

OFFICE OF THE 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
(Telephone No.011-26144979)

Appeal No. 22/2019

(Against the CGRF-BYPL's order dated 30.04.2019 in Complaint No. 10/03/2019)

IN THE MATTER OF

MOHD. SALEEM QUERSHI

Vs.

BSES - YAMUNA POWER LTD.

Present:

Appellant: Mohd. Saleem Quershi, the Appellant along with
Shri Sanjeev Kumar, Advocate

Respondent: Shri K. Jagatheesh, Sr. Manager, Shri I.U. Siddiqi, Manager
(Legal), Shri Sanjay Ray, AFO, Shri Tarun S. Anand, AAO,
and Ms. Ritu Gupta, Advocate on behalf of BYPL

Dates of Hearing: 20.08.2019 & 28.08.2019

Date of Order: 30.08.2019

ORDER

1. The Appeal No. 22/2019 has been filed by Shri Mohd. Saleem Quershi, S/o Late Shri Ehsan Elahi, the registered consumer (RC), against the CGRF-BYPL's order dated 30.04.2019 passed in Complaint No. 10/03/2019. The issue concerned in the Appellant's grievance is regarding withdrawal of illegal dues transferred in the bills of his electricity connection wrongly by the Discom (Respondent).

2. In the instant appeal, the Appellant has stated that an electricity connection bearing CA No. 100498652 is installed in the name of his father, Late Shri Ehsan Elahi since 1991 and is still in use by him for domestic purpose in his premises. Another connection with CA No. 100433763 was also installed in the same year in the other portion of the said property in the name of Late Shri Rehmat Elahi for the same domestic purpose but was disconnected by the Discom on account of non-payment of dues. Later on, Shri Iqbal, son of Late Shri Rehmat Elahi got a new connection installed in his own name vide CA No. 100488608 in the same premises from where the meter bearing CA No. 100433763 was disconnected on account of non-payment, after making half payment of the dues standing on the disconnected connection bearing CA No. 100433763 supra. The Appellant further stated that on 09.02.2016 and 17.03.2016, two fresh connections were installed in another portion of the same property of Late Shri Rehmat Elahi, in the name of



Shri Saleem Babuddin and Shri Shoaib Babuddin respectively bearing CA Nos. 151755902 and 151736052 and both of them submitted an undertaking that whatever dues with respect to the consumption of electricity would arise in the entire property would be paid by them. The Appellant has also submitted that since 27.01.2016 some dues pertaining to the disconnected connection of Late Shri Rehmat Elahi bearing CA No. 100433763 are being reflected in his bill and despite his repeated requests and letters written to the Discom, those dues were not withdrawn and are still being reflected in his bills.

Further, in the month of August, 2016, he approached the Discom for removal of these dues amounting to Rs.68,802/-, which included LPSC from his bills and in response to his request, the Discom revised and reduced the same to Rs.43,130/- and offered him to pay the same in six monthly installments (EMIs). He therefore handed over six post dated cheques for the said installments but later on after three cheques had been deposited and encashed by the Discom, he realized his mistake that since this amount was not his liability why should he pay the same. Accordingly, on the same lines, he requested the Discom through a written application for return of balance three post dated cheques but the Discom did not return the same. In the meantime, one of his cheques which was produced in the bank for payment by the Discom got bounced which however was immediately paid by him through a demand draft along with penalty imposed by the Bank. He also submitted that he never received various notices dated 18.06.2015, 16.11.2015 and 29.12.2015 issued by Discom, regarding the intimation of transfer of some dues on his electricity connection and even otherwise also he never received any communication from the Discom in response to various letters written by him to the Discom for withdrawal of the said charges.

The Appellant has also denied that electricity was illegally supplied through his connection to some other premises and it has therefore been prayed that half of the dues of the disconnected connection bearing CA No. 100433763 which are being reflected in his bills, amounting to Rs.28,239/- along with LPSC thereon may be withdrawn, since it has never been his liability. He approached the Forum (CGRF-BYPL) for redressal of his grievance but since he is not fully satisfied with the order of the Forum, have preferred this appeal with a request to direct the Discom to withdraw the illegal and wrong dues transferred on his connection.

3. The Discom in its reply has submitted that on 17.06.2015 a site verification was carried out at the premises under issue and it was found that the premises, wherein the disconnected connection bearing CA No. 100433763 in the name of Late Shri Rehmat Elahi existed, was being provided with electricity through two live connections bearing CA No. 100488608 in the name of Shri Mohd. Iqbal & CA No. 100498652 in the name of Late Shri Ehsan Elahi respectively. Accordingly, the RC's of those two live connections were served with notices dated 18.06.2015 under regulation 49 (ii) of DERC's Performance Standard Regulations, whereby the consumers were asked to stop illegal extension of electricity to the portion of the premises, electricity whereof was disconnected on account of outstanding



dues of Rs.56,479/-. However, in spite of the receipt of notice the illegal supply was not stopped.

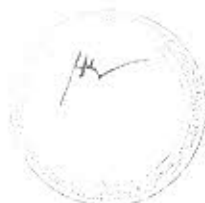
Accordingly, the consumers were again served with the 'Show Cause Notice' dated 16.11.2015, whereby they were asked to show cause as to why the dues of disconnected connection be not transferred to their live connections. The registered consumers were duly intimated that they can file reply/objections within 7 days and were given time for personal hearing on 30.11.2015. However, as no one appeared or filed objections, the dues were transferred to the two live connections proportionately vide speaking order dated 29.12.2015 sent through speed post having bar code no. ED037958838IN. Since then the transferred dues are being regularly shown as due and outstanding and duly payable by the consumer in regular consumption bills raised by Discom from time to time. The first bill wherein the transferred dues were duly shown as dues and outstanding and payable was dated 21.01.2016.

