

**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-cum-Fax No.: 011-41009285)

**Appeal No. 20/2023**

(Against the CGRF-BYPL's order dated 12.04.2023 in Complaint No. 51/2023)

**IN THE MATTER OF**

**Shri Dharamvir Chowdhary**

**Vs.**

**BSES Yamuna Power Limited**

**Present:**

Appellant: Shri Dharamvir Chowdhary, in person.

Respondent: Shri Renu Mehra, Commercial Officer, Ms. Shweta Chaudhary, Legal Retainer and Ms. Ritu Gupta, Advocate, on behalf of BYPL

Date of Hearing: 09.08.2023

Date of Order: 10.08.2023

**ORDER**

1. Appeal No. 20/2023 has been filed by Shri Dharamvir Chowdhary, R/o. 10/121-122, Shankar Gali, Vishwas Nagar, Shahdara, Delhi -110032, against the CGRF-BYPL's order dated 12.04.2023.

2. The background of the case is that the Respondent transferred the outstanding due of Rs.3,38,108.38 of a disconnected industrial (IP) electricity connection bearing CA 100755490 (in the name of M/s Thermo Gen Engineering Consultant), installed at the above-mentioned premises, to the Appellant against the following three existing connections:

S.N.	CA No./ Date of Registration	Name of Registered Consumers	Amount(s) in Rupees
1.	152105582/ 22.02.2017	Manish Chowdhary	1,17,440.00
2.	153492557/ 24.09.2021	Dharamvir Chowdhary	1,17,170.00
3.	153624234/ 18.01.2022	Dharamvir Chowdhary	1,13,430.00
		Total	3,48,040.00



The Discom duly informed the Appellant of the reason for the transfer of the outstanding amount in their letter No. BM/KKD/2021-22 dated 28.04.2022. Further, in response to the Appellant's query regarding full details of the outstanding amount, the Discom informed him vide their letter dated 02.12.2022 that he had already paid outstanding dues for the electricity connection bearing CA No. 100005425, but the dues of another connection (CA No. 100755490) were outstanding. The said dues were equally distributed among the Appellant's two connections and his son's (Manish Chowdhary) connection.

3. Consequently, the Appellant approached CGRF-BYPL with a request to waive-off outstanding dues of Rs.3,38,108.38 transferred to existing three connections in his name and the name of his son, Shri Manish Chowdhary, by the Discom or modify/reduce the amount, in the interest of justice. The Appellant stated before the Forum that he had purchased 150 sq. yards only out of the total area of 400 sq. yards in 2015 from Shri Bharat Bhushan, S/o late Shri Mukut Bihari of said property mentioned in para 1 above. The remaining 250 sq. yards are in the possession of other owners. The Appellant further stated that when he purchased the said property, an electricity connection (industrial power) bearing CA No. 100005425 was installed in the name of M/s Thermo Gen Engineering Consultant (with registration date 02.09.1992). Subsequently, the said connection was transferred in his name on 10.11.2016 and a bill amounting to Rs.1,68,776/- (actual amount paid Rs.1,31,310/-) was duly paid by him on 06.01.2017.

4. The Discom before the Forum submitted that at the said premises there was one connection bearing CA No. 100005425 (IP-KCC) and the registered consumer was M/s Thermo Gen Engineering (Proprietor Bharat Bhushan) which was disconnected on 15.06.2015 on account of pending outstanding dues and later dues were transferred to another live connection bearing CA No. 150907833 (energized in the year 2013) registered in the name of the Appellant (Dharamvir Chowdhary). The Appellant made payment against CA No. xxxxx5425, and thereafter the said connection was removed on 28.08.2018 and the security amount was duly refunded to him.

Further, as per record, it was found that there was another connection bearing CA No. 100755490 at the same premises, which was initially sanctioned for domestic purposes on 16.01.1987 in the name of Shri Bharat Bhushan. Thereafter, on the request of the consumer, name was changed to M/s Thermo Gen. Engineering Consultant (Proprietor Bharat Bhushan). Simultaneously, the complainant also got the tariff category changed from domestic to industrial light. The said connection was a loop connection to old CA No. 100005425, i.e the connection against which dues were earlier transferred to the complainant's live connection (CA No. 150907833) and duly paid by him. Earlier the electricity connection bearing CA No. 100755490 registered in the name of Shri Bharat Bhushan was disconnected on 29.12.2006 (the Discom before the CGRF





submitted date of disconnection 02.04.2009) on account of outstanding dues of Rs.3,38,108.38. This amount had subsequently been transferred equally to three live connections as given in para 2 supra. After the transfer of dues, the complainant had paid an amount of Rs.2,60,000/- after waiving-off the LPSC amount, i.e. Rs. 78,108/-. Thus, the complainant is now estopped from challenging the transferred dues, more so after he had availed the benefit of waiver of LPSC.

