

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. 26/2023

(Against the CGRF-TPDDL's order dated 11.05.2023 in C.G Nos. 27/2023)

IN THE MATTER OF

Shri Rakesh Bhatia.

Vs.

Tata Power Delhi Distribution Limited

Present:

Appellant: Shri Rakesh Bhatia, in person.

Respondent: Shri Ajay Joshi, AGM (Legal) and Shri Madan Mohan, Senior Manager (Finance) on behalf of the TPDDL

Date of Hearing: 06.09.2023

Date of Order: 11.09.2023

ORDER

1. Appeal No. 26/2023 has been filed by Shri Rakesh Bhatia, C/o Shop No. F-14, DDA Market, Ashok Vihar, Delhi, against the order dated 11.05.2023 passed by the Consumer Grievance Redressal Forum (CGRF) –Tata Power Delhi Distribution Ltd. (TPDDL) in CG No. 27/2023.

2. The background of the matter is that the Appellant had approached the District Consumer Disputes Redressal Forum (DCDRF), North West, Shalimar Bagh, Delhi, in the year 2010 (CC No. 743/2010 with case title Rakesh Bhatia vs. TPDDL), disputing transfer of a bill of Rs. 87,440/- for the month of May 2010, which included arrears of Rs. 85,602.36 (with LPSC charges) for disconnected electricity connection bearing CA No. 60002273674 of 6 KW installed at the above cited address (in the name of M/s Vishal Flour Mills, Registered Consumer) to the Appellant's existing/live connection bearing CA No. 60002683138. The Appellant requested for a stay order



from the DCDRF to not disconnect the electricity connection and reduce the inflated bill amount. On 31.01.2023, the DCDRF disposed off the case as withdrawn, with liberty to file the case before the appropriate court/commission, as per law within one month.

3. Subsequently, on 23.02.2023, the Appellant filed a complaint before the CGRF-TPDDL regarding the same disputed bill of Rs. 87,440/- of disconnected connection (CA No. xxxx3674) of the month of May 2010, and stated that the said electricity connection was disconnected in June, 2006. In his complaint, the Appellant also submitted that another connection was disconnected in 1999 and a new meter was installed on the said premises in the same year. Later on, in 2010, the Respondent raised a demand of Rs.10,000/- which was arbitrary and false. Furthermore, when a new electricity connection bearing CA No. 60002683138 was installed in 2005, there were no pending dues against the disconnected connection (CA No. xxxx 3674). The Appellant claimed that this inflated bill belong to the earlier owners of the shop, viz; M/s Vishal Flour Mills.

4. The Respondent's response dated 13.03.2023 before the Forum was that the Appellant had disputed the transfer of outstanding dues amounting to Rs.81,552/ (inclusive of LPSC of Rs.35,878/-) from a disconnected connection (CA No.xxxx 3674) to an existing connection (CA No. xxxx3138). The electricity connection bearing CA No. xxxx3674 was energized on 23.02.1985 in the name of M/s Vishal Flour Mills at the subject premises and has been lying disconnected since June, 2006, due to outstanding dues of Rs.81,552/-. On 26.02.2009, verification of the inactive industrial power connection (CA No. xxxx3674) was carried out and it was found that the premises (where the connection existed) was supplied electricity through an electricity connection bearing CA No. xxxx3138, which had been energized on 21.07.2005 in the name of the Appellant, i.e. Shri Rakesh Bhatia. On the basis of the verification report, a notice vide No. CENCARE/RRG/VP/Due.Tfr/32/8341 dated 30.06.2009 under Regulation 49(ii) of DERC's Supply Code, 2007, was served to the Appellant. When the Respondent did not receive any response from the Appellant, they transferred the dues in the bills of January, 2010, March, 2010 and thereafter a bill for Rs.87,444/- (inclusive of Rs.85,603/- as an arrear with LPSC) in May, 2010.

The Respondent further stated that the basis for the transfer of dues is that because both connections are existing in the same premises, i.e., F-14, Ground Floor, DDA Market, Ashok Vihar, Phase-1, Delhi. The Respondent also stated that the meter of disconnected connection (CA No. xxxx3674) was removed on 10.06.2006 at a reading of 23189 and bills were being raised regularly and, finally



total amount of unpaid bills of Rs.81,552/- was added in the bill of active connection bearing CA No. xxxx3138 in the year 2010. In this regard, the statement of account of the disconnected connection was produced before the Forum. Moreover, at the time of release of electricity connection CA No. 60002683138, the owner, namely Shri Ajay Garg, one of the partners of M/s Vishal Flour Mills, issued a 'No Objection Certificate' in favour of the Appellant, a copy of which was submitted before the Forum.

In addition, as per records available with the Respondent, the Appellant is the owner of the entire premises under reference, hence, liable to make the payment of transferred dues.

