

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. 52/2024

(Against the CGRF-BRPL's order dated 04.09.2024 in CG No.46/2024)

IN THE MATTER OF

Shri Subhash Chand

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Subhash Chand along with his daughter, Ms Anjali Aggarwal and advocate, Shri Ashutosh Mishra

Respondent: Shri Anil Kaushik, Sr ASVP, Ms Tanu Gaba, CO, Shri Sudarshan Bhattacharjee, Sr Manager and Shri Shreyek Gupta, Advocate, on behalf of the BRPL

Date of Hearing: 27.02.2025

Date of Order: 28.02.2025

ORDER

1. Appeal No. 52/2024 dated 27.11.2024 has been filed by Shri Subhash Chand, S/o Shri Tara Chand, R/o C-13, Shiv Vihar, Sevak Park, Uttam Nagar, New Delhi – 110059, through her daughter/Authorized Representative, Ms Anjali, as well as his advocate, Shri Ashutosh Mishra, to represent the case, against the Consumer Grievance Redressal Forum – BSES RajdhaniPower Limited (CGRF-BRPL)'s order dated 04.09.2024 in CG No. 46/2024.

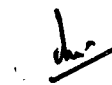
2. The background of the case is that the Appellant was having a non-domestic electricity connection vide CA No.150248193 (energized on 22.10.2011 with a



sanctioned load of 8 KW) at his Shop No.2, bearing Plot No.1, Ground Floor, Kh. No.510, 511, Bhagwati Garden, Main Najafgarh Road, New Delhi - 110059. The said portion of the property was rented out by the Appellant to his tenant, Shri Murari Lal. On account of failure by the tenant to pay rent led to dispute and resultant filing of a civil suit against him by the Appellant before the Dwarka Court, Delhi, wherein recovery of possession of the property was ordered. A bailiff was appointed by the Court in this regard.

During the above tenancy, certain arrears occurred against this connection which led to disconnection. In 2018, entire pending dues against disconnected CA No.150248193 were duly paid by the Appellant. Consequently, security amount deposited against the said connection was refunded to him by the Respondent and the cable was also removed. The meter remained at site in the locked portion under possession of the tenant. Thereafter taking the possession in 2019, the shop was not rented out. Since 2019 till 2022, he had been applying for fresh NDLT connection on numerous occasions for his shop no.2 as the earlier connection had become inactive, but his requests were rejected for the reason, "No trade license at the premises" without demanding any pending dues against that connection. However, during September-2023, the meter was removed from inside the shop and fixed outside. Even, without his knowledge, electricity was restored through the said meter by the official of Respondent. Meanwhile, the application for new connection had also gone in vain. While applying again on 4th & 9th October, 2023 with relevant documents, an inflated illegal demand of Rs.6,76,610/- was raised against the inactive meter (CA No.XXXX8193) without following the due process of law. The said dues of inactive connection were arbitrarily transferred to his another NDLT connection CA No.150839638 (installed at shop no.5 on 26.03.2019) by the official of the Respondent for undue harassment. There was no reason or occasion for the Appellant to misuse/unauthorized use of electricity as the said property was for commercial use and in occupation of the tenant who was responsible for paying the rent. The imposition of illegal dues was not payable. He, therefore, requested, i) to grant a fresh electricity connection for Shop No.2, ii) to restrain Discom for disconnection of CA No.150839638, iii) to set-aside the illegal demand of dues against CA No.150248193 (now inactive) transferred to CA No.XXXX9638 and (iv) to restrain BRPL for transferring the dues to any other of his connection installed at the premises.

3. The stand taken by the Discom before the CGRF vide submissions dated 19.07.2024 and 10.08.2024, was that the bills against CA No.150248193 (referred as Pending Dues Connection) had swelled up in 2015, and had resulted in disconnection



of the connection on 24.04.2015. However, the meter could not be removed in 2015; being inaccessible as the premises was sealed, as stated by the R/C at that time due to dispute between the tenant and the Complainant. Admittedly, the dues were settled, as recorded in the settlement order dated 01.08.2018 and the security amount was refunded to the Appellant. The connection was not restored by the Respondent at the time of settlement in 2018 as the premises was reportedly sealed. There was no documentary proof to establish as to whether any new connection was applied for since 2019 by the Appellant as well as illegal fixation of meter from inside the shop to outside and restoration of electricity supply during September- 2023 by the officials of the Respondent. Whilst during site inspection on 05.09.2023, it was determined that the Complainant had illegally been using the Connection. The connection was found illegally restored and supply was found used for an optical shop. Meter reading was downloaded and the bill was generated as per actual consumption as the supply was fed from the meter and not directly. As per system generated chart, the last reading on 21.10.2015 was 19483 whereas the reading in September-2023 was over 56000. Therefore, a bill dated 03.10.2023 of Rs.6,76,610/- against Pending Dues was generated and the disconnection notice dated 21.10.2023 under section 56 (1) of the Electricity Act, 2003 was served thereafter.