Furthermore, with regard to the Appellant's complaint that these dues did not pertain to his property, it was submitted that the fact is that the earlier disconnected connection (CA No. 100005425) was a loop connection to the connection bearing CA No. 100755490. The Discom also submitted that the live CA No. 150907833 & 153624234 were released after obtaining an undertaking/affidavit from the complainant and his son because as per 'Commercial Feasibility', there were dues of CA No 100755490 of Rs. 3,38,108.38 which existed at the same site. Also, at the time of getting new connections, the Appellant had submitted a "Dues Undertaking Affidavit" duly mentioning therein that "he hereby undertakes to pay all accumulated/outstanding dues against the premises (R/o 10/121-122, Vishwas Nagar) and the licensee is authorized to recover the same from me/the premises or transfer the dues to any existing electricity connection sanctioned in my favour or sanctioned in the said premises at any stage". Hence, loop connection established that the transferred dues pertain to the complainant's premises connection only.

5. The Forum (CGRF-BYPL), in its order dated 12.04.2023 stated that it transpired that the complainant purchased 150 Sq. yards out of the total 400 sq. yards plot of the said property in the year 2015. The loop connection bearing CA No. 100755490 was disconnected on 02.04.2009 (actual date 26.12.2006). Why the Discom had not asked the Appellant to clear the said dues in January 2017, when the complainant cleared pending dues amounting to Rs.1,68,776/-, against the CA No. 100005425, which was registered in the name of M/s Thermo Gen Engineering Consultant. Hence, the Discom should raise the bill on a pro-rata basis, in light of the provisions of the law.

6. The Forum relied upon rule 10 (4) (ii) of the DERC (Supply Code and Performance Standards) Regulation, 2017, in respect of sub-divided property, of which the complainant purchased only 150 sq. yards out of a total property of 400 sq. yards in 2015, whereas the dues have been pending since 2009. Thus, the complainant is not liable to clear the entire pending dues of disconnected connection bearing CA No. 1000755490. Further, as the Discom confirmed that the complainant already made payment of the transferred dues amounting to Rs.2,60,000/- (excluding the LPSC amount), the Forum directed the Discom to raise the bill on the pro-rata share of the complainant, and adjust the same in the corresponding bills of the complainant.





7. Dissatisfied with the CGRF-BYPL's order dated 12.04.2023, the Appellant has filed this appeal on the following grounds:

(a) That at the time of purchasing the said property, the electricity connection (IP) bearing CA No. 100005425 was registered in the name of M/s Thermo Gen. Engineering Consultant and transferred in his name (Appellant) on 10.11.2016. He had made payment of outstanding dues of Rs.1,31,310/- against this connection on 06.01.2017.

(b) That the Discom's officials have been intentionally harassing and torturing him since October, 2022.

(c) That though he had already made payment of Rs.2,60,000/- against the outstanding dues of Rs.3,38,108.38, he had no concern with M/s Thermo Gen. Engineering Consultant. The balance amount of Rs.78,108/- towards LPSC was exempted. However, there are no details mentioned on the bill except CA No.

(d) That he also suffered defamation/disrespect in society due to said electricity bills and also the consequent mental agony.

The Appellant prayed for a refund of the total amount of the said bills with interest, as he does not want to adjust the same in the forthcoming bills, and to pay an amount of Rs.50,000/- on account of defamation and mental agony.

8. In reply to the appeal, the Respondent submitted in its written submission that the case file was again perused for implementation of the Forum's order dated 12.04.2023. On perusal of the record, which included previous dues transferred and various K. No. files, it came to light that there were certain errors in its reply filed before the CGRF-BYPL, which have now been rectified and submitted as follows:

(i) During the site visit on 28.04.2023, it was found that the property, in question, was divided into four portions, as detailed below:

S.N.	Plot Size in Sq. Yards	Existing Electricity Connections (CA Nos.)	Registered Consumer	Portion as shown in Site Plan
1.	150	I. 153492557 II. 153624234 III. 152105582	I. Dharmvir II. Dharmvir II. Manish	Part A
2.	100	100736360	Piyush Jain	Part B
3.	100	Permanently closed		Part C
4.	50	Permanently closed		Part D



(ii) Initially the outstanding dues pertained to a disconnected connection bearing CA No. xxx490 and were transferred to CA No. 100736360 (as mentioned in Part -B above) vide prior notice on 13.08.2021. Thereafter, Shri Piyush Jain made a representation and stated that his connection was energized in 2004. The Discom further stated that an amount of Rs. 29,526/- was already outstanding against the disconnected connection (CA No. xxxx5490) at that time. Later, due to non-payment of dues, it was disconnected in 2006, therefore, Shri Piyush Jain was not a beneficiary of the disconnected connection. Moreover, there was also no increase in consumption in the electricity connection (CA No. 100736360) installed at his premises after the disconnection of the supply of CA No. xxxx5490. Therefore, dues were reverted back to CA No. xxxx5490 on 30.03.2022.