5. The Forum observed that the dispute between the parties pertains to transfer of dues of Rs.81,552/- in respect of the electricity connection bearing CA No. 60002273674 to another active non-domestic electricity connection of sanctioned load of 1 KW bearing CA No. 60002683138 registered in the name of the complainant, Shri Rakesh Bhatia. On the basis of the 'connection verification report' dated 26.2.2009, as per Regulation 49(ii) of DERC's Supply Code, 2007, a notice dated 30.06.2009 was issued by the Discom. The Forum further stated that it has been established that both connections were installed in the same premises, i.e., F-14, DDA Market, Ashok Vihar, Delhi. The complainant did not dispute the ownership of the premises in question. It is also a fact that Shri Ajay Garg, owner of M/s Vishal Flour Mills, issued a 'No Objection Certificate' in favour of the complainant at the time of release of the electricity connection bearing CA No. 60002683138. The Forum ordered that the complainant is liable to pay the outstanding dues minus LPSC charges of Rs.35,878/-, which comes to Rs.45,674/- in four equal monthly installments. The first installment was to be paid on 01.06.2023.

6. Aggrieved by the order 11.05.2023 passed by the CGRF-TPDDL, the Appellant filed the present appeal on the grounds:

- (a) That electricity connection (IP) bearing CA No. 60002273674, of which dues were transferred, was registered in the name of M/s Vishal Flour Mills and has been disconnected since 31.07.2016. Therefore, dues, if any, can be claimed from the partners of the firm and not from the Appellant.
- (b) That a 'No Objection Certificate' was issued by Shri Ajay Garg, who was one of the partners in the firm M/s Vishal Flour Mills.
- (c) That the Respondent had not raised any bills since 2010 till now.



- (d) That electricity connection bearing CA No. xxxx3674 was a commercial connection, whereas the present connection bearing CA No. xxxx3138) is a domestic connection.

The Appellant prayed as follows:

- a) To call and peruse the record of CGRF in CG No. 27/2023.
- b) To set aside the CGRF-TPDDL's order dated 11.05.2023 and grant relief as prayed before the Forum.
- c) That a penalty of Rs.1.00 lakh may be imposed on the Respondent for harassing a senior citizen/Appellant.
- d) Pass any other order or relief, may deem fit in the facts and circumstances of the case.

7. The Discom in its response dated 06.07.2023 to the appeal has submitted that the Appellant wrongly stated that the connection bearing CA No. xxxx3674, of which dues are transferred, was disconnected on 31.07.2016 instead it was disconnected in June, 2006. The Appellant is in ownership of the entire premises situated at F-14, Shopping Centre, Ashok Vihar, Phase- 1, Delhi. The Discom also submitted that the Appellant has wrongly mentioned that the connection bearing CA No. xxxx367 is commercial connection and CA No. xxxx3138 is domestic connection, whereas these are Industrial Power (IP) and non-domestic connections respectively. Further, Discom reiterated its stand as stated before the CGRF, mentioning that the Appellant had got sanctioned electricity connection (CA No. xxxx3138) in his name and in portion of the same premises. He submitted a 'NOC' from one of the partners of the firm viz; M/s Vishal Flour Mills, Shri Ajay Garg, in favour of the Appellant. During connection verification on 26.02.2009, it was found that inactive connection bearing CA No. xxxx3674 was being supplied electricity through CA No. xxxx3138. On the basis of the verification report and as per Regulation 49(ii) of DERC's Supply Code, a notice was served on the Appellant and thereafter dues of Rs.81,552/- were transferred and added to bill of January, 2010. The dues were continuously shown as outstanding. The Appellant also applied for another connection in his name bearing CA No. 60006377117 with sanctioned load of 3 KW, which was energized on 05.03.2011.

8. The appeal was admitted and taken up for hearing on 06.09.2023. During the hearing, the Appellant was present himself and the Respondent was represented by their authorized representatives. An opportunity was given to both to plead their respective cases at length.



9. During the hearing, the Appellant reiterated his contention with respect to the transfer of impugned dues in 2010, from an inactive electricity connection (CA No. 60002273674) to an active connection (CA No. 60002683138), registered in his name. As a result, the Appellant was forced to approach the Consumer Court, where Rs.20,000/- had been deposited and to restrain Discom from disconnecting supply. The Appellant also stated that no outstanding dues or arrears were demanded even at the time of the release of the active connection bearing CA No. 60002683138 of 1 KW in 2005. Due to non-use of industrial power electricity connection, the new connection in 2005 was got installed on the basis of NOC from Shri Ajay Garg, one of the partner of the firm M/s Vishal Flour Mills operating at the premises. Moreover, the Respondent also released another NDLT electricity connection bearing CA No. 60006377117 in 2011, in his name after partitioning of the shop for rental purposes. The Appellant further submitted that at the time of the purchase of the shop (F-14) from partners/owners in 1990, an Industrial Power (IP) connection (6 KW) in the name of M/s Vishal Flour Mills already existed there. Since then, the appellant is the owner of that shop, and was using the connection for General Store and claimed further that the flour mill was not operating from there. A rough sketch of site was also drawn by the Appellant to prove his point. In response to a query, whether any electricity bill(s) reflected outstanding dues/arrears, during the disputed period, the Appellant showed various bills that pertain to the period after 2010. Copies of those bills were taken on record. The Advisor (Engineering) observed that the outstanding dues as 'NTA (not to be added) and arrears were continuously shown in the bills by the Respondent. It is an admitted fact that both the connections were used in that shop before 2006 and the outstanding dues on the connection CA No. 60002273674 were transferred in 2009.