It was found that existing three connections collectively referred as Misc. Connections, No.I - CA No.150839638, No. II - CA No.151777587 & No. III - CA No.150176203, were being used to supply electricity to premises, resulting in disconnection of all the misc. connections. Later, on Appellant's approaching the Permanent Lok Adalat, the misc. connections were restored as per its order dated 24.01.2024 in view of the non-compliance with the due process for disconnection. Moreover, the meter of Connection against which dues were pending, was found tampered as concluded in the Energy Meter Test Analysis Report dated 03.01.2024. Registered Consumer / beneficiary of all these connections was same.

However, during enforcement action on 13.05.2024, it was determined that Connection - I was being used to supply electricity to premises bearing CA No.150248193 where dues were pending. As a result, dues of this connection were transferred to Connection - I (CA No.XXXX9638-Shop No.5) after following due process, as per DERC guidelines, as is evident from the documents placed on records. Admittedly, the shop had been rented by the Complainant to Eyezone.com (optical shop) which was in a running condition even without activation of the said Connection. No documentation or even plausible argument had been submitted by the Complainant for challenging either the inspection report dated 05.09.2023, bill dated 03.10.2023 or the disconnection notice dated 21.10.2023. As regards seeking



restraint from transfer of dues, Respondent had submitted that granting any relief could not be considered against such connections covered under enforcement action for stealing electricity supply illegally.

4. The CGRF, in its order dated 04.09.2024, noted that after illegal restoration, the supply was being catered to Pending Dues Connection (CA No.XXXX8193) through Misc. Connection – I (CA No.XXXX9638). As a result, the dues of Pending Dues Connection were transferred to Misc. Connection, as per DERC Regulations. Moreover, the Complainant could not justify his contention. CGRF directed the Complainant to pay the pending energy dues, excluding LPSC, in view of long drawn litigation in the matter. After paying the pending dues and completion of commercial formalities, the requisite connection be released by the BRPL without undue harassment.

5. Dissatisfied by the order passed by the CGRF-BRPL on 04.09.2024, the Appellant has preferred this appeal and reiterated his submission as before the Forum. The Appellant has asserted that despite the fact that the electricity was never used from the said meter; the Respondent had transferred illegal & fabricated dues of Rs.6,76,610/- to his live connection (CA No.XXXX9638) and subsequently disconnected the supply without serving any notice, in violation of DERC guidelines. Even, upon removal of physical meter (CA No.XXXX8193), DERC guidelines were not followed by the Respondent. Moreover, the said live connection was disconnected on 06.11.2024 due to non-payment of dues.

In the rejoinder, the Appellant has cited numerous verdicts passed by Hon'ble Supreme Court as well as High Courts, in support of his contention. Reliance upon Section 56 (1) & (2), Section 43 and Section 63 of the Electricity Act, 2003 have also been taken by the Appellant. He has contested that illegal transfer of dues even after the refund of security deposit was not only unlawful but also an attempt to misuse authority to burden the Appellant unfairly.

The Appellant has requested for the following relief:

- i) To set-aside the impugned order dated 04.09.2024.
- ii) To set-aside the illegal demand of the Respondent against CA No.150248193 and/or
- iii) To restore the electricity connection CA No.150839638 installed at the premises with a direction to the Respondent to stay the transferring of illegal dues.



iv) To pass any order or further order in favour of the Appellant.

6. The Respondent, in its reply dated 24.12.2024 to the appeal, has reiterated its submissions as before the CGRF-BRPL. In addition, it was mentioned that the Appellant is owner of multiple properties, all of which are on rent. He is habitual defaulter in making payments and has been caught in electricity theft even on previous occasions, as is evident from the available records. It has been the modus operandi of the Appellant to seek numerous connections in the same building wherein legacy dues are pending. It has also been a regular activity of the Appellant to continue consumption of electricity from other connections when any enforcement action is taken against him. The Pen Drive containing videography of the site visit on 13.05.2024 by the Respondent has also been placed on record for consideration by the Ombudsman.

7. The appeal was admitted and fixed for hearing on 27.02.2025. During the hearing, both the parties were represented by their authorized representatives/Advocates. An opportunity was given to both the parties to plead their respective cases at length. Relevant questions were also asked by the Ombudsman as well as the Advisors, to elicit more information on the issue.