Thereafter the Appellant approached the Discom and settled the matter whereby he agreed to make the then outstanding payment of Rs.68,160/- by way of six equal monthly installments of Rs. 8,430/- each. However, the Appellant failed to make the complete payment as agreed to by him and after making payment of three installments of Rs.8,430/- each only, he stopped further three installments for the reasons best known to him.

It has been further stated by Discom that the consumer has no locus standi to challenge the bill in issue as he is not the registered consumer. In fact the connection is liable to be disconnected as the bills are still raised in the name of deceased father of the Appellant, as he has not yet got the subject cited electricity connection transferred into his name as per law. In any case the claim of the Appellant is also barred by limitation. The Appellant seeks to challenge the dues which were transferred in December, 2015 and was duly reflected in the bill in January, 2016. Thus, admittedly the Appellant is aware of the factum of transfer of dues since January, 2016 whereas the complaint before CGRF was made on 20.02.2019 i.e. after three years from the date of transfer of dues. The claim being time barred as such the appeal against the same is not maintainable.

It is important to note here that under the garb of transfer of dues the consumer has not been making payment of even regular current dues also. The consumer has been very irregular in making the payments. His past record reveals that primarily he is making one payment in a year. After the payment made on 17.11.2016, the Appellant made payment in terms of the order passed by the Forum and as on date an amount of Rs.64,644/- is still pending. The payment chart of the electricity connection in issue was submitted by the Discom for reference and record.

4. The Discom further submitted that the present appeal is not maintainable as the matter before the Forum was settled and no appeal lies against the settlement or to say that liability cannot be re-agitated once the same is duly settled. It is pertinent to mention here that prior to this settlement



in the Forum, in the year 2016 also the matter was settled whereby the Appellant agreed to make the then outstanding payment of Rs.68,160/- by way of six equal installments of Rs.8,430/- each which included transferred dues as well. But the Appellant backed out of the settlement after paying three installments only and as such nothing was adjusted against transferred dues. Thus, since the Appellant has repeatedly admitted his liability in respect of transferred dues, he is now estopped to challenge the same. As per the Discom, the Appellant had agreed to pay the entire transferred amount and Discom had agreed to waive off the entire LPSC during the hearing in the Forum and the Appellant was given eight weeks time to make the payment in terms of settlement.

Further, in compliance of the order of the Forum, issued as per the verbal settlement reached between them, they have already issued a letter to the Appellant to comply with the order of the Forum by making payment of the electricity bill without LPSC in EMI but instead of complying with the orders of the Forum, the Appellant has approached this court. In view of above submission, the present appeal is liable to be dismissed with heavy costs.

5. After hearing both the parties and going through the material on record, the basic issue emerges is, that after the site verification on 17.06.2015, the Appellant was served with a due notice dated 18.06.2015 by the Discom, whereby he was asked to stop illegal extension of electricity to the portion of the property which was lying disconnected on account of outstanding dues of Rs.56,479/-, but the illegal supply was not stopped by the Appellant. The Appellant was given another opportunity by way of issue of a notice dated 16.11.2015 after waiting for a sufficient time since 18.06.2015, whereby he was asked to show cause as to why the proportionate dues may not be transferred to his live connection bearing CA No. 100498652. The Appellant was further given another chance by the Discom to file his reply/objections and was also given time for personal hearing on 30.11.2015 for clarification if any and settlement of the issue at hand. But when nothing was heard from the Appellant, the dues were transferred to his live connection and was reflected in his bill dated 21.01.2016 and since then the transferred dues are being regularly and continuously shown as due and outstanding duly payable by the Appellant, in his regular consumption bills from time to time.

Later on, the Appellant approached the Discom for settlement of the transferred dues and after being satisfied that the dues are payable by him, agreed to pay the complete dues by way of six equal monthly installments (EMIs), but he made the payment of only three installments and then backed out on flimsy grounds and thus stopped paying the rest of the installments. Similarly, during the hearing in the Forum, a verbal agreement was reached between the Discom and the Appellant vide which Discom agreed to waive off the LPSC and he was to pay the total amount due at that time within eight weeks from the date, the revised bill is provided to him by the Discom. The order was issued by the Forum on the same lines, but it is again observed that even after the issue of notice dated 21.05.2019 by Discom in line with the order of the Forum, the Appellant did not come forward to clear the dues and backed out yet again, even when the LPSC which was otherwise payable by




him has been waived off by Discom. Secondly, it is also observed from the records submitted by the Discom that the Appellant is not paying even his regular bills what to talk of transferred dues and seems to be a regular defaulter.

It is quite evident from the above that the Appellant is trying to delay and escape even the regular current payments under the garb of transfer of dues and is avoiding the payment of the legitimate transferred dues, raised by the Discom after pursuing the due process of law, on one pretext or the other for the past three years and hence the contention of the Appellant to withdraw the transferred dues is not valid and cannot be accepted.

Having taken all the material, facts & deposition into account it is held that the transfer of dues has been carried out rightly by the Discom after following the due process of law and the same are payable by the Appellant, as the same have been raised as per the procedure, as prescribed under DERC, Supply Code & Performance Standard Regulations. However, the Discom is directed to issue the revised bill as per the orders of the Forum.

In summary, no substantive case is made out for any interference with the verdict of the Forum and the appeal is disposed off accordingly.


(S.C. Vashishta)
Electricity Ombudsman
30.08.2019