10. In response to the submission by the Appellant, the representative of the Respondent was asked whether any outstanding dues/arrears were shown on the premises on account of the IP connection. The respondent stated that both connections existed there but in different names. Current demand, including outstanding dues, was shown as arrears against M/s Vishal Flour Mills, but the same could not be disconnected as partial payments had been made against it. The shop had been partitioned. The IP connection bearing CA No. xxxxx3674 was disconnected in 2006 due to outstanding dues. Later, when in 2009, unauthorized extension of supply was found, dues were transferred to the active connection of the Appellant (CA No. xxxxx 3138) under Regulation 49 (ii) of DERC Supply Code 2007, after serving notice to the Appellant.



11. The Respondent further presented an Inspection Report before Hon'ble Ombudsman. Upon perusal, the representative of the Discom was asked to explain;

- i) Why Inspection Report was silent on dues on premises?
- ii) If dues were pending there, why a new connection (NDLT category) was granted to the Appellant in 2005 as well as 2011?
- iii) Why Section 56 (2) of Electricity Act, 2003 should not be applicable in the present case?

The Respondent submitted that they could not book the user/RC under section 126 of Electricity Act, 2003 for unauthorized use of electricity and could only transfer the dues under Regulation 49 (ii) supra as applicable in DERC Regulations of 2007, whereas, the DERC's Supply Code 2017, elaborates the applicability of Regulation 42. Respondent reiterated the applicability of Regulation 49 (ii) supra in the instant matter instead Section 56 (2) supra. Applicability of Regulation 49 (ii) of DERC Regulations, 2007 and Section 56 (2) were discussed at length. It was mentioned by the Advisor (Law) that although the Regulation 57 of DERC (Supply Code and Performance Standards) Regulations, 2007 contained an enabling provision for action for unauthorized use of electricity, the same was not invoked.

12. The Court has taken into account the facts and circumstances detailed by both the parties and have gone through the relevant provisions of law/regulations existing at that time i.e., Year 2009/2010. It is not clear from the record as to why two new connections were released at the same premises as CA No. 60002683138 and CA No. 60006377117 in 2005 and 2011 respectively, in violation of the procedures, when there were outstanding dues on an earlier connection CA No. 60002273674. Whether any responsibility was fixed for the lapse is not borne from the record. Further, after disconnection of inactive connection CA No. xxxx3674, in June, 2006, whether the outstanding dues were reflected in the bills sent to the Appellant on a regular basis between the period 2006 to 2010 and thereafter from 2010 till the date of approaching the CGRF, is not borne from the record.

13. During the course of hearing, the Appellant was categorical about the use of the premises as a flour mill under the banner "Vishal Flour Mills" from 1990 and its continued use till its disconnection in 2006. At no stage, he got the connection transferred in his own name, although a beneficiary throughout. It was the Appellant who failed to make payments despite regular use of electricity connection and adopted recourse to part payments to prevent disconnection. The Discom on its part,



failed to take effective steps for recovery of the amount dues by way of regular notices or taking recourse to civil suit for recovery of dues. It was only in 2009 that for the first time a notice dated 30.06.2009 was issued after 'connection verification report' after inspection on 26.02.2009 revealed that supply to disconnected connection was being made through from CA No.xxxx3138. No action u/s 126 or action u/s 138 of Electricity Act, 2003, was initiated by the Discom, despite enabling provisions in the law.

14. Since no response to the notice under Regulation 49(ii) of Supply Code, 2007 was received, the entire due amount of Rs.81,552/- including LPSC of Rs.35,887/- was transferred to the bill in January, 2010 taking into account the consumption pattern. This action was challenged before DCDRF during 2010 and the matter was withdrawn from the Forum by the Appellant during 2023. During this period, the Discom mentioned that the due amount was reflected under the head NTA/Disputed Amount in the various bills and it was also continuously reflected in their books. For this reason, section 56(2) of the Electricity Act, 2003, will not apply in this case.

15. Upon examination of the matter in totality, this Court directs as under:

(a) The appeal is dismissed as devoid of merit.

(b) The order dated 11.05.2023 passed by the CGRF-TPDDL is upheld. The Appellant is directed to pay the amount of Rs.45,674/- in four equal monthly installments. The first installment shall be paid before 25th September, 2023.

(c) With regard to the various lapses in recovery of outstanding dues, which is public money and has revenue implications, CEO of the Discom may consider constituting a committee of experts to devise ways for expediting recovery, timely reflection of payment dues in the various bills, filing of civil suits in appropriate cases, greater sensitization of the field staff to the malpractices and modus operandi followed by some unscrupulous consumers. The Committee may also suggest ways and means to curb malpractices amongst field staff.

The appeal stands disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
11.09.2023