8. During the hearing, the Advocate appearing for the Appellant, reiterated his stand as in the appeal and the prayer. The daughter of the Appellant reiterated the facts as in the record also mentioning that after disconnection in 2015 on account of non-payment, a settlement was arrived at in 2018 and security got refunded. However, the meter was not removed and subsequently shifted outside by the official of the Respondent deliberately. A new connection applied for the Shop No.2 during 2020, 2021, 2022 & 2023 were not released. As of today, there are six shops on the plot and two meters were in functional condition since two stood disconnected due to non-payment. As regards the matter before the Permanent Lok Adalat, after enforcement action, the same stands settled in 2024 with payment of the settlement amount. The advocate took an express stand on the demand raised in the matter in hand being hit by Section 56(2) of the Electricity Act, 2003. There was no explanation for electricity supply to shop No.2 and as well as from where and since when. It was asserted by the Appellant that generator is being used for electricity supply. In response to a query by Advisor (Law) in respect of the reading on the meter on 21.10.2015 as 19483 and subsequent reading in September-2023 as 57809 and the bill dated 03.10.2023 for an amount of Rs.6,76,610/- against CA No.150248193 later transferred to CA No.150839638, no information could be provided by the Appellant in respect of the steps taken after receipt of the bill in October-2023.



9. In rebuttal, the Advocate appearing for the Respondent reiterated its submission as in the written submission. Advocate submitted that there were no documents on records in support of submission of any application for new connection during the period 2019 till 2023. The connection was all along operational at the optical shop. While on the one hand, the applicant had been taking a stand that the shop was only source of income but on the other hand, there were in fact six shops on the plot. Further, the Appellant had made a wrong submission that he was consuming electricity for domestic purpose whereas all the connections were of non domestic nature. Moreover, there was no allegation of tempering with the meter after its shifting outside by any official of Discom. Also, there was no challenge to the site visit on 05.09.2023. As regards, Section 56 (2) of the Electricity Act, 2003, the Advocate submitted that since the use of electricity was detected only in 2023 and bill generated on 03.10.2023, Section 56 (2) was not attracted as is also settled as per case law. Advisor (Engineering) mentioned that since the meter was in a running condition, the outcome of consumption had been worked out on the basis of downloaded data. The Appellant was not in a position to explain of about consumption of about 38236 units of electricity over a period of time. Since the meter and the line were functional, the preponderance of a collusion between the Appellant and the Discom's officials for reconnection of electricity and use by the Appellant could not, therefore, be ruled out which required a detailed probe by the CEO of the Discom. One other question was raised by the Ombudsman as to why it took three years for this aspect to be detected even though the meter reader visits the premises during every billing cycle for recording the readings. Apart from the meter in question disconnected till the end of 2023, all other three meters were duly functional in the area and under visit by the meter reader. However, allegations of involvement of Discom in restoration of electricity supply, as alleged, were denied.

10. Having taken all factors, written submissions and arguments into consideration, along with the information in the Pen Drive provided by the Respondent, the following aspects emerge:

- a) The grievance raised by Shri Subhash Chand pertains to unauthorized demand and transfer of dues to the other connection CA No.150839638 from CA No.150248193. It is the case of the Appellant that the electricity meter CA No.XXXX8193 was installed at the ground floor, Shop No.2, Plot No.1, Khasra no.510, 511, Bhagwati Garden, Uttam Nagar, New Delhi – 110059, and the portion was let out to a tenant, Shri Murari Lal. During the course of the tenancy, the tenant failed to pay the monthly rent and a



dispute, thereafter, arose. The matter was taken up before the Civil Court, Dwarka and the court ordered for recovery of possession. In 2018, whatever bill was payable was paid and thereafter, the security amount for the meter was refunded and cable was removed by the Discom. The meter was, however, not removed.

