

OFFICE OF ELECTRICITY OMBUDSMAN

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

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Appeal No. 42/2024

(Against the CGRF-BYPL's order dated 07.10.2024 in Complaint No. 39/2024)

IN THE MATTER OF

Shri Amarnath

(on behalf of Shri Lal Bahadur, Proprietor of M/s B S Engineering)

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Amarnath, in person.

Respondent No.-1: Shri S.P.Anand, Commercial Officer, Ms. Chhavi Rani, Legal Retainer and Shri Akash Swami, Advocate, on behalf of BYPL

Respondent No.-2: Shri Prashant Tripathi, Advocate, on behalf of DPCL

Date of Hearing: 13.02.2025

Date of Order: 14.02.2025

ORDER

1. Appeal No. 42/2024 dated 12.11.2024 has been filed by Shri Amarnath (on behalf of Shri Lal Bahadur, Proprietor of M/s B S Engineering, Registered Consumer) against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 07.10.2024 in Complaint No. 39/2024.

2. The background of the case is that the Appellant received an impugned bill dated 30.05.2014 amounting to Rs.27,24,405/-, for the period of erstwhile Delhi Vidyut Board (DVB) against electricity connection bearing CA No. 100051405. The Appellant further contended that he had already settled outstanding dues for the period from 2002-2009, therefore, these dues are not recoverable from him. The Appellant submitted that he



has been continuously in touch of the Discom since last three years to clear these dues but all in vain. Furthermore, the Discom informed him that this bill pertains to a holding company, DPCL. Consequently, the Appellant approached the CGRF with a request to direct the Discom to settle the outstanding dues and for installation of connections those had been applied for.

3. The Discom claimed was that the Appellant had filed a Suit No. 148/1998 titled as "M/s B.S. Engineering Works vs. BSES YPL" dated 19.03.1998, against the erstwhile Delhi Vidyut Board (DVB) challenging a bill of Rs.4,47,429.49/- dated 27.01.1998. Subsequently, this demand increased to Rs.16,35,888/- due to accumulation of Late Payment Sur Charge (LPSC). According to the record of the Discom, the Appellant settled the bill pertaining to post DVB period (04.07.2002 to 27.03.2009). The billing dispute for this period had been settled for a sum of Rs.1,15,072/-, which was paid by the Appellant. Further, in terms of Tripartite Agreement, in which the Delhi Power Company Limited (DPCL), as a holding company, has been made custodian of the dues pertaining to pre-BSES-BYPL period, it monitors and manages the recovery process through Discoms. Consequently, dues are reflected against the connection (CA No. 100051405) and remained outstanding with arrears, which kept increasing due to addition of LPSC over a period of time. As on date, dues have accumulated to Rs.36,40,535.86. Moreover, the Discom has been pursuing the matter with the DPCL but no response has been received till date.

4. M/s Delhi Power Company Limited (DPCL), who was also presented as a party (Respondent No. 2) in the proceeding before the CGRF, submitted that they have already sent correspondence to Chief Executive Officers (CEOs) of all Discoms in respect of status of outstanding dues, relating to electricity of DVB period owed by the consumers. However, they were yet to receive any response from them. Therefore, this process would take time.

5. The CGRF-BYPL, in its order dated 07.10.2024 directed the Discom to keep the dues of erstwhile DVB period, in abeyance, till the final outcome regarding the dues from the DPCL. Furthermore, if the complainant applies for new electricity connections, these may be granted without asking clearing of said dues, after completion of other commercial formalities in accordance with the DERC's Regulations, 2017.

6. The Appellant, aggrieved by the order dated 07.10.2024 passed by the CGRF-BYPL, filed this appeal on 12.11.2024. He contended that though the Forum directed the Discom for release of new electricity connections but the outstanding dues were still pending. To support his contention, the Appellant referred to the High Court's order in LPA No. 724 of 2011 and other related matters (Govt. of NCTD vs. Ranbir Singh). The Appellant also submitted that DPCL does not have any record of bill of Rs. 4,47,429.49/- and as a consumer, it is his right to know the basis of this outstanding bill.



According to him, he had paid all the bills for the period from 1993 to 1998. Although, he has mentioned that the relevant copies of the deposit slips were placed along with his appeal but these documents were not found in the record.

7. The Discom (Respondent No. 1) in its reply dated 12.12.2024 reiterated its submission as before the CGRF-BYPL. In addition, the Discom submitted that the Appellant was seeking a 'No Objection Certificate' for the dues which are still subjudice and will be decided by the DPCL. Therefore, no 'NOC' can be issued to the Appellant till the outstanding dues are cleared.

8. The appeal was admitted and fixed for hearing on 13.02.2025. During the hearing, the Appellant was present, in person. Respondent No.-1 & 2, were present along with their representatives/advocates. An opportunity was given to all the three parties to plead their respective cases at length and relevant questions were asked by the Ombudsman and Advisors.

