.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
1st August, 2024