- b) On 4th & 9th October, 2023, the Appellant submitted the applications for fresh connection but on account of demand of about Rs.7.0 lakhs against CA No.XXXX8193, the applied connection was not released. The stand of the Discom is that the connection was disconnected but the meter was not removed during 2018 due to premises being locked and meter being inside the shop. In the same property, there were three other connections CA No.150839638 (Misc.-I), CA No.151777587 (Misc.-II) & CA No.150176203 (Misc.-III). The other connection CA No.XXXX8193 has been distinguished by the Discom as 'Pending Dues Connection' for facilitating proper appreciation of the issue in hand. It is the contention of the Discom that electricity from misc. connections was fed to the Pending Dues Connection after its disconnection. During site inspection on 05.09.2023, the supply of meter no.24360279 installed against CA No.XXXX8193 (now inactive) was found illegally restored in the portion of the optical shop. The meter readings were downloaded and the bill was generated as per actual consumption. It is worth mentioning that the readings of 19483 on 21.10.2015 had increased to 57809 in September-2023. Accordingly, the bill against that connection was raised and the disconnection notice u/s 56 (1) of the Electricity Act, 2003 was also issued on 21.10.2023. Enforcement's action was also taken on 13.05.2024.
- c) In the above background, the CGRF held that the Complainant was unable to justify his contention and energy dues were required to be paid. However, the CGRF allowed waiver of LPSC. On receipt of payment, the connection could be released after completion of necessary formalities.
- d) The contention of the Appellant in the appeal is that forged and fabricated bill dated 03.10.2023 for Rs.6,76,610/- against CA No.XXXX8193 was transferred to CA No.XXXX9638 which also stood disconnected on 06.11.2024.
- e) On 13th May, 2024, an enforcement inspection was carried out in which it was found that CA No.XXXX9638 (Meter no.60193714, installed at Shop



No.5 in the name of Shri Subhash Chand) found illegally extending electricity to other shops Nos.1 & 4. On 15th May, 2024, a notice was served to the Appellant about transferring of dues of Rs.7,83,800 against CA No.XXXX8193 to CA No.XXXX9638 in view of Regulation 52 of DERC Supply Code, 2017.

- f) The Appellant has relied upon the provision of Section 56 (1), (2) and interpretation of Section 43 of Electricity Act, 2003 besides violation of the DERC Regulations in his case. Some judgements have also been relied upon in support of his case and interpretation of Section 56 supra.
- g) Section 56 (1) empowers the licensee (Discom) to disconnect the electricity supply after giving the 15 days clear notice in any case where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee.

Section 56 (2) provides that "xxx 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."

- h) Since the demand for Rs.6,76,610/- was raised on 03.10.2023, Section 56 (2) has no application. The demand raised appears in conformity with the provisions of Regulation 42 (3) of DERC Supply Code, 2017.
- i) Section 43 supra provides that every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity. However, the provision is not absolute but made subject to other provisions of the act and by implication Section 56 (1) and (2) have also to be borne in mind.
- j) Regulation 50 of the DERC Regulations of 2017 contains elaborate provisions in respect of disconnection and Regulation 52 provides for an embargo on the consumers who are feeding supply unauthorizedly from the system of the licensee or from the live connection of another consumer.



- k) Reference has also been made by the Appellant to Regulation 63 of DERC Supply Code, 2017 to assess the bill in case of theft of electricity, which is not germane to the issue in hand.
- l) Although the Appellant has claimed that he had applied for electricity connection during the years 2020, 2021, 2022 & 2023 previously but no material is placed on record to substantiate the allegation. The Appellant has also not submitted any record to justify consumption of electricity at the optical shop.
- m) As per the order of the CGRF, the Discom has already revised the bill and sent to the Registered Consumer on 18.09.2024 which is payable.
- n) As per report dated 05.09.2023, meter no.24360279 bearing CA No.150248193 shown meter reading of 56074 units and meter reading on dated 22.09.2023 shown meter downloaded reading 57809 units i.e. in 17 days consumed units are 1735 units, average consumption 102 units per day. In this consumption pattern, it shows that 38236 units should have consumed in more than one year. Three other meters were also existing in the same property in the name of Shri Subhash Chand and the meter reader visited each month for downloading readings. Why the matter was not brought on record by the concerned meter reader. It also suggests that the Appellant and the meter reader were in collusion.

11. This court has gone through the above aspects as well as the replies submitted by both parties very minutely. After reviewing the relevant provisions of DERC's Supply Code, 2017, and also having gone through the appeal/rejoinder/written statement etc., court is of the view that the Appellant has erred in making the due payment timely and also indulged in several malpractices. In the normal circumstances, it should be taken seriously, but as the matter is pending for quite long, this Court directs as under:


- a) The order passed by the CGRF-BRPL is upheld.
- b) The Appellant is allowed liberty to pay the due amount in two equal monthly installments, with waiver of LPSC. The connection would be restored only after payment of 2nd installment (full payment) and completion of commercial formalities.



- c) The CEO of the Discom is directed to order a vigilance enquiry to ascertain connivance / collusion of the staff of the Discom with the Appellant, for conferring the unintended benefit of reconnection of the meter and its use. Enquiry should also cover the aspect of the failure of the meter reader and immediate superior officers, to keep a proper check and report use of meter (connection) in a scrupulous manner, during various visits undertaken at the site, as per law, and during visits at various billing cycles. Guidelines may also be issued by the CEO to the officials and staff for keeping a special track of such cases.
- d) Compliance report be submitted in next 30 days.

12. 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
28.02.2025