9. During the hearing, the Appellant reiterated his stand as in the appeal and the prayer. The Appellant submitted that NOC was not granted due to outstanding dues accumulated for the period 1993-1998, and on that basis, a new applied connection was denied. However, repeated requests for providing details of the accumulated dues had gone in vain. The Appellant further stated that he sold the subject property during 2021, but an 'NOC' was required for the buyer to apply for a new connection which he could not obtain even after payment of settled dues at that time. Consequently, he raised the issue before the various departments and before the CGRF as well as the Ombudsman.

10. The Advocate, who appeared for the DPCL (Respondent No.-2), reiterated its submission as before the CGRF with respect to non-receipt of relevant documents from the Respondent and sought time to file the reply.

11. However, the Discom (Respondent No.0-1) conceded that 'NOC' is required against 'dues on property' and not against the individual. In this regard, the attention of the Discom was invited to the law settled by the Delhi High Court on 02.12.2010 in W.P. (C) 8568/2009, titled as Lalit Gulati vs. Govt. of NCT of Delhi, upheld by the Division Bench and the dismissal of SLP by Hon'ble Supreme Court, prohibiting discrimination in respect of persons who had filed civil suits in respect of outstanding dues viz-a-viz those whose dues also stood cancelled on account of operation of the guidelines issued vide a notification by the Govt. of NCT of Delhi on 16/19 May, 2008. The stand taken by the Advocate of the Respondent was therefore of no avail. It is also a matter on record that the Civil Suit stood withdrawn on 22.01.2014 for settlement of the issues by the DPCL but the matter remained pending till date.



In the light of the law settled by the Delhi High Court, it was agreed by the Respondent that 'NOC' against 'dues on property' could only be given but the new applicant has to give an application for release of the connection with completion of other formalities without any payment of alleged dues. Hon'ble Ombudsman informed the parties that a copy of the order will also be sent to the DPCL for compliance in all other similar cases pending with them for providing succor and relief to the consumers.

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

- (a) In respect of M/s B.S.Engineering Co., CA No. 100051405, an outstanding dues of Rs.27,24,404/- appeared in the record of the Discom and new connections applied vide Order No. 800538728 & 8005403021, were, therefore, denied to the Appellant by the Discom.
- (b) Before the CGRF, the Discom contended that outstanding dues for the period 2002-2009 were settled. The dues pending were for the DVB period which are not recoverable.
- (c) A Suit No. 148/1998 filed by the Company (M/s B. S. Engineering) was withdrawn on 22.01.2014 for settlement by DPCL but the matter is pending.
- (d) Erstwhile DVB bill was Rs.4,47,429.49 on 27.01.1998. The demand increased to Rs.16,35,888/- due to LPSC and the dues for the period 04.07.2002 to 22.03.2009 were settled for Rs. 1,55,072/-. Dues of DVB period were now DPCL dues and with addition of LPSC, inflated to Rs.36,40,535.86. Matter had been taken up with DPCL without any response from their side.
- (e) The Delhi High Court in WP(C) 8568/2009 in the case of Lalit Gulati vs. Govt. of NCT of Delhi, has vide its order dated 02.12.2010, have held that if litigation has been proceeded by a class of persons, there can be no reason for denial of benefit of the scheme to them. To this extent, scheme vide Department of Power's Notification dated 16/19th May, 20078, is violative of Article 14 of the Constitution of India. The Court directed to extend benefit of scheme to all petitioners who are similarly situated. The objective of the notification was reduction in litigation and acknowledgement of the inability of the Respondent to recover arrears of stale claims.
- (f) An appeal against the Delhi High Court's order dated 02.12.2010, was filed by Govt. of Delhi with multiple LPAs. However, the Division Bench of the High Court of Delhi did not find any reason to interfere with the impugned order and dismissed the appeal vide their order dated 10.01.2023. No



material is placed on record, as could controvert the ruling by the Delhi High Court. The role of the DPCL has also to be viewed in the light of the ruling by Delhi High Court.


- (g) In the light of the law settled by the High Court of Delhi, the outstanding dues of Rs.27,24,405/- and inflated to Rs. 36,40,535.86 which is shown due dated 09.11.2024 may be considered to set-aside and connections be released , in terms of the CGRF's order.

13. In the light of the above, this court directs as under:

- (i) The order passed by CGRF-BYPL stands modified.
- (ii) Having regard to the categorical orders passed by the Delhi High Court, in addition to the notification of Department of Power dated 16/19th May, 2008, the demand of outstanding dues of Rs.36,40,535.86p (being of the period of DESU/DVB) cannot survive and therefore, the same is set-aside.
- (iii) Discom is directed to release the connections, if any, applied by new buyer of the property within a week and upon completion of other commercial formalities. Discom should consider this order as 'NOC'.
- (iv) Compliance report be submitted to this office within two weeks.
- (v) A copy of the order be also sent to DPCL for taking appropriate action in other pending cases.

14. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier. The parties are informed that this order is final and binding, as per Regulation 65 of DERC's Notification dated 24.06.2024.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
14.02.2025