(iii) In between, the Appellant took two connections bearing CA No. 153492557 (non-domestic) and 153624234 (domestic) on 24.09.2021 and 18.01.2022 for ground floor and first floor, respectively.

(iv) After reversion of outstanding dues, files were again scrutinized and found that the said connection was a loop connection to the IP connection (CA No. xxxx5425) which was disconnected in the year 2015 and dues whereof were transferred to the Appellant's connection, which he surrendered in the year 2018.

(v) It also transpired that the appellant, along with his son, purchased 150 sq. yards of property from Shri Bharat Bhushan in the year 2015 and prior to that the Appellant was occupying 100 sq. yards of property as a tenant of Shri Bharat Bhushan (Proprietor of Thermo Gen Engineering Consultant). It is apparent that dues of disconnected connection bearing CA No. 100755490 pertained to property owned by the Appellant and his son, as such, outstanding dues of Rs.3,38,108.38 were transferred to three live connections existing in the name of the Appellant and his son.

(vi) It is confirmed by the Discom that against transferred dues of Rs.3,38,108/-, the Appellant and his son paid Rs.2,60,000.00 and the LPSC was waived off on the request of the Appellant. Further, the said connection granted in the year 1987 was disconnected in 2006 and entered into the SAP record of Key Consumer Cell (KCC) in 2009 and into the SAP record of the Division in 2011.

(vii) Further, the appellant himself placed on record account statements of disconnected connection, including the EBSE statement, from which it was clear that there was regular consumption, bill was revised by giving credit of Rs.55,869/- in May, 2005 and finally the connection was disconnected on account of outstanding dues on 29.12.2006.





9. The appeal was admitted and taken up for the hearing on 09.08.2023. During the hearing, the Appellant was present, in person, and the respondent was represented by their authorized representatives or counsels. An opportunity was given to both to plead their case at length.
10. During the course of the hearing, the Appellant submitted that in 2010, he was a tenant only on 150 Sq. Yards out of total 400 sq. Yards area of the subject premises, wherein one electricity connection already existed (CA No.100005425). In 2013, a fresh electricity connection bearing CA No. 150907833 was installed in the Appellant's name on the basis of a 'No Objection Certificate' from the owner, Shri Bharat Bhushan. Later, in 2015, he purchased the subject premises and was informed about the dues of disconnected electricity connection (CA No. 100755490) on the premises only on the visit of the Respondent in October, 2022. The Appellant reiterated that he has not received any bills providing details of the amount transferred and the basis of such transferred amount. It is relevant here that an 'Undertaking' was given by the Appellant to the Discom at the time of releasing of two electricity connections, but no bills reflecting the outstanding demand were raised at any point of time before 2022.
11. In rebuttal, the Discom reiterated justification as submitted in their written submission before this court. On being asked, how it is possible that a 1KW electricity connection can be billed for Rs.3,38,108.38 for the period of four years (from 2002 to 2006), after reversal of amount pertaining to Delhi Vidyut Board (DVB) period. In response, the Discom showed a detailed sheet in which the Advisor (Engineering) observed the increased consumption pattern in that connection. Further, when asked from the Discom whether the 'Dues Undertaking Affidavit' was taken as per DERC's Regulations, the Discom submitted that DERC's regulations do not cite anything in this regard, it was only taken for ease of doing business for facilitating consumers.
- It was further asked from the Discom (a) why the connection, in question, was not disconnected and despite dues on the premises and Discom waited for more than one-and-a-half decade, (b) why the dues were not claimed in 2013 and 2017, when two connections were released, (c) whether any notice or bills reflecting continuous recoverable dues of 2006 were sent to the Appellant. The Discom could not give a satisfactory reply but in support of recovery of dues, submitted that dues could have been claimed earlier under Section 42(3) of DERC's Supply Code, 2017 and the Supreme Court's latest judgement dated 19.05.2023 in the matter of "K.C.Ninan vs Kerala State Electricity Board & Ors".
12. The matter has been considered. It is apparent from the record that Discom did not raise the demand towards the outstanding dues from the Appellant on a regular basis in the bills during the period from 2017 till 2022, in compliance with the requirement of Proviso to Regulation 42(2) of the DERC (Supply Code





and Performance Standards) Regulations, 2017 and the law U/s 56(2) of the Electricity Act.

13. The Appellant in his appeal stated that he has no concern with the transfer of outstanding dues as mentioned in Point No. 2 supra, for the consumption by others, therefore, he has no liability to pay. Shri Piyush Jain, is one such beneficiary. When the Discom admits that the old connection was disconnected in 2006 and entered into the SAP record of KCC in 2009 and the SAP record of Division in 2011, the amount has not been shown continuously as an outstanding amount from 2006 till 2022.

14. In rebuttal, the Respondent produced K. Nos. files to indicate that dues were outstanding in the year 2004 as well as in 2017. They were empathetic in submission that the Appellant had provided written undertaking for payment of any outstanding dues at the time of new connections during the year 2013 as well as 2017. In response to specific query the detail of any bills or record reflecting the amount as outstanding could not be produced. The Counsel conceded that there was no such record available for ready reference.

15. The Respondent further submitted that the Appellant is estopped from making this appeal for refund of the money he has paid, i.e. Rs.2,60,000/- as he has agreed to pay. It is also a matter on record that a notice was issued to the Appellant by the Respondent in April, 2022 and they resorted to disconnection of the connection towards the end of 2022 which compelled the Appellant to make payment.

The contention of the estoppel has to be adjudicated in the background of the duress faced by the Appellant due to disconnection and in the light of the explicit provision of the law laid down under Regulation 42(2) of the DERC's Supply Code, 2017 and 56 of the Electricity Act, 2003, which were violated by the Respondent. No credence can be given to the stand of the Respondent in this regard.

During the course of hearing, the Respondent relied upon recent judgement of the Supreme Court of India in the matter of K C Ninan Vs. Kerala State Electricity Board & Ors (Civil Appeal No. 2109-2110 of 2004) decided on 19.05.2023. Upon analysis of law on the subject and while dealing with the aspect of liability of auction purchaser to pay outstanding dues, the Supreme Court examined the provision of 56 (2) of the Electricity Act, 2003 and held "*the power to initiate recovery proceedings by filing a suit against the defaulting consumer is independent of the power to disconnect electrical supply as a means of recovery under Section 56 of the 2003 Act*". There is, therefore, no embargo on the power of the Discom to institute a civil suit against the Appellant for recovery of amount, in the light of the decision relied upon.





16. From the submissions made by the Discom, it is very clear that dues were recoverable in the year 2006, 2013 and 2017, and these dues were never reflected in their ensuing bills after 2017 at any stage to the Appellant from 2017 till March, 2022. The reflecting of recoverable amount is mandated by proviso to Regulation 42 (2) of the DERC (Supply Code & Performance Standards) Regulations, 2017 and Section 56(2) of the Electricity Act, 2003 as mentioned below:

"42 (2) - Recovery of Arrears:-

*If a demand is raised on the consumer through a separate demand note, assessment bills etc. And the same remains unpaid, shall be included in the regular bill within next two billing cycles and the same shall be continued to be reflected in each bill unless paid.*

*Provided that if the outstanding dues are not reflected continuously as recoverable in the bill, the Licensee shall forfeit its right to claim or recover the outstanding dues."*

Section 56(2)

*"Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."*

17. This court has gone through the contention of the Appellant, the written statements and also heard their pleadings on 09.08.2023. The Court has also gone through the provisions of the law as mentioned in above paras and Court is of considered opinion that the Respondent has acted in a very irresponsible and high handed manner. The Respondent was required to reflect the pending dues in all the bills after 2017, after release of connections on the basis of an undertaking, which they did not do. They were also required not to disconnect electricity connection but they did. They were also required to issue proper notices at the relevant time during 2017 and till 2021, which they did not do. The Respondent accepted an undertaking from the Appellant which is not as per the extant regulations. The Respondent erred on all the four counts as mentioned above and after due consideration of the facts in entirety, this Court sets-aside the order dated 12.04.2023 passed by the CGRF-BYPL and directs the Respondent to undertake the following actions:





- a) The demand of Rs.3,38,108/- raised as outstanding dues in the year 2022, is barred under DERC's Regulations 42(2) as well as Section 56(2) of the Electricity Act.
- b) Refund the amount of Rs.2,60,000/- paid by the Appellant and the amount be adjusted in the forthcoming bills.
- c) The CEO is directed to evolve a robust mechanism for proper reflection of outstanding dues in bills at regular intervals as it has the potential to cause loss to the exchequer. CEO is further directed to initiate an enquiry to find out the circumstances under which:
  - (i) The undertaking was taken despite the fact that the outstanding amount was there in the books of records of Discom (CA File).
  - (ii) The outstanding dues were not reflected in the ensuing bills, post 2017.
  - (iii) The transfer of the outstanding dues took four years to be reflected in the account of the Appellant, i.e. in 2022 without continuous reflection as arrears as stipulated by the law.

The enquiry may fix the responsibility of the erring officials at the relevant time for taking further necessary action. The outcome of the enquiry be shared within a month of receiving of the order.

The appeal is disposed off accordingly.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
10.08.2023